

* * * * *

[FR Doc. 03-7053 Filed 3-25-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52**

[KS 172-1172a; FRL-7471-9]

**Approval and Promulgation of
Implementation Plans and Approval
Under Sections 110 and 112(l); State of
Kansas****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision applies to small sources and creates a permit-by-rule that provides an alternative for certain small emission sources which otherwise would be required to apply for an operating permit. Small sources not operating at or above the threshold levels which trigger source-specific operating permit requirements are provided an option to operate under the conditions of this permit-by-rule in lieu of applying for the operating permit. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This direct final rule will be effective May 27, 2003, unless EPA receives adverse comments by April 25, 2003. 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 Heather Hamilton, 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. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551-7039.

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 mean to me?

What is approval under Section 112(l)?

What is being addressed in this document?

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 state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

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 to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies 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 rule, 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 actual state regulations 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 with a specific effective date.

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

Enforcement of the state regulation 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 Approval Under Section 112(l)?

Section 112(l) of the CAA provides authority for EPA to delegate a program to regulate hazardous air pollutants (HAPs) to the states and local agencies. EPA has delegated authority for this program to Kansas and has approved the state's Class II rules as they pertain to HAPs under this authority.

**What Is Being Addressed in This
Document?**

On October 4, 2002, Kansas made revisions to state rule K.A.R. 28-19-564; Class II Operating Permits; Permits-by-Rule; Operating Permits for Sources with Actual Emissions Less Than 50 Percent of Major Source Thresholds.

This rule creates a permit-by-rule that provides an alternative for certain small emission sources which otherwise would be required to apply for a full Class I (major source) or Class II (minor source) operating permit. Small sources which have emissions at 25 percent of the Class I or Class II threshold levels are required to notify the state of their desire to operate under this regulation and to maintain the required records. Small sources which have emissions at 50 percent of the threshold levels are required to apply to the state, pay the appropriate fee and maintain the required records. These provisions reduce the burden associated with the time and effort otherwise required to apply for and obtain a Class I or Class II operating permit.

The exemption is not available for sources which are subject to Title V operating permit requirements for reasons other than their potential to emit at major source levels (e.g., 100 or more tons per year of a criteria pollutant). The exemption only relates to the operating permit program. It requires sources to continue to operate well below the levels which trigger the Class I or Class II permitting requirements and demonstrate, through appropriate