

■ 2. A new temporary § 165.T09–053 is added to read as follows:

**§ 165.T09–053 Safety Zone; Heart Island, Alexandria Bay, NY.**

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the St. Lawrence River in a 500-foot radius around a point at approximate position 44°20'39" N, 075°55'16" W. All Geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Definitions.* The following definitions apply to this section:

*Designated on-scene representative means* Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Buffalo, New York, in the enforcement of regulated navigation areas and safety and security zones.

(c) *Effective time and date.* This section is effective from 9 p.m. (local) until 10 p.m. (local) on July 4th, 2006.

(d) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Buffalo, or his designated on-scene representative.

Dated: June 13, 2006.

**S.J. Furguson,**

*Captain, U.S. Coast Guard, Captain of the Port, Buffalo.*

[FR Doc. E6–10050 Filed 6–23–06; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2006–0286; FRL–8188–6]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** We are taking final action to approve a revision to the maintenance plan prepared by Missouri to maintain the national ambient air quality standard for ozone in the Missouri portion of the Kansas City maintenance area. This plan is applicable to Clay, Jackson and Platte Counties. The effect of this approval is to ensure Federal enforceability of the state air program plan and to maintain consistency

between the state-adopted plan and the approved SIP.

**DATES:** This direct final rule will be effective August 25, 2006, without further notice, unless EPA receives adverse comment by July 26, 2006. If adverse comment is 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:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0286, by one of the following methods:

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

2. E-mail: [algoe-eakin.amy@epa.gov](mailto:algoe-eakin.amy@epa.gov).

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

4. Hand Delivery or Courier. Deliver your comments to Amy Algoe-Eakin, 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–2006–0286. 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://www.regulations.gov> or e-mail 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 e-mail comment directly to EPA without going through <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 <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, 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 <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 Algoe-Eakin at (913) 551–7942, or by e-mail at [algoe-eakin.amy@epa.gov](mailto:algoe-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 of a State Regulation Mean to Me?

What Are the Criteria for Approval of a Maintenance Plan?

What Is Being Addressed in This Document?

What Is in the Contingency Measure Portion of the Maintenance Plan and Is It Approvable?

Does the 8-Hour Ozone Implementation Rule Have Any Bearing on This Revision?

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 (NAAQS) 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 Are the Criteria for Approval of a Maintenance Plan?**

The requirements for the approval and revision of a maintenance plan are found in section 175A of the CAA. In general, a maintenance plan must provide a demonstration of continued attainment including the control

measures relied upon, provide contingency measures for the prompt correction of any violation of the standard, provide for continued operation of the ambient air quality monitoring network, provide a means of tracking the progress of the plan, and include the attainment emissions inventory and new budgets for motor vehicle emissions. The requirement for a motor vehicle emissions budget is no longer applicable to the Kansas City area as explained below.

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

By letter dated September 6, 2005, Missouri submitted a SIP revision that revised the prior plan for maintaining the 1-hour ozone standard in Kansas City. The maintenance plan includes Clay, Jackson and Platte Counties in Missouri. The Kansas City area is designated attainment for the 8-hour ozone standard and is a "maintenance" area for the 1-hour standard (an area which has been redesignated from nonattainment to attainment with an approved maintenance plan). The revision makes five changes to the maintenance plan. The plan was revised to provide information about the 8-hour ozone standard, provide updated information about the scope of the monitoring network, and provide 8-hour ozone air quality data. A statement is included that transportation conformity ended when the 1-hour standard was revoked on June 15, 2005. It is appropriate to remove all language relating to transportation conformity as the 1-hour ozone standard was revoked and the area was designated as an attainment area for the 8-hour standard. The only substantive revision made was the addition of contingency measure triggers relating to the 8-hour ozone standard. The contingency measures and schedule for implementing them were not changed.

Thus, four of the five principal components of the maintenance plan, noted above, have not changed; and, therefore, the approvability of those sections is not addressed here. EPA took final action on these components on January 13, 2004 (69 FR 1921). The changes made to the contingency measures portion of the plan are addressed below.

#### **What Is in the Contingency Measure Portion of the Maintenance Plan and Is It Approvable?**

The contingency measures listed have not changed, and the schedule for implementing measures has not changed (adoption of measures within 18 months and full implementation

within 24 months). Revision to the maintenance plan also retains triggers previously approved and adds triggers for the 8-hour ozone standard.

We believe it is appropriate to include a trigger relating to the 8-hour ozone standard, since that is the relevant standard which applies to Kansas City. However, because Missouri has not yet adopted, and EPA has not yet approved a maintenance plan for the area as required by section 110(a) of the CAA (the submission is due in June 2007), Missouri must also retain the 1-hour ozone standard triggers previously approved in the maintenance plan. (See, 40 CFR 51.905(e)(2)). Therefore, Missouri has included both 1-hour and 8-hour contingency measure triggers in its SIP.

#### **Does the 8-Hour Ozone Implementation Rule Have Any Bearing on This Revision?**

The Phase-1 Implementation Rule for the 8-hour ozone standard promulgated in April 2004 requires that former 1-hour maintenance areas, areas such as Kansas City, prepare and submit no later than June 15, 2007, a plan under section 110 of the CAA to maintain the 8-hour ozone standard for a ten-year period from the date of designation. The revisions submitted by Missouri are revisions to the existing 1-hour maintenance plan to provide interim protection for violations of the 8-hour standard. These revisions do not address requirements in the implementation rule for the 8-hour ozone standard. We anticipate that Missouri will address the latter requirements in a subsequent submittal.

#### **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.

The requirements for maintenance plans are established in section 175A of the CAA. With the maintenance plan revisions identified above, the plan continues to meet these requirements.

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

Our review of the material submitted indicates that the state has revised the maintenance plan in accordance with the requirements of the CAA. We are fully approving Missouri's revised

maintenance plan for the Missouri portion of the Kansas City maintenance area.

We are processing this action as a direct final action because the revisions make routine changes to the existing SIP 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 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 2006. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 15, 2006.

**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(e) the table is amended by adding an entry in numerical order to read as follows:

**§ 52.1320 Identification of Plan.**  
\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
(50) Revision to Maintenance Plan for the 1-hour ozone standard in the Missouri portion of the Kansas City maintenance area for the second ten-year period.	Kansas City .....	10/28/05	6/26/06 [insert FR page number where the document begins].	

[FR Doc. 06-5625 Filed 6-23-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2006-0365; FRL-8188-4]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** We are taking final action to approve a revision to the maintenance plan prepared by Kansas to maintain the national ambient air quality standard (NAAQS) for ozone in the Kansas portion of the Kansas City maintenance area. This plan is applicable to Johnson and Wyandotte counties in Kansas. The effect of this approval is to ensure Federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved SIP.

**DATES:** This direct final rule will be effective August 25, 2006, without further notice, unless EPA receives adverse comment by July 26, 2006. If adverse comment is 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:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2006-0365, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. E-mail: [kneib.gina@epa.gov](mailto:kneib.gina@epa.gov).
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**Instructions:** Direct your comments to Docket ID No. EPA-R07-OAR-2006-0365. 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.

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