



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0400; FRL-10011-87-Region 7]

**Air Plan Approval; Missouri; Removal of Control of Emissions
from Bakery Ovens**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) revision submitted by the State of Missouri on December 3, 2018 and supplemented by letter on May 22, 2019. Missouri requests that the EPA remove a rule related to control of emissions from bakery ovens in the Kansas City, Missouri area from its SIP. This removal does not have an adverse effect on air quality. The EPA's approval of this rule revision is 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-2019-0400. 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: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7714; email address stone.william@epa.gov

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

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I. What is Being Addressed in this Document?

The EPA is approving the removal of 10 Code of State Regulation (CSR) 10-2.360, *Control of Emissions from Bakery Ovens*, from the Missouri SIP.

As explained in detail in the EPA's proposed rule, Missouri has demonstrated that removal of 10 CSR 10-2.360 will not interfere with attainment of the NAAQS, reasonable further progress¹ or any other applicable requirement of the CAA because the single source subject to the rule has permanently ceased operations and removal of the rule will not cause VOC emissions to increase. 85 FR 22378, April 22, 2020. Therefore, the EPA is finalizing its proposal to remove 10 CSR 10-2.360 from the SIP.

II. 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. The State provided public notice on this SIP revision from February 28, 2018, to April 5, 2018 and received five comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with section 110(l) of the CAA.

¹ Reasonable further progress is not applicable to the Kansas City Area because the area is in attainment of all applicable ozone standards.

Missouri's May 22, 2019 letter addressed the EPA's comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule opened April 22, 2020, the date of its publication in the *Federal Register* and closed on May 22, 2020. During this period, the EPA received four comments. Three of the comments were not adverse and do not require a response from the EPA. The remaining comment is addressed in this document.

Comment: The commenter stated that they did not support this action because industrial cooking produces significant amounts of black carbon or soot and indoor air pollution, referring to cooking over open fires or on inefficient cookstoves. The commenter also requested that a comprehensive study should be conducted for each existing bakery in the Kansas City Area that is currently operating under Missouri's SIP rule 10 CSR 2.360 before any deregulation. The commenter also stated that the rule should be changed to apply only to existing bakeries and to exclude any overlap with the NSR permitting program.

Response: The regulation being rescinded applies to commercial bakery ovens, not cookstoves. Commercial bakery ovens differ from cookstoves in important ways. Simple cookstoves burn

solid fuels such as coal, wood, and animal dung.² These cookstoves emit large amounts of pollutants, including particulate matter (PM), carbon monoxide (CO), metals, hydrocarbons, oxygenated organic compounds, and chlorinated organic compounds, depending on fuel and stove types.

By contrast, commercial bakery ovens burn gaseous fuels like natural gas.³ The primary pollutant produced in the commercial bakery process is VOC's from the yeast metabolism and emitted when the dough is exposed to the high temperatures of the bakery oven. The emissions are vented outdoors often through elevated stacks.

This rule only controlled VOC emissions from commercial bakery ovens and does not impact emissions from cookstoves.

The commenter requests a study of other bakeries in the Kansas City Area operating under 10 CSR 10-2.360. As we stated in the proposal, the only source that was subject to the rule, has been shut down since 2001 and was dismantled. No new commercial bakery oven facilities have commenced operation in the area since Missouri developed this rule. As stated in the proposal, air quality in the Kansas City area has also steadily improved. The air monitoring data for the area can be found at <https://www.epa.gov/air-trends/air-quality-design-values>.

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3673244/>

³ https://www3.epa.gov/airquality/ctg_act/199212_voc_epa453_r-92-017_bakery_ovens.pdf

The commenter proposes that the rule should be changed to only apply to existing sources so that there is no overlap with NSR permitting. As stated in the proposal and above, there are no sources currently subject to the rule. New sources and existing sources who meet certain criteria when modifying their facility are subject to NSR permitting. The NSR rules are contained in a separate portion of the Clean Air Act and work together with RACT rules, such as this one, to ensure the air quality goals of the Clean Air Act are met.

IV. What Action is the EPA Taking?

The EPA is taking final action to approve Missouri's request to remove 10 CSR 10-2.360 from the SIP.

V. 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 Regulation from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. 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 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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. 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 March 24, 2020. 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: July 1, 2020.

James Gulliford,
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, amend the table in paragraph (c) by removing the entry "10-2.360" under the heading "Chapter 2-Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area".

[FR Doc. 2020-14653 Filed: 7/17/2020 8:45 am; Publication Date: 7/20/2020]