

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart JJ—North Dakota

2. Section 52.1820 is amended by adding paragraph (c)(30) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(30) The Governor of North Dakota submitted revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules with letters dated January 9, 1996 and September 10, 1997. The revisions address air pollution control rules regarding general provisions and emissions of particulate matter, sulfur compounds, and organic compounds. (i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Rule Emissions of Sulfur Compounds Restricted, 33–15–06–01, effective January 1, 1996.

(B) Revisions to the Air Pollution Control Rules as follows: General Provisions 33–15–01–04.49, 33–15–01–13.2(b), 33–15–01–15.2, and 33–15–01–17.3; Emissions of Particulate Matter

Restricted 33–15–05–03.3.4; and Control of Organic Compound Emissions 33–15–07–01.1; effective September 1, 1997.

(ii) Additional material.

(A) An April 8, 1997 letter from Dana Mount, North Dakota Department of Health, to Richard Long, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

(B) A July 30, 1997 letter from Dana Mount, North Dakota Department of Health, to Amy Platt, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

(C) A September 9, 1997 letter from Dana Mount, North Dakota Department of Health, to Larry Svoboda, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

3. A new § 52.1835 is added to read as follows:

§ 52.1835 Change to approved plan.

North Dakota Administrative Code Chapter 33–15–12, Standards of Performance for New Stationary Sources, is removed from the approved plan. This change is a result of the

State's September 10, 1997 request for delegation of authority to implement and enforce the Clean Air Act New Source Performance Standards (NSPS) promulgated in 40 CFR Part 60, as in effect on October 1, 1996 (except subpart Eb, which the State has not adopted). EPA granted that delegation of authority on May 28, 1998.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. In § 60.4(c) the table entitled “Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]” is amended by revising the column heading for “ND” and by revising the entry for “WWW—Municipal Solid Waste Landfills” to read as follows:

§ 60.4 Address.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS
[(NSPS) for Region VIII]

Subpart	CO	MT ¹	ND	SD ¹	UT ¹	WY
* * * * *						
WWW Municipal Solid Waste Landfills	*	*	*	*	*	*
* * * * *						

(*) Indicates approval of State regulation.

(¹) Indicates approval of New Source Performance as part of the State Implementation Plan (SIP).

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 62**

[MO 045–1045; FRL–6150–8]

Approval and Promulgation of Implementation Plans and Section 111(d) Plan; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve certain portions of new

Missouri rule 10 CSR 10–6.020 as a revision to the State Implementation Plan (SIP). This rule consolidates the SO₂ requirements previously contained in eight separate rules into one statewide rule. The EPA is taking final action to rescind eight rules which are replaced by the new rule, and the EPA is taking final action to approve Missouri's Clean Air Act (CAA) section 111(d) plan for sulfuric acid mist plants which is now contained in the new rule.

DATES: This rule is effective on September 28, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and

Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551–7975.

SUPPLEMENTARY INFORMATION: Revisions were made to Missouri's SO₂ rules in response to an SO₂ rule enforceability review conducted by the EPA in 1991. A consolidated rule was presented at a public hearing on March 28, 1996. After addressing comments from the hearing and public comment period, the state adopted rule 10 CSR 10–6.260 which became effective on August 30, 1996.

On August 12, 1997, Missouri submitted a request to amend the SIP by

adding the new rule 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds.

In conjunction with Missouri's request for SIP approval of 10 CSR 10-6.260, Missouri also requests rescission of eight existing rules dealing with sulfur compound emissions (10 CSR 10-2.160, 2.200, 3.100, 3.150, 4.150, 4.190, 5.110, and 5.150). These eight rules were rescinded by Missouri effective July 30, 1997.

Missouri simplified the SO₂ emission requirements by consolidating all of the source-specific emission limitations, tests methods, and monitoring requirements for the different geographical areas into one rule: 10 CSR 10-6.260. The rule is a combination of plans which contain requirements that have been previously approved as protecting the SO₂ NAAQS. This new rule does not change the emission limits contained in the existing eight rules to be rescinded, but does contain enforceable emission limits, appropriate compliance methods, and requires recordkeeping sufficient to determine compliance.

