

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. 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.

Dated: July 25, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

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 D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(106) to read as follows:

##### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(106) Amended rule for the following agency was submitted on February 22, 2002, by the governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(I) Rule 140, revised on September 5, 2001.

\* \* \* \* \*

[FR Doc. 02-21663 Filed 8-26-02; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MO 160-1160a; FRL-7267-6]

#### 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 revision to the state's construction permits rule exempts incinerators used for the on-site noncommercial incineration of dead animals from the

construction permit requirements. We are approving this revision to ensure consistency between the state and Federally-approved rules, and to ensure Federal enforceability of the state's revised rule.

**DATES:** This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. 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 Document?

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 May 30, 2002, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the Missouri SIP. This request pertained to rule 10 C.S.R. 10-6.060, Construction Permits Required. This rule defines sources which are required to obtain permits to construct and establishes requirements to be met prior to

construction or modification of any of these sources.

Prior to this revision, this rule applied to all incinerators. However, on May 28, 2000, the MDNR was notified by the state Attorney General's office that the authority to regulate these types of incinerators was limited by state statute to the University of Missouri Extension Service.

On the recommendation of the Attorney General's office, the MDNR has revised this rule to add an exemption for this type of incinerator. Specifically, subparagraph (O) was added to subsection (1)(D)(1)—Exempt Emission Units. This exemption reads: "Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000."

The MDNR has submitted emission inventory information which confirms that emissions from these sources is minimal (for example, particulate emissions are approximately one ton per year, or less), and that this exemption is not likely to have an adverse impact on ambient air quality. These sources will continue to be constructed and operated in accordance with the requirements of the University of Missouri Extension Service. Thus, we are taking action to approve this revision to the Missouri SIP.

#### **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 document, 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 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.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 C.S.R. 10–6.060,

Construction Permits Required, pursuant to section 110 of the CAA.

#### **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 (Pub. L. 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 CAA. 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 October 28, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 14, 2002.

**James B. Gulliford,**  
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(c) the table is amended under Chapter 6 by revising the entry for “10–6.060” 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> |                                |                      |                      |                                                                            |
| * * * * *                                                                                                                                            |                                |                      |                      |                                                                            |
| 10–6.060 .....                                                                                                                                       | Construction Permits Required. | 5/30/02              | 8/27/02 and FR cite. | Section 9, pertaining to hazardous air pollutants, is not part of the SIP. |
| * * * * *                                                                                                                                            |                                |                      |                      |                                                                            |

\* \* \* \* \*

[FR Doc. 02–21667 Filed 8–26–02; 8:45 am]

**BILLING CODE 6560–50–P**

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

[MO 158–1158a; FRL–7267–3]

**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 revision pertains to the state’s compliance monitoring usage rule. This revision corrects a reference in the rule so that Federal monitoring methods are now acceptable as a means to demonstrate compliance. This revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state’s revised rule.

**DATES:** This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. 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

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**What Is an SIP?**

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