

this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 9, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(162) to read as follows:

##### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(162) On March 28, 2001, Illinois submitted revisions to volatile organic compound rules for Vonco Products, Incorporated in Lake County, Illinois. The revisions consist of AS 00–12, an adjusted standard to the Flexographic Printing Rule, 35 IAC 218.401 (a), (b), and (c). The adjusted standard requirements include reducing the allotment baseline for the Illinois market-based emissions trading system, maintaining daily records, conducting trials of compliant inks, and reviewing alternate control technologies.

(i) Incorporation by reference.

AS 00–12, an adjusted standard from the Volatile Organic Compound emission limits applicable to Vonco Products, Inc. contained in Illinois Administrative Code Title 35: Environmental Regulations for the State of Illinois, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and

Limitations for Stationary Sources, Part 218.401 (a), (b), and (c). Effective on January 18, 2001.

(ii) Other material.

(A) November 14, 2001, letter from Dennis A. Lawler, Manager, Division of Air Pollution Control, Illinois Environmental Protection Agency to Jay Bortzer, Chief, Regulation Development Section, Air and Radiation Division, USEPA, Region 5, indicating that the effective date of the adjusted standard for Vonco Products, Inc. AS 00–12, is January 18, 2001, the date that AS 00–12 was adopted by the Illinois Pollution Control Board.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MO 0142–1142a; FRL–7110–5]

#### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This approval pertains to revisions to a rule which restricts emissions of particulate matter from industrial processes. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

**DATES:** This direct final rule will be effective January 29, 2002 unless EPA receives adverse comments by December 31, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603.

#### SUPPLEMENTARY INFORMATION

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal approval process for a SIP?

What does Federal approval of a state regulation mean to me?

What is being addressed in this action?

Have the requirements for approval of a SIP revision been met?

What action is EPA taking?

#### What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP.

Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

### **What Does Federal Approval of a State Regulation Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

### **What Is Being Addressed in This Document?**

On October 24, 2001, we received a request from the Missouri Department of Natural Resources to approve as an amendment to the Missouri SIP revisions to rule 10 CSR 10-6.400, Restriction of Emission of Particulate Matter From Industrial Processes.

The underlying rule generally establishes particulate matter emission limits for industrial processes through the use of process weight rate tables and process emission calculations. The emission limits were approved into the SIP a number of years ago. In acting on the revisions to the rule discussed below, EPA has not reevaluated the emission limits to determine their adequacy with respect to attainment and maintenance of the NAAQS. However, EPA believes that the revisions to the rule discussed below are approvable because they strengthen the underlying rule.

The state has revised its existing SIP approved rule with the following revisions. Section (1), applicability requirements, was clarified by specifically listing certain exemption categories in the rule. Also, section (1)(C) was added, which states that if another, more stringent state rule applies to particulate matter emission units, then this rule does not apply.

In the definitions section of the rule, paragraph (2)(B)(1) was added to fully explain the definition of process weight. In subsection (2)(C), language was deleted in order for the definition of a jobbing cupola to be the same throughout the state.

In paragraph (3)(A)(3), relating to calculating compliance with the

emission limits when a control device is used, language was added which provides that the control equipment must be required by an enforceable restriction. This will help ensure that circumvention of the rule does not occur.

Finally, section (4), reporting and recordkeeping, was added. This section requires that records of any tests performed to determine the amount of particulate matter emitted from a unit shall be kept on-site and available for inspection for five years.

The revised rule was adopted by the Missouri Air Conservation Commission on April 26, 2001, and became effective on September 30, 2001.

### **Have the Requirements for Approval of a SIP Revision Been Met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this action, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### **What Action Is EPA Taking?**

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision is severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### **Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility

Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 17, 2001

**William W. Rice,**

*Acting Regional Administrator, Region 7.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### EPA—APPROVED MISSOURI REGULATIONS

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for "10–6.400" to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
* * *	* * *	* * *	* * *	* * *
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control regulations for the State of Missouri</b>				
* * *	* * *	* * *	* * *	* * *
10–6.400 .....	Restriction of Emission of Particulate Matter From Industrial Processes .....	09/30/01	11/30/01	
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[IN122–1a; FRL–7107–9]

#### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Indiana Department of Environmental Management (IDEM) submitted a revised opacity rule on October 21, 1999, as a requested revision to its State Implementation Plan (SIP). The revisions amend portions of Indiana's opacity rule concerning the startup and shutdown of

operations, terminology used in discussing averaging periods, time periods for temporary exemptions, alternative opacity limits, and conflicts between visible emission readings and continuous opacity monitor (COM) data.

A major new component of this rule authorizes the State to incorporate source-specific startup and shutdown provisions into federally enforceable operating permits for certain utility boilers, as long as those provisions fall within a range established in the rule. Indiana provided a modeling analysis showing that the revised startup and shutdown provisions will not have an adverse impact on air quality. In addition, the revisions clarifying averaging periods and resolving conflicts between monitored and visual opacity readings will aid enforcement of the opacity rule.

**DATES:** This rule is effective on January 29, 2002, unless the EPA receives relevant adverse written comments by December 31, 2001. If adverse comment

is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524.