Section (4) of the rule requires affected sources to comply directly with the SO₂ National Ambient Air Quality Standard (NAAQS). In general, the EPA does not directly enforce the NAAQS. Section 110 of the CAA requires states to develop plans which contain enforceable emission limitations and other such measures as required to protect the NAAQS. Consequently, the EPA will not take action on section (4); however, the EPA continues to assert that it is a state's prerogative to protect air quality using all necessary and practical means.

Section (3) of this rule also contains the state of Missouri's section 111(d) plan as it applies to sulfuric acid mist plant emissions. Section (3) replaces the comparable restrictions in Missouri's rules, 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds; and 10 CSR 10-5.150, Emission of Certain Sulfur Compounds Restricted, to be rescinded. Section 111(d) of the CAA and 40 CFR Part 60, Subpart B, require each state to adopt and submit a plan to establish emission controls for existing sources, which would be subject to the EPA's new source performance standards if these sources were new sources.

No comments were received in response to the public comment period regarding this rule action.

For more background information, the reader is referred to the proposal for this rulemaking published on March 18, 1998, at 63 FR 13154.

I. Final Action

The EPA is taking final action to approve, as a revision to the SIP, under 40 CFR Part 52, rule 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds, submitted by the state of Missouri on August 12, 1997, except sections (3) and (4).

The EPA is taking final action to approve, under 40 CFR Part 62, section (3) of rule 10 CSR 10-6.260 pursuant to section 111(d) of the CAA.

The EPA is taking no action on section (4) of rule 10 CSR 10-6.260.

The EPA is also taking final action to rescind SIP rules 10 CSR 10-2.160, Restriction of Emission of Sulfur Compounds; 10 CSR 10-2.200, Restriction of Emission of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds; 10 CSR 10-3.150, Restriction of Emission of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10-4.150 Restriction of Emissions of Sulfur Compounds; 10 CSR 10-4.190, Restriction of Emissions of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10-5.110, Restriction of Emissions of Sulfur Dioxide for Uses of Fuel; and 10 CSR 10-5.150, Emission of Certain Sulfur Compounds Restricted.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review. The final rule is not subject to Executive Order 13045, entitled "Protection of Children From Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact

on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

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. The 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 October 26, 1998. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Sulfur oxides.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfuric acid plants, Sulfuric oxides.

Dated: August 3, 1998.

William Rice,

Acting Regional Administrator, Region VII.

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 by adding paragraph (c)(108) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(C) * * *

(108) On August 12, 1997, the Missouri Department of Natural Resources (MDNR) submitted a new rule which consolidated the SO₂ rules into

one and rescinded eight existing rules dealing with sulfur compounds.

(i) Incorporation by reference.

(A) Regulation 10 CSR 10–6.260, Restriction of Emission of Sulfur Compounds, except Section (4), Restriction of Concentration of Sulfur Compounds in the Ambient Air, and Section (3), Restriction of Concentration of Sulfur Compounds in Emissions, effective on August 30, 1996.

(B) Rescission of rules 10 CSR 10–2.160, Restriction of Emission of Sulfur Compounds; 10 CSR 10–2.200, Restriction of Emission of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10–3.100, Restriction of Emission of Sulfur Compounds; 10 CSR 10–3.150, Restriction of Emission of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10–4.150, Restriction of Emissions of Sulfur Compounds; 10 CSR 10–4.190, Restriction of Emission of Sulfur Compounds From Indirect Heating Sources; 10 CSR 10–5.110, Restrictions of Emission of Sulfur Dioxide for Use of Fuel; and 10 CSR 10–5.150, Emission of Certain Sulfur Compounds Restricted; effective July 30, 1997.

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

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

Subpart AA—Missouri

2. Section 62.6350 is amended by adding paragraph (b)(3) to read as follows:

§ 62.6350 Identification of plan.

* * * * *

(b) * * *

(3) A revision to Missouri's 111(d) plan for Sulfuric Acid Mist from Existing Sulfuric Acid Production Plants which was effective on August 30, 1996. This revision incorporates the 111(d) requirements from two existing regulations into a new consolidated regulation.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7252]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).