

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 188–1188a; FRL–7542–3]

Approval and Promulgation of Implementation Plans; State of MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) which establishes a state-wide air emissions banking and trading program. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the current state rules.

DATES: This direct final rule will be effective October 10, 2003, unless EPA receives adverse comments by September 10, 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 submitted either by mail or electronically. Written comments should be submitted to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to kaiser.wayne@epa.gov, or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

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, or by e-mail at kaiser.wayne@epa.gov.

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 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 Being Addressed in This Document?

10 CSR 10–6.410 Emissions Banking and Trading

In order to fulfill the requirements of Section 643.220 of the Revised Statutes of Missouri, the Missouri Department of Natural Resources (MDNR) proposed and adopted a new emissions banking and trading rule, 10 CSR 10–6.410. This rule became effective on April 30, 2003.

Banking and trading programs are a market-based approach to improving air quality. The basic unit for transactions in this program is the emission reduction credit (ERC), which is a certified, permanent emission reduction equal to one ton per year of a criteria pollutant or precursor. A facility generates ERCs by voluntarily emitting below applicable requirements. As this new, lower emission level is incorporated into the facility's operating permit, this reduction is permanent. These credits can be traded, sold, or banked for later use. Another facility can purchase these credits and use them to offset emissions from expansion of existing facilities or construction of new facilities. ERCs cannot be used to avoid New Source Review (NSR) applicability or requirements for technology-based standards such as lowest achievable emission rate, best available control technology or reasonably available control technology. Credits can also be purchased to be retired, thereby reducing potential emissions in an area.

Missouri's emissions banking and trading program contains a number of measures to ensure that air quality is protected. First of all, ERCs must be real, properly quantified, permanent and surplus (not already relied upon or required by the SIP, a state or local law, ordinance or regulation, the Clean Air Act or other Federal law or regulation, an enforcement action, or a consent decree). Second, ERCs may only be used in the same maintenance area, nonattainment area or modeling domain in which they were generated. ERCs