This conditional approval required, among other things, the submission to EPA of fully executed memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and involved metropolitan planning organizations; this action was to be implemented by March 1, 1980.

The purpose of this notice is to advise the public that this condition has been fulfilled, via submission of the required documentation under cover of a February 27, 1980 letter, and that EPA is taking final action to approve the State's submission. Furthermore, EPA is incorporating the provisions of the State's submission into the approved SIP, and is revoking the applicable condition on its approval of the plan. Until all conditions are met conditional approval of the SIP will continue.

EFFECTIVE DATE: This action is made immediately effective, April 9, 1980. Inasmuch as it provides no additional burden upon any affected party.

ADDRESSES: Copies of the State's submission are available for inspection at the following addresses:

Environmental Protection Agency Air Programs Branch, Region II Office, 26 Federal Plaza, Room 908, New York, New York 10007

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 908, New York, New York 10007 (212) 264–2517

SUPPLEMENTARY INFORMATION: On March 11, 1980, at 45 FR 15531, the Environmental Protection Agency promulgated conditional approval of the New Jersey State Implementation Plan (SIP) with regard to its ability to meet the requirements of Part D of the Clean Air Act, as amended. The reader is referred to this Federal Register notice for a detailed discussion of EPA's findings. Today's notice discusses one condition of EPA's approval of the plan which required the State to submit, by March 1, 1980, fully executed memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and metropolitan planning organizations involved in the implementation of the SIP. This condition was intended to insure that transportation—air quality planning work is properly carried out.

In response to this requirement, on February 27, 1980, the State submitted five memoranda of understandings (MOUs) between the New Jersey Departments of Environmental Protection and Transportation and the following metropolitan planning organizations:

- Atlantic County Urban Area Transportation Study
- Cumberland County Urban Area Transportation Study
- Delaware Valley Regional Planning Commission
- Philipsburg Urban Area Transportation Study
- Wilmington Metropolitan Area Planning Council

A separate submission, made on October 3, 1979, included an MOU with the Tri-State Regional Planning Commission. These six MOUs discuss the breakdown of specific responsibilities for program development and implementation, program management, funding, and public participation.

Based on its review of the submitted documents, EPA finds that the condition on its approval has been fully met. Therefore, EPA is incorporating the provisions of the MOUs into the SIP and revoking the applicable condition. Furthermore, this action serves to continue EPA's conditional approval.

EPA finds that further notice and comment on this issue are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act), insofar as the corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addresses the specified criteria for approval.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Dated: April 2, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart FF—New Jersey

1. Section 52.1570 paragraph (c) is revised by adding a new subparagraph (24) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(24) a supplementary submittal, dated February 27 1980 from the New Jersey Department of Environmental Protection consisting of five memoranda of understanding among the New Jersey Departments of Environmental Protection and Transportation and the following metropolitan planning organizations:

- Atlantic County Urban Area Transportation Study
- Cumberland County Urban Area Transportation Study
- Delaware Valley Regional Planning Commission.
- Philpsburg Urban Area Transportation Study
- Wilmington Metropolitan Area Planning Council

§ 52.1581 [Amended]

2. Section 52.1581 is amended by revoking paragraph (b)(3).

[FR Doc. 80-10695 Filed 4-8-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1456-1]

Approval and promulgation of State Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Part D of the Clean Air Act as amended 1977 requires that states revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The State of Missouri submitted revisions to its SIP to the EPA on July 2, 1979, in order to satisfy the requirements of Part D. Availability of the Missouri revisions was announced in the Federal Register on July 25, 1979 (44 FR 43490), and the public was invited to make comments at that time. EPA's proposed action on various portions of the submittal were stated in the Federal Register on October 25, 1979 (44 FR 61384). Many of the issues discussed in the proposed rulemaking were either satisfactory at the time of submission or have since been resolved by the Missouri Department of Natural Resources in a manner consistent with discussion in the proposed rulemaking. These items are to be approved without conditions.

EPA is taking final action to conditionally approve certain elements of Missouri's plan. A discussion of

conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979).

It is not possible to make a final approval/disapproval decision on portions of the state plan submittal. These are portions which were not addressed in the July 2, 1979, submittal.

DATES: This promulgation is effective April 9, 1980.

ADDRESSES: Copies of the state submission, all public comments received, and the EPA prepared evaluation report are available during normal business hours at the following locations:

Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.
Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.
Missouri Department of Natural Resources, 615 East 13th Street, Room 483, Kansas City, Missouri 64106.
Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.
Missouri Department of Natural Resources, 8460 Watson Road, St. Louis, Missouri 63229.

FOR FURTHER INFORMATION: Contact Wayne G. Leidwanger at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act Amendments of 1977 added requirements to the Act for revised State Implementation plans for areas which have not attained the National Ambient Air Quality Standards. These requirements are found in Part D which includes Sections 171 through 178 of the Act. The requirements for an approvable nonattainment plan are listed in Section 172.

The general requirements for all SIP revisions are found in Section 110(a). Section 121 requires the state to consult with local governments on certain matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate abatement. Section 127 requires public notification of violations of health related standards. Section 128 imposes requirements on state boards. Sections 161 through 169 (Part C) require each state plan to contain measures for the prevention of significant deterioration (PSD) of air quality.

In order for a plan to be fully approvable, it must meet all of the requirements discussed above. The Part D requirements were discussed in the Federal Register on April 4, 1979 (44 FR 20372), and supplemented July 2, 1979 (44 FR 38583). Additional supplements to the general preambles were published in the Federal Register on August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). These notices contain the general preamble to the Proposed Rulemaking for all nonattainment plan submissions. They describe in detail the requirements for an approvable nonattainment plan. For a background discussion of the Missouri rulemaking, the reader is referred to the Proposed Rulemaking on the submittal which was published in the Federal Register on October 25, 1979 (44 FR 61384).

The Missouri Department of Natural Resources (MDNR) on behalf of the Missouri Air Conservation Commission (MACC) submitted on July 2, 1979, a package of SIP revisions for nonattainment areas in Missouri. The submittal included plans to attain the primary TSP, ozone, and carbon monoxide standards in the Metropolitan St. Louis area; the primary TSP and SO_2 standards in the St. Louis "hotspot"; primary TSP and ozone standards in the Metropolitan Kansas City area; and secondary TSP in Columbia, Missouri. The St. Louis "hotspot" is an area within a radius of approximately one mile of the confluence of the Mississippi River and River Des Peres and includes a portion of South St. Louis City and an adjoining portion of St. Louis County. The submittals contained requests for extensions to submit plans for attainment of the appropriate secondary standards.

The October 25, 1979, Federal Register (44 FR 61384) contained a proposal to redesignate certain areas of the State of Missouri pursuant to the recommendations of the MACC. Those areas of the state where nonattainment plans are required, but for which plans have not been submitted are St. Joseph and New Madrid. The final rulemaking for area designations under Section 107(d) of the Act is published elsewhere in this issue of the Federal Register.

B. Nonattainment Plan Provisions

The following is a discussion of each of the requirements for the nonattainment plan provisions, the general provisions of the Act, and the approval status of the Missouri plan with respect to each of these requirements. Included in the discussions are summaries of public comments on the proposed rulemaking followed by EPA's response.

Certain portions of the Missouri SIP are being conditionally approved today. The conditional approval requires the state to submit additional materials by the deadlines specified in today's notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below, when determining if the state has satisfied the conditions.

1. If the state submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the state's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditonal approval and disapproye the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the state fails to timely submit the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

Certain deadlines for satisfying conditions are being promulgated today which differ from the deadlines proposed in the October 25, 1979 notice of proposed rulemaking cited above. EPA finds that for good cause, notice and comment on these deadlines are unnecessary. The state is the party responsible for meeting the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions. The only comments received on the proposed deadlines were from the state and the St. Louis metropolitan planning organization.

(1) *Demonstration of Primary TSP—Standard Attainment.* Section 172(a)(1) requires the plan to provide for attainment of the NAAQS as expeditiously as practicable, but no later than December 31, 1982, for primary standards. The plan shows that reasonably available control technology (RACT) applied to stationary sources is not adequate to attain the standard. The state submitted schedules to conduct studies of nontraditional source controls. The Missouri submission projects attainment of the primary

standard for TSP in the Kansas City and St. Louis nonattainment areas. The control strategy demonstration shows that reasonable further progress will be made and projects incremental reductions to attain the primary standard by December 31, 1982, on the assumption necessary reductions will be obtained from nontraditional sources.

