

Dated: September 5, 1984.
William D. Ruckelshaus,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register in July 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraph (c)(68) is added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(68) Amendments to the Refuse Burning Equipment Limitations rules, specifically OAR 340-21-005 (1) and (4), OAR 340-21-025(2)(b), and OAR 340-21-027, submitted by the State Department of Environmental Quality on January 16, 1984; amendments to the Open Field Burning rules, specifically, the addition of new sections 340-26-001, 340-26-003, 340-26-031, 340-26-035, 340-26-040, and 340-26-045, revisions to sections 340-26-005, 340-26-013, 340-26-015, 340-26-025, and 340-26-030, the deletion of the existing section 340-26-010 and replacing it with a new section 340-26-010, the deletion of the existing section 340-26-012 and replacing it with a new section 340-26-012, and the deletion of sections 340-26-011 and 340-26-020, submitted by the State Department of Environmental Quality on March 14, 1984; and amendments to the Open Burning Rules (OAR 340-23-022 through 115), submitted by the State Department of Environmental Quality on June 5, 1984.

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40 CFR Part 52

[EPA Action MO 999; A-7-FRL-2691-8]

Approval and Promulgation of Implementation Plans; State of Missouri; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Clean Air Act requires that all states which received an extension beyond December 31, 1982, to attain either the ozone or carbon monoxide standards submit a revised plan by July 1, 1982, showing that the

standards would be attained by December 31, 1987. The State of Missouri has submitted a plan for the St. Louis area. EPA proposed to disapprove portions of this plan and to approve other portions. This document approves those portions which were proposed to be approved. The state has corrected numerous deficiencies, and has committed to correct the demonstration of attainment of the ozone standard. No action is being taken on the portions of the plan which were proposed to be disapproved.

EFFECTIVE DATE: November 14, 1984.

ADDRESSES: Copies of the state's submission, public comments, and EPA's technical evaluation are available during normal business hours at the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106; Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101, and the East-West Gateway Coordinating Council, 100 South Tucker Boulevard, St. Louis, Missouri 63102. The State submission is also available at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C., and the Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374-3791.

SUPPLEMENTARY INFORMATION: On April 11, 1983 (48 FR 15493), EPA published a proposal to take action on revisions to the Missouri State Implementation Plan (SIP) submitted by the state on December 23, 1984. The purpose of these revisions was to show how the ozone and carbon monoxide ambient air quality standards are to be attained in the St. Louis nonattainment area. The revisions were required under Part D of the Clean Air Act, which provides that areas which have not attained the air quality standards must take additional pollution control measures to meet the standards. For a more detailed discussion of the December 23, 1982, submission as it relates to the requirements of the Act, the reader is referred to the April 11 proposed rulemaking (PRM).

On August 24, 1983, the state submitted revisions to the December 23 submission. Today's final actions are based on EPA's review of the revised submission. The requirements that must be satisfied are described below as those relating to the ozone plan, those relating to the carbon monoxide plan, and those additional requirements which must be satisfied by all plans.

A. The Ozone Plan

EPA's proposal of the ozone SIP was divided into seven sections:

- Emission Inventory
- Air Quality Data
- Modeling Analysis and the Emission Reduction Target
- Stationary Source Controls
- Inspection and Maintenance Program
- Transportation Control Measures
- Reasonable Further Progress and the Attainment Demonstration.

Of these areas, EPA proposed to approve the emission inventory, air quality data, stationary source controls and transportation measures. As discussed below, these items are being approved.

The other three items were proposed to be disapproved. The state submitted revised material to address these other points, but EPA's review of these changes also found deficiencies. As discussed below, the State has committed to correct the deficiencies. EPA will evaluate the corrections and will propose action on them when the evaluation is complete.

1. Emission Inventory

Section 172(b)(4) of the Clean Air Act requires the SIP to contain a comprehensive, accurate and current inventory of actual emissions.

