

## 10 CSR 10-6.065 Operating Permits

### (1) Applicability.

(A) Part 70, Intermediate and Basic State Installations. This rule shall apply to existing, modified, reconstructed, and new installations, whether part 70 intermediate or basic state throughout Missouri.

(B) Incinerators. This rule shall apply to all incinerators.

(C) Exempt Installations and Emission Units. The following installations and emission units are exempt from the requirements of this rule unless such units are part 70 or intermediate installations or are located at part 70 or intermediate installations. Emissions from exempt installations and emission units shall be considered when determining if the installation is a part 70 or intermediate installation:

1. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.070(7)(AAA) Standards of Performance for New Residential Wood Heaters;

2. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.240 or 10 CSR 10-6.250;

3. Single or multiple family dwelling units for not more than three (3) families;

4. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;

5. Equipment used for any mode of transportation;

6. Livestock markets and livestock operations, including animal feeding operations and concentrated animal feeding operations as those terms are defined by 40 CFR 122.23 and all manure storage and application systems associated with livestock markets or livestock operations;

7. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

8. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;

9. Equipment or control equipment which eliminates all emissions to the ambient air;

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10. Equipment, including air pollution control equipment, but not including an anaerobic lagoon, that emits odors but no regulated air pollutants;

11. Residential wood heaters, cookstoves, or fireplaces;

12. Laboratory equipment used exclusively for chemical and physical analysis or experimentation is exempt, except equipment used for controlling radioactive air contaminants;

13. Recreational fireplaces;

14. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

15. Combustion equipment that-

A. Emits only combustion products;

B. Produces less than one hundred fifty (150) pounds per day of any air contaminant; and

C. Has a maximum rated capacity of-

(I) Less than ten (10) million British thermal units (Btus) per hour heat input by using exclusively natural or liquefied petroleum gas, or any combination of these; or

(II) Less than one (1) million Btus per hour heat input;

16. Office and commercial buildings, where emissions result solely from space heaters using natural gas or liquefied petroleum gas with a maximum rated capacity of less than twenty (20) million Btus per hour heat input. Incinerators operated in conjunction with these sources are not exempt;

17. Any country grain elevator that never handles more than 1,238,657 bushels of grain during any twelve (12)-month period and is not located within an incorporated area with a population of fifty thousand (50,000) or more. A country grain elevator is defined as a grain elevator that receives more than fifty percent (50%) of its grain from producers in the immediate vicinity during the harvest season. This exemption does not include grain terminals which are defined as grain elevators that receive grain primarily from other grain elevators. To qualify for this exemption, the owner or operator of the facility shall retain monthly records of grain origin and bushels of grain received, processed and stored for a minimum of five (5) years to verify the exemption requirements. Monthly records must be tabulated within seven (7) days of the end of the month. Tabulated monthly records shall be made available immediately to Missouri Department of Natural Resources representatives for an announced inspection or within three (3) hours for an unannounced visit;

18. Sand and gravel operations that have a maximum capacity to produce less than seventeen and one-half (17.5) tons of product per hour and use only natural gas as fuel when drying;

19. Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000; and

20. Any asphaltic concrete plant, concrete batching plant or rock crushing plant that can be classified as a portable equipment installation, as defined in 10 CSR 10-6.020.

(D) Prohibitions.

1. After the effective date of this rule, no person shall operate a part 70 installation, intermediate installation, or basic state installation except in compliance with an operating permit issued by the permitting authority in accordance with this rule.

2. Except as specified in this rule or in the operating permit, it is not a violation of this rule for a permitted installation to be operated in ways that are not addressed in, constrained by, or prohibited by the operating permit.

(2) Definitions.

(A) Part 70 installations -Installations to which the part 70 operating permit requirements of this rule apply, in accordance with the following criteria:

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1. They emit or have the potential to emit, in the aggregate, ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, or twenty-five (25) tpy or more of any combination of these hazardous air pollutants or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not these units are in a contiguous area or under common control, to determine whether these units or stations are subject installations. For sources of radionuclides, the criteria shall be established by the administrator;

2. They emit or have the potential to emit one hundred (100) tpy or more of any air pollutant subject to regulation, including all fugitive air pollutants. The fugitive emissions of an installation shall not be considered unless the installation belongs to one of the source categories listed in 10 CSR 10- 6.020(3)(B), Table 2. Subject to regulation means; for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act or a nationally-applicable regulation codified by the administrator in 40 CFR 50-99, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity.

**Note: Subparagraphs (2)(A)2.A and (2)(A)2.B are not approved.**

3. They are located in nonattainment areas or ozone transport regions.

A. For ozone nonattainment areas, sources with the potential to emit one hundred (100) tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," fifty (50) tpy or more in areas classified as "serious," twenty-five (25) tpy or more in areas classified as "severe," and ten (10) tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred (100), fifty (50), twenty-five (25), and ten (10) tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

B. For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit fifty (50) tpy or more of volatile organic compounds;

C. For carbon monoxide nonattainment areas that are classified as "serious," and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit fifty (50) tpy or more of carbon monoxide; and

D. For particulate matter less than ten (10) micrometers (PM<sub>10</sub>) nonattainment areas classified as "serious," sources with the potential to emit seventy (70) tpy or more of PM<sub>10</sub>;

4. They are affected sources under Title IV of the 1990 Act;

5. They are solid waste incinerators subject to section 129(e) of the Act;

6. Any installation in a source category designated by the administrator as a part 70 source pursuant to 40 CFR 70.3; and

7. Installations that would be part 70 sources strictly due to the following criteria are not subject to part 70 source requirements until the administrator subjects this installation to these requirements by rule:

A. They are subject to a standard, limitation, or other requirement under section 111 of the Act, including area sources; or

B. They are subject to a standard or other requirement under section 112 of the Act, except that a source, including an area source, is not required to obtain a permit solely because it is subject to rules or requirements under section 112(r) of the Act.

(B) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) Single, Multiple, or General Permits.

(A) Pursuant to this section, an installation must have a permit (or group of permits) addressing all applicable requirements for all emissions units in the installation. An installation may comply with this subsection through any one (1) of the following methods:

1. The installation may apply for a single permit covering all emissions units located within a contiguous area under common control (whether or not the installation falls under the same two (2)-digit Standard Industrial Code (SIC));

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2. The installation may apply for separate permits for separate emissions units or groups of emissions units; or

3. The installation may apply for coverage for one (1) or more emissions units eligible for permitting under a general permit issued by the permitting authority, and obtain a separate permit(s) for emissions units not eligible for general permit coverage.

4. When determining operating permit classification (part 70, intermediate or basic state), the installation shall calculate the potential to emit for the entire installation and all multiple permits shall be subject to the same operating permit classification.

(B) Notwithstanding, if the installation is a basic installation and is subject to 40 CFR 63, subpart EEE, National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors, the installation has the option of obtaining a part 70 permit for the entire installation or a part 70 permit for the emission unit subject to the maximum achievable control technology (MACT) and a basic for the rest of the installation. However, the part 70 permit for the affected emission unit must incorporate all applicable requirements that apply to hazardous waste combustion devices, not just those in 40 CFR 63, Subpart EEE.

***(4) Basic State Operating Permits. (This section is not SIP approved and it is not approved under Title V.)***

(5) Intermediate State Operating Permits.

(A) Applicability. All intermediate installations are subject to the requirements of this section.

(B) Permit Notification/Applications.

1. Timely notification/applications.

A. All notifications/applications will be submitted in duplicate. Intermediate installations shall file initial notifications/applications on the following schedule:

(I) Initial notification. All installations shall file complete notifications by July 1996, with one (1) exception allowed as follows: Intermediate installations that have actual emissions (as defined in 10 CSR 10-6.020(2)(A)4.) less than fifty percent (50%) of the part 70 installation threshold levels (refer to the definition section of this rule for part 70 installation threshold levels) shall file complete notifications by May 1997;

(II) Subsequent application.

(a) Any installation that becomes subject to this section at any time between July 1996 and March 2005, shall file a complete application no later than thirty (30) days after the commencement of operations.

(b) Any installation that becomes subject to this section at any time following March 2005, shall file a complete application no later than ninety (90) days after the commencement of operations.

(c) If an installation already has an issued part 70 operating permit, the installation is subject to the requirements of the part 70 operating permit and intermediate application until the intermediate permit is issued and the part 70 operating permit is terminated;

(III) Renewal application. Installations subject to this section shall file complete applications for renewal of the operating permits at least six (6) months before the date of permit expiration. In no event shall this time be greater than eighteen (18) months;

(IV) Unified review. An installation subject to this section required to have a construction permit under 10 CSR 10-6.060 may submit a complete application for an operating permit or permit modification for concurrent processing as a unified review. An operating permit submitted for concurrent processing shall be submitted with the applicant's construction permit application, or at a later time as the permitting authority may allow, provided that the total review period does not extend beyond eighteen (18) months. An installation that is required to obtain a construction permit under 10 CSR 10-6.060 and that, in writing has not chosen to undergo unified review, shall file a complete operating permit application, permit amendment or modification application separate from the construction permit application within ninety (90) days after commencing operation; and

(V) Application/notification expirations.  
Starting March 30, 2005-

(a) Installations that have an active initial or renewal application with a receipt stamp shall:

I. Be deemed to have submitted the initial or renewal application; and

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II. Submit a renewal application, as identified in paragraph (5)(B)3. of this rule, six to eighteen (6-18) months prior to the expiration date of the permit issued according to subsection (5)(E) of this rule.

(b) Installations that have an accepted notification shall submit a renewal application as identified in paragraph (5)(B)3. of this rule, six to eighteen (6-18) months prior to the expiration date.

(c) Installations that have an initial or renewal notification-accepted or with a receipt stamp, but that is expired- shall still submit a renewal application as identified in paragraph (5)(B)3. of this rule.

(VI) Notwithstanding the deadlines established in this subsection, a complete initial notification/application filed at any time shall be accepted for processing.

B. Complete application.

(I) The permitting authority shall review each application for completeness and shall inform the applicant within sixty (60) days if the application is not complete. In order to be complete, an application must include a completed application form and, to the extent not called for by the form, the information required in paragraph (5)(B)3. of this rule.

(II) If the permitting authority does not notify the installation within sixty (60) days after receipt that its application is not complete, the application shall be deemed complete. However, nothing in this subsection shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application.

(III) The permitting authority shall maintain a checklist to be used for the completeness determination. A copy of the checklist identifying the application's deficiencies shall be provided to the applicant along with the notice of incompleteness.

(IV) If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the permitting authority may request this additional information be in writing. In requesting this information, the permitting authority shall establish a reasonable deadline for a response.

