

reference, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: December 30, 2015.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart E—Arkansas**

■ 2. In § 52.170(e), the third table titled “EPA-Approved Nonregulatory

Provisions and Quasi-Regulatory Measures” is amended by adding an entry for “Crittenden County Base Year Emission Inventory for the 2008 Ozone Standard” to the end of the table.

The addition reads as follows:

**§ 52.170 Identification of plan.**

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

**EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Crittenden County Base Year Emission Inventory for the 2008 Ozone Standard.	Crittenden County .....	8/28/2015	1/13/2016 [Insert Federal Register citation].	

[FR Doc. 2016–00559 Filed 1–13–16; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R07–OAR–2015–0587; FRL 9941–01–Region 7]

**Approval of Missouri’s Air Quality Implementation Plans; Early Progress Plan of the St. Louis Nonattainment Area for the 2008 Ozone National Ambient Air Quality Standard**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State Implementation Plan (SIP) submitted by the State of Missouri consisting of the Early Progress Plan and motor vehicle emissions budgets (MVEBs) for volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) for the St. Louis Nonattainment area under the 2008 8-hour National Ambient Air Quality Standard (NAAQS). On August 26, 2013, EPA received from the Missouri Department of Natural Resources (MDNR) an Early Progress Plan for the St. Louis area showing progress toward attainment under the 2008 Ozone NAAQS. This submittal was developed to establish MVEBs for the St. Louis 8-hour ozone nonattainment area. This approval of the Early Progress Plan for the St. Louis 8-hour ozone nonattainment area fulfills EPA’s requirement to act on the MDNR SIP

submission and to formalize that the MVEB is approved, and when considered with the emissions from all sources, demonstrates progress toward attainment from the 2008 base year through a 2015 target year. EPA found these MVEBs adequate for transportation conformity purposes in an earlier action on March 5, 2014.

**DATES:** This direct final rule will be effective March 14, 2016, without further notice, unless EPA receives adverse comment by February 16, 2016. If EPA receives adverse comment, we 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–2015–0587, to <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Steven Brown, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7718 or by email at [brown.steven@epa.gov](mailto:brown.steven@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is the background for this action?
- II. What are the criteria for early progress plans?
- III. What is EPA’s analysis of the request?
- IV. What are the MVEB’s for the St. Louis 8-hour ozone area?
- V. What action is EPA taking?

**I. What is the background for this action?**

EPA’s final rule designating nonattainment areas and associated classifications for the 2008 ozone National Ambient Air Quality Standards (NAAQS) was published in the **Federal Register** on May 21, 2012 (77 FR 30088). The St. Louis area was designated as marginal nonattainment. The St. Louis ozone area had previously been designated nonattainment for the 1-hour ozone standard and had 1-hour motor vehicle emissions budgets (MVEBs) for NO<sub>x</sub> and VOC established in the St. Louis 1-hour maintenance plan SIP (66 FR 33996). The 1-hour MVEBs were the only approved MVEBs for St. Louis and were based on EPA’s MOBILE6.2

emissions model. Consequently, the transportation partners in St. Louis were required to use the 1-hour MVEB test to demonstrate transportation conformity for the 8-hour ozone standard until new MVEBs were approved or found adequate, as required by the transportation conformity rule at 40 CFR 93.109(c)(2)(i). Missouri submitted this plan to establish new 8 hour MVEBs developed with EPA's current MOVES2014 model.

