

receive timely adverse comments, the direct final approval will be effective without further notice on July 9, 2007. This will incorporate the rule into the federally enforceable SIP.

### III. 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 Clean Air Act. 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 approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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. section 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 July 9, 2007. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 23, 2007.

**Laura Yoshii,**

*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)(135) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(135) An amended regulation was submitted on June 8, 2006, by the Governor’s designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Rule 314, adopted on July 13, 1988 and amended on April 20, 2005.

\* \* \* \* \*

[FR Doc. E7–8689 Filed 5–7–07; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2007–0249; FRL–8310–6]

### Approval and Promulgation of Implementation Plans; Missouri; Interstate Transport of Pollution

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is revising the Missouri State Implementation Plan (SIP) for the purpose of approving the Missouri Department of Natural Resources’ (MDNR) actions to address requirements of section 110(a)(2)(D)(i) of the Clean Air Act. Section 110(a)(2)(D)(i) requires each state to submit a SIP that prohibits emissions that adversely affect another state’s air quality through interstate transport. MDNR has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to downwind nonattainment of the National Ambient Air Quality Standards (NAAQS), interference with maintenance of the NAAQS, interference with plans in

another state to prevent significant deterioration of air quality, and interference with efforts of other states to protect visibility. The requirements for public notification were also met by MDNR.

**DATES:** This direct final rule will be effective July 9, 2007, without further notice, unless EPA receives adverse comment by June 7, 2007. 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-2007-0249, by one of the following methods:

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

2. *E-mail:* [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

3. *Mail:* Heather Hamilton, 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 Heather Hamilton, 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-2007-0249. 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 p.m. 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:**

Heather Hamilton at (913) 551-7039, or by e-mail at [hamilton.heather@epa.gov](mailto:hamilton.heather@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 being addressed in this document?  
What action is EPA taking?

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

EPA is revising the SIP for the purpose of approving MDNR's actions to address the requirements of the Clean Air Act (CAA) section 110(a)(2)(D)(i). In its request to revise the SIP, Missouri has also outlined the other provisions of section 110(a)(2) (the infrastructure SIP, to support the implementation, maintenance and enforcement of the NAAQS) and described how the state implements the infrastructure requirements. In this rule, EPA is only acting on the portion of the SIP addressing section 110(a)(2)(D)(i). EPA is taking separate action on this portion of the submission because EPA is obligated to promulgate a Federal plan if the state plan is not approved by May 27, 2007. EPA intends to act on the other portion of the submission in the near future.

Section 110(a)(2)(D)(i) requires each state to submit a SIP that prohibits emissions that adversely affect another state's air quality through interstate transport. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS in another state, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

The EPA issued guidance on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i). As discussed below, Missouri's analysis of its SIP with respect to the statutory requirements is consistent with the guidance.

The MDNR has addressed the first two of these elements by the adoption of the Clean Air Interstate Rule (CAIR) model rules that require Missouri sources to participate in the EPA-administered cap and trade program for nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide. Participation in this program will prohibit emissions from the state that would contribute significantly to nonattainment or interfere with the maintenance of the particulate matter and ozone NAAQS in any downwind state. As previously determined by EPA, submittal of a SIP revision to satisfy CAIR (submitted to EPA on March 13, 2007) also fulfills the state's obligations that pertain to "significant contribution" and "interference with maintenance" (70 FR 25162). It should be noted that EPA will act on Missouri's CAIR SIP in a separate rulemaking, and this action makes no conclusion with respect to approvability of that submittal.