(V) In submitting an application for renewal of an operating permit, the applicant may identify terms and conditions in the previous permit that should remain unchanged, and may incorporate by reference those portions of the existing permit (and the permit application and any permit amendment or modification applications) that describe products, processes, operations, and emissions to which those terms and conditions apply. The applicant must identify specifically and list which portions of the previous permit or applications, or both, are incorporated by reference. In addition, a permit renewal application must contain—

(a) Information specified in paragraph (5)(B)3. of this rule for those products, processes, operations and emissions—

I. That are not addressed in the existing permit;

II. That are subject to applicable requirements which are not addressed in the existing permit; or

III. For which the applicant seeks permit terms and conditions that differ from those in the existing permit; and

(b) A compliance plan and certification as required in parts (6)(B)3.I.(I)-(IV) and subparagraph (6)(B) 3.J. of this rule.

C. Confidential information. An applicant may make claims of confidentiality pursuant to 10 CSR 10-6.210, for information submitted pursuant to this section. The applicant shall also submit a copy of this information directly to the administrator, if the permitting authority requests that the applicant do so.

D. Filing fee. Each operating permit application must be accompanied by a one hundred dollar (\$100) filing fee, except for administrative permit amendments.

2. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, upon becoming aware of this failure or incorrect submittal, shall promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information, as necessary, to address any requirements that become applicable to the installation after the date an application is deemed complete, but prior to issuance or validation of the permit, whichever is later.

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3. Standard application form and required information. The permitting authority shall prepare and make available to all intermediate installations subject to this section an operating permit application form(s). The operating permit application form(s) shall require a general description of the installation and the installation's processes and products, emissions-related information, and all applicable emission limitations and control requirements for each emissions unit at the installation to be permitted. The notification also shall require a statement of the installation's compliance status with respect to these requirements and a commitment regarding the installation's plans to either attain compliance with these requirements within the time allowed by law or maintain compliance with these requirements during the operating permit period. An applicant shall submit an application package consisting of the standard application form, emission inventory questionnaire, compliance plan and compliance certification as identified in subparagraphs (6)(B)3.A.-H., parts (6)(B)3.I.(I)-(IV) and subparagraph (6)(B)3.J. of this rule.

4. Certification by responsible official. Any application form, report, or compliance certification submitted pursuant to this rule shall contain certification by a responsible official of truth, accuracy, and completeness. This certification, and any other certification shall be signed by a responsible official and shall contain the following language. "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

5. Single, multiple, or general permits. Pursuant to section (5) of this rule, an installation must have a permit (or group of permits) addressing all applicable requirements for all emission units in the installation. An installation may comply with this subsection through any one (1) of the methods identified in paragraphs (3)(A)1.-4. of this rule.

### (C) Permit Content.

1. Standard permit requirements. Every operating permit issued pursuant to this section shall contain all requirements applicable to the installation at the time of issuance, as identified in parts (6)(C)1.A.(I) and (III), subparagraphs (6)(C)1.B. and D., part (6)(C)1.C.(I), subpart (6)(C)1.C.(II)(a), item (6)(C)1.C.(II)(b)I., subparts (6)(C)1.C.(III)(d) and (e), subparagraphs (6)(C)3.A. through D., and paragraphs (6)(C)5. and 7. of this rule.

#### A. General requirements.

(I) The permittee must comply with all the terms and conditions of the permit. Any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, permit termination, permit revocation and reissuance, permit modification, or denial of a permit renewal application. Note: The grounds for termination of a permit under this part of the rule are the same as the grounds for revocation as stated in part (6)(E)8.A.(I) of this rule.

(II) It shall not be a defense in an enforcement action that it would have been necessary for the permittee to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(III) The permit may be modified, revoked, reopened, reissued, or terminated for cause. Except as provided for minor permit modifications, the filing of an application or request for a permit modification, revocation and reissuance, or termination, or the filing of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(IV) The permit does not convey any property rights of any sort, or grant any exclusive privilege.

(V) The permittee shall furnish to the permitting authority, upon receipt of a written request and within a reasonable time, any information that the permitting authority reasonably may require to determine whether cause exists for modifying, reopening, reissuing, or revoking the permit or to determine compliance with the permit. Upon request, the permittee also shall furnish to the permitting authority copies of records required to be kept by the permittee. The permittee may make a claim of confidentiality for any information or records submitted under this paragraph of this rule.

(VI) Failure to comply with the limitations and conditions that qualify the installation for an intermediate permit make the installation subject to the provisions of section (6) of this rule and enforcement action for operating without a valid part 70 operating permit.

B. Reporting requirements. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(I) The frequency the permittee shall submit a report of any required monitoring. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required of the permittee;

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(II) Each report submitted under part (5)(C)1.B.(I) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, record-keeping, and reporting requirements of the permit;

(III) In addition to annual monitoring reports, each permittee shall be required to submit supplemental reports as indicated in subpart (6)(C)1.C.(III)(c) of this rule. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken and follow the procedures identified in subpart (6)(C)1.C.(III)(c) of this rule.

C. Reasonably anticipated operating scenarios. The permit shall include terms and conditions for reasonably anticipated operating scenarios identified by the applicant and approved by the permitting authority. The permit shall authorize the permittee to make changes among alternative operating scenarios authorized in the permit without notice, but shall require the permittee, contemporaneous with changing from one (1) operating scenario to another, to record in a log at the permitted installation the scenario under which it is operating.

2. Federally-enforceable conditions. Any voluntary provisions issued under this section of the rule, designed to limit an installation's potential to emit, shall be designated federally-enforceable by the permitting authority. Any terms and conditions so designated are required to—

A. Be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan. The permitting authority may not waive or make less stringent any limitations or requirements contained in the implementation plan, or that are otherwise federally-enforceable (for example, standards established under sections 111 or 112 of the Act) in the operating permit;

B. Be permanent, quantifiable, and otherwise enforceable as a practical matter; and

C. Follow the public participation procedures of section (7) of this rule.

3. Compliance certification. The permit must include requirements for certification of compliance with terms and conditions contained in the permit that are federally enforceable, including emissions limitations, standards, or work practices. The permit shall specify the information identified in subparts (6)(C)3.E.(I)-(III) and (V)-(VI) of this rule.

4. General permits. Installations may apply to operate under any general permit.

A. Issuance of general permits. General permits covering similar installations may be issued by the permitting authority after notice and opportunity for public participation under section (7). The general permit shall indicate a reasonable time after which an installation that has submitted an application for authorization will be deemed to be authorized to operate under the general permit. A general permit shall identify criteria by which installations may be authorized to operate under the general permit. This criteria must include the following:

(I) Categories of sources covered by the general permit must be homogeneous in terms of operations, processes, and emissions;

(II) Sources may not be subject to case-by-case standards or requirements; and

(III) Sources must be subject to substantially similar requirements governing operations, emissions, monitoring, reporting, and record-keeping.

B. Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements.

C. Public participation. Although public participation under section (7) of this rule is necessary for the issuance of a general permit, the permitting authority may authorize an installation to operate under general permit terms and conditions without repeating the public participation procedures.

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D. Enforcement. The source shall be subject to enforcement actions for operating without an operating permit if it is determined later that the source does not qualify for the conditions and terms of the general permit.

5. Off-permit changes. Except as provided in subparagraph (5)(C)5.A. of this rule, an intermediate permitted installation may make any change in its permitted installation's operations, activities, or emissions that is not addressed in, constrained by, or prohibited by the permit without obtaining a permit revision. Off-permit changes shall be subject to the following requirements and restrictions:

A. Compliance with applicable requirements. The change must meet all applicable requirements of the Act and may not violate any existing permit term or condition; no permittee may change a permitted installation without a permit revision, even if the change is not addressed in or constrained by, the permit, if this change is a Title I modification. Please Note: Changes at the installation which affect the emission limitation(s) classifying the installation as an intermediate source (add additional equipment to the record keeping requirements, increase the emissions above major source level) do not qualify for off-permit changes.

B. Contemporaneous notice. The permittee must provide contemporaneous written notice of the change to the permitting authority and to the administrator. This written notice shall describe each change, including the date, any change in emissions, pollutants emitted and any applicable requirement that would apply as a result of the change; and

C. Record of changes. The permittee shall keep a record describing all changes made at the installation that result in emissions of a regulated air pollutant subject to an applicable requirement and the emissions resulting from these changes.

6. Federal enforceability. Any terms of an issued operating permit which are based on applicable requirements contained in the federally-approved State Implementation Plan (SIP) or any other applicable federal requirements are federally enforceable.

(D) Unified Review. The installation shall submit the operating permit application and unified review shall follow the procedures identified in subsection (6)(D) of this rule.

(E) Permit Issuance, Renewal, Reopenings, and Revisions. The complete intermediate operating permit, permit modification, or permit renewal applications and permits shall be subject to the criteria identified in paragraphs (6)(E)4. and 8.-11. of this rule.

1. Action on application.

A. The intermediate operating permit, permit modification or permit renewal applications shall follow the procedures identified in subparagraphs (6)(E)1.A.-C. and G. of this rule.

B. Except as provided in this subsection of the rule, the permitting authority shall take final action on each application for an intermediate operating permit within eighteen (18) months after receiving a complete application. Final action on each application for a significant permit modification or permit renewal shall be taken within six (6) months after receipt of a complete application. For renewals, the installation shall remain subject to the conditions of the current permit until the renewal permit is issued. New sources are subject to section (6) of this rule until an intermediate permit is issued, even if the permitting authority does not act within the time frames specified in this rule. For each application the permitting authority shall submit a draft permit for public participation under section (7) of this rule no later than thirty (30) days before the deadline for final action established in this section.

C. Following the end of the public comment period, the permitting authority shall issue or deny the permit, permit modification, or permit renewal.

2. Permit renewal and expiration.

A. Renewal application requirements. Applications for permit renewals shall be subject to the same procedural requirements, including public participation and affected state comment, that apply to initial permit issuance. The permitting authority, in issuing a permit or renewal permit, may identify those portions that are proposed to be revised, supplemented, or deleted.

B. Timely application. An installation's right to operate shall terminate upon the expiration of the permit, unless a complete permit renewal application is submitted at least six (6) months before the date of expiration, or unless the permitting authority takes final action approving an application for a permit renewal by the expiration date.

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C. Extension of expired permits. If a timely and complete application for a permit renewal is submitted, but the permitting authority fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, the previous permit shall not expire until the renewal permit is issued or denied.

### 3. Operating permit amendments/modifications.

A. Administrative permit amendments are defined and shall follow the procedures identified in subparagraphs (6)(E)4.A. and C. of this rule.

B. Permit modifications are defined as any revision to an intermediate operating permit which is not an administrative permit amendment under subparagraph (5)(E)2.A. of this rule. An applicant for a permit modification shall adhere to all the relevant requirements for an initial permit application under section (5) of this rule, as well as requirements for public participation under section (7) of this rule, except-

(I) The applicant should use the form for a permit modification application, rather than the form for an initial permit issuance; and

(II) The permitting authority will complete review of the permit modification applications within nine (9) months after receipt of a complete application.

### 4. Reopening permits for cause.

A. Cause to reopen. An intermediate operating permit shall be reopened for cause if:

(I) The permitting authority determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions limitations standards or other terms of the permit;

(II) Additional applicable requirements under the Act become applicable to the installation; however, reopening on this ground is not required as identified in subparts (6)(E)6.A.(III)(a)-(c) of this rule; or

(III) The permitting authority or the administrator determines that the permit must be reopened and revised to assure compliance with applicable requirements.