The PRM proposed to approve the emission inventory for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x). The NO_x inventory is not changed by the August 24, 1983, submission, but the VOC inventory has been revised slightly. The base year inventory has been adjusted from 315,030 kg/day to 311,855. The baseline 1987 inventory has been changed from 248,870 kg/day to 245,640. These changes are due primarily to reduced estimates of both current and future auto assembly emissions, and do not significantly affect the overall control requirement. No comments were received dealing with the approvability of the inventory. The Missouri SIP is approved with respect to the emission inventory requirement.

2. Air Quality Data

For a 1982 SIP, EPA generally requires the air quality data base to include all data collected through the third quarter of 1981 (46 FR 7189, January 22, 1981). The PRM proposed to approve the air quality data base for use in the modeling analysis. No revisions to the data base have been submitted, and no comments were received on the proposal. EPA approves the air quality data for use in the modeling analysis.

3. Modeling Analysis and Emission Reduction Target

The April 11 PRM noted two errors in developing the base year mobile source inventory. One was in comparing the emissions calculated by two different computational techniques (Mobile-1 and Mobile-2), and the other was a simple mathematical error. The state has reworked the mobile source inventory based only on Mobile-2, eliminating both the Mobile-1 comparison and the mathematical error.

The state also remodeled the emission reduction target, using the city-specific Empirical Kinetic Modeling Approach (EKMA), and determined that the control requirement is 40.3 percent, not 42.2 percent as described in the previous proposal. The state adjusted this modeled control requirement by taking credit for reductions of 10.6 percent between 1979 and 1980 rather than the originally claimed adjustment of 15.8 percent. The PRM noted that the state's claim of a 38,316 kg/day reduction in mobile source emissions between 1979 and 1980 was not supported. The state now claims a 12,870 kg/day reduction and supports this with Mobile-2 calculations for both 1979 and 1980.

EPA's review of the state's development of the emission reduction target found another mathematical error that had the effect of overstating the reductions which occurred between 1979 and 1980. A rigorous computation finds that the appropriate target is an emission reduction of approximately 34.8 percent from the 1980 emission inventory rather than the 29.7 percent contained in the August 24, 1983, submission. A more detailed discussion of this issue is presented in the technical support document.

The state made a good faith effort to demonstrate attainment and has agreed to correct the mathematical error in a reasonable time; therefore, EPA believes that it would be inappropriate to disapprove the emission reduction target. EPA believes the state should be provided an opportunity to address this concern prior to a final rulemaking action. In a letter dated August 27, 1984, the state has committed to correcting the emission reduction target by August 1, 1985. Based on this commitment and on the state's previous good faith effort to model correctly and develop an acceptable emission reduction target, EPA has determined to take no action at this time on the modeling analysis and emission reduction target. EPA will repropose action based on the state's revised submission.

4. Stationary Source Control

Section 172(b)(2) of the Clean Air Act requires states to adopt regulations requiring implementation of Reasonably Available Control Technology (RACT) as expeditiously as practicable. The PRM proposed approval with respect to stationary source controls with the understanding that the full operating permit for the Gusdorf Company be submitted as part of the SIP. The state has submitted operating permits for Gusdorf, containing restrictions which limit emissions to less than 100 tons per year, as discussed in the PRM.

With respect to the schedules for adopting new rules, most of them have been completed and the regulations adopted. These new rules will be proposed separately and are not included in today's approval. One schedule remains outstanding. The state had delayed developing a rule for one particular chemical plant when it appeared that the source would be able to get a permit limiting emissions under the State's alternative emission limit (bubble) rule. That attempt has been abandoned since EPA has not approved the Bubble rule and the state has committed to adopt a RACT rule by October, 1984, rather than the originally scheduled October, 1983. EPA finds that this schedule does not differ significantly from that proposed. It represents expeditious implementation of the RACT requirement for the subject source and the ultimate attainment date for the ozone standard is not affected.

