Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 23, 1995.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 95–8039 Filed 3–31–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL104–1–6697b; FRL–5158–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' November 28, 1994, request to amend the marine vessel loading rules for the Chicago and Metro-East areas as part of the State's 15 percent (%) Rate of Progress Plan control measures for Volatile Organic Matter emissions. The control measures require marine terminals, from May 1 through September 15, to operate a vapor collection and control system which achieves a 95% control efficiency. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before May 3, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Rosanne Lindsay, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–1151.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 9, 1995.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 95–8045 Filed 3–31–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MO–20–1–6442; FRL–5181–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision by the state of Missouri that revises the Missouri Part D new source review (NSR) rules, updates and adds numerous definitions, revises the maximum allowable increase for particulate matter under the requirements for prevention of significant deterioration (PSD) of air quality, address emission statements under title I of the Clean Air Act Amendments (CAAA), and generally enhance the SIP.

This revision generally meets requirements of the Clean Air Act (CAA) as Amended in 1990 with regard to NSR in areas that have not attained the national ambient air quality standard (NAAQS). However, Missouri is required to make certain changes to the NSR rules, as outlined in this proposal, before EPA can grant final approval to this SIP revision. This implementation plan was submitted by the state to satisfy certain Federal requirements for an approvable nonattainment NSR SIP for Missouri.

DATES: Comments must be received on or before May 3, 1995.

ADDRESSES: Comments may be mailed to Robert J. Lambrechts, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Robert J. Lambrechts at (913) 551–7846.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for nonattainment NSR are set out in part D of title I of the Act. EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under part D, including those state submittals containing nonattainment area NSR SIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

The EPA is currently developing a proposed rule to assist the implementation of the changes under the amended Act in the NSR provisions in parts C and D of title I of the Act. If EPA has not taken final action on the state's NSR submittals by the time the proposed rule is published for comment, EPA may refer to the proposed rule as the most authoritative guidance available regarding the approvability of the submittals. Upon promulgation of the final regulations, EPA will review the NSR SIPs of all states to determine whether additional SIP revisions are necessary.

Prior to EPA approval of a state's NSR SIP submission, the state may continue permitting only in accordance with the new statutory requirements for permit applications completed after the relevant SIP submittal date. This policy was explained in transition guidance memoranda from John Seitz dated March 11, 1991, and September 3, 1992. As explained in the March 11 memorandum, EPA does not believe Congress intended to mandate the more stringent Title I NSR requirements during the time provided for SIP development. States were thus allowed to continue to issue permits consistent with requirements in their current NSR SIPs during that period; or apply 40 CFR part 51, appendix S for newly

designated areas that did not previously have NSR SIP requirements.

II. Construction Permits Required—10 CSR 10–6.060

A. General Nonattainment New Source Review (NSR) Nonattainment Permit Requirements

The Act requires all states to have submitted the following nonattainment NSR provisions.

1. Offset Ratios

Federal Requirement: For moderate ozone nonattainment areas, the state must submit provisions to ensure that new or modified major stationary sources obtain offsets at a ratio of at least 1.15 to 1 in order to obtain an NSR permit.

State Response: 10 CSR 10–6.060(7)(B)1 requires that by the time the source is to commence operation, sufficient offsetting emissions reductions are to be obtained. The specific offset ratios for all nonattainment classifications are listed at 10 CSR 10–6.020(2)(O)1 and satisfy the requirement that volatile organic compound (VOC) and nitrogen oxides (NO_X) emissions in moderate nonattainment areas will require an offset ratio of actual emission reduction to new emissions of 1.15:1. Missouri has satisfied this Federal requirement.

2. Geographic Location of Offsets

Federal Requirement: New section 173(c)(1) stipulates that emissions offsets generally must be obtained by the same source or other existing sources in the same nonattainment area, except under narrow circumstances.

State Response: 10 CSR 10–6.060(7)(B)1 provides that offsetting emissions reductions are to be obtained from existing sources in the St. Louis nonattainment area. Missouri has satisfied this Federal requirement.

3. Timing of Offsets

Federal Requirement: New section 173(c)(1) also adds the condition that any emissions offsets obtained in conjunction with the issuance of a permit to a new or modified source must be ''by the time a new or modified source commences operation, in effect and enforceable * * *.'' The 1990 CAAA clarified the offset requirements in the preamended Act by requiring that the offsets be Federally enforceable before permit issuance. Accordingly, while it is possible for a state to issue a permit to construct once sufficient emissions offsets have been identified and made Federally enforceable, the state must also ensure that the required emissions reductions actually occur no later than the date on which the new source or modified source would commence operation.