B. The notices, procedures for issuance and deadlines will follow the criteria in subparagraphs (6)(E)6.B.-D. and F. of this rule.

(F) Permit Review by the Administrator and Affected States.

1. Notice of draft actions. The permitting authority will give notice of each draft permit, modified permit, and renewed permit to the administrator and any affected state on, or before, the time that the permitting authority provides notice to the public, except in the case of minor permit modifications. The administrator and affected states may comment on the draft permit action during the period allowed for public comment, as shall be set forth in a notice to the administrator and affected states.

2. Written response to comments. The permitting authority will provide a written response to the public comments received from the administrator and affected states to the installation and all other parties which submitted comments during the public comment period as described in section (7) of this rule prior to issuing the operating permit.

(6) Part 70 Operating Permits.

(A) Applicability. All part 70 installations are subject to this section.

(B) Permit Applications.

1. Duty to apply.

A. Timely application.

(I) Part 70 installations shall file initial applications on the following schedule:

(a) The permit registry.

I. The permitting authority shall create and maintain a permit issuance registry that part 70 installations may apply in writing to be placed on. The request must identify a specific year of initial issuance. The registry will identify by year when the permitting authority expects to issue the operating permit.

II. The registry will be opened for three (3) months after the effective date of this rule. The registry will be filled on a first-come, first-served basis, judged by the stamped "Received" date by the permitting authority.

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III. The permitting authority will assign installations that do not make a specific request to the registry at the permitting authority's discretion as necessary to meet a one-third (1/3) per year for three (3) years permit issuance schedule following the administrator's approval of the operating permit program.

IV. The permitting authority may exercise discretion in reassigning applicants on the registry by accepting applicants after the close of the registry, and taking into consideration staff resources, complexity of applicant's operations, distribution of multiple installations under common control, and amount and nature of the air contaminants; and

### (b) Initial application submittal schedule.

I. Installations scheduled to receive their operating permit within the first year of the registry shall file complete applications by July 1996.

II. All other installations shall file complete applications by May 1996.

(II) Any installation that becomes subject to this section after May 9, 1994, shall file a complete application no later than twelve (12) months following either the administrator's approval of the operating permit program or the commencement of operations, whichever is later.

(III) A complete initial application filed at any time shall be accepted for processing. However, acceptance of an application does not relieve the applicant of his/her liability for submitting an untimely application.

(IV) An installation subject to this section required to meet section 112(g) of the Act, or to have a construction permit under 10 CSR 10-6.060 may submit a complete application for an operating permit or permit modification for concurrent processing as a unified review. An operating permit application submitted for concurrent processing shall be submitted with the applicant's construction permit application, or at a later time as the permitting authority may allow, provided that the total review period does not extend beyond eighteen (18) months. An installation that is required to obtain a construction permit under 10 CSR 10-6.060 and who, in writing has not chosen to undergo unified review, shall file a complete operating permit application, permit amendment, or modification application separate from the construction permit application within twelve (12) months after commencing operation.

(V) Installations subject to this section shall file complete applications for renewal of the operating permits at least six (6) months before the date of permit expiration. In no event shall this time be greater than eighteen (18) months.

(VI) Installations subject to this section required to submit applications for initial phase II acid rain permits shall submit complete applications to the permitting authority by January 1, 1996, for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

B. Complete application.

(I) The permitting authority shall review each application for completeness and shall inform the applicant within sixty (60) days if the application is not complete. In order to be complete, an application must include a completed application form and, to the extent not called for by the form, the information required in paragraph (6)(B)3. of this rule.

(II) If the permitting authority does not notify the installation within sixty (60) days after receipt that its application is not complete, the application shall be deemed complete. However, nothing in this subsection shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application.

(III) The permitting authority shall maintain a checklist to be used for the completeness determination. A copy of the checklist identifying the application's deficiencies shall be provided to the applicant along with the notice of incompleteness.

(IV) If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the permitting authority may request this additional information be in writing. In requesting this information, the permitting authority shall establish a reasonable deadline for a response.

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(V) In submitting an application for renewal of an operating permit, the applicant may identify terms and conditions in the previous permit that should remain unchanged, and may incorporate by reference those portions of the existing permit (and the permit application and any permit amendment or modification applications) that describe products, processes, operations, and emissions to which those terms and conditions apply. The applicant must identify specifically and list which portions of the previous permit or applications, or both, are incorporated by reference. In addition, a permit renewal application must contain:

(a) Information specified in paragraph (6)(B)3. of this rule for those products, processes, operations, and emissions—

I. That are not addressed in the existing permit;

II. That are subject to applicable requirements which are not addressed in the existing permit; or

III. For which the applicant seeks permit terms and conditions that differ from those in the existing permit; and

(b) A compliance plan and certification as required in subparagraphs (6)(B)3.I. and J. of this rule.

C. Confidential information. If an applicant submits information to the permitting authority under a claim of confidentiality pursuant to 10 CSR 10-6.210, the applicant shall also submit a copy of this information directly to the administrator, if the permitting authority requests that the applicant do so.

D. Filing fee. Each application must be accompanied by a one hundred dollar (\$100) filing fee.

2. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, upon becoming aware of this failure or incorrect submittal, shall promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information, as necessary, to address any requirements that become applicable to the installation after the date an application is deemed complete, but prior to issuance or validation of the permit, whichever is later.

3. Standard application form and required information. An applicant shall submit an application package consisting of the standard application form, emission inventory questionnaire, compliance plan, and compliance certification. The application package must include all information needed to determine applicable requirements. The application must include information needed to determine the applicability of any applicable requirement. The applicant shall submit the information called for by the application form for each emissions unit at the installation to be permitted, except for insignificant activities. An activity cannot be listed as insignificant if the activity has an applicable requirement. The installation shall provide a list of any insignificant activities that are exempt because of size or production rate. Any insignificant activity required to be listed in the application also must list the approximate number of activities included (for example, twenty (20) leaky valves) and the estimated quantity of emissions associated. The application must include any other information, as requested by the permitting authority, to determine the insignificant activities have no applicable requirements. Information reported in the permit application which does not result in the specification of any permit limitation, term, or condition with respect to that information (including, but not limited to, information identifying insignificant activities), shall not in any way constrain the operations, activities, or emissions of a permitted installation, except as otherwise provided in this section. The standard application form (and any attachments) shall require that the following information be provided:

A. Identifying information. The applicant's company name and address (or plant name and address if different from the company name), the owner's name and state registered agent, and the telephone number and name of the plant site manager or other contact person;

B. Processes and products. A description of the installation's processes and products (by two (2)-digit Standard Industrial Classification Code (SIC)), including those associated with any reasonably anticipated operating scenarios identified by the applicant;

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C. Emissions-related information. The following emissions-related information on the emissions inventory forms:

(I) All emissions of pollutants for which the installation is a part 70 source, and all emissions of any other regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from each emissions unit, except as provided for by section (6) of this rule. The installation shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the installation;

(II) Identification and description of all emissions units whose emissions are included in part (6)(B)3.C.(I) of this rule, in sufficient detail to establish the applicability of any and all requirements;

(III) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any;

(IV) The following information to the extent needed to determine or regulate emissions including: fuels, fuel use, raw materials, production rates, and operating schedules;

(V) Identification and description of air pollution control equipment;

(VI) Identification and description of compliance monitoring devices or activities;

(VII) Limitations on installation operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants;

(VIII) Other information required by any applicable requirement (including information related to stack height credit limitations developed pursuant to section 123 of the Act); and

(IX) Calculations on which the information in parts (6)(B)3.C.(I)-(VIII) of this rule is based;

D. Air pollution control information. The following air pollution control information:

(I) Citation and description of all applicable requirements; and

(II) Description of, or reference to, any applicable test method for determining compliance with each applicable requirement;

E. Applicable requirements information. Other specific information required under the permitting authority's regulations to implement and enforce other applicable requirements of the Act or of these rules, or to determine the applicability of these requirements;

F. Alternative emissions limits. If the SIP allows an installation to comply through an alternative emissions limit or means of compliance, the applicant may request that such an alternative limit or means of compliance be specified in the permit. The applicant must demonstrate that any such alternative is quantifiable, accountable, enforceable, and based on replicable procedures. The applicant shall propose permit terms and conditions to satisfy these requirements in the application;

G. Proposed exemptions. An explanation of any proposed exemptions from otherwise applicable requirements;

H. Proposed reasonably anticipated operating scenarios. Additional information, as determined necessary by the permitting authority, to define reasonably anticipated operating scenarios identified by the applicant for emissions trading or to define permit terms and conditions implementing operational flexibility;

I. Compliance plan. A compliance plan that contains all of the following:

(I) A description of the compliance status of the installation with respect to all applicable requirements;

(II) A description as follows:

(a) For applicable requirements with which the installation is in compliance, a statement that the installation will continue to comply with these requirements;

(b) For applicable requirements that will become effective during the permit term, a statement that the installation will comply with these requirements on a timely basis; and

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(c) For any applicable requirements with which the installation is not in compliance at the time of permit issuance, a narrative description of how the installation will achieve compliance with these requirements;

(III) A compliance schedule as follows:

(a) For applicable requirements with which the installation is in compliance, a statement that the installation will continue to comply with these requirements;

(b) For applicable requirements that will become effective during the permit term, a statement that the installation will comply with these requirements on a timely basis. A statement that the installation will comply in a timely manner with applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(c) A schedule of compliance for all applicable requirements with which the installation is not in compliance at the time of permit issuance, including a schedule of remedial measures and an enforceable sequence of actions, with milestones, leading to compliance. (This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the installation is subject);

(IV) For installations required to have a schedule of compliance under subpart (6)(B)3.I.(III)(c) of this rule, a schedule for the submission of certified progress reports no less frequently than every six (6) months; and

(V) The compliance plan content requirements specified in this paragraph shall apply to, and be included in, the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the installation will use to achieve compliance with the acid rain emissions limitations;

J. Compliance certification and information.

(I) A certification of compliance with all applicable requirements signed by a responsible official consistent with paragraph (6)(B)4. of this rule and section 114(a)(3) of the Act;

(II) A statement of methods used for determining compliance, including a description of monitoring, record keeping and reporting requirements, and test methods;

(III) A schedule for the submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement; and

(IV) A statement indicating the installation's compliance status with respect to any applicable enhanced monitoring and compliance certification requirements of the Act; and

K. Acid rain information. Nationally-standardized forms for acid rain portions of permit applications and compliance plans shall be used, as required by rules promulgated under Title IV of the Act.

4. Certification by responsible official. Any application form, report or compliance certification submitted pursuant to this rule shall contain certification by a responsible official of truth, accuracy and completeness. This certification, and any other certification, shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

5. Single, multiple, or general permits. Pursuant to this section of the rule, an installation must have a permit (or group of permits) addressing all applicable requirements for all emissions units in the installation. An installation may comply with this subsection of the rule through any one (1) of the methods identified in paragraphs (3)(A)1.-4. of this rule.

