



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2014-0688; FRL-9918-10-Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri, Control of Emissions from Hand-Fired Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State Implementation Plan (SIP) submitted by the State of Missouri on May 8, 2012, related to a Missouri rule titled "Control of Emissions from Hand-Fired Equipment." Today's action approves a revision to the Missouri SIP that allows the burning of discarded clean wood in non-residential (commercial owned and operated) heating devices, with restrictions to ensure environmentally-sound operation, in the St. Louis metropolitan area.

DATES: This direct final rule will be effective [insert date 60 days after date of publication in the Federal Register], without further notice, unless EPA receives adverse comment by [insert date 30 days after date of publication in the Federal Register].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the Federal Register

informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R07-OAR-2014-0688, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: gonzalez.larry@epa.gov.
3. Mail or Hand Delivery: Larry Gonzalez, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2014-0688. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or email information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that

is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. 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, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Larry Gonzalez, Environmental

Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7041 or by email at gonzalez.larry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is a SIP?
- II. What is the Federal Approval Process for a SIP?
- III. What does Federal Approval of a State Regulation Mean to Me?
- IV. What is Being Addressed in this Document?
- V. Have the Requirements for Approval of a SIP Revision Been Met?
- VI. What Action is EPA Taking?
- VII. Statutory and Executive Order Reviews

I. What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS) established by the EPA. These standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at

its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

II. What is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA and requests that it be included into the state's SIP. EPA must provide public notice and seek additional public comment before it takes final action on the state's request to modify, or revise its implementation plan.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR

outright, but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date by referencing it directly in the CFR.

III. What does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. After the regulation is Federally-approved, EPA is authorized to take enforcement action against violators of the state requirement. As a result of Federal enforceability, citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

IV. What is Being Addressed in this Document?

EPA is taking direct final action to approve a revision to the SIP submitted by the State of Missouri on May 8, 2012, related to Missouri rule 10 CSR 10-5.040, "Control of Emissions from Hand-Fired Equipment." This revision allows commercial facilities to burn clean scrap wood in hand-fired equipment operating in the St. Louis metropolitan area, as long as the device is operated at the same location that the clean scrap wood is generated.

To ensure that emissions of pollutants that result from this provision will not affect the ability of the St. Louis metropolitan area to comply with the National Ambient Air Quality Standards (NAAQS), MDNR estimated the emission increases the area may experience as commercial facilities utilize the provision. The MDNR analysis first estimated the number of facilities that would take advantage of the provision, then estimated the amount of pollutants emitted from hand-fired heating equipment using clean scrap wood as a fuel. The MDNR analysis of emissions relied on EPA's compilation of air pollution emission factors (AP-42) guidance to estimate the emissions from commercial facilities taking advantage of the new provision. The analysis submitted by MDNR determined that on a seasonal basis the greatest pollutant increase would be a less than 0.5 percent increase in carbon monoxide (CO), with other NAAQS pollutants showing increasing that are orders of magnitude lower. A description of the analysis and estimated emissions that result from the provision, prepared by MDNR, is included in the docket for this final rule.

In EPA's review of MDNR's technical analysis, we agree that due to the limited number of commercial facilities utilizing the provision the resulting increase in emissions caused by burning clean wood in heating devices would be negligible. MDNR's analysis assumed individual heating units using a mix of oak and pine with a moisture content indicative of "dry wood" over a normal heating season. The estimated emissions from this analysis show that the devices produce a negligible increase in NAAQS pollutants when compared to the current St. Louis metropolitan area emissions inventory.

In the analysis, MDNR specifically estimated the emissions from the operation of up to 50 devices in the metropolitan area burning clean dry wood at commercial facilities. While it is difficult to establish realistic assumptions for this type of analysis, EPA believes this component of the analysis is reasonable. At the time MDNR submitted the SIP revision request to EPA for approval, there were three commercial facilities in the St. Louis metropolitan area known to be using clean scrap wood for heating purposes in five different combustion/heating devices. These devices were

operating at one pallet repair facility, one lumber yard, and one arborist. These facilities generate unadulterated, clean scrap wood waste as a normal course of doing business.