EPA allows for the establishment of MVEBs for the 8-hour ozone standard prior to a state submitting its first required 8-hour ozone SIP that would include new MVEBs. Although voluntary, these "early" MVEBs must be established through a plan, known as the "Early Progress Plan," that meets all the requirements of a SIP submittal. The preamble of the July 1, 2004, final transportation conformity rule (see, 69 FR 40019) reads as follows:

"The first 8-hour ozone SIP could be a control strategy SIP required by the Clean Air Act (e.g., rate-of-progress SIP or attainment demonstration) or a maintenance plan. However, 8-hour ozone nonattainment areas are free to establish, through the SIP process, a motor vehicle emissions budget or budgets that addresses the new NAAQS in advance of a complete SIP attainment demonstration. That is, a state could submit a motor vehicle emission budget that does not demonstrate attainment

but is consistent with projections and commitments to control measures and achieves some progress toward attainment (August 15, 1997, 62 FR 43799). A SIP submitted earlier than otherwise required can demonstrate a significant level of emissions reductions from current level of emissions, instead of a specific percentage required by the Clean Air Act for moderate and above ozone areas."

**II. What are the criteria for early progress plans?**

The Early Progress Plan must demonstrate that the SIP revision containing the MVEBs, when considered with emissions from all sources, and when projected from the base year to a future year, shows some progress toward attainment. EPA has previously indicated that a 5 percent to 10 percent reduction in emissions from all sources could represent a significant level of emissions reductions from current levels (69 FR 40019). This allowance is provided so that areas have an opportunity to use the budget test to demonstrate conformity as opposed to the interim conformity tests (i.e., 2002 baseline test and/or action versus baseline test). The budget test with an adequate or approved MVEB budget is generally more protective of air quality and provides a more relevant basis for conformity determinations than the interim emissions test. (69 FR 40026).

It should also be noted that the Early Progress Plan is not a required plan and does not substitute for required submissions such as an attainment demonstration or rate-of-progress plan, if such plans become required for the St. Louis 8-hour ozone area.

**III. What is EPA's analysis of the request?**

In August 2013, the State submitted to EPA an Early Progress Plan for the purpose of establishing MVEBs for the St. Louis 8-hour ozone area. The submittal utilizes a base year of 2008, and a projected year of 2015 to establish NO<sub>x</sub> and VOC MVEBs. The planning assumptions used to develop the MVEBs were discussed and agreed to by the St. Louis interagency consultation group, East West Gateway (EWG), which consists of the transportation and air quality partners in the St. Louis 8-hour ozone nonattainment area. Tables 1 and 2 below show the differences by source categories between the 2008 base year and 2015 forecast year. The NO<sub>x</sub> and VOC emissions in tons per day (tpd) within the St. Louis nonattainment area are expected to decrease significantly, 31 percent and 12 percent, respectively, between 2008 and 2015. These emission trends demonstrate that progress will be made towards attainment of the 2008 8-hour ozone NAAQS.

Source	2008 NO <sub>x</sub> (tpd)	2015 NO <sub>x</sub> (tpd)
Point .....	88.84	86.32
Area .....	6.52	6.64
On-road .....	161.25	76.70
Non-road .....	65.18	53.72
Total .....	321.79	223.38
Total Percent Reduction .....	31%	

Source	2008 VOC (tpd)	2015 VOC (tpd)
Point .....	18.01	21.60
Area .....	99.47	111.73
On-road .....	60.86	32.70
Non-road .....	45.08	30.67
Total .....	223.42	196.70
Total Percent Reduction .....	12%	

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements

of the CAA, including Section 110 and implementing regulations.

**IV. What are the MVEB's for the St. Louis 8-hour ozone area?**

Through this rulemaking, EPA is approving the 2015 regional MVEBs for

NO<sub>x</sub> and VOC for the St. Louis 8-hour ozone area. EPA has determined that the MVEBs contained in the Early Progress Plan SIP revision are consistent with emission reductions from all sources within the nonattainment area and are showing progress toward attainment.

The 2015 MVEBs in tpd for VOCs and NO<sub>x</sub> for the St. Louis, Missouri area are as follows:

	2015 NO <sub>x</sub> (tons per day)	2015 VOC (tons per day)
St. Louis Area MVEB .....	76.70	32.70

EPA found these MVEBs adequate for transportation conformity purposes in an earlier action (March 5, 2014, 79 FR 12504). As of March 19, 2014, the effective date of EPA’s adequacy finding for these MVEBs, conformity determinations in St. Louis must meet the budget test using these 8-hour MVEBs, instead of the 1-hour ozone MVEBs. It should be noted that the previous adequacy finding does not relate to the merits of the SIP submittal, nor does it indicate whether the submittal meets the requirements for approval. This EPA rulemaking action takes formal action on the Early Progress Plan SIP revision.