The third element MDNR addressed was prevention of significant deterioration (PSD). For 8-hour ozone, the state has met the obligation, consistent with EPA's guidance described previously, by confirming that major sources in the state are currently subject to PSD programs that implement the 8-hour ozone standard and that the state is on track to meet the June 15, 2007, deadline for SIP submissions adopting any relevant requirements of the Phase II ozone implementation rule. For PM<sub>2.5</sub>, the state has confirmed that the state's PSD program is being implemented in accordance with EPA's interim guidance calling for the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> for the purposes of PSD and nonattainment New Source Review (NSR). Controlling PM<sub>10</sub> emissions and analyzing impacts on the environment serves as a surrogate approach for reducing PM<sub>2.5</sub> emissions

and minimizing impacts to air quality. Although EPA has finalized major portions of the PM<sub>2.5</sub> implementation rule, we have not yet finalized the portion relating to New Source Review. Once the NSR portion of the PM<sub>2.5</sub> implementation rule is finalized by EPA, MDNR commits to transitioning from use of the interim PM<sub>2.5</sub> guidance to the final PM<sub>2.5</sub> implementation requirements after approval of the PM<sub>2.5</sub> SIP revision (The submittal is due April 5, 2008).

It should be noted that most of Missouri is currently designated attainment/unclassifiable for both the 8-hour ozone and PM<sub>2.5</sub> NAAQS. However, St. Louis City, St. Louis County, St. Charles County, Franklin County, and Jefferson County are designated as nonattainment for the 8-hour ozone and annual fine particulate matter NAAQS.

At this time, it is not possible for MDNR to accurately determine whether there is interference with measures in another state's SIP designed to protect visibility, which is the fourth element that was addressed. Technical projects relating to visibility degradation source-receptor relationships are under development. Missouri will be in a more advantageous position to address the visibility projection requirements once the initial regional haze SIP has been developed. MDNR intends to meet the December 17, 2007, submittal deadline for the regional haze SIP.

A public hearing with regard to this action was held by the state, and only EPA provided comments on this SIP revision.

With this action, the non-regulatory text in 40 CFR 52.1320(e) is revised to reflect that MDNR addressed the elements of the CAA section 110(a)(2)(D)(i).

#### What action is EPA taking?

The EPA is taking direct final action to approve this revision as MDNR has adequately addressed the required elements of CAA section 110(a)(2)(D)(i). EPA intends to act on the portion of Missouri's submittal addressing all other elements of section 110(a)(2), which addresses the infrastructure necessary to implement the 8-hour ozone and PM<sub>2.5</sub> NAAQS in the state of Missouri, in a future rulemaking.

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 action 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 action 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 action 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 action 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 approves a state rule implementing a Federal standard.

In reviewing state 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state 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 action 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 July 9, 2007. 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 30, 2007.

**John B. Askew,**

*Regional Administrator, Region 7.*

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

**PART 52—[AMENDED]**

**Subpart AA—Missouri**

**§ 52.1320 Identification of plan.**

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

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

■ 2. In § 52.1320(e) the table is amended by adding an entry in numerical order to read as follows:

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(51) CAA 110(a)(2)(D)(i) SIP—Interstate Transport	Statewide	2/27/07	5/8/07	[insert FR page number where the document begins].

[FR Doc. E7-8774 Filed 5-7-07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[EPA-R07-OAR-2007-0258; FRL-8310-8]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Iowa, Kansas, and Missouri**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the Other Solid Waste Incineration (OSWI) section 111(d) negative declarations submitted by the states of Iowa, Kansas, and Missouri. These negative declarations certify that OSWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in these states.

**DATES:** This direct final rule will be effective July 9, 2007, without further notice, unless EPA receives adverse comment by June 7, 2007. 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-2007-0258, by one of the following methods:

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

2. *E-mail:* [hamilton.heather@ep.gov](mailto:hamilton.heather@ep.gov).

3. *Mail:* Heather Hamilton, 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 Heather Hamilton, 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-2007-0258. 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:** Heather Hamilton at (913) 551-7039, or by e-mail at [hamilton.heather@epa.gov](mailto:hamilton.heather@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 111(d) Plan?
- What are the regulatory requirements for OSWI units?
- Why is this action necessary?
- What action are we taking in this document?

**What is a 111(d) Plan?**

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines for such existing sources for certain designated pollutants.