The schedule for Kansas City requires that the study begin ten days after final EPA rulemaking on the plan. The plan presented several alternative street cleaning methods for evaluation including mechanical sweeping, vacuum cleaning and flushing. The street cleaning study is to be conducted during spring, summer and fall months of 1980. The precise beginning and ending dates will depend primarily on weather factors, since periods of relatively low precipitation are necessary for such studies.

The schedule for the St. Louis nonattainment area is to begin in the spring of 1980 and is to be completed during the fall months of 1980. The St. Louis study will include street cleaning and parking lot paving.

At the state's request the EPA is contracting the study design and data analysis with a consultant. This contract includes the St. Louis and Kansas City areas. The EPA and the state believe this will provide more comprehensive information and will produce comparable data to determine the effectiveness of street cleaning as a workable and realistic suspended particulate matter control strategy.

In a memorandum to the Regional Administrators on February 24, 1978, (43 FR 21673, May 19, 1978) the Administrator stated where attainment of the standard cannot be demonstrated by requiring RACT for traditional sources, the state may conduct studies of nontraditional sources and submit implementing regulations to demonstrate attainment of the primary TSP standard by no later than December 31, 1982. This approach is allowed only if the state requires RACT on all traditional sources. Nontraditional sources include urban fugitive dust, resuspension and construction. The anticipated reductions because of nontraditional source controls in St. Louis and Kansas City indicate that the primary TSP standard will be attained by December 31, 1982. However, if as a result of the nontraditional source studies, it is determined that additional reductions will be required, the state is responsible for implementing additional controls on industrial particulate sources and on nontraditional sources, and demonstrating attainment of the standard by the required date.

One commentor stated that the reasonable further progress (RFP) demonstration for St. Louis improperly took credit for background reductions for reduced emissions from point and area sources.

Credit for background reduction was included in the preliminary plan revision for St. Louis; however, changes included with the final plan, on which the proposed rulemaking was based, deleted background reduction credit and used specific nontraditional source controls to predict attainment of the primary TSP standard.

This same commentor stated that the attainment demonstration for Kansas City disregarded the Climatological Dispersion Model (CDM) predicting a violation at one TSP monitoring site, and therefore, the state had not adequately demonstrated attainment.

The State of Missouri used CDM as a screening technique to determine the amount of reduction that would be obtained using RACT on stationary sources. The CDM modeling predicted two monitoring sites would exceed the primary TSP standard after application of RACT controls. The plan commits to street cleaning in the vicinity of the sampling site predicted to have the highest TSP values. The control strategy will apply the same nontraditional controls to the other area predicted to exceed the primary TSP standard. The study committed to by the state is to verify the predicted air quality improvements due to street cleaning. The EPA believes the State of Missouri has met the requirements of Section 172(a)(1) with respect to the primary TSP standard in Kansas City. The application of RACT to traditional sources combined with a commitment to a schedule for study and implementation of controls on nontraditional sources is an acceptable approach to demonstrating attainment of the standard. Therefore, EPA believes that the state did not disregard the modeling results and has assured that predicted violations will be eliminated.

The commentor also questioned the 1982 emissions projected for Kansas City and criticized the report adopted as part of the Kansas City plan for not identifying the methodology used for making these projections. The commentor specifically criticized the apparent lack of identification of the assumptions used in making the projected emission estimates. Further, the commentor expressed concern over a statement in the report that point sources are not legally bound to the projected emission rates.

The report states that the 1982 emission projections were obtained from the state and local agencies with primary jurisdiction over the sources. The methodology used to make the 1982 TSP projections is contained in the plan revision. The state and local agencies surveyed the major point sources regarding anticipated increases in operating hours. Projected increases in emissions from these sources reflect anticipated increased operating hours. Some point sources are required to reduce emissions to be in compliance with existing RACT regulations before 1982. These resulting reductions of emissions are reflected by the reduced emissions in the 1982 projections. Reduced emissions claimed because of reduced operating hours would not be acceptable unless such operating hour restrictions are legally enforceable. The projected emissions for 1982 are not based on reduced operating hours and no emission reductions because of reduced hours are claimed by the state.

Emission rates contained in the regulations applicable in the Kansas City area are a part of the applicable SIP and are enforceable by the state and local agencies as well as EPA. The operating hours are not enforceable. However, the 1982 projections are based on historical source operations and any increases in operating hours anticipated by the sources. The state is required to make yearly reports on Reasonable Further Progress (RFP) toward attainment. If unanticipated increases in operating hours are found to interfere with the RFP demonstration, the state will be required to correct the problem. The emissions reductions for which the plan takes credit are based on legally enforceable requirements.

The 1982 emission inventory projection is based on the best estimate of the state and local agencies using established EPA emission inventory guidelines. The EPA recognizes that the projections are only estimates and that actual emissions from individual point sources may vary. It is the responsibility of the state and local agencies to report (RFP) toward meeting the primary TSP standard in Kansas City as well as any other nonattainment area with an approved plan. Substantial emissions reductions are required in the early years of the RFP demonstration. If progress reports and air quality improvements are behind projections, the state will be required to obtain additional emission reductions which will meet the RFP schedule.

In the case of Kansas City, the Missouri plan shows that area sources including paved streets account for approximately 50 percent of the measured TSP To provide the

additional reductions necessary for attainment of the primary TSP standard by December 31, 1982, the state committed to a nontraditional source control study, and implementation of control strategies resulting from the study. The projected results show that the primary TSP standard can be attained by the mandatory deadline.

EPA proposed to approve the plan as meeting the requirements of Section 172(a)(1) (44 FR 61384, October 25, 1979).

ACTION: EPA approves the Missouri plan with respect to the approach to be used to demonstrate attainment of the primary TSP standard as expeditiously as practicable in the St. Louis Metropolitan area and Kansas City, as required by Section 172(a)(1) of the Act.

(2) *Attainment of the Secondary Standards.* The State of Missouri has demonstrated that RACT measures will not achieve attainment of the secondary standard for TSP and SO_2 in the secondary nonattainment areas. The state's submittal requested an extension until July 1, 1980, to submit plans to attain the secondary TSP standard in the St. Louis Metropolitan area, the St. Louis "hotspot", Kansas City, and Columbia; and SO_2 in the St. Louis "hotspot."

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the state's request for an extension to submit the secondary nonattainment plans. EPA received no comments on the proposal.

Action

EPA approves the extension request as authorized under Section 110(b) of the Act, allowing the state until July 1, 1980, for submittal of secondary nonattainment plans.

(3) *Public Participation.* Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

The Missouri submission contained evidence in the form of hearing transcripts and publishers' affidavits that the plan was adopted after reasonable notice and public hearings. The EPA has received no comments regarding public participation.

On October 25, 1979 (44 FR 61384), the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(1).

Action

The EPA approves the plan as satisfying the requirements of Section 172(b)(1) of the Act.

(4) *Reasonably Available Control Measures.* Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable.

The proposed rulemaking of October 25, 1979 (44 FR 61384) stated that major stationary sources of TSP have RACT controls or are required to have RACT controls, and that the Missouri plan for the Kansas City area was approvable and satisfied the requirements of Section 172(b)(2).

One commentor expressed the opinion that the EPA was treating the State of Kansas differently than Missouri, i.e., EPA is requiring Kansas to show that Kansas regulations represent RACT, but not Missouri. EPA has not yet proposed action on the Kansas plan and is still in the process of evaluating it. Each state is required to make its own RACT determinations. EPA will evaluate the Kansas demonstration with the same criteria it has used to evaluate the Missouri demonstration.

The basis for the RACT determination for the Missouri portion of the Kansas City area was a report prepared by an EPA contractor. This contractor did most of the preparatory work for the SIP in the Kansas City area. Copies of the resulting report were provided to both states and to the involved local agencies.

The contractor's report was adopted by the state and incorporated directly into the SIP for Kansas City, Missouri. The report listed the major TSP sources and described the control equipment installed and indicated the control efficiency. The conclusion was that these controls are required by existing state and local regulations which represent RACT on TSP sources.

The Missouri Air Conservation Commission (MACC) adopted rules for the eleven (11) Group I Volatile Organic Compound (VOC) sources as representing RACT. These rules apply only in the St. Louis and Kansas City ozone nonattainment areas. EPA review of the VOC source regulations is based on the information contained in the Control Techniques Guidelines (CTGs). The CTGs provide information on available air pollution control techniques and provide recommendations of what EPA calls the "presumptive norm" for RACT. As discussed in the October 25, 1979, Federal Register (44 FR 61384), the EPA believes the submitted regulations are consistent with the CTGs, except as noted below. Those regulations not discussed are approved as representing RACT.

