

Commission by May 18 of the following calendar year, a letter or report of the independent accountant certifying approval, covering the subjects and in the format prescribed in the General Instructions of the applicable Form No. 2 or Form No. 2-A. The letter or report shall also set forth which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission shall not be bound by the certification of compliance made by an independent accountant pursuant to this paragraph.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

§ 260.3 [Removed]

2. Section 260.3 is removed.

WELLINGHOFF, Commissioner, *concurring*:

The adequacy of data reported in Forms 2, 2-A and 3-Q has been questioned for years. Based on the comments received in response to the NOI in this proceeding, the need to update and supplement these forms is clear. Today, we propose modifications that should correct many deficiencies in these forms.

We have endeavored to make the changes necessary to provide the data needed by the Commission to carry out our responsibility, and for the form users to effectively exercise their rights, under NGA Section 5. Most of the information requested is data that is maintained by the pipeline and can readily be transferred to existing and new schedules. Conversely, I do not believe that we have blurred the distinction between NGA sections 4 and 5, a concern expressed by some commenters. I urge parties in their comments to focus on whether our proposed modifications have struck the proper balance.

I also have a specific request for comment. As noted, these forms are the vehicles the Commission uses to obtain financial and certain operational information from pipelines. The forms provide information concerning a pipeline's past performance and its future prospects. For example, a pipeline is currently required to provide a statement and system map identifying and detailing all important changes in the facilities it operates.¹⁰⁸ I propose that pipelines submit an Energy Efficiency Statement as well. I believe advancement of energy efficient infrastructure is critical to help address the energy crisis our country faces. The Energy Efficiency Statement would describe how the pipeline has incorporated efficiency in the facility changes it reports. Such transparency will be useful in encouraging energy efficiency improvements by pipelines and

more broadly disseminating the best practices throughout the industry.

For this reason, I respectfully concur.

Jon Wellinghoff,

Commissioner.

[FR Doc. E7-19015 Filed 9-26-07; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2006-0544; FRL-8470-8]

Approval and Promulgation of Air Quality Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from Ohio to amend its State Implementation Plan (SIP) emission statement reporting regulation. Ohio submitted the SIP revision requests to EPA on May 1, 2006, and supplemented on May 22, 2007. Ohio held a public hearing on the submittal on September 8, 2005. The SIP revision concurrently rescinds and revises portions of Ohio Administrative Code Chapter 3745-24 to be consistent with the Clean Air Act emission statement program reporting requirements for stationary sources. The revision makes the rule more general to apply to all counties designated nonattainment for ozone, and not to a specific list of counties.

DATES: Comments must be received on or before October 29, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0544, by one of the following methods:

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

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312) 886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday,

8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, Hatten.Charles@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 4, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E7-18895 Filed 9-26-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2007-0943; FRL-8473-9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Missouri; Clean Air Mercury Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

¹⁰⁸ General Corporate Information and Financial Statements, Important Changes during the Year and Gas Plant Statistical Data, System Map.

SUMMARY: EPA is proposing to approve the State Plan submitted by Missouri on May 18, 2007, and revisions submitted on September 6, 2007. The plan addresses the requirements of EPA's Clean Air Mercury Rule (CAMR), promulgated on May 18, 2005, and subsequently revised on June 9, 2006. EPA is proposing to determine that the submitted State Plan fully meets the CAMR requirements for Missouri.

CAMR requires States to regulate emissions of mercury (Hg) from large coal-fired electric generating units (EGUs). CAMR establishes State budgets for annual EGU Hg emissions and requires States to submit State Plans to ensure that annual EGU Hg emissions will not exceed the applicable State budget. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered CAMR cap-and-trade program. In the State Plan that EPA is proposing to approve Missouri would meet CAMR requirements by participating in the EPA trading program.

DATES: Comments must be received on or before October 29, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-0943, by one of the following methods:

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

2. *E-mail*: jay.michael@epa.gov.

3. *Mail*: Michael Jay, 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: Michael Jay, Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2007-0943. 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 and any form of encryption and should 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. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Jay at (913) 551-7460 or by e-mail at jay.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What Action Is EPA Proposing To Take?
- II. What Is the Regulatory History of CAMR?
- III. What Are the General Requirements of CAMR State Plans?
- IV. How Can States Comply With CAMR?
- V. Analysis of Missouri's CAMR State Plan Submittal
 - A. State Budgets
 - B. CAMR State Plan
- VI. Statutory and Executive Order Reviews

I. What Action Is EPA Proposing To Take?

EPA is proposing to approve the State Plan submitted by Missouri on May 18, 2007, and revisions submitted on September 6, 2007. In its State Plan, Missouri would meet CAMR by requiring certain coal-fired EGUs to participate in the EPA-administered cap-and-trade program addressing Hg emissions. EPA is proposing to determine that the State Plan meets the applicable requirements of CAMR.

