



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0336; FRL-9999-74-Region 7]

Air Plan Approval; Missouri; Removal of Control of VOC Emissions from Traffic Coatings

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Missouri on December 3, 2018. Missouri requests that the EPA remove a rule related to control of volatile organic compounds (VOCs) from traffic coatings from its SIP. This rescission does not have an adverse effect on air quality. The EPA's approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0336. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Region 7 Office, Air Quality and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7016; email address casburn.tracey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

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I. Background

On July 2, 2019, the EPA proposed rescinding a State rule relating to VOC emissions from traffic coatings from the Missouri SIP in the **Federal Register**. See 84 FR 31538. The EPA solicited comments on the proposed SIP revision and received one comment.

II. What is Being Addressed in this Document?

The EPA is approving a request to revise the Missouri SIP, received on December 3, 2018. Missouri requested that a State rule, found at Title 10, Division 10 of the code of state regulations (CSR)- 10-5.450, *Control of VOC Emissions from Traffic Coatings* - be rescinded from the Missouri SIP. A detailed discussion of the submission was provided in the EPA's July 2, 2019, **Federal Register** document. See 84 FR 31538.

III. Have the Requirements for Approval of a SIP Revision Been Met?

The submission has met the public notice requirements in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. Missouri provided public notice of the SIP revision from February 28, 2018, to March 30, 2018, and received two comments. Missouri did not make any changes to the rescission based on the comments received. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What is the EPA's Response to Comment Received?

The public comment period opened on the date of publication of the EPA's proposed rule in the **Federal Register**, July 2, 2019, and closed on August 1, 2019. See 84 FR 31538. During this period, the EPA received one comment. The comment can be found

in the docket to this rulemaking.

Comment: The commenter questioned whether the submittal was actually a complete SIP revision submittal. Additionally, the commenter believed that the record was incomplete because the submission included a portion of the transcript of the public hearing.

Response: The commenter is concerned the submission was incomplete and asserted that the EPA should reopen the public comment period after Missouri submitted additional information. The commenter is looking for a demonstration that the rule rescission will not affect attainment and maintenance of the national ambient air quality standards and a complete transcript of the public hearing.

First, the EPA agrees with the commenter that Missouri did not include a demonstration with its submission as indicated in its's own response to comment (published in the Missouri Register and included in the docket to this rulemaking). However, the EPA determined that the additional information was not necessary to move forward with SIP revision request. As noted in the notice of proposed rulemaking, Missouri's state rule-10-5.450, *Control of VOC Emissions from Traffic Coatings-* was replaced with a reliance on the Federal rule at 40 CFR part 59, subpart D- *National Volatile Organic Compound Emission Standard for Architectural Coatings*. Both rules have an

identical limit of one hundred fifty (150) grams of volatile organic compounds per liter of coating and one point twenty-six (1.26) pounds per gallon. The Federal rule became effective on September 11, 1998 (63 FR 48877, August 11, 2004). The State rule was approved into the SIP in 2000 (65 FR 8060, February 17, 2000). Because the Federal rule applies to sources in Missouri, the State rule was duplicative, likely unnecessary at the time it was approved into the SIP, and as such, not necessary.

Second, the commenter notes that Missouri included a portion of the transcript of the public hearing in its submission but not the whole transcript. The EPA believes this is an acceptable practice that meets the completeness criteria of 40 CFR part 51, appendix V. Section 2.1(g) of appendix V requires the State provide certification that a public hearing was held consistent with the public hearing requirements in 40 CFR 51.102. 40 CFR 51.102(e) requires the State to prepare and retain, for inspection by the Administrator upon request, a record of each hearing. The record must contain, at a minimum, a list of witnesses with the text of each presentation. Neither the EPA Administrator, nor his designee, the Region 7 Regional Administrator, requested an inspection of the record of the hearing. Although the transcript is not required to meet completeness criteria, the State's website provides contact information for obtaining a copy.

V. What Action is the EPA Taking?

The EPA is amending the Missouri SIP by rescinding 10 CSR 10-5.450. Approval of this revision will ensure consistency between State and federally-approved rules. The rescission will not impact air quality as the State rule is duplicative of the Federal rule.

VI. Incorporation by Reference

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: September 11, 2019.

Mike Brincks,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart-AA Missouri

§52.1320 [Amended]

2. In §52.1320, the table in paragraph (c) is amended by removing the entry "10-5.450" under the heading "Chapter 5-Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area".

[FR Doc. 2019-20320 Filed: 9/20/2019 8:45 am; Publication Date: 9/23/2019]