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*Case or matter* means any civil or criminal proceeding before a court of law, administrative board, hearing officer, or other body conducting a judicial or administrative proceeding. The term also includes proceedings in legislative bodies other than the Congress of the United States.

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*Document* includes all information falling within the scope of the terms “documents” and “electronically stored information” in Federal Rule of Civil Procedure 34(a) and any analogous rules applicable to the case or matter in which a demand is made.

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*Testify or testimony* include in-person oral statements before any body conducting a judicial, administrative, or legislative proceeding, statements made in depositions, answers to interrogatories, declarations, affidavits, or other similar documents.

**Ruth Stevenson,**

*Chief Counsel, Federal Compliance.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2020-0620; FRL-10021-40-Region 7]

### Air Plan Approval; Missouri; Removal of Control of Emissions From Solvent Cleanup Operations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan

(SIP) revision submitted by the State of Missouri on January 15, 2019, and supplemented by letter on June 14, 2019. Missouri requests that the EPA remove a rule related to control of emissions from the solvent cleanup operations 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) and will ensure consistency between state and federally-approved rules.

**DATES:** This final rule is effective on April 16, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2020-0620. All documents in the docket are listed on the <https://www.regulations.gov> website. 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](mailto: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 Regulations (CSR) 10-2.215, *Control of Emissions from Solvent Cleanup Operations*, from the Missouri SIP.

At the time that the rule was approved into the SIP, 10 CSR 10-2.215 applied to any person in Clay, Jackson and Platte Counties in Missouri that performs or allows the performance of any cleaning operation involving the use of a volatile organic compound (VOC) solvent or solvent solution that

emitted over 500 pounds per day of VOCs. According to the June 14, 2019 letter from the Missouri Department of Natural Resources, available in the docket for this action, Missouri rescinded the rule because there are no sources subject to the rule, and the rule is no longer necessary for attainment and maintenance of the 1979, 1997, or 2008 National Ambient Air Quality Standards (NAAQS) for Ozone.

As explained in detail in the EPA’s proposed rule, Missouri has demonstrated that removal of 10 CSR 10-2.215 will not interfere with attainment of the NAAQS, reasonable further progress<sup>1</sup> or any other applicable requirement of the CAA because there are no existing sources that are subject to the rule, and therefore removal of the rule will not cause VOC emissions to increase. 85 FR 82995, December 21, 2020.

The EPA solicited comments on the proposed revision to Missouri’s SIP, and did not receive any comments. Therefore, the EPA is finalizing its proposal to remove 10 CSR 10-2.215 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. Missouri’s June 14, 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. What action is the EPA taking?

The EPA is taking final action to approve Missouri’s request to remove 10 CSR 2.215 from the SIP.

### IV. 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

<sup>1</sup> RFP is not applicable to the Kansas City Area because the area is in attainment of all applicable ozone standards.

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

#### V. 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);
  - 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 the 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 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. 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. The 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 May 17, 2021. 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: March 10, 2021.

**Edward H. Chu,**

*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 "10-2.215" under the heading "Chapter 2-Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area".

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Medicare & Medicaid Services

#### 42 CFR Part 405

[CMS-3372-IFC]

RIN 0938-AT88

#### Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of "Reasonable and Necessary"; Delay of Effective Date; Public Comment Period

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Interim final rule; delayed effective date; request for comments.

**SUMMARY:** Consistent with the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled "Regulatory Freeze Pending Review," this document delays the effective date of the final rule titled, "Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of 'Reasonable and Necessary'" published in the **Federal Register** on January 14, 2021, for 60 days. We are providing a 30-day public comment period to allow interested parties to provide comments about issues of fact, law, and policy raised by the rule and this information could be considered by the agency in determining whether further actions are appropriate, which could include whether to revise or rescind.

#### DATES:

**Effective date:** As of March 12, 2021, the effective date of the final rule amending 42 CFR part 405 published at 86 FR 2987 on January 14, 2021, is delayed by this interim final rule until May 15, 2021.

**Comment period:** To be assured consideration, comments on the January 14, 2021 final rule and "Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of 'Reasonable and