II. What Is the Regulatory History of CAMR?

CAMR was published by EPA on May 18, 2005 (70 FR 28606, "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Final Rule"). In this rule, acting pursuant to its authority under section 111(d) of the Clean Air Act (CAA), 42 U.S.C. 7411(d), EPA required that all States and the District of Columbia (all of which are referred to herein as States) meet Statewide annual budgets limiting Hg emissions from coal-fired EGUs (as defined in 40 CFR 60.24(h)(8)) under CAA section 111(d). EPA required all States to submit State Plans with control measures that ensure that total, annual Hg emissions from the coal-fired EGUs located in the respective States do not exceed the applicable statewide annual EGU mercury budget. Under CAMR, States may implement and enforce these reduction requirements by participating in the EPA-administered cap-and-trade program or by adopting any other effective and enforceable control measures.

CAA section 111(d) requires States, and along with CAA section 301(d) and the Tribal Air Rule (40 CFR part 49) allows Tribes granted treatment as States (TAS), to submit State Plans to EPA that implement and enforce the standards of performance. CAMR explains what must be included in State Plans to address the requirements of CAA section 111(d). The State Plans were due to EPA by November 17, 2006. Under 40 CFR 60.27(b), the Administrator will approve or disapprove the State Plans.

III. What Are the General Requirements of CAMR State Plans?

CAMR establishes Statewide annual EGU Hg emission budgets and is to be implemented in two phases. The first phase of reductions starts in 2010 and continues through 2017. The second phase of reductions starts in 2018 and continues thereafter. CAMR requires States to implement the budgets by

either: (1) Requiring coal-fired EGUs to participate in the EPA-administered cap-and-trade program; or (2) adopting other coal-fired EGU control measures of the respective State's choosing and demonstrating that such control measures will result in compliance with the applicable State annual EGU Hg budget.

Each State Plan must require coal-fired EGUs to comply with the monitoring, recordkeeping, and reporting provisions of 40 CFR part 75 concerning Hg mass emissions. Each State Plan must also show that the State has the legal authority to adopt emission standards and compliance schedules necessary for attainment and maintenance of the State's annual EGU Hg budget and to require the owners and operators of coal-fired EGUs in the State to meet the monitoring, recordkeeping, and reporting requirements of 40 CFR part 75.

IV. How Can States Comply With CAMR?

Each State Plan must impose control requirements that the State demonstrates will limit Statewide annual Hg emissions from new and existing coal-fired EGUs to the amount of the State's applicable annual EGU Hg budget. States have the flexibility to choose the type of EGU control measures they will use to meet the requirements of CAMR. EPA anticipates that many States will choose to meet the CAMR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAMR cap-and-trade program. EPA also anticipates that many States may choose to control Statewide annual Hg emissions for new and existing coal-fired EGUs through an alternative mechanism other than the EPA-administered CAMR cap-and-trade program. Each State that chooses an alternative mechanism must include with its plan a demonstration that the State Plan will ensure that the State will meet its assigned State annual EGU Hg emission budget.

A State submitting a State Plan that requires coal-fired EGUs to participate in the EPA-administered CAMR cap-and-trade program may either adopt regulations that are substantively identical to the EPA model Hg trading rule (40 CFR part 60, subpart HHHH) or incorporate by reference the model rule. CAMR provides that States may only make limited changes to the model rule if the States want to participate in the EPA-administered trading program. A State Plan may change the model rule only by altering the allowance allocation provisions to provide for State-specific allocation of Hg

allowances using a methodology chosen by the State. A State's alternative allowance allocation provisions must meet certain allocation timing requirements and must ensure that total allocations for each calendar year will not exceed the State's annual EGU Hg budget for that year.

V. Analysis of Missouri's CAMR State Plan Submittal

A. State Budgets

In this action, EPA is proposing to approve Missouri's State Plan that adopts the annual EGU Hg budgets established for the State in CAMR, i.e., 1.393 tons for EGU Hg emissions in 2010–2017 and 0.55 tons for EGU Hg emissions in 2018 and thereafter. Missouri's State Plan sets these budgets as the total amount of allowances available for allocation for each year under the EPA-administered CAMR cap-and-trade program.