(a) Rule 10 CSR 10-2.210, Control of Emissions from Solvent Metal Cleaning, applies to the Kansas City ozone nonattainment area; and Rule 10 CSR 10-5.300, Control of Emissions from Solvent Metal Cleaning, applies to the St. Louis ozone nonattainment area.

The EPA proposed to approve the solvent metal cleaning regulations for the Kansas City and St. Louis ozone nonattainment areas on October 25, 1979 (44 FR 61384), because the state demonstrated to EPA that those rules control emissions within five percent of the emissions allowed by the CTG recommendation.

One commentor expressed the belief that EPA must disapprove that part of the Missouri 10 CSR 10-2.210 and 10 CSR 10-5.300 which exempt methylene chloride and methl chloroform pursuant to the concern expressed in the October 25, 1979, proposed rulemaking.

Early in the SIP revision process, the EPA expressed its concern to the State of Missouri over the exemption of methylene chloride and methyl chloroform and recommended that the exemptions be removed. The MACC rejected this recommendation because EPA is unable to show that these substances are in fact health hazards and do indeed impact on stratospheric ozone. The MACC indicated that when the EPA adopted regulations prohibiting or restricting the use of these substances, they would act to remove the exemptions on methylene chloride and methyl chloroform.

While the EPA is concerned about the possible effects upon the stratospheric ozone layer and health implications resulting from unrestricted use of methylene chloride and methyl chloroform, these compounds are classified as nonreactive and do not have a role in ambient ozone formation. Control of the use of these compounds will not provide improved ambient ozone levels. For this reason, the EPA VOC policy must allow exemption of these compounds.

Action

The EPA approves Rule 10 CSR 10-2.210 and Rule 10 CSR 10-5.300 as representing RACT in the Kansas City and St. Louis ozone nonattainment areas.

(b) Rule 1 CSR 10-2.220, Liquid Cutback Asphalt Paving Restricted, is applicable in the Kansas City ozone nonattainment area and Rule 10 CSR 10-5.310, Liquid Asphalt Cutback Asphalt Paving Restricted, is applicable in the St Louis ozone nonattainment area. The Missouri regulations define cutback asphalt as containing seven percent diluent. This is consistent with EPA guidance. On October 25, 1979 (44 FR 61384), the EPA proposed to approve these rules.

One commentor expressed the opinion that these rules were not representative of RACT because of the exemptions for pothole filling contained in these rules.

The state has demonstrated to the EPA that emissions reductions anticipated because of these asphalt regulations are within five percent of that obtainable by following the CTG recommendations, considering the exemptions.

Action

The EPA approves Rule 10 CSR 10–2.220 and Rule 10 CSR 10–5.310, Liquid Asphalt Paving Restricted, applicable in Kansas City and the metropolitan St. Louis area as representing RACT for those areas.

(c) Rule 10 CSR 10–2.260 and Rule 10 CSR 5.220, Control of Petroleum Liquid Storage, Loading, and Transfer, are applicable in Kansas City and the St. Louis metropolitan area respectively.

Section (2) of 10 CSR 10–5.220 requires floating roof tanks for liquids having a vapor pressure of 1.8 psia at 70 degrees Fahrenheit. The CTG recommended 1.5 psia at storage conditions. In the October 25, Federal Register (44 FR 61384), the EPA proposed to conditionally approve this regulation if the state could demonstrate that emissions resulting from their regulation would be within five percent of that allowed by the CTG recommendation. The only tank in the St. Louis ozone nonattainment area which would be subject to the CTG recommendation is found to have VOC emissions of approximately 470 tons per year. Application of the CTG recommendation would control an estimated 15 tons per year additional VOC emissions.

The state has adequately demonstrated that existing emissions from this fixed roof tank are within five percent of the CTG recommendation.

Action

The EPA approves Section (2) of Missouri Rule 10 CSR 10–5.220, Control of Petroleum Liquid Storage, Loading and Transfer.

In the October 25, 1979, Federal Register (44 FR 61384) the EPA proposed to conditionally approve Rule 10 CSR 10–2.260 provided the state could show that allowable emission would be within five percent of the CTG recommendation. The limits of Section (2) of 10 CSR 10–2.260 are the same as Section (2) of 10 CSR 10–5.220 as discussed above. Missouri's rationale for adopting the limit for Kansas City was to have the rules for St. Louis and Kansas City consistent. In a letter dated January 28, 1980, the MDNR committed to amend 10 CSR 10–2.260 to agree with the CTG or enter into enforceable compliance orders to assure that the recommended limits are met. The state also committed to submitting such changes as a SIP revision.

Section (3) of Rule 10 CSR 10–2.260 and Rule 10 CSR 10–5.220 requires vapor recovery systems at gasoline terminals to control VOC emissions during gasoline loading operations. These rules applicable in the Kansas City and St. Louis ozone nonattainment areas respectively allow emissions of 0.50 grams of VOC per gallon of gasoline loaded. The CTG recommends 0.30 grams VOC per gallon of gasoline loaded.

During the comment period on the proposed rulemaking, the state submitted information regarding 10 CSR 10–5.220 stating that this rule for the St. Louis metropolitan area was adopted in early 1977 prior to the enactment of the Clean Air Act Amendments of 1977

The state's work to develop this rule began in 1976 prior to EPA guidance recommending limits for petroleum storage, loading and transfer. The regulations for St. Louis required sources subject to the rule to submit plans for control by February 1, 1977 initiate on-site construction by February 1, 1978, and be in compliance by July 1, 1978. This regulation was submitted to the EPA as a SIP revision on August 28, 1978, but was not proposed for action until October 25, 1979 (44 FR 61384). Controls required by 10 CSR 10–5.220 have been installed and are presently in operation.

The state has indicated that the additional cost of achieving the lower emission limit may be significantly greater than the cost of meeting the state's limit of 0.5 gram per gallon with only a small increase in VOCs controlled. Such costs might not be economically reasonable and could be a factor in determining RACT for the St. Louis area. The EPA recognizes the difficulty in requiring more stringent controls than those which have already been installed. Nevertheless, the EPA cannot approve the state's higher emission limit without further justification. The state has agreed either to provide adequate economic justification for accepting its regulation or to change the regulation to be consistent with the CTG recommendation.

Action

The EPA conditionally approves Section (3) of 10 CSR 10–5.220 as RACT for the St. Louis ozone nonattainment area provided that by March 15, 1981, the state submits a revision to this regulation which contains limits that agree with the CTG recommendation or provides adequate economic justification to show that its rule represents RACT.

Missouri Rule 10 CSR 10–2.260, Section 3 requires controls to limit VOC emissions during gasoline loading at terminals in Kansas City to 0.50 gram per gallon of gasoline loaded. The CTG recommended 0.30 gram per gallon of gasoline loaded. On October 25, 1979, (44 FR 61384) the EPA proposed to conditionally approve this regulation provided that the state show that this regulation would control VOC emissions to within five percent of that recommended by the CTC.

The rationale used by the State of Missouri in the July 2, 1979, submittal and in comments on the October 25, 1979, proposed rulemaking was that the state desired to have consistent regulations in Kansas City and St. Louis.

Missouri Rule 10 CSR 10–2.260 does not agree with the CTG guideline for allowable emission from gasoline transfer operations at gasoline terminals. The state has not provided information showing that the regulation agrees within five percent of the CTG recommendation or otherwise represents RACT. The EPA cannot at this time approve Section (3) of rule 10 CSR 10–2.260 as representing RACT. The state has agreed to change the emission limit to agree with the CTG or enter into enforceable compliance orders to assure that the CTG recommended limits are met, and to submit such changes as SIP revisions.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs includes RACT requirements for VOC sources covered by the CTGs EPA issued by January 1978 and schedules to adopt and submit by each successive January additional RACT requirements for sources covered by CTGs issued the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980, to July 1, 1980, by Federal Register notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Missouri plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980, (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will

promptly take appropriate remedial action. While EPA proposed to conditionally approve the ozone portion of the SIP based on the above requirements, today's action in adding these requirements provides assurance that the regulations will be submitted within the specified time frame.

