

**Subpart X—Special Procedures When the Board Lacks a Quorum****§ 102.178 Normal operations should continue.**

The policy of the National Labor Relations Board is that during any period when the Board lacks a quorum normal Agency operations should continue to the greatest extent permitted by law.

**§ 102.179 Motions for default judgment, summary judgment, or dismissal referred to Chief Administrative Law Judge.**

During any period when the Board lacks a quorum, all motions for default judgment, summary judgment, or dismissal filed or pending pursuant to § 102.50 of this part shall be referred to the Chief Administrative Law Judge in Washington, DC, for ruling. Such rulings by the Chief Administrative Law Judge, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board in reviewing the record if exception to the ruling or order is included in the statement of exceptions filed with the Board pursuant to § 102.46 of this part.

**§ 102.180 Requests for special permission to appeal referred to Chief Administrative Law Judge.**

During any period when the Board lacks a quorum, any request for special permission to appeal filed or pending pursuant to § 102.26 of this part shall be referred to the Chief Administrative Law Judge in Washington, DC, for ruling. Such rulings by the Chief Administrative Law Judge, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board in reviewing the record if exception to the ruling or order is included in the statement of exceptions filed with the Board pursuant to § 102.46.

**§ 102.181 Administrative and procedural requests referred to Executive Secretary.**

During any period when the Board lacks a quorum, administrative and procedural requests that would normally be filed with the Office of the Executive Secretary for decision by the Board prior to the filing of a request for review under § 102.67 of this part, or exceptions under §§ 102.46 and 102.69 of this part, shall be referred to the Executive Secretary for ruling. Such rulings by the Executive Secretary, and orders in connection therewith, shall not be appealed directly to the Board, but shall be considered by the Board if such matters are raised by a party in its request for review or exceptions.

Signed in Washington, DC, on December 8, 2011.

**Mark Gaston Pearce,**  
Chairman.

[FR Doc. 2011-32085 Filed 12-13-11; 8:45 am]

**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52 and Part 70**

[EPA-R07-OAR-2011-0822; FRL-9505-8]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to the Missouri rule entitled "Submission of Emission Data, Emission Fees and Process Information." These revisions align the State's reporting requirements with the Federal Air Emissions Reporting Requirements Rule (AERR). **DATES:** This direct final rule will be effective February 13, 2012, without further notice, unless EPA receives adverse comment by January 13, 2012. If EPA receives adverse comment, we 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:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2011-0822, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

3. *Mail or Hand Delivery:* Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2011-0822. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) or email information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. 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:** Amy Bhesania at (913) 551-7147, or by email at [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA.

**Outline**

- I. What is being addressed in this document?
- II. What action is EPA taking?

**I. What is being addressed in this document?**

EPA is approving revisions to the Missouri SIP and Operating Permits Program submitted to EPA on August 31, 2010. On December 17, 2008, EPA finalized the Air Emissions Reporting

Requirements Rule (AERR). This rule outlines EPA's emission inventory reporting requirements. In the December 17, 2008 action, EPA consolidated, reduced and simplified the current requirements; added limited new requirements; provided additional flexibility to the states in the ways they collect and report emissions data; and accelerated the reporting of emissions data to EPA by state and local agencies. Revisions to the SIP amend 10 CSR 10–6.110 Submission of Emission Data, Emission Fees and Process Information to align the State's Air Pollution Control Program reporting requirements with EPA's reporting requirements. Specifically, the State moved the Emissions Inventory Questionnaire (EIQ) due date from June 1 to April 1; codified several long-standing practices for items such as initial EIQ reporting periods for partial year operation and reporting thresholds for required pollutants; added definitions; and clarified record keeping and reporting requirements. The State retained the emission fee at \$40.00 and the fee payment due date of June 1, but recodified this section to section (3)(A), Emissions Fees from Section (3)(D). No changes are being made to the Emissions Fees, which is an integral part of the Title V operating permit program, but not approved as part of the SIP. Missouri's amendments ensure that their reporting requirements align with EPA's AERR. EPA has conducted an analysis of the State's amendments and concluded that these do not adversely affect the stringency of the SIP.

#### *What action is EPA taking?*

EPA is approving the request to amend the Missouri SIP and operating permits program by approving the State's request to amend 10 CSR 10–6.110 *Submission of Emission Data, Emission Fees and Process Information* to align the State's rule with EPA's reporting requirements. Approval of these revisions will ensure consistency between state and Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions.

We are processing this action as a direct 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 part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### *Statutory and Executive Order Reviews*

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action 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 February 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

##### *40 CFR Part 70*

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 28, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

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 AA—Missouri**

■ 2. In § 52.1320 the table in paragraph (c) is amended by revising entry for 10–6.110 to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MISSOURI REGULATIONS**

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>				
* * * * *				
10–6.110 .....	Submission of Emission Data, Emission Fees, and Process Information.	09/30/2010	12/14/2011 [ <i>insert FR page number where the document begins</i> ].	Section (3)(A), Emissions Fees, has not been approved as part of the SIP
* * * * *				

\* \* \* \* \*

**PART 70—[AMENDED]**

■ 3. The authority citation for part 70 continues to read as follows:

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

**Appendix A—[Amended]**

■ 4. Appendix A to part 70 is amended by revising paragraph (v) under Missouri to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**Missouri**

\* \* \* \* \*

(v) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10–6.110, “Submission of Emission Data, Emission Fees, and Process Information” on August 31, 2010; approval of section (3)(A) effective February 13, 2012.

\* \* \* \* \*

[FR Doc. 2011–31919 Filed 12–13–11; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2010–0916; FRL–9327–7]

**Hexythiazox; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes new tolerances and revises existing tolerances for residues of hexythiazox in or on multiple commodities which are identified and discussed later in this document. Gowan Company and the Interregional Research Project Number 4 (IR–4) requested the tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 14, 2011. Objections and requests for hearings must be received on or before February 13, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0916. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some

information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Olga Odiott, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9369; email address: [odiott.olga@epa.gov](mailto:odiott.olga@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially