

2003 or earlier, WordPerfect 9.0 or earlier, Rich Text Format (RTF), or ASCII text file format. There will be a browse button on the form that will allow submitters to attach the comment file to the form and then to submit the completed form to the Office. The personal information entered into the required fields on the form page will not be publicly posted on the Copyright Office website, but the Office intends to post on its website the proposed class and the summary of the argument, as well as the entire, attached comment document. Only the commenter's name is required on the comment document itself and a commenter who does not want other personal information posted on the Office's website should avoid including other private information on the comment itself. Except in exceptional circumstances, changes to the submitted comment will not be allowed and it will become a part of the permanent public record of this rulemaking.

If by means of the United States Postal Service or hand delivery: Send, to the appropriate address listed above, two copies, each on a 3.5-inch write-protected diskette or CD-ROM, labeled with the legal name of the person making the submission and the entity on whose behalf the comment was submitted, if any. The document itself must be in a single file in either Adobe Portable Document File (PDF) format (preferred), Microsoft Word Version 2003 or earlier, WordPerfect Version 9 or earlier, Rich Text Format (RTF), or ASCII text file document. If the comment is hand delivered or mailed to the Office and the submitter does not wish to have the address, telephone number, or email address publicly displayed on the Office's website, the comment should not include such information on the document itself, but only the name and affiliation, if any, of the commenter. In that case, a cover letter should be included with the comment that contains the commenter's address, phone number, email address, and for initial comments, the proposed class of copyrighted work to be exempted and a brief summary of the argument.

Anyone who is unable to submit a comment in electronic form (on the website as an attachment or by means of the United States Postal Service or hand delivery on disk or CD-ROM) should submit an original and fifteen paper copies by hand or by means of the United States Postal Service to the appropriate address listed above. It may not be feasible for the Office to place these comments on its website.

General Requirements for all submissions: All submissions (in either electronic or non-electronic form delivered through the website, by means of the United States Postal Service by hand-delivery or by courier) must contain on the comment itself, the name of the person making the submission and his or her title and affiliation, if the comment is being submitted on behalf of that organization. The mailing address, telephone number, telefax number, if any, and email address need not be included on the comment itself, but must be included in some form, *e.g.*, on the website form or in a cover letter with the submission. All submissions must also include the class/summary/factual and/or legal argument format in the comment itself for each class of work proposed or for each reply to a proposal.

Initial comments and reply comments will be accepted for a 30-day period in each round, and a form will be placed on the Copyright Office website at least 30 days prior to the deadline for submission. Initial comments will be accepted from November 2, 2005 until December 1, 2005, at 5:00 P.M. Eastern Standard Time, at which time the submission form will be removed from the website. Reply comments will be accepted from January 4, 2006 until February 2, 2006, at 5:00 P.M. Eastern Standard Time.

4. Hearings and Further Comments

The Register also plans on holding public hearings in the Spring after receipt of the comments and reply comments. The tentative dates for the Washington, DC hearings are currently March 29 and 31, 2006, and April 3 and 4, 2006, and the hearings most likely will take place in the James Madison Memorial Building of the Library of Congress in Washington, DC. The dates and location of hearings for the West Coast have yet to be decided. A separate notice for details on all hearings in this rulemaking proceeding will be published at a later time in the Federal Register and on the Copyright Office's website. In order to assist the Copyright Office in identifying the number of days for hearings, the comment and reply comment form page will contain non-required fields asking whether the commenter is likely to request to testify and if so, in which location. Formal requests to testify will be solicited early in 2006.

To provide sufficient flexibility in this proceeding, in the event that unforeseen developments occur that would significantly affect the Register's recommendation, an opportunity to petition the Register for consideration of

new information will be made available after the deadlines specified. A petition, including proposed new classes of works to be exempted, must be in writing and must set forth the reasons why the information could not have been made available earlier and why it should be considered by the Register after the deadline. A petition must also be accompanied by fifteen copies of any new proposed exemption that includes the proposed class of works to be exempted, a summary of the argument, the factual basis for such an exemption and the legal argument supporting such an exemption. These materials must be delivered to the Copyright Office at the address listed above. The Register will make a determination whether to accept such a petition based on the stage of the rulemaking process at which the request is made and the merits of the petition. If a petition is accepted, the Register will announce deadlines for comments in response to the petition.

Dated: September 27, 2005

Marybeth Peters,

Register of Copyrights.

[FR Doc. 05-19721 Filed 9-30-05; 8:45 am]

BILLING CODE 1410-33-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[R07-OAR-2005-MO-0006; FRL-7978-2]

Partial Approval and Partial Disapproval of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to partially approve and partially disapprove a State Implementation Plan (SIP) submission by the state of Missouri which revises the Restriction of Emission of Sulfur Compounds rule. The Missouri rule establishes general requirements for emissions of sulfur compounds from various source categories, and establishes specific emissions requirements for certain named sources.

We propose to approve most of the revisions to the rule because they involve clarifications, updates, and other improvements to the current rule. This proposed action does not include a portion of the rule that regulates ambient concentrations of sulfur compounds, because this provision is not in the current SIP, and we do not

directly enforce Missouri's Air Quality Standards.

We propose to disapprove revisions to two source-specific references because the state has not demonstrated that the revisions are protective of the short-term SO₂ National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before November 2, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07-OAR-2005-MO-0006, by one of the following methods:

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

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: algie-eakin.amy@epa.gov.

4. Mail: Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier: Deliver your comments to Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID Number R07-OAR-2005-MO 0006. 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://docket.epa.gov/rmepub/>, 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 information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, 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 e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail 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 electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. 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 Algie-Eakin at (913) 551-7942, or by e-mail at algie-eakin.amy@epa.gov.

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 or disapproval 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 proposing?

What Is a SIP?

Section 110 of the Clean Air Act (CAA or Act) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQSs 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 or Disapproval 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. If a state regulation is disapproved, it is not incorporated into the Federally-approved SIP, and is not enforceable by EPA or by citizens under section 304. In the case of a revision to

a Federally-approved state regulation, disapproval of the revision means that the underlying state regulation prior to the state's revision remains as the Federally enforceable requirement.

What Is Being Addressed in This Document?

We are proposing to approve the Missouri Department of Natural Resources' (MDNR) request to include, as a revision to Missouri's SIP, amendments to rule 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds. We are also proposing to approve changes to this rule as an amendment to the 111(d) plan which will replace the current rule for sulfuric acid mist production. This rule was adopted by the Missouri Air Conservation Commission on February 3, 2004, and became effective under state law on May 30, 2004. This rule was submitted to EPA on June 14, 2004, and included comments on the rule during the state's adoption process, the state's response to comments and other information necessary to meet EPA's completeness criteria. For additional information on completeness criteria, the reader should refer to 40 CFR part 51, appendix V.

The revisions to Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds, update the rule to correct inaccurate and regulated source information, provide an exemption for natural gas fueled combustion, and clarify the exemption for source categories subject to a new source performance standard to assure that such sources are subject to sulfur limits. In this rule revision, Missouri also revised provisions relating to sulfuric acid mist production, previously approved by EPA under section 111(d). These provisions were renumbered but not otherwise changed. By renumbering the rule, Missouri will have given the 111(d) plan a new effective date that will be reflected in 40 CFR part 62. As such, EPA is proposing to approve Section (3)(A)1,2,3 and 4 into the 111(d) plan. In addition, we are not acting on renumbered Section (3)(B), titled Restriction of Concentration of Sulfur Compounds in Ambient Air, as EPA does not directly enforce Missouri's air quality standards.

We are also proposing partial disapproval of revisions to Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds. We believe that revisions to Section (3), Table 1, regarding the emission rate for the Kansas City Power & Light's Hawthorn and Montrose Station facilities are not consistent with the requirements of the CAA. Section

110(a)(2)(A) of the CAA requires, in part, that the plan include emission limitations to meet the requirements of the Act, including the requirement in Section 110(a)(1) that the plan must be adequate to attain and maintain ambient air quality standards. In addition, 40 CFR 51.112 requires that the plan demonstrate that rules contained in the SIP are adequate to attain the ambient air quality standards. We believe that these requirements have not been met with respect to the Hawthorn and Montrose Station limits. We note that the Hawthorn unit is subject to a Federally-enforceable state permit which limits sulfur emissions to .12 pounds per million BTU heat input on a thirty-day rolling average basis. However, although the facility must comply with this more stringent limit (and all other units listed in the rule must comply with more stringent limits established in permits), the SIP must reflect requirements that ensure attainment and maintenance of the NAAQS. The state rule, with respect to the Hawthorn and Montrose Station facilities, does not reflect such requirements.

We believe that the revisions, contained in Section (3), Table 1, regarding sulfur dioxide emission rates for these plants, which were made as a result of comments provided during the public comment period, are not protective of the short-term sulfur dioxide NAAQS. Although the emission rates for both facilities have been lowered, the averaging time for the rates has been dramatically increased, from a three-hour average to an annual average. Missouri has not provided a demonstration, as required by the CAA and EPA regulations, that the standards and, particularly, the three-hour and the twenty-four hour standards can be protected by an annual emission limit. In addition, because Missouri's proposed rule contained a three-hour averaging time, the change increasing the emission limits to the annual averaging time was not subject to public notice and comment.

Have the Requirements for Approval of a SIP Revision Been met?

Except as noted above, 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 below and in more detail in the technical support document that is part of this document, EPA believes that portions of the revision meet the substantive SIP requirements of the

CAA, including section 110 and implementing regulations. However, as also explained below, and in the technical support document, EPA believes that portions of the revision do not meet the requirements of section 110 and implementing regulations.

What Action Is EPA Proposing?

Section 110(k)(3) of the CAA states that EPA may partially approve and partially disapprove a SIP submittal if it finds that only a portion of the submittal meets the requirements of the Act. We believe that a portion of the Missouri rule revision meets the requirements of the CAA, and that two specific provisions of the revision do not. Because the portions proposed for disapproval are independent from those proposed for approval, we believe that Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds, can be partially approved and partially disapproved. We are also proposing approval of the revisions to the 111(d) plan for sulfuric acid mist production.

For these reasons, we propose to approve all revisions to Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds with two exceptions. EPA does not intend to act on renumbered subsection (3)(B), Restriction of Concentration of Sulfur Compounds in Ambient Air, since the underlying subsection is not in the current SIP. The second exception is the revision of the emission limits and changes to the averaging time for each limit from a three-hour average to an annual average for two of the utilities listed in the rule. We believe that the revisions contained in section (3) Table 1, regarding the SO₂ emission rate for the Kansas City Power & Light Hawthorn plant, and the revision contained in section (3) Table 1, regarding the Kansas City Power & Light Montrose Station, should not be approved because they are not consistent with the requirements of the CAA. Disapproval of these revisions would not trigger sanctions under section 179 of the Act, because the revisions are not required by Part D of Title I of the CAA and are not required by a call for a SIP revision under section 110(k)(5) of the CAA. The emission limits in the current SIP for these units would remain as the Federally-approved SIP obligations.

With the exception of the revisions to the source-specific limits described above, EPA believes the remainder of the revisions are approvable.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that the proposed approvals in this proposed 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.*). The proposed partial disapproval will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA’s partial disapproval of the submittal does not impose a new Federal requirement. Therefore, the Administrator certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve 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 proposed 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 proposes to approve 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 proposed 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 proposed 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.*).

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 62

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: September 23, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–19711 Filed 9–30–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0084; FRL–7978–5]

RIN 2060–AN38

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: The EPA is proposing amendments to the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production, which were issued on March 23, 2000 under section 112 of the Clean Air Act (CAA), and amended on December 30, 2002. This action proposes to correct a punctuation error in the definition of “clean charge” and a typographical error in the operating temperature of a scrap dryer/delacquering kiln/decoating kiln afterburner.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for the proposed amendments in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on the proposed amendments. If we receive adverse comments, we will withdraw the amendments. We will publish a timely withdrawal in the **Federal Register** indicating that the amendments are being withdrawn. If the direct final rule amendments in the Rules and Regulations section of this **Federal Register** are withdrawn, all comments will be addressed in a subsequent final action based on the proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplementary information, see the direct final rule.

DATES: *Comments.* Written comments must be received by November 2, 2005, unless a public hearing is requested by October 13, 2005. If a hearing is requested, written comments must be received by November 17, 2005. Public