Action

The EPA conditionally approves Missouri Rule 10 CSR 10-2.260 as part of the Part D plan revision for the Kansas City ozone nonattainment area, provided that the state submits a revision to this regulation which contains limits that agree with the CTG recommendations or submits enforceable compliance orders which assure that the CTG recommended limits are met. These revisions shall be submitted to the EPA as SIP revisions by February 1, 1981.

(d) Rule 10 CSR 10-2.230, Control of Emissions from Industrial Surface Coating Operations, and rule 10 CSR 10-5.330, Control of Emissions from Industrial Surface Coating Operations, are applicable in the Kansas City and St. Louis ozone nonattainment areas, respectively. The EPA proposed to conditionally approve these regulations in the Federal Register on October 25, 1979 (44 FR 61384), provided that the state amend the emission limit for the Corvette assembly line and demonstrate that the effective dates for can coating represent compliance as expeditiously as practicable. This condition was proposed because the state had not provided justification for emission limit on the Corvette plant or for the time frame allowed for meeting the can coating emission limit. The proposal did not expressly state that the regulation could be approved, if the state provided adequate justification. However, this was implied by the discussion of this plan deficiency, also the proposed rulemaking solicited comments whether the plan should be approved, conditionally approved or disapproved. The EPA received no comment that the regulation should not be approved.

During the 30-day comment period, the state and General Motors provided information justifying the emission limit at the Corvette assembly plant. The state also provided information showing the compliance date for can coating is as expeditious as practicable. General Motors stated that the CTG recommended emission limit was based upon automobile bodies made of steel, whereas the Corvette body is a fiberglass reinforced plastic. The CTG recommended limit is based upon the use of corrosion resistant primer coats and high solids (low volatile) finishing coats. Since the Corvette body is plastic and noncorrosive, such prime coats are unnecessary. In addition, low volatile paints require high temperature baking to dry and cure. The plastic material in the Corvette body softens at temperatures normally associated with paint baking ovens; thus, lower temperatures are required for paint curing. The EPA believes that under these circumstances the emission limit adopted by the MACC represents RACT for the Corvette assembly plant.

The state provided documentation which demonstrated that can coating materials would not be available for use by the can manufacturers, so that an earlier compliance is not practicable. The EPA believes the compliance date adopted by the MACC is as expeditious as practicable. The EPA believes these rules should be approved.

Action

The EPA approves Rule 10 CSR 10-2.230 and Rule 10 CSR 10-5.330 as representing RACT in the Kansas City and St. Louis ozone nonattainment areas.

(e) The proposed rulemaking on October 25, 1979 (44 FR 61384) proposed approval of other regulations adopted by the MACC. These regulations provide for more stringent controls for visible TSP emissions, TSP mass emission rates, and sulfur dioxide emissions from indirect heating sources, i.e., steam generators.

Included with the July 2, 1979, plan submittal were variances (compliance schedules) which the Missouri Department of Natural Resources requested EPA to take action on at the same time as the Part D plan revision. These variances were not specifically mentioned in the October 25, 1979, proposed rulemaking (44 FR 61384).

During the comment period on the proposed rulemaking, one commentor observed the omission of the variances from the PRM, and urged that EPA not defer action, especially the variance affecting the company he represented.

At the time of the July 2, 1979, submittal from the state, the SIP revision request was incomplete. The transmittal letter stated that the additional material would be submitted at a later date. At the time of the original submittal, the EPA was not provided copies of the hearing transcript and strategy demonstration; thus a complete review could not be made at the time the SIP was submitted.

These variances were reviewed during the comment period on the Part D plan. Action will be proposed on these variances in the Federal Register in the near future.

Action

The EPA approves the following revised emission regulations adopted by the State of Missouri:

(1) Rule 10 CSR 10-5.030 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating;

(2) Rule 10 CSR 10-5.090 Restriction of Emission of Visible Air Contaminants;

(3) Rule 10 CSR 10-5.290 More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis area; and

(4) Rule 10 CSR 10-2.040 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.

Regulations not specifically discussed in this section are approved as representing RACT.

(5) *Reasonable Further Progress (RFP).* Section 172(b)(3) of the Act requires the state to demonstrate that it will make reasonable further progress toward attaining the standard by specified dates, including emission reductions which can be achieved by the application of RACT.

In the October 25, 1979, Federal Register (44 FR 61384) the EPA proposed to approve the overall Missouri plan as demonstrating reasonable further progress. The rationale for the proposal was that the State had shown incremental emissions reductions anticipated through application of RACT and other regulations and nontraditional source controls.

Comments concerning the RFP demonstration have been addressed in Section (1) which discusses attainment of the primary TSP standard in St. Louis and Kansas City.

One commentor stated that the incremental reductions claimed because of the transportation control measures are unwarranted because of the absence of firm commitments.

The EPA recognizes that the plan submittal contained inadequate commitments to schedules for obtaining the CO and ozone reductions claimed. The deficiencies are minor and the transportation control measures are conditionally approved. A detailed response is found in Section (13) Attainment Dates and Extensions.

The commentor stated that there is nothing in the TSP plan for Kansas City to account for the emissions reduction claimed between 1979 and 1980.

The plan to attain the primary TSP standard shows that one major source of TSP emissions will be in compliance during that time period, and is a large portion of the 1982 projected TSP emissions reductions. The EPA believes

the RFP demonstration in the plan is adequate and satisfies the requirements of Section 172(b)(3) of the Act.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(3) of the Act.

(6) *Emission Inventory.* The Missouri plan revision contains emissions inventories as required by Section 172(b)(4) of the Act. The EPA received no comment on EPA's proposal to approve this portion of the Missouri plan.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as meeting the requirements of Section 172(b)(4).

Action

The EPA approves the plan as meeting the requirements of Section 172(b)(4) of the Act.

(7) *Emission Growth.* Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(5) of the act.

One commentor expressed concern over the growth allowance for VOC's that the State of Missouri provided for the Missouri portion of the St. Louis metropolitan area, as compared to the allowance for the Illinois portion of the area. The reason for this concern is that the State of Illinois elected to use 1978 air quality data upon which to base its ozone plan for the Illinois portion of the St. Louis area. Missouri used the EPA guidance which recommended 1975 through 1977 air quality data as a basis for a strategy design, but permitted use of 1978 data where available. Utilizing 1977 air quality data, a 50 percent reduction in VOC emissions will be required to attain the ozone standard.

The Missouri plan provides for a total annual growth for VOC emissions of approximately 1,700 tons per year from 1980 through 1987 for a total of 10,000 tons, for stationary sources during this period. This annual growth includes new and existing sources. The State will track this growth using the existing permit system. Should the tracking system project an exceedance of the annual increment, new or modified sources would be required to employ offsetting emissions.

The St. Louis AQCR includes three counties in Illinois. The plan for the Illinois portion of the St. Louis Metropolitan area uses 1978 ozone air quality data as the basis for the estimated VOC reductions needed to meet the ozone standard. The Illinois analysis projects the need for a reduction of 54 to 60 percent in VOC emissions to attain the ozone standard. The Illinois plans would require major new sources to seek emission offsets.

The State of Missouri is required by Section 172(c) to prepare a plan revision for attainment of the ozone and carbon monoxide standards for the St. Louis area, and submit the revised plan to the EPA by July 1, 1982. The plan revision will use current air quality data to gauge the amount of growth allowable for St. Louis.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(5).

(8) *Permit Requirements.* Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified stationary sources in accordance with the permit requirements of Section 173.

The State's submittal demonstrates that the MACC has authority to issue permits to construct and operate, and commits to requiring the lowest achievable emission rate where necessary. Legislation was adopted granting the MACC the necessary legal authority to comply with the requirements of the Clean Air Act. However, any regulations which may have been promulgated to comply with Section 173 were not submitted with the July 2 SIP revisions. In the October 25, 1979, Federal Register (44 FR 61384), the EPA suggested four options for final action on this portion of the Missouri plan and requested comments on these options or other possible options which may have been overlooked. No specific action was proposed.

The options discussed in the proposed rulemaking are:

Option A. Disapprove the plan with respect to the requirements of Section 172(b)(6) and Section 173;

Option B. Conditional approval of the plan with respect to the permit requirements;

Option C. Delay approval until the appropriate regulations are adopted and submitted to EPA for approval; and

Option D. Under Section 110(c), promulgate plan provisions for Missouri tracking the language of Section 173.