One commenter suggested that EPA should accept as RACT a particular limit for one particular source. The RACT limit for that source is to be submitted by the state in the future and EPA will determine its approvability at that time.

One commenter objected to the proposal to approve schedules for control measures on the basis that the plan should contain "enforceable measure" as required by section 172(c) of the Act. EPA believes the phrase "enforceable measures" is broad enough to embrace enforceable schedules. The reader should refer to the technical support package for a detailed response to this comment.

One comment was made that the RACT measures must include Stage II vapor recovery. Such measures are not considered necessary at this time, but the State will consider Stage II as part of its revised attainment demonstration. The reader should refer to the technical support package for a detailed response to this comment.

Another commenter suggested that the Gusdorf permits are already federally

enforceable because they are adopted pursuant to federally approved permit regulations. EPA finds this issue is moot, since the Gusdorf permits have been submitted as part of the SIP and are being approved today.

No comments were received on the proposal to approve the Polyethylene Bag Sealing regulation.

Two commenters requested approval of the alternative emission limit (bubble) rule as part of the SIP. As indicated in the PRM, the bubble rule and associated provisions which were included with several other rules in the August 24, 1983, submission, actually were submitted separately. The bubble rule was formally submitted November 17, 1982, and is under review. Therefore, EPA believes that it can take final action on the 1982 SIP without proposing or taking final action on the bubble rule.

In summary, EPA approves the Missouri SIP as meeting the requirements of section 172(b)(2), with respect to stationary sources.

5. Inspection and Maintenance

The PRM proposed disapproval of the I/M portion of the plan because it did not contain the necessary commitments and elements for an I/M program. In particular, the implementation date did not comply with EPA requirements, the plan did not contain the relevant rules and procedures of the implementing agencies and the plan did not demonstrate the required emission reductions.

The state began its I/M program on January 1, 1984. The State has now submitted a package of regulations, procedures, inspection manuals, equipment specifications and other elements of its I/M program. EPA is reviewing this package and will propose action on it separately. No action is being taken on the I/M portion of the SIP at this time.

6. Transportation Control Measures (TCMs) and Other Provisions

The 1982 SIP must include all reasonably available TCM's as described in the 1982 SIP policy (46 FR 7187, January 22, 1981) and provisions for ensuring that basic transportation needs are met. The PRM proposed approval of the TCMs in the SIP. There have been no changes in this portion of the SIP, and no comments were received. EPA approves the 1982 ozone SIP as meeting the requirement for inclusion of reasonably available transportation measures and additional contingencies. In addition, EPA approves basic transportation needs provisions submitted in the SIP as

ensuring the provisions for transportation system mobility.

7. Reasonable Further Progress and Attainment Demonstration

The PRM proposed disapproval for failure to demonstrate RFP and attainment. The reason was the belief that the emission reduction target was incorrect and that greater emission reductions would be needed. The State has made a good-faith effort to submit an acceptable emission reduction target, but as discussed above, the most recent submission is unapprovable. Since the attainment demonstration is based on the emission reduction target, the demonstration also cannot be approved. Again, EPA believes the state made a valid effort to develop an approvable demonstration, and that it would be inappropriate to disapprove this demonstration. In its letter of August 27, 1984, the state committed to develop and implement the control strategies necessary to attain the revised emission reduction target of approximately 34.8 percent from the 1980 inventory, as discussed above. Because of this commitment, EPA is taking no action on this submission. When the state submits the revised RFP and attainment demonstrations, EPA will evaluate them and propose an appropriate action.

B. Carbon Monoxide (CO)

The state submittal contains a modeling analysis which demonstrates attainment of the CO standard, demonstrates reasonable further progress (RFP), and contains requirements for stationary source controls, an I/M program, and transportation control measures (TCM).

EPA originally proposed to disapprove the I/M program. The state has now begun an I/M program and submitted documentation as part of the SIP. Action will be proposed when EPA has completed its review of the I/M submission. The other portions of the CO plan are approved as discussed below.