State Response: The Missouri definition of ''Federally enforceable'' found at 10 CSR 10–6.020(2)(F)2 provides that requirements within any applicable state implementation plan, any permit requirement established pursuant to 40 CFR part 52.21, or under regulations pursuant to 40 CFR part 51 are Federally enforceable. Therefore, the requirement to obtain an emission offset will be Federally enforceable once approved into the SIP.

10 CSR 10–6.060(7)(B)1 provides that offsetting emissions reductions are to be obtained by the time the source is to commence operation. In addition, 10 CSR 10–6.060(12)(C)1.C provides that the owner or operator of the source from which offsets are obtained shall enter into a binding agreement to limit emissions of the offset pollutant at the source to the levels identified after the offset is applied. 10 CSR 10–6.060(12)(C)2 provides that it shall be a violation of the construction permits required rule (10 CSR 10–6.060) to operate a source from which offsets were obtained so as to emit the offset pollutant at levels greater than identified in the agreement referred to previously. Therefore, the commitment to obtain emission reductions is Federally enforceable at the time of permit issuance, and the Missouri regulation satisfies the CAAA section 173 mandate.

4. Actual Emissions Reductions

Federal Requirement: New section 173(c)(1) includes the provision that:

> * * * Total tonnage of increased emissions from the new or modified source shall be offset by an equal or greater amount, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

EPA's current regulation concerning the baseline for emissions offsets, as contained in the part 51 NSR nonattainment regulations, provides that the offset baseline is the emissions limit under the applicable SIP in effect at the time the permit application is filed, unless the state's demonstration of reasonable further progress (RFP) and NAAQS attainment is based on actual emissions, or the applicable SIP does not contain an emissions limitation for that particular source or source category. The new statutory requirement provides that emissions increases from the new or modified source must be offset by real reductions in actual emissions.

State Response: The nonattainment provisions for Missouri found at 10 CSR 10–6.060(7)(B)3 require that offsets be obtained in accordance with the offset procedures found in the offsets appendix of the construction permits rule at 10 CSR 10–6.060(12)(C). The appendix language requires the applicant to provide documentation satisfactory to the permitting authority showing that ''* * * the level of emission of the offset pollutant at the offsetting source prior to and after the offset is applied.'' This language requires that offset calculations must take into account actual emissions as the reference is to the ''level of emission * * * prior to and after the offset * * *.'' Therefore, Missouri satisfies the requirement that emissions increases from the new or modified source must be offset by real reductions in actual emissions.

5. NO_X Requirements

Federal Requirement: In addition to requirements for ozone nonattainment areas, section 182(f) of the CAAA states that requirements for major stationary sources of VOC shall apply to major stationary sources of NO_X unless the Administrator determines that net air quality benefits are greater in the absence of NO_X reductions from the sources concerned.

State Response: The Missouri construction rule at 10 CSR 10–6.060(7)(E) requires that for purposes of nonattainment area permits, any significant increase due to the levels of emission of NO_X shall be considered significant for ozone. The rule further provides that any installation with the potential to emit one hundred (100) tons per year of NO_X located within an area which is nonattainment for ozone must comply with the specific permit requirements of the nonattainment provisions of the Missouri construction permit rule. Missouri has satisfied this Federal requirement.

6. Creditable Reductions

Federal Requirement: Section 173(c)(2) prevents emissions reductions otherwise required by the Act from being credited for purposes of satisfying the Part D offset requirement. However, the statutory language does allow reductions that are achieved indirectly pursuant to a requirement of the CAAA (incidental emission reductions) to be credited if they meet the other criteria for offsets contained in section 173(c)(1).

State Response: 10 CSR 10–6.060(12)(C)4 provides that offset credit may not be taken for emission reductions required by state or local emission control rules or ordinances; state or Federal court order; or order of

a Federal, state, or local air pollution control agency. MDNR will be modifying the language of this provision to address how offset credits will be impacted by Federal regulations and permit terms (see section I.D.4 of the Technical Support Document).