The EPA received three comments regarding action on the permit requirement plan deficiency. One commentor supported Option D as a means of preventing unnecessary delays in new construction. The State of Missouri supported Option B in its comments because a revised permit regulation was being developed.

A third commentor stated that they could not conceive what legally enforceable certification the State of Missouri might be able to provide so that conditional approval was possible. This commentor supported any of the other three options as appropriate.

In the discussion of conditional approval in the proposed rulemaking (Option B, 44 FR 61384) the EPA expressed a concern that the state may be unable to legally prevent construction or modification (in a nonattainment area) of sources not in compliance with Section 173. The EPA also stated that conditional approval could *only* be granted if the state provides a certification demonstrated to be legally enforceable that it will not issue permits to sources which do not meet the requirements of Section 173. The State of Missouri has not provided the necessary certification that would allow conditional approval.

Promulgation of regulations tracking the language of Section 173 as suggested in Option D would allow growth to continue in the nonattainment areas under EPA regulation. After the state adopts and the EPA approves state regulations pursuant to Section 173, the EPA would withdraw its new or modified source permit requirements for nonattainment areas.

On March 7, 1980, the Missouri Air Conservation Commission adopted regulations to satisfy the requirements of Section 172(b)(6) that the state have a permit program consistent with the requirements of Section 173. The regulations also provide for a program that requires new or modified major sources of VOC and/or carbon monoxide to comply with the alternative siting requirements of Section 172(b)(11)(A).

In this rulemaking the EPA is taking no final action on the Missouri SIP revision with respect to the requirements of Sections 172(b)(6), 172(b)(11)(A) and 173. The growth restrictions remain in effect for nonattainment areas in the state until final action is taken on the promulgated regulations. EPA's proposed action on the Missouri regulations is being published in a separate Federal Register notice.

Action

The EPA is taking no final action on the Missouri plan with respect to the Part D permit requirements of the Act.

(9) *Resources.* Section 172(b)(7) requires the state to identify and commit the financial and manpower resources

necessary to carry out the plan provisions.

On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri SIP as satisfying the requirements of Section 172(b)(7).

The state plan identified and made a commitment to provide the necessary resources to carry out each portion of the plan. On October 25, 1979 (44 FR 61384) the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(7) of the Act. EPA received no comments on the resource commitments contained in the Missouri Part D plan revision.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(7).

(10) *Schedules.* Section 172(b)(8) requires emission limitations, schedules of compliance and other measures as may be necessary to meet the requirements of Section 172.

The Missouri plan contains emission limits to meet the requirements of Section 172. These emission limits are contained in new and revised emission control regulations which are being approved by this rulemaking.

Action

EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(8) of the Act.

(11) *Public, Local Government and Legislative Involvement.* Section 172(b)(9) requires evidence of involvement and consultation of the public, local government, and the state legislature in the planning process. The section also requires an identification and analysis of various effects of the plan and a summary of public comments on the analysis.

The Missouri submission demonstrated involvement of the public and local government with hearing transcripts and letters from local government officials commenting on the Missouri plan. On October 25, 1979, the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(9).

The EPA received no comments from the public regarding the state's effort to seek involvement of the general public, local government officials and the state legislature during the plan development process.

Action

The EPA approves the Missouri plan as satisfying the requirements of Section 172(b)(9) of the Act.

(12) *Commitments.* Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legally enforceable requirements, and that agencies responsible are committed to their implementation and enforcement. For some types of measures, EPA interprets the Act as allowing approval of plans containing schedules for adoption and submittal of these measures (44 FR 20372, April 4, 1979).

The Missouri submittal contains written evidence of adopted requirements, assurances and commitments that the plan will be implemented and enforced. The state has made adequate commitments in all parts of the revised plan, except with regard to the transportation and the inspection and maintenance plans for St. Louis. This deficiency is discussed completely in Section (13) below.

On October 25, 1979 (44 FR 61384), the EPA proposed to approve the Missouri plan as satisfying the requirements of Section 172(b)(10).

Action

EPA approves the Missouri plan with respect to commitments required by Section 172(b)(10) of the Act except as stated in the discussion under the requirements of Section 172(b)(11).

(13) *Attainment Dates and Extensions.* The requirements of Section 172(b)(11) are applicable only in the case of ozone and carbon monoxide nonattainment areas if the state demonstrates that attainment of the standard is not possible for one or both pollutants prior to December 31, 1982. In such case, an extension may be granted until December 31, 1987, but the plans must meet the requirements of Section 172(b)(11)(A), (B) and (C).

The state has demonstrated that the ozone standard can be attained by December 31, 1982, in Kansas City. The state submittal for attainment of the carbon monoxide and ozone standards in St. Louis shows that an extension until December 31, 1987, will be needed for both pollutants. Application of RACT to stationary sources, the Federal Motor Vehicle Emission Control Program, and reasonable transportation control measures are not adequate to provide for attainment of the ozone and carbon monoxide standards by December 31, 1982, in St. Louis. The EPA proposed to conditionally approve the Missouri plan with respect to the requirements of Section 172(b)(11) provided certain specified deficiencies are corrected. These deficiencies are discussed below in subparagraphs (a), (b), and (c).

Action

The EPA approves Missouri's request for an extension to attain the carbon monoxide and ozone standards in St. Louis to not later than December 31, 1987.

Because EPA approves the request for an extension to meet the carbon monoxide and ozone standards in St. Louis, the Missouri SIP must meet the requirements of Section 172(b)(11).

(a) Section 172(b)(11)(A) requires that the State establish a program which provides for an analysis of alternate sites, sizes, production processes and environmental control techniques for any new or modified source prior to issuance of a permit for such source to be located in the nonattainment area.

The state certified that it will not issue any permits for any construction or modification prior to the performance of such analysis. On October 25, 1979 (44 FR 61384) the EPA proposed to conditionally approve the plan as satisfying the requirements of Section 172(b)(11)(A) provided the state certified that no permits would be issued without the analyses specifically required by Section 172(b)(11)(A) for ozone and carbon monoxide nonattainment area.

Because of the reasoning applied in Paragraph (8) above concerning permits required by Sections 172(b)(6) and 173, the EPA believes that conditional approval is not appropriate at this time.

As discussed in Paragraph (8) above, the Missouri Air Conservation Commission on March 7 1980, adopted regulations to satisfy the requirements of Section 172(b)(11)(A). A notice of proposed rulemaking will be published in the Federal Register in the near future.

Action

The EPA is taking no action in this notice on the Missouri plan with respect to the requirements of Section 172(b)(11)(A).

(b) Section 172(b)(11)(B) requires that the plan provisions shall establish a specific schedule for implementation of a vehicle emissions control inspection and maintenance (I/M) program.

I/M refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Enforcement can be accomplished by requiring proof of compliance in order to purchase license plates or to register a vehicle. In certain cases a windshield

sticker system can be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that SIPs for states which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases, Section 172(b)(11)(B) must be satisfied.

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372). Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

(1) *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program. (Section 172(b)(10)).

(2) *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

(3) *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7)).

(4) *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b)). Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

(5) *Program Effectiveness.* As set forth in EPA guidance an I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987 with and without the I/M program. This policy is based on Section 172(b)(2) which requires that the plan provisions shall provide for the implementation of all reasonably available control measures.

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body: For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are committed to implement and enforce the appropriate elements of the plan (Section 172[b][10]). Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required (Section 172(b)(11)(B)). The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions by the end of calendar year 1987 The Act mandates "implementation of all reasonably available control as expeditiously as practicable" (Section 172[b][2]). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not previously undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program. Depending on program type (private garage or centralized inspection), a mandatory I/M program may be implemented as late as December 31, 1982, and the attainment date may be as late as December 31, 1987 Based on an implementation date of December 31, 1982, and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987 Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

In its SIP Missouri included provisions for an I/M program. The SIP stated that the particular I/M program scheduled for implementation would require a 30% stringency factor, mechanic training, and no exemptions for any class of vehicles. Three alternative exhaust emissions reduction demonstrations, based on the above I/M commitment, were prepared by the St. Louis metropolitan planning organization, East-West Gateway Coordinating Council, and included in the SIP The demonstrations were based on the use of Mobil I Source Emissions Model for carbon monoxide and hydrocarbons and indicated that a 25% reduction in exhaust emissions could be achieved by December 31, 1987, thus complying with EPA's requirement for minimum emission reductions.