(C) Permit Content.

1. Standard permit requirements. Every operating permit issued pursuant to this section (6) shall contain all requirements applicable to the installation at the time of issuance.

A. Emissions limitations and standards. The permit shall specify emissions limitations or standards applicable to the installation and shall include those operational requirements or limitations as necessary to assure compliance with all applicable requirements.

(I) The permit shall specify and reference the origin of and authority for each term or condition and shall identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

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(II) The permit shall state that, where an applicable requirement is more stringent than an applicable requirement of rules promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

(III) If the implementation plan or other applicable requirement allows an installation to comply through an alternative emissions limit or means of compliance and the applicant requests that this alternative limit or means of compliance be specified in the permit, the permitting authority may include this alternative emissions limit or means of compliance in an installation's permit upon demonstrating that it is quantifiable, accountable, enforceable, and based on replicable procedures.

B. Permit duration. The permitting authority shall issue permits for five (5) years. The permit term shall commence on the date of issuance or, when applicable, the date of validation.

C. Monitoring and related record-keeping and reporting requirements.

(I) The permit shall contain the following requirements with respect to monitoring:

(a) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated by the administrator pursuant to sections 114(a)(3) or 504(b) of the Act;

(b) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), then periodic monitoring sufficient to yield reliable data for the relevant time period that are representative of the installation's compliance with the permit, as reported pursuant to part (6)(C)1.C.(III) of this rule. These monitoring requirements shall assure the use of terms, test methods, units, averaging periods and other statistical conventions consistent with the applicable requirement. Record-keeping provisions may be sufficient to meet the requirements of this paragraph; and

(c) As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods.

(II) With respect to record-keeping, the permit shall incorporate all applicable record keeping requirements and require, where applicable, the following:

(a) Records of required monitoring information that include the following:

I. The date, place as defined in the permit, and time of sampling or measurements;

II. The date(s) analyses were performed;

III. The company or entity that performed the analyses;

IV. The analytical techniques or methods used;

V. The results of these analyses; and

VI. The operating conditions as existing at the time of sampling or measurement;

(b) Retention of records.

I. Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings when used for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

II. Affected sources under Title IV of the Act will have a three (3)-year monitoring data record retention period as required in 40 CFR 75.

(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(a) A permit issued under these rules shall require the permittee to submit a report of any required monitoring every six (6) months. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification;

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(b) Each report submitted under subpart (6)(C)1.C.(III)(a) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, record-keeping, and reporting requirements of the permit;

(c) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated here. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken.

I. Notice of any deviation resulting from an emergency (or upset) condition as defined in paragraph (6)(C)7. of this rule shall be submitted to the permitting authority either verbally or in writing within two (2) working days after the date on which the emission limitation is exceeded due to the emergency, if the permittee wishes to assert an affirmative defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that indicate an emergency occurred and the permittee can identify the cause(s) of the emergency. The permitted facility must show that it was operated properly at the time and that during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or requirements in the permit. The notice must contain a description of the emergency, steps taken to mitigate emissions, and the corrective actions taken.

II. Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as practicable.

III. Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit;

(d) Every report submitted shall be certified by a responsible official, except that, if a report of a deviation must be submitted within ten (10) days after the deviation, the report may be submitted without a certification if the report is resubmitted with an appropriate certification within ten (10) days after that, together with any corrected or supplemental information required concerning the deviation; and

(e) A permittee may request confidential treatment of information submitted in any report of deviation.

D. Risk management plans. If the installation is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit is required to specify only that the permittee will verify that they have complied with the requirement to register such a plan. The contents of the risk management plan itself need not be incorporated as a permit term.

E. Emissions exceeding Title IV allowances. Where applicable, the permit shall prohibit emissions exceeding any allowances that the installation lawfully holds under Title IV of the Act or rules promulgated thereunder.

(I) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program if the increases do not require a permit revision under any other applicable requirement.

(II) No limit shall be placed on the number of allowances that may be held by an installation. The installation may not use these allowances, however, as a defense for noncompliance with any other applicable requirement.

(III) Any of these allowances shall be accounted for according to procedures established in rules promulgated under Title IV of the Act.

F. Severability clause. The permit shall include a severability clause to ensure the continued validity of uncontested permit conditions in the event of a successful challenge to any contested portion of the permit.

G. General requirements.

(I) The permittee must comply with all the terms and conditions of the permit. Any noncompliance with a permit condition constitutes a violation and is grounds for enforcement action, for permit termination, permit revocation and reissuance, permit modification, or denial of a permit renewal application. Note: The grounds for termination of a permit under part (6)(C)1.G.(I) are the same as the grounds for revocation as stated in part (6)(E)8.A.(I).

(II) It shall not be a defense in an enforcement action that it would have been necessary for the permittee to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

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(III) The permit may be modified, revoked, reopened, reissued, or terminated for cause. Except as provided for minor permit modifications, the filing of an application or request for a permit modification, revocation and reissuance, or termination, or the filing of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(IV) The permit does not convey any property rights of any sort, or grant any exclusive privilege.

(V) The permittee shall furnish to the permitting authority, upon receipt of a written request and within a reasonable time, any information that the permitting authority reasonably may require to determine whether cause exists for modifying, reopening, reissuing, or revoking the permit or to determine compliance with the permit. Upon request, the permittee also shall furnish to the permitting authority copies of records required to be kept by the permittee. The permittee may make a claim of confidentiality for any information or records submitted under this paragraph (6)(C)1.

H. Incentive programs not requiring permit revisions. The permit shall include a provision stating that no permit revision will be required for any installation changes made under any approved economic incentive, marketable permit, emissions trading, or other similar programs or processes provided for in the permit.

I. Reasonably anticipated operating scenarios. The permit shall include terms and conditions for reasonably anticipated operating scenarios identified by the applicant and approved by the permitting authority. The permit shall authorize the permittee to make changes among alternative operating scenarios authorized in the permit without notice, but shall require the permittee, contemporaneous with changing from one (1) operating scenario to another, to record in a log at the permitted installation the scenario under which it is operating. The permit shield shall apply to these terms and conditions.

J. Emissions trading. The permit shall include terms and conditions for the trading of emissions increases and decreases within the permitted installation to the extent that the applicable requirements provide for the trading of increases and decreases without case-by-case approval of each emissions trade. These terms and conditions shall include all those required to determine compliance (to include contemporaneous recording in a log of the details of the trade) and must meet all applicable requirements, and requirements of this rule. The permit shield shall apply to all terms and conditions that allow the trading of these increases and decreases in emissions.

2. Federally-enforceable conditions and state-only requirements.

A. Federally-enforceable conditions. Except as provided in subparagraph (6)(C)2.B. of this rule, all terms and conditions in a permit issued under this section, including any voluntary provisions designed to limit an installation's potential to emit, are enforceable by the permitting authority, by the administrator, and by citizens under section 304 of the Act.

B. State-only requirements. Notwithstanding subparagraph (6)(C)2.A. of this rule, the permitting authority shall expressly designate as not being federally-enforceable or enforceable under section 304 of the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and these terms and conditions shall not be enforceable by the administrator or by citizens under section 304 of the Act. Terms and conditions so designated shall not be subject to the requirements of 40 CFR sections 70.7 and 70.8. Terms and conditions expressly designated as state-only requirements under this paragraph may be included in an addendum to the installation's permit.

3. Compliance requirements. Permits issued under this section (6) shall contain the elements listed here with respect to compliance.

A. General requirements, including certification. Consistent with the monitoring and related record-keeping and reporting requirements of this paragraph, the operating permit must include compliance certification, testing, monitoring, reporting, and record-keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required to be submitted under this rule shall contain a certification signed by a responsible official as to the results of the required monitoring.

B. Inspection and entry. The permit must include requirements providing that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the permitting authority to perform the following (subject to the permittee's right to seek confidential treatment of information submitted to, or obtained by, the permitting authority under this subsection):

(I) Enter upon the permittee's premises where a permitted installation is located or an emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

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(II) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(III) Inspect, at reasonable times and using reasonable safety practices, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(IV) As authorized by the Missouri Air Conservation Law Chapter 643, RSMo or the Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

C. Schedule of compliance. The permit must include a schedule of compliance, to the extent required.

D. Progress reports. To the extent required under an applicable schedule of compliance, the permit must require progress reports to be submitted semiannually, or more frequently if specified in the applicable requirement or by the permitting authority. These progress reports shall contain the following:

(I) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when these activities, milestones, or compliance were achieved; and

(II) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

E. Compliance certification. The permit must include requirements for certification of compliance with terms and conditions contained in the permit that are federally enforceable, including emissions limitations, standards, or work practices. The permit shall specify-

(I) The frequency (which shall be annually unless the applicable requirement specifies submission more frequently) of compliance certifications;

(II) The means for monitoring compliance with emissions limitations, standards, and work practices contained in applicable requirements;

(III) A requirement that the compliance certification include the following:

(a) The identification of each term or condition of the permit that is the basis of the certification;

(b) The permittee's current compliance status, as shown by monitoring data and other information reasonably available to the permittee;

(c) Whether compliance was continuous or intermittent;

(d) The method(s) used for determining the compliance status of the installation, currently and over the reporting period; and

(e) Such other facts as the permitting authority may require to determine the compliance status of the source;

(IV) A requirement that all compliance certifications be submitted to the administrator as well as to the permitting authority;

(V) Additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act; and

(VI) Any other provisions as the permitting authority may require.

4. General permits. Installations may apply to operate under any general permit.

A. Issuance of general permits. General permits covering similar part 70 installations may be issued by the permitting authority after notice and opportunity for public participation under subsection (6)(F) and section (7). The general permit shall indicate a reasonable time after which an installation that has submitted an application for authorization will be deemed to be authorized to operate under the general permit. A general permit shall identify criteria by which installations may be authorized to operate under the general permit. This criteria must include the following:

(I) Categories of sources covered by the general permit must be homogeneous in terms of operations, processes, and emissions;

(II) Sources may not be subject to case-by-case standards or requirements; and

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(III) Sources must be subject to substantially similar requirements governing operations, emissions, monitoring, reporting, and record keeping.

B. Applications. The permitting authority shall provide application forms for coverage under a general permit. General permit applications may deviate from individual part 70 permit applications but shall include all information necessary to determine qualification for, and to assure compliance with, the general permit. The permitting authority shall authorize coverage by the conditions and terms of a general permit to all installations that apply for and qualify under the specified general permit criteria. Installations applying for coverage under a general permit must comply with all the requirements of this rule, except public participation requirements. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in rule promulgated under Title IV of the Act.

C. Public participation. Although public participation under section (7) of this rule is necessary for the issuance of a general permit, the permitting authority may authorize an installation to operate under general permit terms and conditions without repeating the public participation procedures. However, this authorization shall not be a final permit action of purposes for judicial review.