7. Prohibition on Old Growth Allowances

Federal Requirements: Section 173(b) expands the pre-1990 requirements by prohibiting the continued use of old growth allowances in any nonattainment area that either received a notice that the SIP was substantially inadequate under section 110(a)(2)(H)(ii) of the 1977 Act, or receives notice of inadequacy under new section 110(k)(1) of the amended Act.

State Response: MDNR deleted the reference to available growth increment previously found at 10 CSR 10–6.060(4)(B). Therefore, the growth allowance is no longer available for offsets. Missouri has satisfied this Federal requirement.

8. Analysis of Alternatives

Federal Requirements: New sources in nonattainment areas must undertake an analysis of alternatives prior to receiving a permit. The section 173(a)(5) analysis and demonstration are now prerequisites to the issuance of any permit for construction or modification of a major source in any nonattainment area. Prior to 1990, the analysis was required only for certain sources of carbon monoxide and ozone.

State Response: This requirement is satisfied by the language in 10 CSR 10–6.060(7)(C)4 which specifies that an applicant must provide an alternate site analysis before issuance of a permit for the construction or major modification of an installation with the potential to emit annually 100 tons or more of a nonattainment pollutant, or a permit for a modification with the potential to emit annually 100 tons or more of a nonattainment pollutant. MDNR defines ''alternate site analysis'' at 10 CSR 10–6.020(2)(A)23 as an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source which demonstrates that benefits of the proposed installation significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. Missouri has satisfied this Federal requirement.

9. RFP

Federal Requirements: As required by section 173(a)(1)(A) of the CAAA, the permitting authority must be able to ensure that calculations of emissions offsets are based on the same emissions baseline used in the demonstration of RFP. The EPA interprets section 173(a)(1)(A) to ratify current EPA regulations requiring that the emissions baseline for offset purposes be calculated in a manner consistent with the emissions baseline used to demonstrate RFP. Regarding the amount of offsets necessary to show noninterference with RFP, EPA will presume that so long as a new source obtains offsets in an amount equal to or greater than the amount specified in the applicable offset ratio, the offsets will represent RFP.

State Response: Missouri utilizes 10 CSR 10–6.060(7)(B)1 to obtain reasonable further progress in new source permitting. A permit for construction or major modification of an installation with the potential to emit the nonattainment pollutants in amounts equal to or greater than the de minimis levels, shall not be issued unless the RFP requirements, among others set forth in 10 CSR 10–6.060, are met.

10. Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse Information

Federal Requirement: The 1990 CAAA added a new section 173(d), which requires states to submit to EPA control technology information from permits issued under section 173 for purposes of making such information available to other states and to the general public.

State Response: 10 CSR 10–6.060(12)(B)2.G provides that the permitting authority shall submit a copy of the final control technology determination to the Administrator. Therefore, Missouri has satisfied this Federal requirement.

11. Stationary Source Definition

Federal Requirement: The 1990 CAAA added a new definition of ''stationary source'' in section 302(z) of Title III of the Act, and amended the existing definition already contained in section 111(a)(3). The addition of the new definition appears to strengthen Congressional intent that certain internal combustion engines must be subject to control under state permit programs, while providing for the exclusion of those internal combustion engines which fall under the newly defined category of ''nonroad engines.''

State Response: Missouri uses the definition of ''installation'' at 10 CSR 10–6.020(2)(I)7 as its definition of ''stationary source'' under the Act. The ''installation'' definition encompasses all source operations including activities that result in fugitive emissions. MDNR interprets this definition to include stationary internal combustion engines and the fugitives such as reintrained road dust generated by nonroad machinery. However, it excludes the exhaust emissions of nonroad engines. Missouri has satisfied this Federal requirement. Finally, Missouri exempts from construction permitting requirements any equipment used for any mode of transportation as provided for at 10 CSR 10–6.060(1)(D)2.C.

B. Missouri Construction Permit Program Deficiencies

1. Particulate Matter

Federal Requirement: On June 3, 1993, EPA published in the **Federal Register** a revision to the maximum allowable increases for particulate matter (PM) under the requirements for PSD of air quality. As a result, the PSD increments and the NAAQS for PM will be measured by the same indicator for PM, namely PM_{10}.