B. CAMR State Plan

The Missouri State Plan requires coal-fired EGUs to participate in the EPA-administered CAMR cap-and-trade program. The State Plan incorporates by reference the EPA model Hg trading rule but has adopted an alternative allowance allocation methodology. Under the Hg allowance allocation methodology in the model rule, Hg allowances are allocated to units that have operated for 5 years, based on heat input data from a 3-year period that are adjusted for coal rank by using coal factors of 3.0 for the lignite combusted by the unit, 1.25 for the subbituminous combusted by the unit, and 1 for other coal ranks combusted by the unit. The model rule also provides a new unit set-aside from which units without 5 years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their State Plan submissions a different Hg allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative Hg allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and

4. The use of allowance set-asides and, if used, their size.

In Missouri's alternative allowance methodology, Missouri has chosen to distribute Hg allowances directly based upon Table I in 10 CFR 10–6.368. The table permanently allocates to designated units the entirety of Missouri's mercury allowances for both phases of the program. Accordingly, Missouri has not provided allowances for the establishment of set-aside accounts.

Missouri's State Plan requires coal-fired EGUs to comply with the monitoring, record keeping, and reporting provisions of 40 CFR part 75 concerning Hg mass emissions. Missouri's State Plan also demonstrates that the State has the legal authority to adopt emission standards and compliance schedules necessary for attainment and maintenance of the State's annual EGU Hg budget and to require the owners and operators of coal-fired EGUs in the State to meet the monitoring, record keeping, and reporting requirements of 40 CFR part 75. Missouri cites Section 643.050 and 643.055 of the Missouri Air Conservation Law, as containing the legal authority for the Missouri Air Conservation Commission to adopt the State's rule that allows for Missouri's participation in the nationwide cap and trade program.

VI. 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 proposes to approve State law as meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule would 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 proposes to approve pre-existing requirements under State law and would 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 proposal also does not have Tribal implications because it would 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 proposed action also does not have Federalism implications because it would 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. It 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 proposes to approve a State rule implementing a Federal standard.

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," requires Federal agencies to consider the impact of programs, policies, and activities on minority populations and low-income populations. EPA guidance¹ states that EPA is to assess whether minority or low-income populations face risk or a rate of exposure to hazards that is significant and that "appreciably exceed[s] or is likely to appreciably exceed the risk or rate to the general population or to the appropriate comparison group." (EPA, 1998) Because this rule merely proposes to approve a state rule implementing the Federal standard established by CAMR, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations. However, EPA has already considered the impact of CAMR, including this Federal standard, on minority and low-income populations. In the context of EPA's CAMR published in the **Federal Register** on May 18, 2005, in accordance with Executive Order 12898, the Agency has considered whether CAMR may have disproportionate negative impacts on

minority or low income populations and determined it would not.

In reviewing State Plan 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 Plan for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan 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 would 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 in Part 62

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Mercury, Reporting and recordkeeping.

Dated: September 19, 2007.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E7-19120 Filed 9-26-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2004-0022; FRL-8474-2]

RIN 2050-AG29

NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of comment on legal analysis.

SUMMARY: On October 12, 2005, pursuant to section 112(d) of the Clean Air Act, EPA issued national emission standards for hazardous air pollutants (NESHAP) emitted by various types of hazardous waste combustors. EPA subsequently granted reconsideration petitions relating to certain issues presented by the rules. 71 FR 14665, 52564, but has not yet issued a final determination on reconsideration. Following the close of the comment period on the proposed reconsideration rule, the United States Court of Appeals

for the District of Columbia Circuit has issued several opinions construing section 112 (d) of the Clean Air Act, and one of those opinions has called into question the legality of some of the standards for hazardous waste combustors. This notice discusses the standards that EPA promulgated in October 2005, and specifically identifies which standards EPA believes are consistent with the Act and caselaw, and which standards are not and need to be reexamined through a subsequent rulemaking. With respect to those standards EPA intends to retain, this notice indicates the portions of the rationale upon which EPA intends to rely, and which portions EPA would no longer rely upon as a justification for the October 2005 standards. EPA is seeking public comment on this analysis. EPA has also placed edited versions of various support documents in the public docket, edited to remove portions of the rationale on which EPA no longer plans to rely, and seeks public comment on these edits.

DATES: Comments must be received on or before October 18, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0022, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- *E-mail:* a-and-r-docket@epa.gov.

- *Fax:* 202-566-1741.

- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket (2822T), Docket ID No. EPA-HQ-OAR-2004-0022, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* In person or by courier, deliver comments to: HQ EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0022. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by

¹ U.S. Environmental Protection Agency, 1998. Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses. Office of Federal Activities, Washington, DC, April, 1998.