D. Enforcement. Notwithstanding the permit shield provisions of paragraph (6)(C)6. of this rule, an installation authorized to operate under a general permit is subject to enforcement for operating without an individual part 70 operating permit if the installation is determined not to be qualified for the general permit.

5. Portable installations. An installation may apply for a single permit authorizing emissions from similar operations by the same installation owner or operator at multiple temporary locations.

A. Qualification criteria. To qualify for a permit under this paragraph (6)(C)5. the applicant's operation must be temporary and involve at least one (1) change of location during the permit term. Affected sources shall not be authorized as temporary installations under the acid rain program unless otherwise provided in rules promulgated under Title IV of the Act.

B. Compliance at each location. The permittee must comply with all applicable requirements at each authorized location.

C. Notice of location change. The owner or operator of the installation must notify the permitting authority at least ten (10) days in advance of each change of location.

6. Permit shield.

A. Express permit statement required. Part 70 operating permits shall include express provisions stating that compliance with the conditions of the permit shall be deemed compliance with all applicable requirements as of the date of permit issuance, provided that—

(I) The applicable requirements are included and specifically identified in the permit; or

(II) The permitting authority, in acting on the permit revision or permit application, determines in writing that other requirements, as specifically identified in the permit, are not applicable to the installation and the permit expressly includes that determination or a concise summary of it.

B. Exceptions to permit protection. The permit shield does not affect the following:

(I) The provisions of section 303 of the Act or section 643.090, RSMo, concerning emergency orders;

(II) Liability for any violation of an applicable requirement which occurred prior to, or was existing at, the time of permit issuance;

(III) The applicable requirements of the acid rain program;

(IV) The administrator's authority to obtain information;

or

(V) Any other permit or extra-permit provisions, terms, or conditions expressly excluded from the permit shield provisions of this rule.

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### 7. Emergency provisions.

A. Definition. For the purposes of a part 70 operating permit, an emergency or upset means any condition arising from sudden and not reasonably foreseeable events beyond the control of the permittee, including acts of God, which require immediate corrective action to restore normal operation and that causes the installation to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency or upset. An emergency or upset shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

B. Affirmative defense requirements. The permitting authority shall include in each permit a provision stating that an emergency or upset constitutes an affirmative defense to an enforcement action brought for noncompliance with technology-based emissions limitations. To establish an emergency- or upset-based defense, the permittee must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, the following:

(I) An emergency or upset occurred and the permittee can identify the source of the emergency or upset;

(II) The installation was being operated properly;

(III) The permittee took all reasonable steps to minimize emissions that exceeded technology-based emissions limitations or the requirements in the permit; and

(IV) The permittee submitted notice of the emergency to the permitting authority within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

8. Operational flexibility (installation changes not requiring permit revisions). An installation that has been issued a part 70 operating permit under this rule is not required to apply for or obtain a permit revision in order to make any of the changes to the permitted installation described in subparagraph (6)(C)8.A. of this rule if the changes are not Title I modification and the changes do not cause emissions to exceed emissions allowable under the permit, and the changes do not result in the emission of any air contaminant not previously emitted. The installation shall notify the permitting authority and the administrator at least seven (7) days in advance of these changes, except as allowed for emergency or upset conditions. Emissions allowable under the permit means a federally-enforceable

permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

A. Section 502(b)(10) changes. Changes that, under section 502(b)(10) of the Act, contravene an express permit term may be made without a permit revision, except for changes that would violate applicable requirements of the Act or contravene federally-enforceable monitoring (including test methods), record keeping, reporting, or compliance requirements of the permit.

(I) Before making a change under this provision, the permittee shall provide advance written notice to the permitting authority and to the administrator, describing the change to be made, the date on which the change will occur, any changes in emissions, and any permit terms and conditions that are affected. The permittee shall maintain a copy of the notice with the permit, and the permitting authority shall place a copy with the permit in the public file. Written notice shall be provided to the administrator and the permitting authority at least seven (7) days before the change is to be made. If less than seven (7) days' notice is provided because of a need to respond more quickly to these unanticipated conditions, the permittee shall provide notice to the administrator and the permitting authority as soon as possible after learning of the need to make the change.

(II) The permit shield shall not apply to these changes.

B. SIP-based emissions trading changes. Changes associated with trading emissions increases and decreases within a permitted installation may be made without a permit revision if the SIP provides for these trades. The permit shall contain terms and conditions governing the trading of emissions.

(I) For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms or other applicable requirements with which the source will comply through emissions trading and any other information as may be required by the applicable requirement authorizing the emissions trade.

(II) The permit shield shall not apply to these changes. Compliance will be assessed according to the terms of the implementation plan authorizing the trade.

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C. Emissions cap-based changes. Changes associated with the trading of emissions increases and decreases within a permitted installation may be made without a permit revision if this trading is solely for the purpose of complying with the federally-enforceable emissions cap that was established in the permit at the applicant's request, independent of otherwise applicable requirements. For these changes, the advance written notice provided by the permittee shall identify the underlying authority authorizing the emissions trade and shall state when the change will occur, the types and quantities of emissions to be traded, the permit terms, or other applicable requirements with which the source will comply through emissions trading, and any other information as may be required by the applicable requirement authorizing the emissions trade. The permit shield does apply to these changes.

9. Off-permit changes. Except as provided in subparagraph (6)(C)9.A. in this rule, a part 70 permitted installation may make any change in its permitted installation's operations, activities, or emissions that is not addressed in, constrained by, or prohibited by the permit without obtaining a permit revision. Insignificant activities listed in the permit, but not otherwise addressed in or prohibited by the permit, shall not be considered to be constrained by the permit for purposes of the off-permit provisions of this section. Off-permit changes shall be subject to the following requirements and restrictions:

A. Compliance with applicable requirements. The change must meet all applicable requirements of the Act and may not violate any existing permit term or condition; no permittee may change a permitted installation without a permit revision, even if the change is not addressed in or constrained by, the permit, if this change is subject to any requirements under Title IV of the Act or is a Title I modification;

B. Contemporaneous notice, except insignificant activities. The permittee must provide contemporaneous written notice of the change to the permitting authority and to the administrator. This notice shall not be required for changes that are insignificant activities under paragraph (6)(B)3. of this rule. This written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.

C. Record of changes. The permittee shall keep a record describing all changes made at the installation that result in emissions of a regulated air pollutant subject to an applicable requirement and the emissions resulting from these changes; and

D. Permit shield not applicable. The permit shield shall not apply to these changes.

(D) Unified Review. When the construction or modification and operation of any installation requires a construction permit under 10 CSR 10-6.060, and an operating permit or its amendment under this rule, the installation shall receive a unified construction and operating permit or its amendments, review, hearing and approval process, unless the applicant requests in writing that the construction and operating permit, or its amendment application be reviewed separately. Under this unified review process, the applicant shall submit all the applications, forms, and other information required by the permitting authority.

1. Review of applications. The permitting authority shall complete any unified review within one hundred eighty-four (184) days, as provided under the procedures of this rule and 10 CSR 10-6.060 Construction Permits Required.

2. Issuance of permits. As soon as the unified review process is completed, if the applicant complies with all applicable requirements under this rule and 10 CSR 10-6.060, the construction permit and the operating permit or its amendment shall be issued to the applicant and the applicant may commence construction. The operating permit or its amendment shall be retained by the permitting authority until validated pursuant to this subsection (6)(D).

3. Validation of operating permits. Within one hundred and eighty (180) days after commencing operation, the holder of an operating permit or its amendment issued by the unified review processing shall submit to the permitting authority all information required by the permitting authority to demonstrate compliance with the terms and conditions of the issued operating permit or its amendment. The permittee shall also provide information identifying any applicable requirements which became applicable subsequent to issuance of the operating permit. Within thirty (30) days after the applicant's request for validation, the permitting authority will take action denying or approving validation of the issued operating permit or its amendment. If the permittee demonstrates compliance with both the construction and operating permits, and all of the requirements for permit issuance in subsection (6)(E) of this rule have been met, the permitting authority shall validate the operating permit and forward it to the permittee. No part 70 permit will be validated unless—

A. At the time of validation, the permitting authority certifies that the issued permit contains all applicable requirements; or

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B. The procedures for permit renewal in paragraph (6)(E)3. have occurred prior to validation to insure the inclusion of any new applicable requirements to which the part 70 permit is subject.

(E) Permit Issuance, Renewal, Reopenings, and Revisions.

1. Action on application.

A. General requirements. A part 70 operating permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:

(I) Except for a general permit authorization, the permitting authority has received a complete application for a permit, permit modification, or permit renewal;

(II) Except for permit modifications qualifying for minor permit modification procedures, the permitting authority has complied with the requirements for public participation;

(III) The permitting authority has complied with the requirements for notifying and responding to affected states;

(IV) The permitting authority finds that the conditions of the permit provide for compliance with all applicable requirements and the requirements of the Act and the requirements of this rule; and

(V) The administrator has received a copy of the draft permit and any notices required, and has not objected to issuance of the permit under 40 CFR 70.8(c) within the time specified therein.

B. Completeness determination. After receipt of an application, the permitting authority promptly shall provide notice to the applicant of whether the application is complete. Unless the permitting authority notifies the applicant that the application is not complete within sixty (60) days after receipt, the application shall be deemed complete.

(I) The permitting authority shall make available to applicants all the necessary application forms, together with a checklist of items required for a complete application package. An application will be deemed complete in the first instance if the applicant submits a completed application form, together with the other items on the checklist.

(II) No completeness determination shall be required for applications for minor permit modifications.

C. Drafts for public comment. Following review of an application, the permitting authority shall issue a draft permit, draft permit modification, or draft permit renewal for public comment, in accordance with section (7). The draft shall be accompanied by a statement setting forth the legal and factual basis for the draft permit conditions (including references to applicable statutory or regulatory provisions). The permitting authority shall send this statement to the administrator, to affected states, and to the applicant and shall place a copy in the public file.

D. Proposals for review. Following the end of the public comment period, the permitting authority shall prepare and submit to the administrator a draft permit, permit modification, or permit renewal.

(I) The draft permit, modification, or renewal shall be issued no later than forty-five (45) days preceding the deadline for final action under this section and shall contain all applicable requirements that have been promulgated and made applicable to the installation as of the date of issuance of the draft permit.

(II) If new requirements are promulgated or otherwise become newly applicable to the installation following the issuance of the draft permit but before issuance of a final permit (or in the case of unified review, before validation of an issued permit), the permitting authority may elect to either—

(a) Extend or reopen the public comment period to solicit comment on additional draft permit provisions to implement the new requirements; or

(b) If the permitting authority determines that this extension or reopening of the public comment period would delay issuance of the permit unduly, the permitting authority may include in the permit a provision stating that the permit is reopened upon issuance or validation to incorporate the new requirements and stating that the new requirements are excluded from the protection of the permit shield. If the permitting authority elects to issue the permit without incorporating the new requirements, the permitting authority shall institute, within thirty (30) days after the new requirements become applicable to the source, proceedings pursuant to this section to reopen the permit to incorporate the new requirements. These reopening proceedings may be instituted, but need not be completed, before issuance of the final permit.