State Response: PM_{10} increments were incorporated into 10 CSR 10–6.060 during the December 1993 rule adoption by the Missouri Air Conservation Commission. Missouri revised the Ambient Air Increment Table found at 10 CSR 10–6.060(11)(A) Table 1 to include the new PM_{10} ambient air increments for classes I through III, as set forth at 58 FR 31637. However, the Class I Variance table found at 10 CSR 10–6.060 (12)(H)2 does not reflect the revised PM_{10} numerical maximum allowable increases. Specifically, the table at 10 CSR 10–6.060 (12) (H)2 must include PM_{10} as a pollutant with numerical values at least as stringent as those found at 58 FR 31637. There is further discussion following in section II.B.4 regarding MDNR's efforts to incorporate these changes.

2. Waiver Policy

Federal Requirement: EPA major NSR rules require that permits be issued prior to construction of a major source or modification. The PSD rules provide that sources may not begin actual construction without a permit. 40 CFR 51.166(b)(11) and 51.166(i)(1). Section 51.165(a)(1)(xv) contains a definition of ''begin actual construction.''

State Response: The Missouri Construction Permits Required rule, 10 CSR 10–6.060, in conjunction with the definition of ''construction'' at 10 CSR 10–6.020(2)(C)22, can be interpreted as allowing major sources to commence

construction without a permit in contravention of the CAA and EPA regulations. The definition of ''construction'' allows for synthetic minor sources, those that are major in reality but which seek Federally enforceable limitations to limit their potential-to-emit, to submit a waiver request to MDNR allowing the source to commence limited and specified construction activities. The Missouri SIP submittal cannot be approved into the SIP in its present form. However, MDNR is currently pursuing a course of action that will amend the construction permit rule to allow for approval. This process is discussed below in section II.B.4 of this proposed rulemaking.

3. Offset Credits

A deficiency has also been discovered in the language of 10 CSR 10–6.060(12)(C)4. This provision addresses various situations where offset credits may not be taken. However, the rule lacks any reference to limits on taking offset credits for emission reductions which are required by Federal law or a Federally enforceable permit. MDNR intends to modify this provision by including language that disallows any offset credit for emission reductions required under the Federal CAA or the Missouri Air Conservation Law or regulations promulgated under either.

4. Correction Process

MDNR is aware of the deficiencies outlined above and has agreed to pursue an amendment to the 10 CSR 10–6.020 definition of ''construction'' and the provision in the construction rule at 10 CSR 10–6.060(12)(C)(4) addressing offset credits. By way of this **Federal Register** proposed rule action, EPA is providing notice that a deficiency exists with the MDNR Construction Permits Required rule (10 CSR 10–6.060). MDNR has committed to amend the language of these rules. EPA is proposing to take final action to approve the Construction Permits Required rule (10 CSR 10–6.060), if the change is made to prohibit major sources from beginning construction without a permit.

If the Missouri rule is not amended as described above, then the Construction Permits Required rule (10 CSR 10–6.060), along with specified definitions within 10 CSR 10–6.020, will be disapproved. MDNR has also committed to correct the deficiencies pertaining to the Impacts on Class I Variance table discussed above in section II.B.1., while pursuing corrections pertaining to the waiver policy and the offset credit provision.

III. Update to Definitions Found in 10 CSR 10–6.020

There are many definitions which are being revised within the SIP or added to the SIP. Many of these definitions pertain to the title V and asbestos programs. These definitions are being approved into the SIP because they provide overall consistency in the use of terms in the air program. Because many of these terms do pertain to Title V, it is important to recognize that EPA approval into the SIP of these definitions does not constitute approval with respect to the title V submission. The reader is referred to the technical support document (TSD) for clarification on changes to definitions and additions to the list of definitions.

IV. Confidential Information 10 CSR 10–6.210

The SIP currently addresses confidential business information at 10 CSR 10–6.110(5) which EPA approved on April 17, 1986 (51 FR 13000). The December 1993 adoption of 10 CSR 10–6.210 served to transfer the provisions currently found in the SIP at 10 CSR 10–6.110(5) in their entirety to 10 CSR 10–6.210. Only minor adjustments were made to the rule at 10 CSR 10–6.210(4)(D). First, Missouri changed the number of days from 20 to 15 working days that the owner or operator will have from the receipt of the preliminary decision to deny the claim of confidentiality in which to submit further justification or comments to the director.

Second, 10 CSR 10–6.210(5)(D)1 modifies the number of days from 20, as previously set forth in 10 CSR 10–6.110, to 15 in which the owner or operator is given prior notice to obtain an order from a court of competent jurisdiction restraining or enjoining the disclosure to a local agency.

