

Amy Bhesania, EPA Region 7
Missouri Air Seminar March 5, 2015

SSM, Missouri and You!

Connecting Air Policy Issues



Untangling Air Policy Issues







DISCLAIMER

Anything in this blog which you dislike, you have obviously misinterpreted.





SSM

Excess Emissions

Director's Discretion

Affirmative Defense

The issue is whether...

- Emission limits apply during start-up, shutdown and malfunction events (excess emissions)
- The department (state) has the discretion to exempt or enforce limits during SSM events (director's discretion)
- Sources can justify/defend excess emissions during SSM events (affirmative defense from civil penalties)



June 30, 2011

Hon. Lisa P. Jackson, Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Via Certified Mail (return receipt requested) and via e-mail: Jackson.lisa@epa.gov and Jackson.lisa@epamail.epa.gov

**Petition to Find Inadequate and Correct Several State
Implementation Plans under Section 110 of the Clean Air Act
Due to Startup, Shutdown, Malfunction, and/or Maintenance
Provisions**

Pursuant to the Clean Air Act (“CAA” or “the Act”),¹ the Administrative Procedure Act² and the First Amendment of the Constitution of the United States of America, Sierra Club files this petition with the Administrator of the United States Environmental Protection Agency (“EPA”) and requests her to take the following actions:

- 1) Pursuant to CAA § 110(k)(5), 42 U.S.C. § 7410(k)(5), notify the states listed below of the substantial inadequacies in their state implementation plans and finalize a rule requiring the states to revise their plans as described below;
- 2) Or, alternatively, pursuant to CAA § 110(k)(6), 42 U.S.C. § 7410(k)(6), determine that the Administrator’s action approving the implementation plan provisions listed below was in error and revise those approvals so that the SIPs are brought into compliance with the requirements of the CAA, or promulgate a Federal Implementation Plan (FIP) to do the same, as described below.

Compressed Timeline

June 2011

- Sierra Club Petition
- 36 states including MO

February 2013

- EPA Proposed SIP Call
- Identified MO 6.220 (opacity rule) as deficient

September 2015

- EPA Supplemental Proposal
- Addresses additional affirmative defense provisions
- No Missouri provisions included in this action

May 22, 2015

Recent History Found Here

<http://www.epa.gov/oaqps001/urbanair/sipstatus/emissions.html>

Startup, Shutdown, & Malfunction Emissions

February 12, 2013 – EPA is proposing a rule that would ensure states have plans in place that require industrial facilities across the country to follow air pollution rules during times when the facility is starting up or shutting down, or when a malfunction occurs.

- June, 2011: [Sierra Club's Petition \(PDF\)](#) (80pp, 451k)
- February 4, 2013: [Legal Background Memorandum \(PDF\)](#) (24pp, 199k)
- February 22, 2013: [Federal Register Proposed Rule \(PDF\)](#) (82pp, 675k)
– [Fact Sheet \(PDF\)](#) (4pp, 32k)
- April 8, 2013: [EPA is extending by 30-days, the public comment period for this proposed rule \(PDF\)](#) (2pp, 239k)
- September 26, 2013: [EPA and the Sierra Club have agreed to extend the deadline for completing this rule to May 15, 2014. \(PDF\)](#) (3pp, 219k)
- December 4, 2013: [EPA and the Sierra club have agreed to further extend the deadline for completing this rule to June 12, 2014. \(PDF\)](#) (3pp, 220k)
- June 16, 2014: [EPA and the Sierra Club have agreed to a modified schedule that includes a further extension of](#)

Announcements

On September 5, 2014, EPA issues supplemental proposal specific to "affirmative defense" provisions in state plans.

EPA and litigants have renegotiated the deadline for this final action from June 12, 2014 until May 22, 2015.

10 CSR 10-6.220(3)(C)



Visible emissions over the limitation shown subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050, Start-up, Shutdown and Malfunction Conditions.

MDNR On it!



10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants - Comments were accepted on this preliminary rule development through close of business December 20, 2014.

[Draft Rule Text](#)

[Regulatory Impact Report](#)

[Demonstration](#)

[Comments Received](#)

[Response to Comments](#)

After consideration of these comments, a proposed rulemaking is expected to be filed with the Secretary Of State's Office by March 16, 2015, for publication in the April 15, 2015, *Missouri Register*. Additional comments can be made during the proposed rulemaking open comment period and public hearing. For information about providing proposed rulemaking comments, see the notice of public hearing and notice to submit comments in the April 15, 2015, *Missouri Register*.