The SIP also included a copy of amended Sections 307.360, 307.361 and 307.365 of the Missouri Revised Statutes, the legislation passed by the General Assembly and signed into law by the Governor on August 2, 1979, providing legal authority for I/M in Missouri. The legislation requires the implementation of a mandatory I/M program to begin no later than December 31, 1982, nor earlier than July 6, 1981. Enforcement of the I/M program will be tied to the safety inspection program, which is necessary for registration, annual license plates, and an annual expiration window sticker. The Missouri Air Conservation Commission, with the assistance of the Missouri State Highway Patrol (MSHP) is to conduct an I/M pilot study and, based on results, design a recommended I/M program and report to the General Assembly in December 1980. This report is to include the type of I/M program to be implemented, a starting date, stringency factor, vehicle mix, consumer

costs and protection, administrative costs and procedures, program effectiveness, and cost-benefit analysis.

Two comments were received regarding the I/M program for Missouri. The first commentor expressed the opinion that it is premature for the state to adopt a legally enforceable schedule for mandatory implementation of I/M until after the General Assembly reviews the MACC's report to it in December 1980, and that it is premature for the state to select a final stringency factor and vehicle mix.

The EPA agrees that the state may be unable to provide a definite schedule for implementing a mandatory I/M program. However, the EPA believes that the state has sufficient data upon which to base a series of options for presentation to the General Assembly, any one of which would be capable of providing an approvable mandatory I/M program. Such options were not addressed in the final plan submitted on July 2, 1979. The state did make a commitment to develop an approvable schedule. The absence of a schedule is a plan deficiency which must be corrected if the plan is to be approved. If there had been *no* commitment, EPA could not have proposed conditional approval.

The SIP provided I/M program alternatives which showed that a minimum of 25% reduction of carbon monoxide and VOC emissions could be achieved by December 31, 1987. During the comment period, the state said it could not select a final stringency factor and vehicle test mix within six months of the final rulemaking. The state has not indicated that the condition is unreasonable, nor have they suggested an alternate time limit. The EPA believes the 25% reduction is the minimum necessary to demonstrate reasonable further progress for the I/M program, which is contained in the SIP and that the state has the necessary legal authority to make such a commitment.

The second commentor, representing a national environmental organization, observed that the Missouri I/M program is qualified by certain ill-defined conditions and does not contain a specific schedule for implementing the I/M program.

The EPA concurs with the commentor regarding the conditions contained in Missouri's enabling legislation and schedule. EPA's response to this comment is the same as that stated above regarding schedules.

The MACC and the Missouri State Highway Patrol are to develop a pilot program leading to mandatory I/M program by December 31, 1982. Citizen participation in the I/M program may not be mandatory prior to the 180th day following the convening of the 81st General Assembly First Session without specific legislative authorization and until the governor certifies that Illinois and/or Kansas have instigated an equally effective mandatory I/M program or that EPA is applying "effective and sufficient sanctions" for failure of these states to have such a mandatory program in the appropriate areas.

The following actions are available to the EPA if a state fails to meet the requirements of Part D of the Clean Air Act:

(1) Denial of clean air grants;

(2) Denial of grants under Title 23, U.S. Code;

(3) Denial of permits for the construction and operation of new or modified stationary sources; or

(4) Federal enforcement action.

The EPA believes that any or all of the above actions would be "effective and sufficient sanctions" as stated in the Missouri legislation. This legislation requires the Governor of Missouri to (1) determine that the imposition of any of the above actions is effective and sufficient, or (2) reasonably determine that Illinois and/or Kansas has implemented an equally effective program. This action is necessary for the state to meet the requirements of Part D of the Clean Air Act.

ACTION: EPA conditionally approves the Missouri SIP as meeting the requirements of Section 172(b)(11)(B) of the Act provided the following deficiencies are corrected:

1. The state must develop a schedule, including alternatives which will be followed to instigate a mandatory I/M program. The schedule shall contain the major milestones the EWGCC, MDNR and/or MSHP will accomplish to implement the alternative I/M programs considered, for which air quality benefit credits have been taken. This schedule shall be submitted as part of the SIP by August 31, 1980.

2. The state shall report to EPA no later than December 1, 1980, the recommended type of I/M program, stringency factor, vehicle test mix, and program resources and justification which General Assembly will review.

(c) Section 172(b)(11)(C) requires the plan to identify other measures necessary for attainment of the air quality standard. This includes transportation control measures as specified in Section 110(a)(3)(D).

The EWGCC is the designated lead planning agency for the St. Louis metropolitan area and has the required legal authority to develop transportation plans. The Missouri SIP includes transportation measures which provide for an estimated 6.45% reduction in emissions by December 31, 1982. These transportation measures were developed by EWGCC for inclusion in the Missouri SIP. They include improved mass transportation, carpooling, van pooling, improving average vehicle speed, and traffic flow improvements. The SIP revision establishes annual goals for achieving emission reductions from each of these five classes of transportation measures. However, the plan does not establish specific strategies for achieving these reductions. The transit Development Plan is cited as the means for increasing ridership by 50%, but no commitments to fund and implement the plan are provided. Similarly, specific strategies and commitments for achieving the other transportation-related emission reductions are not included.

As originally submitted, the Missouri SIP included the Transportation Improvement Program (TIP) for the St. Louis area. Many of the projects included in the TIP are standby measures which are unlikely to be funded in the immediate future. In the proposed rulemaking, the EPA cited this deficiency (44 FR 61395). As a result, the EWGCC submitted to the state a revised list of TIP projects which are likely to have air quality benefits. On January 28, 1980, the state submitted this revised list of currently programmed transportation projects to the EPA with a schedule for completion of an air quality analysis. Upon completion of this analysis, the state must submit for inclusion in the SIP documentation of emission reductions to be achieved by these projects and implementation schedules and commitments from appropriate implementing agencies.

EWGCC is currently operating under an approved work program funded under Section 175 of the Act. This work program provides a schedule for analysis of alternative transportation strategies, carbon monoxide dispersion modeling, and commits EWGCC to seek commitments to specific transportation measures after the analysis. The work program also commits EWGCC to an assessment of the health, air quality, economic, energy and social impacts of the transportation strategies. This assessment is required by section 172(b)(9).

The Air Quality Advisory Committee (AQAC) of EWGCC has commented on the requirement to obtain commitments to transportation measures. AQAC has noted that EWGCC cannot demonstrate the air quality benefits of projects in the TIP until implementation of the carbon

monoxide dispersion model. However, AQAC does commit EWGCC to seek commitments to specific projects and measures from the responsible jurisdictions. Exception was taken to providing commitments within three months. The State of Missouri concurred in these comments. However, in a letter to U.S. EPA, Region V, in response to the proposed rulemaking for the Illinois SIP, EWGCC agreed to provide commitments to specific transportation measures after the analysis of alternatives, but no later than January 31, 1981.

Another commentor has noted deficiencies in the transportation portion of the SIP The Natural Resources Defense Council points out that the plan does not include commitments to implement transportation control measures, does not establish schedules nor certify that .. the responsible agencies have agreed to implement specific measures and does not commit to implement public transportation improvements basic to the needs of the St. Louis area.

EPA believes that the Missouri SIP is deficient in addressing transportation control measures for the St. Louis area. As presently constituted, the transportation measures for which a 6.45% reduction in emissions is being claimed represent goals and not specific strategies and commitments. Some of these goals, such as the 50% increase in ridership, may not be attained. If the alternatives analysis shows that any or all of these measures cannot achieve these emission reductions, substitute measures will have to be produced which will achieve similar reductions.

It is also EPA's opinion that the state, through EWGCC, intends to secure the required commitments. EPA believes that EWGCC's work program, as funded under Section 175, is adequate to produce an analysis of alternative transportation measures and commitments to specific strategies and that this can be accomplished within the time frame agreed upon by EWGCC and EPA Regions V and VII. Such commitments must be secured by EWGCC no later than January 31, 1981. EWGCC and the state have agreed to provide commitments to specific transportation measures within this time frame.

Although EWGCC is committed to an analysis of alternative transportation measures, EWGCC has not provided a commitment to justify any decision not to adopt difficult control measures. Section 108(f) lists measures which EPA believes are reasonably available. EWGCC must provide such a commitment and a decision not to adopt any of these measures must be justified at the time commitments are provided.

Action

EPA conditionally approves the Missouri plan as meeting the requirements of Section 172(b)(11)(C) of the Act provided the following deficiencies are corrected:

(a) EWGCC shall provide the results of requisite carbon monoxide dispersion modeling committed to in the approved Section 175 work plan by January 31, 1981.