V. Emission Statement Rule 10 CSR 10–6.110

A. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the CAA, as amended by the 1990 CAAA. EPA has published a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the CAA, including those state submittals for ozone transport areas within the states (see 57 FR 13498 (April 16, 1992) (''SIP: General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990''), 57 FR 18070 (April 28, 1992) (''Appendices to the General Preamble''), and 57 FR 55620 (November 25, 1992) (''SIP: NO_X Supplement to the General Preamble'')).

EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this Notice, entitled ''Guidance on the Implementation of an Emission Statement Program'' (July 1992). The Agency is also conducting a rulemaking process to modify part 51 of the CFR to consolidate the reporting requirements for annual statewide emission inventories, Periodic Ozone/Carbon Monoxide emission inventories, and the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in subsections (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program in paragraph (3) of that subsection for stationary sources to prepare and submit to the state each year emission statements showing actual emissions of VOC and NO_X. This section of the Act provides that the states are to submit a revision to their SIPs by November 15, 1992, establishing this emission statement program.

The states may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plantwide NO_X or VOC emissions in nonattainment areas, if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA. Whatever minimum reporting level is established in a state emission statement program, if either VOC or NO_X is emitted at or above the designated level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

The CAA requires facilities to submit the first emission statement to the state within three years after November 15, 1990, and annually thereafter. EPA requests that the states submit the emission data to EPA through the Aerometric Information Retrieval System (AIRS). The minimum emission statement data should include: certification of data accuracy, source identification information, operating schedule, emissions information (to include annual and typical ozone season day emissions), control

equipment information, and process data. EPA developed emission statements data elements to be consistent with other source and state reporting requirements. This consistency is essential to assist states with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

In addition to the submission of the emission statement data to AIRS, states should provide EPA with a status report that outlines the degree of compliance with the emissions statement program. Beginning July 1, 1993, states should report quarterly to EPA the total number of sources affected by the emission statement provisions, the number that have complied with the provisions, and the number that have not. This status report should also include the total annual and typical ozone season day emissions from all reporting sources, both corrected and noncorrected for rule effectiveness. States should include in their status report a list of sources that are delinquent in submitting their emission statement and that emit 500 tpy or more of VOC or 2500 tpy or more of NO_X. This report should be a quarterly submittal until all the regulated sources have complied for the reporting year. Suggested submittal dates for the quarterly status reports are July 1, October 1, January 1, and April 1.

B. Description of the State Emission Statement Submittal—Procedural Background

The Act requires states to observe certain procedural requirements in developing their SIPs, of which the emission statement program will become a part. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.[1] Section 110(l) similarly provides that each revision to an implementation plan submitted by a state under the CAAA must be adopted by such state after reasonable notice and public hearing.

The submittal was found to be complete and a letter dated June 17, 1994, was forwarded to the Governor's designee indicating the completeness of the submittal and the next steps to be taken in the review process.

C. Components of Emission Statement Program

There are several key general and specific components of an acceptable emission statement program. Specifically, the state must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting by the sources and the state. In general, the program must include provisions for applicability, definitions, compliance provisions, and specific source requirements. In an August 4, 1993, policy memo from J. David Mobley, Chief of EPA's Emission Inventory Branch to the Regional Air Branch Chiefs, EPA defined the minimum essential elements of an emission statement rule. Missouri rule 10 CSR 6.110 meets or exceeds EPA's minimum guidelines.

D. Implementation

The state of Missouri's emission statement SIP will ensure that the requirements of section 182(a)(3)(B) and sections 184(b)(2) and 182(f) are adequately implemented. Once EPA completes the rulemaking process approving Missouri's Emission Statement program as part of the SIP, it will be Federally enforceable.

EPA has determined that the submittal made by the state of Missouri satisfies the relevant requirements of the CAA and EPA's guidance document, ''Guidance on the Implementation of an Emission Statement Program'' (July 1992), and the August 4, 1993, policy memo from J. David Mobley, Chief of EPA's Emission Inventory Branch to the Regional Branch Chiefs regarding ''First Emission Statements Due to EPA/ Essential Emission Statement Rule Elements.'' EPA's detailed review of Missouri's Emission Statement Program is contained in a TSD which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of the notice.

EPA Action

EPA is proposing to approve a revision that revises the NSR rules, updates and adds numerous definitions, revises the maximum allowable increase for particulate matter, and addresses emission statements under Title I of the CAAA.

