



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2019-0325; FRL-9995-35-Region 7]

Approval of Air Quality Improvement Plan, Operating Permits Program, and 112(1) Plan; Missouri; Operating Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP), the Operating Permit Program (OPP), and the 112(1) plan submitted on March 7, 2019, by the State of Missouri. The submission revises Missouri's regulations relating to the requirement for sources of air contaminants to obtain operating permits and to establish procedures for sources of air contaminants to obtain and comply with operating permits. These revisions are primarily administrative in nature and do not impact the stringency of the SIP, the OPP, or the 112(1) plan. Specifically, the revisions correct references, change the term "regulated pollutant" to "regulated air pollutant", removes unnecessary words, and add definitions. Approval of these revisions will not impact air quality and ensures Federal enforceability of the State's rules.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2019-0325 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Deborah Bredehoft, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7164; email address bredehoft.deborah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2019-0325, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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. The 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://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve revisions to the Missouri State Implementation Plan (SIP) that were submitted to EPA on March 7, 2019. The SIP revises Missouri's regulation, Title 10 Code of State Regulations (10 CSR) 10-6.065, "Operating Permits", which requires sources of air contaminants to obtain operating permits and establishes procedures for obtaining and complying with operating permits. The revisions correct references, change the term "regulated pollutant" to "regulated air pollutant" to match the Federal use of the term, exempt minor permit modification applications from the public noticing requirement, add definitions specific to the regulatory text of 10 CSR 10-6.065, and make administrative updates. Additionally, Missouri's submission included removal of two sections that were not approved into the SIP or under part 70. These two sections are the basic state operating permit program and the requirement for certain greenhouse gas sources to have permits. The removal of these sections primarily impacts organization and section specific references. The EPA's analysis of the SIP, part 70 and 112(1) revision can be found in the Technical Support Document (TSD) included in this docket.

III. What Part 52 Revision is the EPA Approving?

The EPA is proposing approval of requested revisions to the Missouri SIP relating to 10 CSR 10-6.065 - Operating Permits. Specifically, the EPA is proposing to approve sections (1), (2), (3), (4), and (6) as they pertain to the intermediate state operating permit program in Missouri's SIP. The revisions include correcting references; adding definitions specific to this specific section of the regulatory text; and making administrative updates. The EPA has conducted analysis on the state's revisions and has found that the revisions would not impact air quality, ensures consistency between the state and federally-approved rules, and ensures Federal enforceability of the State's rules. Additional information on the EPA's analysis can be found in the Technical Support Document (TSD) included in this docket.

IV. What Part 70 Revision is the EPA Approving?

The EPA is proposing approval of requested revisions to the Missouri Operating Permit Program relating to 10 CSR 10-6.065 - Operating Permits. Specifically, the EPA is proposing approval of sections (1), (2), (3), (5) and (6) as they pertain to the Missouri Title V operating permit program. The revisions include correcting references; changing the term "regulated pollutant" to "regulated air pollutant" to match the Federal use of the term; adding definitions specific to this specific section of

the regulatory text; and making administrative updates. The EPA has conducted analysis on the state's revisions and has found that the revisions would not impact air quality, ensures consistency between the state and federally-approved rules, and ensures Federal enforceability of the State's rules. Additional information on the EPA's analysis can be found in the TSD included in this docket.

V. What 112(1) Revision is the EPA Approving?

Missouri's submission indicated that the revisions made to 10 CSR 10-6.065 "include any revisions necessary to retain 112(1) approval under the Clean Air Act." The John S. Seitz Memo of April 13, 1993, titled "Title V Program Approval Criteria for Section 112 Activities," provides guidance on revisions to state Title V programs and how they intersect with section 112 requirements. It states, "As for part 70 program revisions, no formal amendment to the initial title V program should typically be needed with respect to section 112 requirements taking effect after the effective date of the program. The State's up-front commitment and demonstrations (*i.e.*, legal authorities and mechanisms to adopt additional section 112 requirements) coupled with the EPA's ability to review individual permits and to audit part 70 programs periodically should provide reasonable assurance of adequate State implementation." The guidance further explains that, "The State, however, remains responsible

for maintaining and enhancing as necessary its authority to implement section 112, including any new regulations. In light of the demonstrations and/or commitments required for part 70 approval, the EPA will presume that a State's request for approval of its operating permits program will be an implicit request under section 112(1) for delegation of authority to implement federally-promulgated section 112 requirements in the same form in which EPA issues them." Our September 25, 1995, 112(1) delegation to Missouri remains in effect. Per MoDNR's request, we are approving these revisions under the authority of Clean Air Act (CAA) 112(1).

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

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. The state provided public notice on this SIP revision from August 1, 2018, to October 4, 2018, and received seven (7) comments. The EPA provided three of the seven comments. The state reviewed and responded to the comments on February 1, 2019. The state did not revise any of the regulatory text; however, the state did revise the Regulatory Impact Report. In addition, as explained above and in more detail in the technical support document which is part of this document,

the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. The submittal also meets the substantive requirements of title V of the 1990 CAA Amendments and 40 CFR part 70.

VII. What Action is the EPA Taking?

The EPA is proposing to amend the Missouri SIP by approving the State's request to amend 10 CSR 10-6.065, "Operating Permits." Approval of these revisions will ensure consistency between state and Federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VIII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person

identified in the "For Further Information Contact" section of this preamble for more information).

IX. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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

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

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

Dated: June 18, 2019.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 70 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. In §52.1320, the table in paragraph (c) is amended by revising the entry "10-6.065" to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA Approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6--Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.065	Operating Permits	3/30/2019	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	Section (5) contains provisions pertaining only to Missouri's Part 70 program and is not approved as a revision to the SIP.
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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 to part 70, as proposed to be amended June 11, 2019, at 84 FR 27057, is further amended by adding paragraph (ii) under "*Missouri*" to read as follows:

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

* * * * *

Missouri

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(ii) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.065, "Operating Permits" on March 7, 2019. The state effective date is March 30, 2019. The proposed revision effective date is **[DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**.

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