1. Hotspot Analysis

The APRAC-2 CO diffusion model using MOBILE-2 emission factors was used to project future CO concentrations. This is the EPA-approved model as specified in the 1982 SIP policy. The model predicted that the CO standards will be attained at 201 receptor sites in the region. The PRM proposed to approve the hotspot analysis. No changes have been made, and no comments received on this proposal. Therefore, this analysis is approved.

2. Reasonable Further Progress (RFP) and Attainment

The SIP demonstrates that the CO standard will be attained through the implementation of the federal motor vehicle control program, and I/M program, and the TCMs, and that annual emission reductions will occur as a result of these programs. The PRM proposed to approve the demonstration of RFP and attainment. No changes have been made and no comments were received on this proposal. Therefore, the RFP and attainment demonstration is approved.

3. Stationary Source Controls

The Missouri SIP indicates that there are three sources which emit greater than 2500 kg/day. EPA agrees that control of emissions from two of these sources is not considered practical.

The SIP indicates that the third source will be installing a control system which will meet the requirement for RACT. The PRM proposed approval of the CO plan, with respect to the RACT requirement, provided the state demonstrates that the RACT limits will be enforceable. The state has now committed to submit the proposed emission limits as enforceable requirements in October 1984. Although the limits are not yet enforceable, the commitment to adopt legally enforceable limits satisfies the RACT requirement. One comment was received supporting the emission limit chosen as representing RACT for the source in question. No adverse comments were received. The CO plan is approved as providing for RACT on all major stationary sources.

C. Additional Requirements

1. Conformity of Federal Actions

Section 176(c) of the Clean Air Act requires that all Federal activities conform to the SIP.

In addition, the SIP must identify, to the extent possible, the direct and indirect emissions associated with major Federal actions. EPA has determined that the SIP meets the requirement that it identify emissions associated with major federal actions. The PRM proposed approval with respect to this requirement. No changes have been made in this portion of the plan and no comments were received. Therefore, the SIP is approved with respect to this requirement.

2. Public Participation and Consultation With State and Local Officials

The SIP provides evidence of an extensive public participation program which meets the requirements of section

121 of the Clean Air Act. The PRM proposed to approve the SIP with respect to these requirements. No comments were received on this proposal. The plan is approved with respect to those requirements.

3. Effect Assessment

The Missouri SIP provides a limited analysis of the air quality, health, welfare, economic, energy and social effects of the plan as required by section 172(b)(9) of the Clean Air Act. The PRM proposed to approve the effect assessment, but solicited comments in view of the limited analysis the state provided and the lack of guidance in this area by EPA. One commenter criticized EPA for not providing guidance, but no comments were received on the proposal itself. This provision is approved as proposed.

D. General

In addition to the proposal published on April 11, EPA also published a proposal based on a draft of the Missouri SIP. That proposal was published February 3, 1983 (48 FR 5085), along with similar proposals for other states. In response to these proposals, the Regional Office received 15 letters of comment from 13 commenters who made approximately 40 comments. Comments addressing approvability issues have been discussed in this document. Other comments mainly objected to sanctions for various reasons. The latter comments are addressed in the technical support memorandum which accompanies this rulemaking.

Some of the commenters also made technical comments which are addressed in the support document. Two comments submitted to another EPA office were deemed to apply to Missouri. The latter comments are addressed briefly above and in greater length in the support document.

E. Summary

EPA is approving parts of Missouri's ozone and CO SIP. The state has committed to repair the remaining portions of the SIP by August 1, 1985. Because the SIP as a whole remains approved, there will be no construction moratorium as there would be for a disapproved SIP. Similarly, so long as the state continues to make reasonable efforts to submit the needed corrections by August 1, 1985, EPA does not intend to impose highway or air grant funding restrictions.

The Administrator's decision to approve or disapprove a submission is based upon the comments received and

on whether the SIP revisions meet the requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) and the 1982 SIP policy (46 FR 7184, January 22, 1981). I hereby find the portions of the Missouri SIP described above approvable.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at 324 East 11th Street, Kansas City, Missouri 64106.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

This notice is issued under the authority of sections 110 and 301 of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: October 4, 1984.