However, for Missouri to receive final approval on this SIP revision the state must modify several rules. First, the class I Variance table found at 10 CSR 10–6.060(12)(H)2 does not reflect the revised PM_{10} numerical maximum allowable increases. Specifically, the table at 10 CSR 10–6.060(12)(H)2 must include PM_{10} as a pollutant with numerical values at least as stringent as those found at 58 FR 31637.

Second, the Missouri Construction Permits Required rule, 10 CSR 10–6.060, in conjunction with the definition of ''construction'' at 10 CSR 10–6.020(2)(C)22, can be interpreted as allowing major sources to commence construction without a permit in contravention of the CAA. The definition of ''construction'' allows for synthetic minor sources (those that are major in reality but which seek Rederally enforceable limitations to limit their potential-to-emit) to submit a waiver request to MDNR allowing the source to commence limited and specified construction activities. These Missouri rules cannot be approved into the SIP in their present form. As a result, MDNR is currently pursuing a course of action to amend the definitions rule to satisfy EPA concerns.

Finally, a deficiency has also been discovered in the construction permit rule at 10 CSR 10–6.060(12)(C)4. This provision addresses various situations where offset credits may not be taken. The Missouri rule lacks any reference to limits on taking offset credits which are required by Federal law or a Federally enforceable permit. Again, MDNR intends to modify this provision by including language that disallows any offset credit for emission reductions required under the Federal CAA or the Missouri Air Conservation Law, or regulations promulgated under either.

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.

Under the Regulatory Flexibility Act, 5. U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute

[1] Also, section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Lead, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 9, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95–8082 Filed 3–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TX–10–1–5223b; FRL–5171–2]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan (SIP) Addressing Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to the Texas SIP addressing visible emissions. The purpose of proposing to approve this revision is to enable the visible emissions provisions of Texas Regulation I to become federally enforceable. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 3, 1995.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Sather or Mr. Bill Deese, Planning Section (6T-AP), Air Programs Branch, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the final rules section of this **Federal Register**.

Dated: March 3, 1995.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 95–8041 Filed 3–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 63

[AD–FRL–5181–7]

Request for Approval of Section 112(l) Authority for the Lincoln-Lancaster County Health Department (LLCHD) Air Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant approval under section 112(l)(5) and 40 CFR 63.91 of the LLCHD'S program for receiving delegation of future section 112 standards that are unchanged from Federal standards as promulgated, and to delegate existing standards under 40 CFR parts 61 and 63 for non-Part 70 sources. When approved, state rules and applicable part 70 operating permit conditions would substitute for the applicable Federal requirements within a state or local jurisdiction.

DATES: Comments on this proposed action must be received in writing by May 3, 1995.

ADDRESSES: Comments should be addressed to Wayne Kaiser at the address indicated. Copies of the Lincoln-Lancaster submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours at the US EPA, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

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

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Section 112(l) of the 1990 Clean Air Act (CAA) enables the EPA to approve state (and local agency) air toxics programs to operate in place of the Federal air toxic program. Approval is granted by the EPA if the Agency finds that the state program or rule meets the criteria described in 40 CFR 63.91 (58 FR 62262). The LLCHD requested such approval for its part 70 sources in its part 70 program submittal. EPA published a notice proposing to approve the LLCHD's part 70 program and 112(l) authority for part 70 sources on January 31, 1995 (60 FR 5883).

On February 2, 1995, LLCHD submitted a letter to EPA requesting approval of its program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of future section 112 standards that are unchanged from Federal standards as promulgated, and requested delegation of existing standards under 40 CFR parts 61 and 63 for non-part 70 sources. The letter included information which addresses the approval criteria in 40 CFR 63.91. This includes adequate legal authority and resources, an expeditious implementation and compliance schedule, and adequate enforcement authorities.

II. Analysis of Submission

LLCHD demonstrated it has adequate legal and enforcement authority by referring to the County Attorney's opinion and its rules and regulations submitted with its Part 70 program submittal. This authority and the rules apply to all regulated sources. The LLCHD commits to expeditiously adopting and implementing all future section 112 requirements, whether for part 70 or non-Part 70 sources, after they are promulgated by EPA. The delegation mechanism which the LLCHD intends to use for future section 112 standards and programs is the adoption by reference mechanism.

The LLCHD has already adopted the dry cleaner maximum achievable control technology, subpart M, which applies primarily to non-Part 70 sources, and has adequate resources to