Submit written comments on any of the above rule developments to:

Chief, Air Quality Planning Section
Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO
65102-0176

Preliminary Draft - Fix

**** This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.**

~~[(C)]~~ **Visible emissions over the limitations shown in subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050 Start-Up, Shutdown and Malfunction Conditions].**

~~[(D)]~~ **(B) Failure to meet the requirements of subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.**

~~[(E)]~~ **(C) The following emission sources shall have **continuous opacity monitoring systems (COMS)** installed, calibrated, maintained and operated in accordance with 40 CFR [part] 60, Performance Specification 1:**

- 1. Unless exempt under section (1), [C] coal-fired steam generating units with maximum heat input rate greater than two hundred fifty (250) million British thermal units (Btus)/hour. Exemption: Coal-fired steam generating units that have an annual boiler capacity factor of thirty percent (30%) or less are exempt from this requirement,**
- 2. Portland cement calcining kiln operations; and**
- 3. Sources that require COMS under 10 CSR 10-6.070 New Source Performance Regulations.**

~~[(F)]~~ **(D) [All sources] Unless otherwise specified in this rule, owners or operators shall have the opacity of visible emissions determined by one (1) of the methods in section (5) of this rule.**

~~[(G)]~~ **(E) Compliance Determination. Owners or operators of emission units, not subject to Title V permitting under 10 CSR 10-6.065 Operating Permits**

Links to NSPS/MACT/NESHAPs

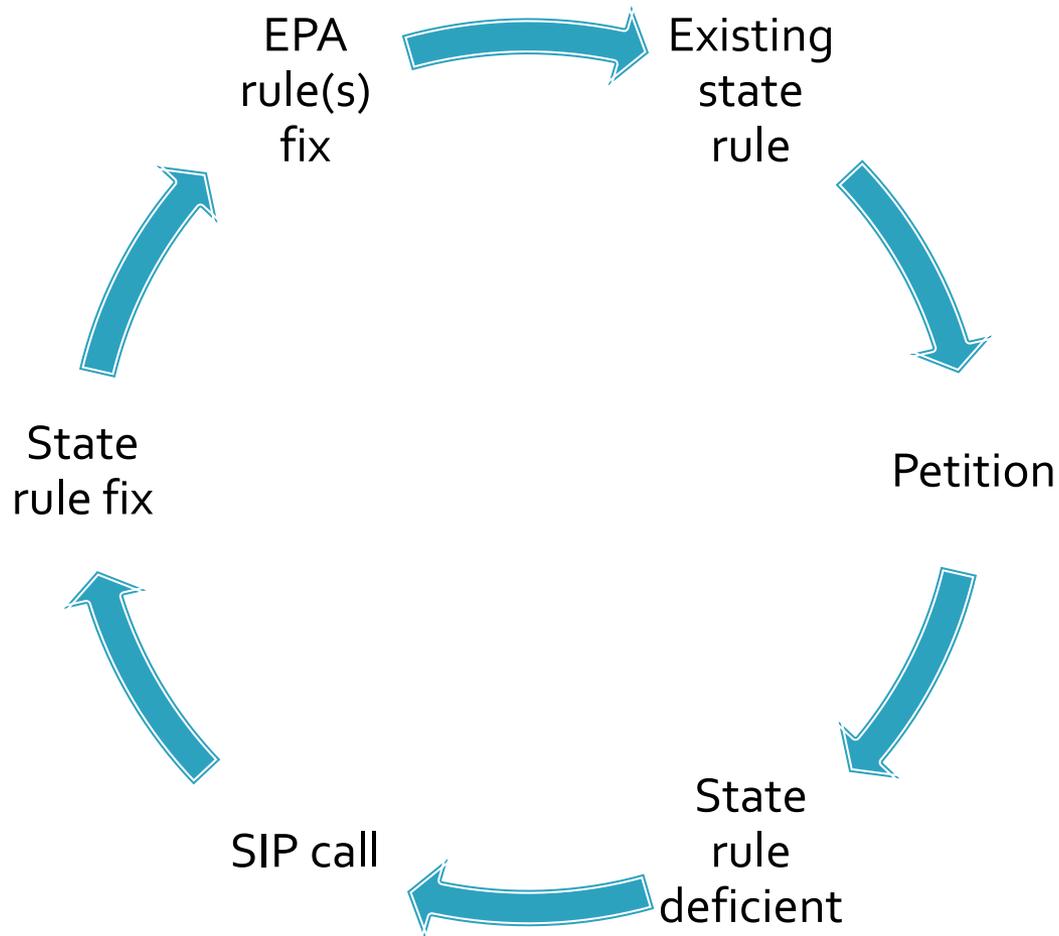


The Fixes

- Boiler MACT
 - Proposes to delete affirmative defense provisions
 - Proposes alternative definition of start-up and shutdown
 - Proposes alternative work practice provisions
 - Comment period closes March 9, 2015
- Mercury and Air Toxics Standard
 - Final action on alternative definition start-up and shutdown
 - Final action on alternative work practice provisions
 - Proposed to delete affirmative defense provisions (signed 12/19/14, but not yet published)



Round and Round





Questions?

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