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### E. Action following the administrator's review.

(I) Upon receipt of notice that the administrator will not object to a permit, permit modification, or permit renewal that has been submitted for the administrator's review pursuant to this section, the permitting authority shall issue the permit, permit modification, or permit renewal forthwith, but in no event later than the fifth day following receipt of the notice from the administrator.

(II) Forty-five (45) days after receipt by the administrator of a draft permit, permit modification, or permit renewal for the administrator's review, and if the administrator has not notified the permitting authority that s/he objects to the permit action, the permitting authority shall promptly issue the permit, permit modification, or permit renewal, but in no event later than the fiftieth day following receipt by the administrator.

(III) If the administrator objects to the permit, modification, or renewal, the permit shall not be issued and the permitting authority shall consult with the administrator and the applicant, and shall submit a revised proposal to the administrator within ninety (90) days after the date of the administrator's objection. If the permitting authority does not revise the permit, the permitting authority will inform the administrator within ninety (90) days following the date of the objection and decline to make those revisions. If the administrator disagrees with the permitting authority, the administrator may issue the permit with the revisions incorporated.

### F. Final actions.

(I) Noninitial applications. Except as provided in this subsection (6)(E), the permitting authority shall take final action on each application for a part 70 operating permit within eighteen (18) months after receiving a complete application. Final action on each application for a significant permit modification or permit renewal shall be taken within six (6) months after receipt of a complete application. For each application, the permitting authority shall submit a draft permit, modification, or renewal to the administrator no later than forty-five (45) days before the deadline for final action established in this section. The permitting authority shall take action on any permit, permit modification, or permit renewal issued in compliance with rules promulgated under Title IV or V of the Act for the permitting of affected installations under the acid rain program within the time specified in those regulations.

(II) Initial applications. Applications accepted under the registry system shall be acted upon according to that registry.

G. Order for acting on applications. To the extent feasible, applications shall be acted upon in the order received, except that—

(I) Priority shall be given to taking final action on applications for construction or permit modification under Title I, Parts C and D of the Act and to applications for general permits. To the extent feasible, final action on these applications shall be taken within six (6) months following receipt of a complete application;

(II) For processing purposes, the permitting authority may group together applications addressing similar installations; and

(III) The permitting authority may give expedited treatment to simple applications that do not require significant review (for example, permits incorporating few or no substantive regulatory requirements).

## 2. Application shield.

A. Protection for not having a permit. If an installation subject to the requirement to obtain a permit under this section submits a timely and complete application for permit issuance or renewal, that installation's failure to have an issued permit shall not be a violation of the requirement to have the permit until the permitting authority takes final action on the application. This application protection shall cease to apply if, subsequent to a completeness determination, the applicant fails to submit, by the deadline specified in writing by the permitting authority, any additional information identified as being reasonably required to process the application.

B. Loss of protection. If an applicant files a timely application that the permitting authority determines is not complete, or if the applicant loses the protection granted under this section as a result of the failure to provide additional information reasonably requested by the permitting authority within the time specified, the applicant is in violation of this section for failure to have an issued permit.

C. Construction permits not affected. The submittal of a complete part 70 operating permit application shall not affect the requirement, where applicable, that an installation have a construction permit.

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### 3. Permit renewal and expiration.

A. Renewal application requirements. Applications for permit renewals shall be subject to the same procedural requirements, including public participation, affected state comment, and the administrator review, that apply to initial permit issuance. The permitting authority, in issuing a permit or renewal permit, may identify those portions that are proposed to be revised, supplemented, or deleted.

B. Timely application. An installation's right to operate shall terminate upon the expiration of the permit, unless a complete permit renewal application is submitted at least six (6) months before the date of expiration, or unless the permitting authority takes final action approving an application for a permit renewal by the expiration date.

C. Extension of expired permits. If a timely and complete application for a permit renewal is submitted, but the permitting authority fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, the previous permit shall not expire until the renewal permit is issued or denied. Any permit shield granted under the previous permit shall continue in effect during this period of time. However, the administrator may invoke its authority under section 505(e) of the Act to terminate or revoke and reissue the permit.

### 4. Administrative permit amendments.

A. Definition. An administrative permit amendment is a permit revision that—

(I) Corrects typographical errors;

(II) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the installation;

(III) Requires more frequent monitoring or reporting by the permittee;

(IV) Allows for a change in ownership or operational control of an installation where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee must be submitted to the permitting authority;

(V) Incorporates in the part 70 operating permit the requirements of a unified construction permit issued by the permitting authority.

B. Acid rain provisions. For purposes of any acid rain portion of a part 70 operating permit, administrative permit amendments shall be governed by rules promulgated under Title IV of the Act.

C. Procedures. An administrative permit amendment shall be made by the permitting authority under the following procedures:

(I) The permitting authority shall take final action on a request for an administrative permit amendment within sixty (60) days after receipt of the request, and may incorporate the proposed changes in a permit without providing notice to the public or affected states, if any of the permit revisions are designated as having been made pursuant to this paragraph (6)(E)4.;

(II) The permitting authority shall transmit a copy of the amended permit to the administrator; and

(III) An installation may implement the changes addressed in a request for an administrative permit amendment immediately upon submittal of the request.

D. Permit shield applicable. The permitting authority, upon taking final action granting a request for an administrative permit amendment, shall allow coverage by the permit shield.

#### 5. Permit modifications.

A. Definition. A permit modification is any revision to a part 70 operating permit which is not an administrative amendment under paragraph (6)(E)4. of this rule. A permit modification for the purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

#### B. Minor permit modification.

##### (I) Criteria.

(a) Minor permit modifications involve changes to an installation that do not—

I. Violate any applicable requirement;

II. Involve significant changes to monitoring, reporting, or record-keeping requirements in the permit;

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III. Require or change any case-by-case or source-specific determination contained in the permit, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

IV. Establish or change a permit term for which there is no corresponding underlying applicable requirement and which the source has assumed in order to avoid an applicable requirement to which it would otherwise be subject, such as a federally-enforceable emissions cap voluntarily agreed to in order to avoid classification as a Title I modification or an alternative emissions limit approved pursuant to 112(i)(5) of the Act;

V. Constitute a Title I modification; and

VI. Constitute a significant permit modification.

(b) Notwithstanding subpart (6) (E)5.B.(I)(a) and subparagraph (6)(E)5.C. of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

(II) Procedures.

(a) The applicant should complete a minor permit modification form application which is consistent with the requirements of this section (6), and which includes at least the following information:

I. A description of the proposed change, the resulting emissions, and any new applicable requirements;

II. The applicant's draft modified permit;

III. Certification by a responsible official consistent with paragraph (6)(B)4. of this rule, that the proposed modification meets the criteria for use of minor permit modification procedures; and

IV. Completed forms to enable the permitting authority to notify the administrator and affected states.

(b) The permitting authority will notify the administrator and affected states within five (5) days after receipt of the application.

(c) Public participation requirements are not applicable to minor permit modifications.

(d) Within thirty (30) days after receiving the minor permit modification application, the permitting authority will notify the applicant whether the application is deemed complete or if further information is needed to deem it so.

(e) Within ninety (90) days after receiving the minor permit modification application, or fifteen (15) days after the end of the administrator's forty-five (45)-day review period, whichever is later, the permitting authority shall-

I. Issue the permit modification as proposed;

II. Deny the permit modification;

III. Determine that the requested change is a significant permit modification that should be reviewed as such; or

IV. Revise the draft modified permit and notify the applicant and the administrator by providing a written copy of the proposed intended changes, a written statement of the factual and legal reasons for the changes, and notice of the rights of the applicant and the administrator to appeal or object to the changes, including any deadlines for this appeal or objection.

(f) An applicant for a minor permit modification may make the change proposed immediately after filing the application. After making the change, and until the permitting authority takes any of the actions specified in this section (6), the applicant must comply with both the applicable requirements governing the change and the proposed modified permit terms and conditions. During this time period, the installation need not comply with the existing permit terms and conditions the applicant is seeking to modify. However, if the applicant fails to comply with the proposed modified permit terms and conditions during this time period, the existing permit terms and conditions which the applicant is seeking to modify may be enforced against the installation.

(III) Permit shield not applicable. The permit shield does not apply to minor permit modifications.

(IV) Public notice. The permitting authority shall provide public notice of a change proposed in a minor permit modification application when it determines that the proposed change is of sufficient consequence that the public may have an interest in being informed. The procedures for the public notice shall be as follows:

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(a) Notice shall be given by publication in a newspaper of general circulation in the area where the installation is located or in a state publication designed to give general public notice, and to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list;

(b) The notice shall identify: the installation; the name and address of the permittee; the name and address of the permitting authority; the activity(ies) involved in the permit action; any emissions change involved in the proposed minor permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials, and all other materials available to the permitting authority that are relevant to the permit decision; and

(c) The permitting authority shall provide public notice, as provided in this section, promptly upon receipt of the source's minor permit modification application; however, the timing and content of this notice shall not be grounds for a challenge to the permitting authority's final action.

C. Group processing of minor permit modifications. Pursuant to this paragraph (6)(E)5., the permitting authority may modify the procedures outlined in this section (6) to process groups of an installation's applications for certain modifications eligible for minor permit modification processing.

(I) Criteria. Group processing of proposed minor permit modifications may be used only for those which-

(a) Meet the criteria for minor permit modification procedures under this section; and

(b) Collectively are below the following threshold level: ten percent (10%) of the emissions allowed by the permit for the emissions unit for which the change is proposed; twenty percent (20%) of the applicable definition of a part 70 installation; or five (5) tons per year, whichever is least.

(II) Applications. An application requesting the use of group processing procedures shall meet the requirements of this subparagraph and shall include the following:

(a) A description of the change, the emissions resulting from the change and any new applicable requirements that will apply if the change occurs;

(b) The applicant's draft modified permit;

(c) Certification by a responsible official, consistent with this section, that the proposed modification meets the criteria for use of group processing procedures and a request that these procedures be used;

(d) A list of the installation's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold established under this section (6);

(e) Certification, consistent with this section (6), that the applicant has notified the administrator of the proposed modification. This notification need only contain a brief description of the proposed modification; and

(f) Completed forms for the permitting authority to use to notify the administrator and affected states.

(III) Administrator and affected state notification. On a quarterly basis or within five (5) business days after receipt of an application demonstrating that the aggregate of an installation's pending applications equals or exceeds the threshold level established under this section, whichever is earlier, the permitting authority promptly, in accordance with section (7) of this rule, shall notify the administrator and affected states of the proposed permit modifications. The permitting authority shall send any notice required to the administrator.

(IV) Timetable for issuance. The provisions of this section shall apply to modifications eligible for group processing, except that the permitting authority shall take one (1) of the actions specified in this paragraph within one hundred eighty (180) days after receipt of the application or fifteen (15) days after the end of the administrator's forty-five (45)-day review period, whichever is later.

