



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0289; FRL-9998-42-Region 7]

Air Plan Approval; Missouri; Revision to Sulfur Dioxide Control Requirements for Lake Road Generating Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Missouri on November 2, 2018. This final action replaces a Consent Decree in Missouri's SIP with an Administrative Order on Consent (AOC) between the Missouri Department of Natural Resources (MoDNR) and Kansas City Power and Light (KCPL). The EPA is also approving an amendment to the AOC. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility and does not result in an increase in sulfur dioxide (SO₂) emissions from the Lake Road Generating Facility.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0289. All documents in the docket are listed on the <https://www.regulations.gov> web site. 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jonathan Meyer, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7140; email address meyer.jonathan@epa.gov.

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

Table of Contents

- 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 the EPA Taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Background

On June 17, 2019, the EPA proposed to approve revisions in the **Federal Register** to the Missouri SIP that replaced a Consent Decree in Missouri's SIP with an AOC between the MoDNR and KCPL. See 84 FR 27996. The EPA also proposed to approve an amendment to the AOC. The EPA solicited comments on the proposed revision to Missouri's SIP, and did not receive any comments.

II. What is Being Addressed in this Document?

The EPA is approving a SIP revision submitted by the State of Missouri on November 2, 2018. The revision consists of an AOC between the MoDNR and KCPL that limits emissions of SO₂ from KCPL's Lake Road Generating facility in St. Joseph, Missouri, and an Amendment to the AOC. The AOC and its Amendment replace a Consent Decree in Missouri's SIP and strengthens SO₂ control requirements for KCPL's Lake Road Generating facility by limiting the types of fuels that may be combusted in boilers at the facility. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility and does not result in an increase in SO₂ emissions from the Lake Road Generating Facility.

A detailed discussion of Missouri's SIP revision was provided in EPA's June 17, 2019, **Federal Register** document and in a Technical Support Document that is available in the docket for this action. See 84 FR 27996.

III. 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 July 30, 2018, to September 6, 2018, and received zero comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What Action is the EPA Taking?

We are taking final action to replace the May 25, 2001, St. Joseph Light and Power Consent Decree with the 2015 AOC and 2018 Amendment between MoDNR and KCPL.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Source-Specific Orders described in the 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).

Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

Also, in this document, as described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Source-Specific Permits and Orders from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

¹ 62 FR 27968 (May 22, 1997).

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);
- 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).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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. section 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: _____

August 15, 2019.

Edward Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, the 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. In §52.1320, the table in paragraph (d) is amended by:

- a. Revising entry "(17)"; and
- b. Adding entries "(32)" and "(33)" to the end of the

table.

The revision and additions 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
* * * * *				
(17) St. Joseph Light & Power SO ₂	Consent Decree	5/21/2001	11/15/2001, 66 FR 57389 and [insert date of publication in the Federal Register], [insert Federal Register citation]	Removed and replaced on [insert date of publication in the Federal Register] with (32) and (33).

* * * * *

(32) Kansas City Power and Light - Lake Road Facility	Administrative Order on Consent No. APCP-2015-118	9/27/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
(33) Kansas City Power and Light - Lake Road Facility	Amendment #1 to Administrative Order on Consent No. APCP-2015-118	9/27/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	

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[FR Doc. 2019-18041 Filed: 8/22/2019 8:45 am; Publication Date: 8/23/2019]