



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2015-0356; FRL-9968-82-Region 7]**

**Approval of Missouri Air Quality Implementation Plans;  
Infrastructure SIP Requirements 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 approving elements of a State Implementation Plan (SIP) revision from the State of Missouri for the 2008 Ozone National Ambient Air Quality Standard (NAAQS). Section 110 of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

**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-2015-0356, to <https://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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913)551-7016, or by email at [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).

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

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

**I. What is Being Addressed in this Document?**

EPA is approving the infrastructure SIP submission from the State of Missouri received on July 08, 2013, as meeting the submittal requirements of 110(a)(1). EPA is approving the following elements of section 110(a)(2): (A), (B), (C), (D)(i)(II) - prevent significant deterioration of air quality (prong 3), (D)(ii), (E) through (H), and (J) through (M). EPA is not acting on the elements of section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment (prong 1), interfering with maintenance of the NAAQs (prong 2) because those elements

were not addressed in the SIP revision submittal. EPA is not acting on section 110(a)(2)(I). EPA will act on 110(a)(2)(D)(i)(II)-protection of visibility (prong 4) in a separate action.

A Technical Support Document (TSD) is included as part of the docket to discuss the details of this action, including analysis of how the SIP meets the applicable 110 requirements for infrastructure SIPs.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state's submission has met the public notice requirements for the Ozone infrastructure SIP submission in accordance with 40 CFR 51.102. The state held a public comment period from The MDNR held a public hearing and comment period from April 30, 2013 to June 06, 2013. EPA provided comments on May 23, 2013 and were the only commenters. A public hearing was held on May 30, 2013. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V for all elements except 110(a)(2)(D)(i)(I) - prongs 1 and 2. EPA published a document in the **Federal Register**, "*Findings of Failure to Submit a Section 110 State Implementation Plan for Interstate Transport for the 2008 National Ambient Air Quality Standards for Ozone*".<sup>1</sup> Missouri was included in this finding because it had not made a

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<sup>1</sup> See 80 FR 39961 (August 12, 2015)

complete "good neighbor" SIP submittal to meet the section 110(a)(2)(D)(i)(I) - prongs 1 and 2 elements. As explained in more detail in the TSD, which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### **III. What Action is EPA Taking?**

EPA is taking direct final action to approve elements of the July 08, 2013, infrastructure SIP submission from the State of Missouri, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 Ozone NAAQS. As stated above, EPA is approving the revision as meeting the submittal requirement of section 110(a)(1) and approving the following elements of section 110(a)(2): (A), (B), (C), (D)(i)(II) - prong 3, (D)(ii), (E) through (H), and (J) through (M). EPA will act on (D)(i)(II) - prong 4 in a separate action.

EPA is taking no further action with respect to elements of section 110(a)(2)(D)(i)(I) - prongs 1 and 2 - because the Cross State Air Pollution Rule (CSAPR) Federal Implementation Plans (FIPs) that require subject units in Missouri to participate in the Federal CSAPR NO<sub>x</sub> Annual Trading Program and the Federal CSAPR SO<sub>2</sub> Group 1 Trading Program continue to apply and addresses emissions from subject units that may be contributing to

nonattainment (prong 1) or interfering with maintenance (prong 2) of the NAAQS in another state.<sup>2,3</sup> Additionally, on June 28, 2016, EPA took direct final action to approved Missouri's adoption of state regulations that established state-determined allocations replacing EPA's CSAPR default annual NO<sub>x</sub> and annual SO<sub>2</sub> emissions allocation allowances for 2017 and later years as an abbreviated SIP revision.<sup>4</sup>

EPA is not taking action on section 110(a)(2)(I). Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas. EPA does not expect infrastructure SIP submissions to address element (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. EPA will take action on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

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<sup>2</sup> See 76 FR 48208 (August 8, 2011).

<sup>3</sup> See 81 FR 74504 (December 27, 2016).

<sup>4</sup> See 81 FR 41838 (August 12, 2016).

We are publishing this direct final 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 the 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.

#### **IV. 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).

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

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen dioxide, Ozone, Reporting and recordkeeping  
requirements, Volatile organic compounds.

Dated: September 21, 2017.      Cathy Stepp,  
Acting Regional Administrator,  
Region 7.

For the reasons stated in the preamble, EPA is amending 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. Amend §52.1320 (e) by adding entry (63) in numerical order to read as follows:

**§ 52.1320 Identification of plan.**

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(e)\*\*\*

**EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS**

| Name of non-regulatory SIP revision  | Applicable geographic or nonattainment area | State submittal date | EPA Approval date   | Explanation  |
|--|---|----------------------|---|--|
| * * * * *  |   |                      |   |  |
| (63) Sections 110 (a) (1) and 110(a) (2) Infrastructure Requirements for the 2008 Ozone NAAQS. | Statewide                                   | 7/8/13               | [Insert <b>Federal Register</b> date of publication], [Insert <b>Federal Register</b> citation] | This action approves the following CAA elements: 110(a) (1) and 110(a) (2) (A), (B), (C), (D) (i) (II) - prong 3, (D) (ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a) (2) (D) (i) (I) - prongs 1 and 2 are addressed by a Federal Implementation Plan. 110(a) (2) (I) is not applicable. [EPA-R07-OAR-2015-0356; FRL-9968-82-Region 7.] |
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