(V) Installation's ability to make change. The provisions of this subpart (6)(E)5.B.(II)(f) shall apply to modifications eligible for group processing.

(VI) Permit shield not applicable. The provisions of part (6)(E)5.B.(III) shall apply to modifications eligible for group processing.

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(VII) Public notice. The provisions of this part (6)(E)5.B.(IV) shall apply to modifications eligible for group processing.

D. Significant permit modifications.

(I) Definition. Any permit revision which is not a minor modification or administrative permit amendment is a significant permit modification. This revision includes, but is not limited to, significant changes in monitoring, reporting, or record keeping permit terms and any change in the method of measuring compliance with existing permit requirements. Criteria for determining whether a proposed change is significant shall include the magnitude of the change and the resulting impact on the environment.

(II) Procedures.

(a) An applicant for a significant permit modification shall adhere to all the relevant requirements for an initial permit application under section (6) of this rule, as well as requirements for public participation under section (7), and review by the administrator and affected states under subsection (6)(F) except—

I. The applicant should use the form for a significant permit modification application, rather than the form for an initial permit issuance; and

II. The permitting authority will complete review of significant permit modification applications within nine (9) months after receipt of an application.

6. Reopening permits for cause.

A. Cause to reopen. A part 70 operating permit shall be reopened for cause if—

(I) The permitting authority receives notice from the administrator that the administrator has granted a petition for disapproval of a permit pursuant to 40 CFR 70.8(d), provided that the reopening may be stayed pending judicial review of that determination;

(II) The permitting authority or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions limitations standards or other terms of the permit;

(III) Additional applicable requirements under the Act become applicable to the installation; however, reopening on this ground is not required if—

(a) The permit has a remaining term of less than three (3) years;

(b) The effective date of the requirement is later than the date on which the permit is due to expire; or

(c) The additional applicable requirements are implemented in a general permit that is applicable to the installation and the installation receives authorization for coverage under that general permit;

(IV) The installation is an affected source under the acid rain program and additional requirements (including excess emissions requirements) become applicable to that source, provided that, upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit; or

(V) The permitting authority or the administrator determines that the permit must be reopened and revised to assure compliance with applicable requirements.

B. Notice to the permittee. If the permitting authority finds reason to believe that a permit should be reopened for cause, it shall provide at least thirty (30) day's prior written notice to the permittee, except the notice period may be less if the permitting authority finds that an emergency exists.

(I) This notice shall include a statement of the terms and conditions that the permitting authority proposes to change, delete, or add to the permit. If the permitting authority does not have sufficient information to determine the terms and conditions that must be changed, deleted, or added to the permit, the notice shall request the permittee to provide that information within a period of time specified in the notice, which shall be not less than thirty (30) days except in the case of an emergency.

(II) If the proposed reopening is pursuant to subparagraph (6)(E)6.A. of this rule, the permitting authority shall give the permittee an opportunity to provide evidence that the permit should not be reopened.

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C. Procedures for reissuance. In reissuing the permit, the permitting authority shall follow the procedures established under subsection (6)(E). The permittee shall in all cases be afforded an opportunity to comment on the revised permit terms.

D. Judicial review. Upon issuance of the revised permit, both the determination to reopen the permit and the revised permit terms shall be subject to judicial review.

E. Extension of permit shield. While a reopening proceeding is pending, the permittee shall be entitled to the continued protection of any permit shield provided in the permit pending issuance of a revised permit, unless the permitting authority specifically suspends the permit shield on the basis of a finding that this suspension is necessary to implement applicable requirements. If this finding applies only to certain applicable requirements or to certain permit terms, the suspension shall extend only to those requirements or terms.

F. Deadline for completion. Any reopening and reissuance proceeding shall be completed within eighteen (18) months after promulgation of the applicable requirements.

### 7. Reopening permits for cause by the administrator.

A. Notice of cause. If the permitting authority receives notice from the administrator that the administrator has found cause to revoke, modify, or reopen and reissue a part 70 operating permit, the permitting authority, within ten (10) days after receipt of this notification, shall provide notice to the permittee. The notice to the permittee shall include a copy of the notice from the administrator and invite the permittee to comment in writing on the proposed action.

B. Proposed permitting authority response. Within ninety (90) days following receipt of the notification from the administrator, the permitting authority shall issue and forward to the administrator a proposed determination in response to the administrator's notification. The permitting authority may request an additional ninety (90) days for this submission if this time is required to obtain a new or revised permit application or other information from the permittee.

C. Comment by the administrator. The permitting authority shall address any further comment or objection from the administrator on the permitting authority's response to the administrator notification pursuant to this section.

8. Revocations and terminations.

A. Cause for revocation. The permitting authority may revoke a part 70 operating permit only upon request of the permittee or for cause. For purposes of this section, cause for revocation exists if-

(I) There is a pattern of unresolved and repeated noncompliance with the terms and conditions of the permit and the permittee has refused to take appropriate action (such as a schedule of compliance) to resolve the noncompliance;

(II) The permittee has failed to disclose material facts relevant to issuance of the permit or has knowingly submitted false or misleading information to the permitting authority;

(III) The permitting authority finds that the permitted installation or activity endangers public health, safety, or the environment, and that the danger cannot be removed by a modification of the terms of the permit; or

(IV) The permittee has failed to pay a civil or criminal penalty imposed for violations of the permit.

B. Notice to permittee. Upon finding that cause exists for the revocation of a permit, the permitting authority shall notify the permittee of that finding in writing, stating the reasons for the proposed revocation. Within thirty (30) days following receipt of the notice, the permittee may submit written comments concerning the proposed revocation. If the permitting authority after that makes a final determination to revoke the permit, it shall provide a written notice to the permittee specifying the reasons for the decision and the effective date of the revocation.

C. Conditional revocation. A permit revocation issued under this section may be issued conditionally, with a future effective date, and may specify that the revocation will not take effect if the permittee satisfies the specified conditions before the effective date.

D. Application for termination. A permittee may apply at any time for termination of all or a portion of its part 70 operating permit relating solely to operations, activities, and emissions that have been permanently discontinued at the permitted installation. An application for termination shall identify with specificity the permit or permit terms that relate to the discontinued operations, activities, and emissions. The permitting authority shall act on an application for termination on this ground within ninety (90) days after receipt, and shall grant the application for termination upon

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finding that the permit terms for which termination is sought relate solely to operations, activities, and emissions that have been permanently discontinued. In terminating all or portions of a permit pursuant to this subsection, the permitting authority may make appropriate orders for the submission of a final report or other information from the permittee to verify the complete discontinuation of the relevant operations, activities, and emissions.

E. Application for termination based on general permit. A permittee may apply for termination of its permit on the ground that its operations, activities, and emissions are fully covered by a general permit for which it has applied and received coverage. The permitting authority shall act on an application for termination on this ground within ninety (90) days after receipt, and shall grant the application upon a finding that the permittee's installation's operations, activities, and emissions are fully covered by a general permit.

F. Application for new permit. An installation that has received a final revocation or termination of its permit may apply for a new permit.

9. Case-by-case determinations. If applicable requirements require the permitting authority to make a case-by-case determination of an emission limitation, technology requirement, work practice standard, or other requirement for an installation, and to include terms and conditions implementing that determination in the installation's part 70 operating permit, the installation shall include in its permit application a proposed determination, together with the data and other information upon which the determination is to be based, and proposed terms and conditions to implement the determination. Upon receipt of a request from the applicant, the permitting authority shall meet with the applicant before the permit application is submitted to discuss the determination and the information required to make it. In the event the permitting authority determines that the applicant's proposed determination and implementing terms and conditions should be revised in the draft permit or the final permit, the permitting authority shall in all cases inform the applicant of the changes to be made, and allow the applicant to comment on those changes before issuing the draft permit or final permit.

10. Public participation. The procedures of section (7) of this rule shall be followed.

11. Judicial review. Any final action in granting or denying an application for a permit, permit amendment, or modification or permit renewal shall be subject to Missouri Air Conservation Commission review as provided in 643.078 and 643.130, RSMo upon an appeal filed by the applicant or permittee, or by any affected state or other person who participated in the public comment process. If no public comment procedure was employed for the action under challenge, an application for review may be filed by the permittee or an affected state. The opportunity for judicial review provided for in this subsection shall be the exclusive means for obtaining judicial review of any permit action.

A. Deadline for filing. No application for judicial review may be filed more than ninety (90) days following the final action on which review is sought, unless the grounds for review arose at a later time, in which case the application for review shall be filed within ninety (90) days of the date on which the grounds for review first arose, and review shall be limited to such later-arising grounds.

B. Scope of review. Any application for judicial review shall be limited to issues that—

(I) Were raised in written comments filed with the permitting authority or during a public hearing on the proposed permit action (if the grounds on which review is sought were known at that time), except that this restriction shall not apply if the person seeking review was not afforded an advance opportunity to comment on the challenged action; and

(II) Are germane and material to the permit action at issue.

C. Deadline for final action. For purposes of this section (6), final action shall include a failure by the permitting authority to take final action to issue or deny an application within the time specified in these regulations.

(F) Permit Review by the Administrator and Affected States.

1. Administrator review.

A. Copies of applications, proposals, and final actions. The applicant will provide two (2) copies of the information included in an application under this section. The permitting authority will forward to the administrator one (1) copy of each permit application, including application for permit modification, request for validation, application for permit renewal, draft permit, and each final operating permit, modified permit, and permit renewal.

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B. Administrator's objection. No permit shall be issued or validated under this section if the administrator objects to its issuance in writing within forty-five (45) days after receipt of the draft permit, modified permit, or permit renewal and all necessary supporting information.

C. Failure to respond to objection. If the permitting authority does not respond to an objection of the administrator by transmitting a revised draft permit, modified permit, or renewal permit within ninety (90) days after receipt of such objection, the administrator may issue or deny the permit, modified permit, or permit renewal in accordance with the Act.

D. Public petitions for objection. If the administrator does not object to a proposed permit action, any person may petition the administrator to make an objection within sixty (60) days after expiration of the administrator's forty-five (45)-day review period.

(I) This petition may only be based on objections raised during the public review process, unless the petitioner demonstrates that it was impracticable to raise objection during the public review period (including when the grounds for objection arose after that period).

(II) If the administrator responds to a petition filed under this section by issuing an objection, the permitting authority will not issue the permit until the objection has been resolved. If the permit was issued after the administrator's forty-five (45)-day review period, and prior to any objection by the administrator, the permitting authority shall treat that objection as if the administrator were reopening the permit for cause. In these circumstances, the petition to the administrator does not stay the effectiveness of the issued permit, and the permittee shall not be in violation of the requirement to have submitted a complete and timely permit application.

### 2. Affected state review.

A. Notice of draft actions. The permitting authority will give notice of each draft permit, modified permit, and renewed permit to any affected state on or before the time that the permitting authority provides notice to the public, except in the case of minor permit modifications. Affected states may comment on the draft permit action during the period allowed for public comment, as shall be set forth in a notice to affected states.