(b) EWGCC shall complete the analysis of alternative transportation measures and secure commitments from the responsible agencies to specific strategies which will attain a 6.45% reduction in emissions. If the alternatives analysis shows that the goals outlined in the SIP cannot be attained, substitute measures and commitments which will achieve the emission reduction shortfall are required. These commitments to specific transportation measures shall be provided no later than January 31, 1981.

(c) EWGCC shall provide by August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

C. Other Plan Requirements

This section discusses each requirement, other than those of Part D, that a State Implementation Plan must meet in order to be fully approvable under the Clean Air Act, as amended in 1977

In the October 25, 1979, Federal Register (44 FR 61384), the EPA stated that the Missouri SIP revision had not specifically addressed the non-Part D requirements of the Act, and that EPA proposed to take no action regarding the Part D requirements.

One commenter (NRDC) objected to the no action proposal and stated that EPA could not approve a SIP revision until all deficiencies were corrected. EPA's general response to this comment is included in Section D of this notice. With respect to this specific rulemaking, the Missouri July 2, 1979, submittal addressed the basic Part D plan requirements. The EPA agrees that the other plan requirements of the Act must be satisfied for the plan to be totally approved. The proposed rulemaking acknowledged the non-Part D requirements were deficiencies in the Missouri plan. Since these items were not submitted, the EPA proposed to take no action, because there was nothing to act upon. By stating that no action is taken, the EPA is acknowledging that there are still plan deficiencies which must be corrected. The requirements for a fully approvable plan were briefly reiterated in Section B above.

(1) *Interstate Air Pollution.* Section 110(a)(2)(E)(i) requires to plan for a state to contain provisions prohibiting stationary sources within that state from causing violations of standards interfering with measures relating to prevention of significant deterioration of air quality, or interfering with measures to protect visibility in another state. It also requires the plan to contain provisions insuring the compliance with the requirements of Section 126 relating to interstate pollution abatement.

(2) *State Boards.* Section 128 requires that any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permit or enforcement orders, and requires procedures ensuring that financial interests are adequately disclosed.

(3) *Permit Fees.* Section 110(a)(2)(K) requires a permit fee in connection with any permit required under the Act.

(4) *Consultation.* Section 121 of the Act requires that the state provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials and any federal land managers having authority over land to which the plan applies.

(5) *Stack Heights.* Section 123 of the Act requires that the degree of emission limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding good engineering practice or any other dispersion technique.

(6) *Public Notification.* Section 127 requires that each state plan shall contain measures to notify the public of instances in which health-related standards were exceeded.

(7) *Prevention of Significant Deterioration.* Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the Act.

None of these requirements are expressly addressed in the Missouri SIP revision.

Action

EPA is taking no action on any of the above non-Part D requirements.

D. National Comments

One commentor submitted extensive comments which it requested be considered part of the record for each state plan. Each of the points raised by

the commentor and EPA's response follow. Although some of the issues raised are not relevant to provisions in Missouri's submission, EPA is notifying the public of its response to these comments at this time.

1. The commentor asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979, (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commentor objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commentor noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision in *Alabama Power Co. v. Costle,,* 13 ERC 1224 (D.C. Cir., June 18, 1979). In the commentor's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commentor believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean area.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modifications," and "potential to emit," and the areas in which NSR applies, govern state plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its view on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979, proposal addressed some of the issues raised by the commentor. To the extent necessary, EPA will respond in greater detail to the commentors' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979, proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, states will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the state to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commentor questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commentor noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication (44 FR 3720, January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commentor questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards more expeditously, as well as assure reasonalbe further progress.

The commentor also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commentor found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the CTGs. The CTGs provide recommendations to the states for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7 The commentor suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commentor questioned EPA's authority to require states to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commentor suggested that if a state fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commentor's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a state fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Another commentor, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of state boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commentors argued that EPA must secure a state commitment to satisfy the permit fee and state board requirements before conditionally approving a plan under Part D. In those states that fail to correct the omission within the required time, the commentors urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

To be fully approved under Section 110(a)(2) of the Act, a state plan must satisfy the requirements for state boards and permit fees for all areas, including nonattainment areas. Several states have adopted provisions satisfying these requirements, and EPA is working with other states to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the state board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

E. Changes in the Code of Federal Regulations

The title of § 52.1331 is changed from Requests for two-year extensions to Extensions. This action is taken to provide for extensions requested under the 1977 Clean Air Act and other future extensions as may be required. This is not a significant change and EPA believes no advanced public notice is necessary.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Missouri the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Missouri's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.[1]

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

F. Conclusion

The Administrator's decision to approve or disapprove the proposed SIP revisions is based upon the determination of whether or not the revisions meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plan.

The revisions submitted by the State of Missouri were proposed in the Federal Register and public comments were solicited. Eight letters were received which directly addressed issues relating to the Missouri plan. A ninth comment addressed national SIP policy issues. The major issues in the comment letters are addressed in the appropriate section of this notice. The comments on EPA's national policy are addressed in Section D.

All comments on EPA's proposal are addressed in the support document which is available at the addresses shown at the beginning of this notice.

After a careful evaluation of the state submittal, the public comments received and the additional information and commitments submitted by the state, the Administrator has determined that the actions taken in this notice are necessary and proper.

The actions taken today generally approve the Missouri SIP revision as meeting the requirements of Part D of the Act. No action is being taken on a number of non-Part D requirements. The Part D requirements were discussed in Section C above and include requirements for interstate air pollution, Section 110(a)(2)(E)(i), state boards (Section 128), local government consultating (Section 121), stack height considerations (Section 123), public notification when health related air standards are exceeded (Section 127), and prevention of significant deterioration (Section 161). Action on the plan with respect to the permit requirements for new and modified sources seeking to construct or operate in nonattainment areas (Sections 172(b)(6), 172(b)(11)(A), and 173) is delayed pending EPA final action on regulations adopted by the MACC and submitted to the EPA in accordance with the SIP revision requirements of 40 CFR Part 51. The ozone and carbon monoxide plan for the St. Louis metropolitan area is being conditionally approved pending submission of acceptable transportation improvement plan commitments and the required I/M program elements discussed above (Section C, paragraph 13). The deadlines for submitting the corrected deficiencies are stated in the appropriate action statement and in the regulation portion of this notice.

EPA finds that good cause exists for making these amendments effective immediately for the following reasons:

1. The deferred action on the states permit program to regulate construction of new or modified sources contained in today's action clarifies the status of growth restrictions required by Section 110(a)(2)(I) of the ACT in the Missouri nonattainment areas which became effective July 1, 1979; and

2. The immediate effectiveness enables persons seeking judicial review of the amendments to do so without delay.

Under the Executive Order 12044, EPA is required to judge whether or not a regulation is "significant" and therefore, subject to the procedural requirements

[1] *See* General Preamble for Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979).

of that order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation and not subject to the procedural requirements of Executive Order 12044.

This rulemaking is issued under Sections 110, 172, 173, and 301 of the Clean Air act, as amended.

Dated: March 28, 1980.

Barbara Blum,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

40 CFR Part 52 is amended by adding § 52.1320(c)(15) to read as follows:

Subpart AA—Missouri

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(15) On July 2, 1979, the State of Missouri submitted a plan to attain the National Ambient Air Quality Standards for the Kansas City and St. Louis areas of the state designated nonattainment under Section 107 of the Clean Air Act, as amended in 1977 Included in the plan are the following approved regulations:

(A) Rule 10 CSR 10–2.210 and 10 CSR 10–5.330 Control of Emissions from Solvent Metal Cleaning are approved as RACT;

(B) Rule 10 CSR 10–2.220 and 10 CSR 10–5.310 Liquified Cutback Asphalt Paving Restriated are approved as RACT;

(C) Rule 10 CSR 10–5.220 Control of Petroleum Liquid Storage Loading and Transfer (St. Louis) is conditionally approved as RACT;

(D) Rule 10 CSR 10–2.260 Control of Petroleum Liquid Storage Loading and Transfer (Kansas City) is conditionally approved;

(E) Rule 10 CSR 10–5.030 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating is approved as RACT;

(F) Rule 10 CSR 10–5.090 Restriction of Emission of Visible Air Contaminants is approved as RACT;

(G) Rule 10 CSR 10–5.290 More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in South St. Louis is approved as RACT;

(H) Rule 10 CSR 10–2.040 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating is approved as RACT,

(I) Rule 10 CSR 10–2.240 Restriction of Emissions of Volatile Organic Compounds from Petroleum Refinery Sources is approved as RACT;

(J) Rule 10 CSR 10–2.250 Control of Volatile Leaks from Petroleum Refinery Equipment is approved as RACT; and

(K) Rule 10 CSR 10–2.230 and 10 CSR 10–5.330 Control of Emissions from Industrial Surface Coating Operations is approved as RACT.