**V. What action is EPA taking?**

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the “Proposed Rules” section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision, if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

**Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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 March 14, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 23, 2015.

**Mark Hague**,  
Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart AA—Missouri**

**§ 52.1320 Identification of plan.**

■ 2. Section 52.1320(e) is amended by adding new entry (68) at the end of the table to read as follows:

\* \* \* \* \*  
(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
(68) Missouri Early Progress Plan.	St. Louis .....	8/26/13	1/14/16 [ <i>Insert Federal Register citation</i> ].	[EPA-R07-OAR-2015-0587; FRL-9941-01-Region 7].

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

[EPA-R07-OAR-2013-0765; FRL-9940-97-Region 7]

**Approval and Promulgation of Implementation Plans; State of Kansas; Annual Emissions Fee and Annual Emissions Inventory**

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

**ACTION:** Direct final rule; technical amendment.

**SUMMARY:** The Environmental Protection Agency (EPA) inadvertently approved and codified this action under both part 52 (Approval and Promulgation of Implementation Plans) and part 70 (State Operating Permit Programs). This technical amendment removes the part 52 approval and codification and makes a clarification to part 70.

**DATES:** This action is effective January 14, 2016.

**FOR FURTHER INFORMATION CONTACT:** Lachala Kemp at (913) 551-7214, or by email at [kemp.lachala@epa.gov](mailto:kemp.lachala@epa.gov).

**SUPPLEMENTARY INFORMATION:** On January 27, 2014 (79 FR 4274), EPA published a direct final rule approving a SIP revision for Kansas that included revisions to K.A.R. 28-19-202 “Annual Emission Fees.” The rule revision amended KAR 28-19-202 “Annual Emissions Fees” to align the state’s reporting requirements with EPA’s reporting requirements, and was incorrectly approved and codified under part 52 and part 70.

This rule also included revisions to the operating permits program, K.A.R. 28-19-517 “Class I Operating Permits; Annual Emissions Inventory.” This part 70 appendix A revision added new

paragraph (f) “The Kansas Department of Health and Environment submitted revisions to Kansas Administrative Record (KAR) 28-19-202 and 28-19-517 on April 15, 2011; approval of section (c) effective March 28, 2014.”

This technical amendment removes the erroneous part 52 approval of KAR 28-19-202 “Annual Emissions Fees” and recodifies the table. This action also revises paragraph (f) to read as follows: (f) “The Kansas Department of Health and Environment submitted revisions to Kansas Administrative Record (KAR) 28-19-202 and 28-19-517 on April 15, 2011; effective March 28, 2014.”

**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 70*

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: December 23, 2015.

**Becky Weber,**

*Acting Regional Administrator, Region 7.*

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

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**§ 52.870 [Amended]**

■ 2. In § 52.870, paragraph(c) is amended by removing the table entry “K.A.R. 28-19-202.”

**PART 70—STATE OPERATING PERMIT PROGRAMS**

■ 3. The authority citation for part 70 continues to read as follows:

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

■ 4. Appendix A is amended by revising paragraph (f) under Kansas to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**Kansas**

\* \* \* \* \*

(f) The Kansas Department of Health and Environment submitted revisions to Kansas Administrative Record (KAR) 28-19-202 and 28-19-517 on April 15, 2011; effective March 28, 2014.

\* \* \* \* \*

[FR Doc. 2016-00573 Filed 1-13-16; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2015-0538; FRL-9939-53]

**Aspergillus flavus AF36; Time Limited Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited exemption from the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(a) requirement of a tolerance for residues of the pesticide *Aspergillus flavus* AF36 in or on dried figs resulting from use in accordance