B. Refusal to accept recommendations. If the permitting authority refuses to accept all recommendations for a proposed permit action that any affected state has submitted during the review period, the permitting authority shall notify the administrator and the affected state in writing of its reasons for not accepting the recommendations.

(7) Public Participation. Except for proposed modifications qualifying for the minor permit modification procedures, all permit proceedings, including initial permit issuance, significant permit modifications, and permit renewals, shall be conducted in accordance with the procedures for public participation in this section (7).

(A) Drafts for Public Comment and Public Notice. After receipt of an application for a permit, significant permit modification, or permit renewal, and no later than sixty (60) days before the deadline for issuance of a permit, significant permit modification, or permit renewal for the administrator's review, the permitting authority shall issue a draft permit and solicit comment from the applicant, affected states, and the public as follows:

1. The permitting authority shall provide notice to the public by-

A. Making available in at least one (1) location in the area in which the installation is located a public file containing copies of all materials that the applicant has submitted other than those granted confidential treatment, copies of the preliminary determination and draft permit, modified permit, or permit renewal, and a copy or summary of other materials, if any, considered in making the preliminary permit determination; or

B. State publication or web site designed to give general public notice details of the proposed action or publishing in at least one (1) newspaper of general circulation in the area in which the installation is located, a notice of the application, the preliminary permit determination, the location of the public file, the procedures for submitting written comments and for requesting a public hearing, and the date, time, and location for a public hearing if one is to be held.

2. Copies of the notice required shall be sent to the applicant and to the representatives of affected states designated by those states to receive the notices.

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(B) Public Notice. The public notice shall establish a period of not less than thirty (30) days following publication of the notice for the submission of written comments, and shall identify the affected installation, the name and address of the applicant or permittee, the name and address of a permitting authority representative with responsibility for the permitting action, the activity(ies) involved in the permit action, the emissions change involved in any permit modification and the location of the public file.

(C) Public Hearing Opportunity. The permitting authority shall hold an informal public hearing on the draft permit, modified permit, or permit renewal if-

1. A timely request is made for such a hearing during the public comment period; and

2. The person requesting the hearing identifies material issues concerning the preliminary permit determination and the permitting authority determines that a public hearing will be useful in resolving those issues.

(D) Time of Public Hearing. Any public hearing held under this section shall be held no earlier than the thirty-first day following publication of the public notice and no later than the thirtieth day preceding the deadline for the draft permit, modified permit, or permit renewal under this section.

(E) Scope of Public Hearing. The permitting authority may limit participation at the public hearing to issues raised in written comments submitted during the public comment period. The officer conducting the hearing, as appropriate, may impose additional limitations, including time restrictions.

(F) Applicant's Opportunity to Respond to Comments. The applicant shall be afforded an opportunity to submit, within ten (10) days following the close of the public comment period or the public hearing, whichever is later, a response to any comments made.

(G) Consideration of Comments Received. The permitting authority shall consider all comments submitted by the applicant, the public, and affected states in reaching its final determination and issuing the proposed permit, modified permit or permit renewal for the administrator's review. The permitting authority shall maintain a list of all commenters and a summary of the issues raised and shall make that information available in the public file and supply it to the administrator upon request.

(H) Written Response to Comments. At the time a draft permit, modified permit, or permit renewal is proposed for the administrator's review, the permitting authority shall issue a written response to all comments submitted by affected states and all significant comments submitted by the applicant and the public. Copies of this written response shall be provided to the administrator, affected states, and the applicant and a copy shall be placed in the public file.

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### EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c), 40 C.F.R. 70, Appendix A (ff)  
FRM: 81 FR 67915 (10/3/2016)  
PRM: 81 FR 67954 (10/3/2016)  
State Submission: MO-295a (effective 8/30/11); MO-321 (effective 9/30/12).  
State Final: 10 C.S.R. 10-6 (07/31/11); 10 CSR 10-6 (8/31/12)  
APDB File: MO-295a; MO-321 EPA-R07-OAR-2016-0529 effective 12/2/16  
Description: This update incorporates revisions from MO-295a and MO-321. Most revisions involved were minor punctuation related. (2) Definitions (A)-(E) were revised and renumbered.(7) Public Participation (A) B was revised.

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CFR: 40 C.F.R. 52.1320(c), 40 C.F.R. 70, Appendix A, Missouri (t)  
FRM: 72 FR 7829 (02/21/2007)  
PRM: 72 FR 7842 (02/21/2007)  
State Submission: 01/03/2006  
State Final: 10 C.S.R. 10-6 (09/30/05)  
APDB File: MO-230; EPA-R07-OAR-2006-0803  
Description: This revision included general reformatting; adding definition of "air pollution;" adding new Section (3); revising Section (5); and amending subsection (6)(B). Section (4) which relates to the Basic State Operating Permits was revised. EPA did not act on Section (4). Revised Section (5) and amended subsection (6)(B).

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CFR: 40 C.F.R. 52.1320(c), 40 C.F.R. 70, Appendix A, Missouri (n)  
FRM: 68 FR 54369 (09/17/2003)  
PRM: 68 FR 54406 (09/17/2003)  
State Submission: 05/12/2003  
State Final: 10 C.S.R. 10-6 (04/30/03)  
APDB File: MO-204  
Description: This revision corrects the operating permit program deficiencies by making revisions to definitions, permit modification procedures, and reporting requirements. The definition of major source is approved as a SIP revision.

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CFR: 40 C.F.R. 52.1320(c), 40 C.F.R. 70, Appendix A, Missouri (l)  
FRM: 67 FR 55129 (08/28/2002)  
PRM: 67 FR 55187 (08/28/2002)  
State Submission: 05/17/2002  
State Final: 10 C.S.R. 10-6 (4/30/02)  
APDB File: MO-202  
Description: This revision exempts incinerators used for noncommercial incineration of dead animals. By state statute these incinerators are regulated by the University of Missouri Extension Service. This revision also removes a reference to "asphaltic concrete plants" from the Applicability section; removes an exemption for restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption; and makes a minor typographical revision by changing the spelling of "BTUs" to Btus."

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CFR: 40 C.F.R. 52.1320(c), 40 C.F.R. 70, Appendix A, Missouri (h)  
FRM: 66 FR 16137 (3/23/01) and 66 FR 44303 (8/23/01) (correction)  
PRM: 66 FR 16162 (3/23/01)  
State Submission: 6/15/00  
State Final: 10 C.S.R. 10-6 (4/30/00)  
APDB File: MO-158  
Description: This revision added clarifying language for "basic state installations"; corrected typographical errors; was revised to make it consistent with EPA requirements pertaining to the application of part 70 requirements for sections 111 and 112 sources; added clarifying language pertaining to exempt installations; section 3(E) was amended for clarification, renumbered and incorporated into section 3(D); and sections 4(J) and 4(M) were revised for clarification.

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CFR: 40 C.F.R. 52.1320(c)  
FRM: 64 FR 71038 (12/20/99)  
PRM: 64 FR 16659 (4/6/99)  
State Submission: 5/28/98  
State Proposal: 20 MR 1486 (9/16/99)  
State Final: 10 C.S.R. 10-6 (3/31/98)  
APDB File: MO-150  
Description: This revision incorporates the EPA guidance exemption criteria for country grain elevators into the rule, updates other exemption requirements to match construction permit rule requirements, and incorporates outstanding rule comments to clarify rule language.

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CFR: 40 C.F.R. 70, Appendix A, Missouri (b)  
FRM: 62 FR 26405 (5/14/97)  
PRM: 61 FR 64042 (12/3/96)  
State Submission: 7/31/96  
State Proposal: 20 MR 6717 (11/15/95)  
State Final: 10 C.S.R. 10-6 (5/31/96)  
APDB File: MO-133  
Description: The EPA granted full approval of the operating permit program submitted by the state of Missouri for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and to certain other sources. This approval gives the state the authority to receive delegation of section 112 standards for both Part 70 and non-Part 70 sources. The EPA issued a final 112(g) rule on December 27, 1996. The state has 18 months from the effective date of the rule to adopt an equivalent program.

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CFR: 40 C.F.R. 52.1320(c)(96)(i)(A)  
FRM: 62 FR 26405 (5/14/97) 62 FR 45165 (8/26/97) Revision Notice  
PRM: 61 FR 64042 (12/3/96) 61 FR 43202 (8/21/96)  
State Submission: 7/31/96 3/6/96  
State Proposal: 20 MR 6717 (11/15/95) 20 MR 6934 (12/1/95)  
State Final: 10 C.S.R. 10-6 (5/31/96) 10 C.S.R. 10-6 (12/31/95)  
APDB File: MO-133, MO-124  
Description: The EPA approved changes to permit provisions pertaining to the intermediate operating program. The EPA did not approve provisions of the rule which pertain to the basic operating permit program. The revisions in 62 FR 45165 (August 26, 1997) include a provision which delays the permit application deadlines by ten months for smaller intermediate sources, and a provision which allows qualifying intermediate sources to apply for general permits.

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CFR: 40 C.F.R. 70, Appendix A, Missouri (a)  
FRM: 61 FR 16063 (4/11/96)  
PRM: 60 FR 64404 (12/15/95)  
State Submission: 1/9/95  
State Proposal: 18 MR 1685 (9/17/93)  
State Final: 10 C.S.R. 10-6 (7/29/94)  
APDB File: MO-96  
Description: The EPA granted final interim approval, effective May 13, 1996, of an operating permit program submitted by the state of Missouri for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and to certain other sources. The EPA is also giving interim approval, under section 112(1) of the Act, to the state program for accepting delegation of the section 112 standards to enforce air toxics regulations. This interim approval will extend for 18 months following the effective date and cannot be renewed. Revisions to this rule are required for full approval of the operating permits program.

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CFR: 40 C.F.R. 52.1320(c)(88)(i)(A)  
FRM: 60 FR 49340 (9/25/95)  
PRM: 60 FR 49357 (9/25/95)  
State Submission: 3/31/94  
State Proposal: 18 MR 1685 (9/17/93)  
State Final: 10 C.S.R. 10-6 (7/29/94)  
APDB File: MO-110  
Description: The EPA approved a new rule which establishes a mechanism for creating Federally enforceable limitations that would reduce sources' potential to emit such that sources could avoid major source permitting requirements. This action approves the rule satisfying the rule for Federally enforceable state operating permit programs. In addition, this action addresses Missouri's program covering criteria pollutants (regulated under section 110 of the Clean Air Act) and hazardous air pollutants (regulated under section 112).

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### Difference Between the State and EPA-Approved Regulation

The state rule has section (4) Basic State Operating Permits. EPA has not approved Section (4) as part of the SIP.

EPA is not approving in paragraph (2)(A)2 the words, "except that" and is not approving subparagraphs (2)(A)2.A. and (2)(A)2.B.

Title V Approval: This rule is approved except for Section (4) which relates to the State Basic Operating Permits.