The following language is added at the end of § 52.1323 to read as follows:

§ 52.1323 Approval status.

* * * * *

* * * Continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980, for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each successive January of Additional RACT requirements for sources covered by CTGs issued the previous January. No action was taken with respect to the new source review requirements found in Sections 172(b)(6), 172(b)(11)(A), and 173 of the Act.

Section 52.1324(c) is added to read as follows:

§ 52.1324 General requirements.

* * * * *

(c) *Conditional Approval.* The following portions of the Missouri SIP developed pursuant to Part D of the 1977 Clean Air Act Amendments contain deficiencies which must be corrected within the time limit indicated:

(1) The Missouri plan for St. Louis does not satisfy the requirements of Section 172(b)(11). Approval of the Missouri plan with regard to commitments needed to completely satisfy the requirements for an extension of the attainment date for the ozone and carbon monoxide standards is subject to the conditions that;

(A) the State of Missouri develops and submits to EPA a schedule which includes the alternatives which will be followed to instigate a mandatory I/M program. This schedule shall contain the major milestones that will be met by the state and responsible local agencies in order to implement the alternative I/M programs for which air quality benefits have been taken. This schedule shall be sumitted to the EPA no later than August 31, 1980.

(B) the state shall report to the EPA no later than December 1, 1980, the recommendations regarding the I/M program, stringency factor, vehicle test mix, and program resources and justification provided to the Missouri general assembly for its review.

(C) Approval of the Missouri SIP with regard to the requirements of Section 172(b)(11)(C) of the Act is subject to the conditions that;

(1) The MPO shall complete and submit to the EPA the requisite CO modeling contained in the approved Section 175 work plan no later than January 31, 1981;

(2) The MPO shall complete the analysis of alternative transportation measures and secure commitments from the responsible agencies to specific strategies which will attain a 6.45 percent reduction in emissions. If the alternative analysis shows that the goals contained in the SIP cannot be attained, substitute measures and commitments which will achieve the emission reduction shortfall shall be required. These requirements shall be satisfied no later than January 31, 1981; and

(3) The designated MPO shall provide no later than August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

(D) Approval of Missouri Rule 10 CSR 10–2.260 for Kansas City is subject to the condition that the state change the regulation to agree with the Control Techniques Guidelines or obtain and submit enforceable compliance orders which assure that the CTG recommended limits are met. These revisions shall be submitted to the EPA as SIP revisions by February 1, 1981.

(E) Approval of Missouri Rule 10 CSR 10–5.220 for St. Louis is subject to the condition that the state change the regulation to agree with the control Technique Guidelines or provide adequate economic justification to show that its rule represents RACT. This revision shall be submitted to the EPA as a SIP revision no later than March 15, 1981.

Section 52.1331 is amended by revising the section heading and adding paragraphs (b), (c), and (d) to read as follows:

§ 52.1331 Extensions.

* * * * *

(b) Missouri's request for an extension until July 1, 1980, to submit plans to attain the secondary TSP and SO_2 standards is approved.

(c) Missouri's request for an extension to attain the ozone standard in the St. Louis metropolitan area to not later than December 31, 1987, is approved.

(d) Missouri's request for an extension to attain the carbon monoxide standard in the St. Louis metropolitan area to not

later than December 31, 1987 is approved.

Section 52.1332 is amended by revising the Table and the Note to read as follows:

§ 52.1332 Attainment dates for national standards

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants [1]
	Primary	Secondary	Primary	Secondary			
Metropolitan Kansas City Interstate	b	e	d	d	d	May 31, 1975	b
Southwest Missouri Intrastate	a	a	d	d	d	d	d
Southeast Missouri Intrastate	d	d	d	d	d	d	d
Northern Missouri Intrastate	a	a	d	d	d	d	d
Metropolitan St. Louis Interstate	b	e	b	e	d	c	c

[1] Hydrocarbons.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52 (1978) § 52.1332.

Only portions of those AQCRs with attainment dates after July, 1975 have new attainment dates under the 1977 Clean Air Act Amendments. The reader is referred to 40 CFR Part 81 for identification of the designated areas under Section 107(d) of the Act.

a. July 1975
b. December 31, 1982
c. December 31, 1987
d. Air quality levels presently below secondary standards
e. Secondary standard attainment date to be determined by secondary attainment plan

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[Docket No. 20780; FCC 80-148]

Redefining and Clarifying the Rules Governing Restricted Radiation Devices and Low Power Communication Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule (Order granting in part reconsideration of first Report and Order—Technical Standards for Computing Devices).

SUMMARY: In response to a number of petitions for reconsideration, the FCC, among other things, postponed the effective date of its new rules for personal computers, data processing and similar electronic equipment that use digital techniques. The ORDER also redefines computing devices and exempts several specific types of devices. The new rules are designed to control the interference caused by electronic equipment to radio and TV reception.

EFFECTIVE DATE: May 12, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Art Wall or Herman Garlan, Office of Science and Technology at 202-632-7905.

SUPPLEMENTARY INFORMATION:

Adopted: March 27, 1980.

Released: April 9, 1980 (*See* FR 59530).

By the Commission: Commissioner Lee absent.

1. The First Report and Order in this proceeding adopted new regulations to control the interference caused by digital electronic equipment to radio communications.[1] Adopted on September 18, 1979, the *First Report* (FCC 79-555) was released on October 11, 1979 and published in the Federal Register on October 16, 1979 at 44 FR 59530. Thirteen parties filed timely petitions under various titles requesting partial reconsideration of the *First Report.* Eleven parties filed *Oppositions* and comments to the petitions for reconsideration and four parties filed *Replies* to the *Oppositions.* A list of parties filing *Petitions, Oppositions* and *Replies* considered herein is given in Appendix A, attached.

2. The new rules for computing devices were adopted because of the Commission's concern about proliferation of electronic products that interfere with radio and TV reception.[2] Of particular concern in this proceeding are electronic devices that generate and use radio frequency energy for timing and control purposes—defined in § 15.4(m) of the new rules as computing devices. To control the interference potential of these products the Commission established two sets of conducted and radiated limits for computing devices—one set (Class A) for commercial/industrial equipment and a second set (Class B) for electronics products used in the home. The new rules require the manufacturer to insure that each of his products manufactured after July 1, 1980 complies with the appropriate standard.

3. A total of 18 parties filed petitions/comments in the reconsideration phase of this proceeding.[3] Most supported the Commission's concern about the interference potential of electronics devices and the general regulatory approach adopted. Several stated that the new standards are needed and appear reasonable. Most petitioners, however, questioned the Commission's haste in applying the new standards. In particular, 14 of the 18 parties contend that the July 1, 1980 date provides an unreasonably short time to achieve compliance. To insure that compliance can be obtained without placing an unreasonable economic burden on manufacturers, the petitioners stated that up to seven years is needed. Several petitioners claim that they will have to shut down production if July 1, 1980 adherence is required.

4. A number of other concerns were also expressed by the petitioners. Several petitioners argued that the

[1] For convenience, the First Report and Order will be referred herein as *First Report.* The Petitions for Reconsideration, which were filed under various titles (Petition for Reconsideration and Clarification, Petition for Partial Reconsideration, etc.), will be referred herein as *Petitions.* Similarly, Oppositions to the Petitions for Reconsiderations, again filed under various titles, will be referred herein as *Oppositions* and Replies to Oppositions, simply *Replies.*

[2] See paragraphs 10-22 of the *First Report* for a partial discussion of the interference problem.

[3] Five Associations, 12 manufacturers, and one consultant filed a total of 28 pleadings—13 *Petitions,* 11 *Oppositions,* and 4 *Replies.* In addition, the two petitions listed in Section IV of Appendix A, attached, were received late. Since untimely filed petitions cannot be accepted, except under extraordinary circumstances, they are hereby dismissed. *Sonderling Broadcasting Co.,* 64 FCC 2d 731 (1977). As a practical matter, their concerns have already been considered in this *ORDER.*