William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(40) as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(40) The 1982 carbon monoxide and ozone state implementation plan revisions were submitted by the Department of Natural Resources on December 23, 1982. A revised version of the 1982 carbon monoxide and ozone plan was submitted by the Department of Natural Resources on August 24, 1983. This version contained updated

inventories, attainment demonstrations and schedules to adopt rules. The submission included new rule 10 CSR 10-5.360, Control of Emissions from Polyethylene Bag Sealing Operations. (No action was taken with respect to provisions dealing with control strategy demonstration, reasonable further progress and inspection and maintenance of motor vehicles.)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-279-CN]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System; and FY 1985 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published on August 31, 1984, that implemented the second year of the three-year transition period of the prospective payment system for inpatient hospital services.

FOR FURTHER INFORMATION CONTACT: Mike Fiore, (301) 597-0722.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-23345 beginning on page 34728 in the issue of Friday, August 31, 1984, make the following corrections:

1. On page 34733, in column three, in the 16th line of the first paragraph—The word "Medicaid" should be replaced with the word "Medicare".

2. On page 34736, in column two, in the middle of the column—The section designated as "F", Hospitals in Areas Redesignated as Rural, should be designated as section "E".

3. On page 34738, in column three, in the sixth line of the fifth paragraph—Add the word "to" between the words "assigned" and "a".

4. On page 34742, in column one, replace the eighth line and the three paragraphs preceded by a bullet point immediately following the eighth line with the following language: "units) is one of the following—

- At least 6,000 for the hospital's cost reporting period that ended in 1981;
- At least 6,000 for the hospital's most recently completed cost reporting period; or

- Equal to or greater than the median number of discharges of urban hospitals in 1981 for the region in which the hospital is located for either the hospital's cost reporting period ending in 1981 or its most recently completed cost reporting period."

5. On page 34744, in column one, in the tenth line from the bottom of the page—The cross reference to § 405.476(b)(1)(iii)(B) should be § 405.476(g)(1)(iii)(B).

6. Also on page 34744, in column two, in the fourth line of the second full paragraph from the top of the page—The cross reference to §§ 405.476(b)(1)(iii)(A) and (B) should be §§ 405.476(g)(1)(iii)(A) and (B).

7. On page 34745, in column one, in the fifth line from the top of the page—The cross reference to section VII.C. should be section VII.C.

8. On page 34746, in column three, on the last word of the page—Change the word "inappropriate" to "appropriate".

9. On page 34750, in column one, in the eighth line of the first paragraph from the top of the page—The word "of" should be "or".

10. Also on page 34750, in column one, in section I, the acronym "ESRO" on lines four, seven, twelve and fifteen should be "ESRD". The words "patient", "patients", and "patient" again, on lines eight, twelve and fifteen of this paragraph respectively, should be "beneficiary", "beneficiaries" and "beneficiary" respectively.

11. On page 34754, in column two, in the tenth line of the first full paragraph in the middle of the page—The word "care" should be "case".

12. On page 34756, in column one, in the seventh line in the last paragraph—Add the word "basket" after the word "market".

13. On page 34757, in column one, in the fifth and ninth lines of the third full paragraph from the top of the page—In the fifth line, the cross reference in parenthesis should read "\$§ 405.470 and 405.475". In the ninth line the words "discharges occurring" should read "cost reporting periods beginning".

14. Also on page 34757, in column one, in the second paragraph of section B.—The cross reference in the sixth line should read § 405.476 and that in the seventh line should read § 405.473.

15. On page 34759, in column three, in the eighth line of the fifth paragraph from the top of the page—In § 405.473(b)(6)(ii)(B), the word "any" should be replaced with the words "the hospital's".

16. On page 34760, in column one, in the sixth paragraph from the top of the