To calculate the potential emissions from the devices, MDNR used EPA's AP-42 guidance and assumed the device[s] would only operate during the heating season (22 weeks) for comfort heating at the facilities as opposed to operating year round for the purpose of destroying secondary materials generated by the commercial activity. EPA believes estimating emissions based on the use of heating devices only during the heating season is a reasonable assumption to make to increase the accuracy of the estimate. MDNR's analysis estimated the emissions from six pollutants: Particulate Matter (PM) of 10 microns and less than 2.5 microns in size, CO, oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and volatile organic compounds (VOCs). The analysis results are shown in table 1 below¹.

¹ The 2008 baseline emissions, used in the comparison shown in table 1, was collected from EPA's 2008 emissions inventory for the St. Louis metropolitan area and includes emissions from point and nonpoint sources in the following counties and municipalities in MO: Franklin County; Jefferson County; St. Charles County; St. Louis County; and St. Louis City.

Table 1							
Pollutant	Emissions per Device (tons)	2008 Baseline Emissions (tons)	Increase per Device (%)	Number of Devices			
				5		50	
				tons	%	tons	%
PM _{2.5}	0.0815	16,670	0.000489	0.4077	0.00245	4.0771	0.02446
PM ₁₀	0.0947	109,306	0.000087	0.4735	0.00043	4.7347	0.00433
CO	0.1578	33,867	0.000466	0.7891	0.00233	7.8912	0.02330
NO _x	0.1289	44,285	0.000291	0.6444	0.00146	6.4445	0.01455
SO _x	0.0066	213,756	0.000003	0.0329	0.00002	0.3288	0.00015
VOC	0.0045	43,430	0.000010	0.0224	0.00005	0.2236	0.00051

The analysis shows that increases in emissions in the St. Louis metropolitan area produced through the use of this provision are insignificant, and will not meaningfully impact the attainment status of the area with respect to the NAAQS.

The St. Louis metropolitan area is currently classified as moderate nonattainment for PM_{2.5} and marginal nonattainment for ozone. PM_{2.5}, or fine particulate matter is produced by a variety of commercial and noncommercial sources in the St. Louis metropolitan area, and based on the analysis even if 50 commercial facilities were to begin heating with scrap wood generated onsite, the resulting emissions would only increase the current PM_{2.5} emission's inventory by a factor of 0.0002 (or 4.1 tons out of 16,670 tons). EPA agrees that this relatively slight increase in PM_{2.5} emissions will not have a measurable impact on ambient PM_{2.5} concentrations in the area.

Furthermore emissions trends for PM_{2.5} currently depict a decrease in ambient concentrations and this trending decrease in PM_{2.5} far exceeds the emissions increase in PM_{2.5} projected by MDNR's analysis.

Ozone, the other pollutant that the St. Louis metropolitan area is currently not attaining, is not directly emitted into the atmosphere like PM or NO_x. MDNR's analysis did not specifically address ozone concentrations; however, due to a number of factors assessed by EPA, we agree that the impact on attaining the ozone NAAQS will be minimal. In support of this position, EPA notes that the restrictions for the exceptions will greatly limit the number of commercial facilities using the provision and therefore limit additional pollutants released into the St. Louis metropolitan airshed. Also, EPA considered that additional building heating is needed during periods of the year in which colder temperatures and shorter periods of daylight exist (months preceding and following the winter solstice) thus, minimizing impacts on ambient ozone concentrations. In summary, EPA agrees with MDNR's analysis that any additional ozone precursor emissions that the revised provision adds to the area

will not contribute to the formation of ground level ozone in a meaningful way, because the emissions occur during a period of the year in which the conditions that favor ozone formation do not exist.

MDNR solicited comments on the proposed provision during the process to finalize this revision. In response to these solicitations, MDNR received fifteen comments (two from EPA Region 7, one from the commercial operator originally requesting the rule change, and the rest from the St. Louis Health Department). In general, the comments highlighted technical aspects of the provision that required modification to increase clarity and aid compliance. MDNR modified the proposed provision to address comments from EPA and the St. Louis Health Department.

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

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. and meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

VI. What Action is EPA Taking?

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision, if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

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, 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" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- 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 Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 24, 2014.

Karl Brooks,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency 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

2. In §52.1320, the table in paragraph (c) is amended by revising the table heading entitled "Chapter 5-Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area" and the entry under "Chapter 5-Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area" for "10-5.040" to read as follows:

§52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 5 - Air Quality Regulations and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
* * * * *				
10-5.040	Control of Emissions from Hand-Fired Equipment	05/30/12	[Insert the date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				

[FR Doc. 2014-24866 Filed 10/20/2014 at 8:45 am; Publication
Date: 10/21/2014]