



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0644; FRL-9941-68-Region 7]

Approval of Missouri's Air Quality Implementation Plans;

Americold Logistics, LLC 24-Hour Particulate Matter (PM₁₀)

National Ambient Air Quality Standard (NAAQS) Consent Judgment

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on June 2, 2014. This SIP revision incorporates a consent judgment to address violations of the 24-hour particulate matter (PM₁₀) NAAQS near the Americold Logistics, LLC, Carthage Crushed Limestone (CCL) facility near Carthage, Missouri. CCL is a limestone quarry operation. The consent judgment between the State of Missouri and CCL includes measures that will control PM₁₀ emissions from the facility. This approval will make the consent judgment Federally-enforceable.

DATES: This direct final rule will be effective [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], without further notice, unless EPA receives adverse comment by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

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-2015-0644, to 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: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7039 or by email at hamilton.heather@epa.gov.

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

- I. Background
- II. What is being addressed in this Document?
- III. Have the Requirements for Approval of a SIP Revision Been Met?
- IV. What Action is EPA Taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Background

EPA's current health-based PM₁₀ NAAQS was set in 1987 at a level of 150µg/m³ measured over 24 hours. 40 CFR 50.6(a). An exceedance of the NAAQS is a daily (24-hour average) PM₁₀ concentration that is above the level of the standard. A violation of the NAAQS occurs when an exceedance occurs more than once per year on average over three years. 40 CFR part 50, appendix K.

Exceedances and violations of the PM₁₀ NAAQS at the Carthage monitor date back to 2001. In October 2003, the Missouri Department of Natural Resources (MDNR) Air Pollution Control Program and Americold Logistics, LLC, Carthage Crushed Limestone (CCL) entered into a settlement agreement that contained measures for reducing CCL's fugitive particulate matter emissions for exceedances of the PM₁₀ NAAQS. The measures put in place from the settlement agreement reduced the number of PM₁₀ exceedances at the Carthage monitor for several years.

There were no exceedances in 2009 and 2010; however, based on validated air quality data from 2011 to 2013, the Carthage monitor again experienced a number of exceedances as evidenced in the following table:

Carthage PM ₁₀ Air Quality System Data Validity and Certification Through June 30, 2013	
Date	24-hour PM ₁₀ Exceedance (µg/m ³)
June 23, 2011	174
September 9, 2011	159
September 26, 2011	258
November 30, 2011	192
January 16, 2012	222

After an internal analysis to identify potential sources of emissions for the exceedances, the MDNR Air Pollution Control Program contacted CCL regarding their operations at the facility. On June 8, 2012, CCL proposed

additional control measures that were necessary due to malfunctioning equipment and processing issues at the facility.

II. What is being addressed in this Document?

EPA is taking direct final action to approve a revision to the SIP submitted by the State of Missouri on June 2, 2014. Missouri requested that EPA approve Americold Logistics, LLC, Carthage Crushed Limestone (CCL) consent judgment for inclusion into the Missouri SIP. The consent judgment between the state of Missouri and CCL was entered on May 3, 2014, and effective May 13, 2014. The consent judgment requires CCL to apply specific measures and work practices to reduce PM₁₀ emissions generated at the facility. These measures and practices were required to be operational by March 31, 2014. CCL has implemented and made operational these measures in accordance with the consent judgment timelines.

As a result, CCL worked cooperatively with MDNR who developed an enforceable consent judgment for implementing controls to further reduce PM₁₀ emissions at the facility. CCL proactively put several controls in place during 2012 and 2013 prior to finalization of the consent judgment.

Control measures to reduce fugitive PM₁₀ emissions in the 2014 consent judgment include the following: 1) installation of wet suppression for crushers; 2) eliminate screen and install a hopper to reduce free fall of rock; 3) install a CFM compressor for the baghouse controlling the Cedar Rapids dryer; 4) design and install a new drop point/transition to improve seal at conveyor transfer points; 5) install a new bin top in the west lime hopper; 6) fabricate a new transition on elevator head where it drops on to tail of the line to the conveyor belt, and install a new head house and boot that seals to the elevator; 7) rebuild a water truck to contain eight thousand gallons of water for haul roads; 8) enclose the bed of the haul truck that hauls waste fines to stock pile area; 9) develop an operation and maintenance plan for MDNR approval, and, 10) submit a full emissions inventory questionnaire for the calendar year 2012. The aforementioned control measures were completed according to schedule.

The consent judgment also includes contingency measures in the event of an exceedance of the PM₁₀ NAAQS. Contingency measures include investigating and addressing any exceedance to the extent possible in a timely manner including a detailed report to the MDNR Air Pollution Control Program within ten days. Additional contingency measures outlined in the consent

judgment are to be reported no later than ninety days after the calendar quarter in which the monitoring data was measured.

In addition to the measures outlined in the consent judgment, CCL has voluntarily agreed to participate in a near-real-time PM₁₀ concentration alarm notification system for monitored hourly PM₁₀ levels that exceed the 150 µg/m³. This activity is strictly voluntary and the MDNR Air Pollution Control Program is not submitting requirements for CCL to participate in the alarm notification for inclusion in this SIP action.

Since entering into the consent judgment with the MDNR, there was one exceedance of the PM₁₀ standard on December 8, 2014. There have been no other exceedances recorded since that date. CCL, in accordance with the consent judgment contingency measures, notified the MDNR Air Pollution Control Program about the exceedance. The MDNR Air Pollution Control Program continues to monitor air quality and to work with the facility as necessary to implement the contingency measures of the consent judgment through a corrective action plan that addresses the 2014 exceedance.

The control and contingency measures identified in the consent judgment, and included in MDNR's SIP revision request, is a significant strengthening of the current

requirements applicable to this source to control fugitive PM emissions. EPA believes that these requirements will reduce or potentially eliminate future exceedances of the PM₁₀ NAAQS and lead to improvements in the air quality in the area surrounding CCL's facility. The work practice revisions and mechanical upgrades along with the contingency measures put into action by the consent judgment and this SIP revision provide for permanent modifications that deal with past and future exceedances in a manner that limits their potential and represent an effective short term and long term control strategy for fugitive emissions of coarse particulate matter.

III. Have the Requirements for Approval of a SIP Revision Been Met?

The June 2, 2014, 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 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.

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Missouri Source Specific Permits and Orders described in the direct final amendments to 40 CFR part 52 set

forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VI. 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 (Public Law 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 CAA; 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 [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 11, 2016.

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

2. Section 52.1320(d) is amended by adding entry (30) at the end of the table to read as follows:

§52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/Permit number	State effective date	EPA Approval date	Explanation
* * * * *				
(30) Americold Logistics, LLC 24-Hour Particulate Matter (PM ₁₀) National Ambient Air Quality (NAAQS) Consent Judgment	Consent Judgment 14AP-CC00036	4/27/14	[insert date of publication in the Federal Register], [insert Federal Register citation]	