for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **NOTE**) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 14, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Hydrocarbons, incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

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

Dated: November 1, 2001.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. 01–28341 Filed 11–14–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MO 0137–1137a; FRL–7103–4]**

## Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing it is approving the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide ($SO_2$) National Ambient Air Quality Standard (NAAQS) in St. Joseph (Buchanan County), Missouri. This revision approves a Consent Decree which requires $SO_2$ emission reductions from a major air emissions source in St. Joseph. Approval of this SIP revision will make the Consent Decree Federally enforceable.

**DATES:** This direct final rule will be effective January 14, 2002 unless EPA receives adverse comments by December 17, 2001. If adverse comments are received, EPA 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:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603.

**SUPPLEMENTARY INFORMATION**

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation or control strategy mean to me?
What is the NAAQS for $SO_2$?
What NAAQS violation occurred in St. Joseph, Missouri?
How was the problem addressed?
What is the control strategy?
What is contained in the SIP submittal?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

### What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

### What Is the Federal Approval Process for a SIP?

In order for state regulations and control strategies to be incorporated into the Federally enforceable SIP, states must formally adopt them consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state regulation or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The Missouri SIP is published in 40 CFR part 52, subpart AA.

The actual state regulations and control strategies which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation or control strategy with a specific effective date.

**What Does Federal Approval of a State Regulation or Control Strategy Mean to Me?**

Enforcement of the state regulation or control strategy before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

**What Is the NAAQS for $SO_2$?**

As mentioned above, we have established ambient air quality standards for a number of pollutants, including $SO_2$. These standards are set at levels to protect public health and welfare. The standards are published in 40 CFR part 50. If ambient air monitors measure violations of the standard, states are required to identify the cause of the problem and to take measures which will bring the area back within the level of the standard. The 24-hour standard for $SO_2$ is 0.14 parts per million, not to be exceeded more than once per year. There is also a 3-hour and an annual standard.

**What NAAQS Violations Occurred in St. Joseph, Missouri?**

In 1995, there was one exceedance of the 24-hour $SO_2$ standard. In 1997 there were two exceedances of the standard. In 1998, there was one final exceedance of the standard. Two exceedances of the standard in a calendar year constitute a violation of the NAAQS. Thus, there was a violation of the 24-hour $SO_2$ standard in 1997.

**How Was the Problem Addressed?**

The source of the $SO_2$ emissions identified as contributing to the violation of the NAAQS was the St. Joseph Light and Power (SJLP) Company's Lake Road power generating station. There are six boilers and three combustion turbines at the Lake Road site.

The Missouri Department of Natural Resources (MDNR) and the SJLP conducted an extensive air dispersion modeling analysis to determine the appropriate source control strategy. The modeling was performed in accordance with the requirements of the *EPA's Guideline on Air Quality Models (Revised) and Supplement A.*

**What Is the Control Strategy?**

MDNR negotiated enforceable emission limitations and other control measures, means, and techniques, as well as schedules and timetables for compliance, sufficient to ensure that the NAAQS for $SO_2$ will be achieved and maintained in the future. These measures incorporate the use of low sulfur coal, low sulfur fuel oil, natural gas, and fuel blending. Specific emission limits have been set for each boiler and turbine. Compliance will be determined through coal sampling and fuel certification, stack tests, and continuous emissions monitoring.

These control strategy requirements were incorporated into a Consent Decree issued by MDNR to SJLP. In addition to the conditions above, the Consent Decree contains monitoring, reporting, and recordkeeping requirements sufficient to determine compliance. The Consent Decree also contains provisions for stipulated penalties in the event SJLP fails to adhere to the requirements of the Consent Decree.

**What Is Contained in the SIP Submittal?**

MDNR submitted a request to us to approve the Consent Decree as a revision to the Missouri SIP. Additional information is contained in the state submittal and in the EPA Technical Support Document (TSD) for this notice which can be obtained by contacting us at the address above.

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

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

**What Action Is EPA Taking?**

We are approving a revision to the Missouri SIP which requires source specific $SO_2$ emission reductions which will result in attainment and maintenance of the $SO_2$ NAAQS in St. Joseph (Buchanan County), Missouri.

**Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. section 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 14, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 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: November 2, 2001.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

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

## PART 52—[AMENDED]

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 is amended:

a. By adding a table heading to the table in paragraph (d).

b. By adding a new entry to the end of the table in paragraph (d).

The additions read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(d) * * *

EPA-APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

| Name of source | Order/permit No. | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| St. Joseph Light & Power $SO_2$ | Consent Decree | 05/21/01 | November 15, 2001 [Insert FR cite.]. | |

* * * * *

[FR Doc. 01–28519 Filed 11–7–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MT–001–0039a & MT–001–0041a; FRL–7086–3]**

## Clean Air Act Approval and Promulgation of Air Quality Implementation Plan for Montana; Revisions to the Missoula City-County Air Pollution Control Program

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA approves the State implementation plan (SIP) revisions regarding the Missoula City-County Air Pollution Control Program, as submitted by the Governor of Montana with a letter dated April 30, 2001. On November 17, 2000, the Montana Board of Environmental Review (MBER) adopted the revisions to the Missoula program rules regarding program authority and administration, definitions, failure to attain standards, emergency episode planning, general provisions, standards for stationary sources (including air quality permit program), outdoor burning, fugitive particulate, solid fuel burning devices, fuels, motor vehicles, enforcement and administrative procedures, and penalties. EPA's approval makes these revisions federally enforceable. In addition, the State requested that rules of the Missoula program that are not appropriate for incorporation into the SIP be removed from the federally approved plan. Finally, the Governor's April 30, 2001 submittal consists of several other revisions to Montana regulations, which will be handled separately.

**DATES:** This direct final rule is effective on January 14, 2002 without further notice, unless EPA receives adverse comment by December 17, 2001. If adverse comment is received, EPA 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:** Mail written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2405. Documents relevant to this action can be perused during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2405. Copies of the incorporation by reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of the State documents relevant to this action are available at the Montana Department of Environmental Quality, 1520 E. 6th Avenue, Helena, Montana 59620–0901.

**FOR FURTHER INFORMATION CONTACT:** Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we'' or ''our'' is used, it means EPA.

### I. Background

EPA approved the Missoula nonattainment area SIP for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ($PM_{10}$) on January 18, 1994 (59 FR 2537–2540). Subsequent