

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA–R07–OAR–2026–5842; FRL–13521–01–R7]****Air Plan Approval; Missouri; Moderate Attainment Plan Elements for the 2015 8-Hour Ozone Standard for the Missouri Portion of the St. Louis Nonattainment Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a state implementation plan (SIP) revision submitted by the State of Missouri on September 6, 2023, as meeting Clean Air Act (CAA) requirements for the 2015 8-hour ozone national ambient air quality standards (NAAQS) in the Missouri portion of the St. Louis, MO-IL bi-state nonattainment area. Specifically, the EPA is proposing approval of the submitted vehicle inspection and maintenance (I/M) program, nonattainment new source review (NNSR) program, and reasonably available control technology (RACT) determinations for major sources of volatile organic compounds (VOC) and Nitrogen Oxides (NO_x) SIP elements as meeting applicable Moderate nonattainment area requirements for the 2015 8-hour ozone NAAQS. The EPA will address the remaining SIP elements in a separate action.

DATES: Comments must be received on or before September 14, 2026.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2026–5842 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Written Comments” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ashley Keas, Environmental Protection Agency, Region 7 Office, Air and Radiation Division, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7629; email address: keas.ashley@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Written Comments
- II. What is being addressed in this document?
- III. Background
- IV. Review of Missouri’s SIP Submission
 - A. Vehicle Inspection and Maintenance Program
 - B. Nonattainment New Source Review Program
 - C. Reasonably Available Control Technology
- V. Have the requirements for approval of a SIP revision been met?
- VI. Proposed Action
- VII. Incorporation by Reference
- VIII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2026–5842, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is being addressed in this document?

The EPA is proposing to approve certain elements of the SIP revision Missouri submitted on September 6, 2023. Specifically, the EPA is proposing approval of the following SIP elements as meeting applicable Moderate area requirements for the 2015 8-hour ozone NAAQS: vehicle inspection and maintenance (I/M) program, nonattainment new source review program (NNSR), and reasonably available control technology (RACT) determinations for major stationary sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) and for VOC sources subject to a Control

Techniques Guideline (CTG). On February 26, 2026, the EPA published a proposed clean data determination for the St. Louis area.¹ If finalized, the clean data determination will suspend certain SIP planning requirements for the area, including the requirements to submit attainment demonstrations and associated reasonably available control measures (RACT), reasonable further progress (RFP) plans, contingency measures for failure to attain or make reasonable further progress, and other attainment related SIP submissions for as long as the area continues to attain the 2015 ozone NAAQS. Therefore, the EPA will address the remaining SIP elements in a separate action. The basis for our proposed action is discussed in the following sections. Further details on the EPA’s analysis of the State’s RACT determinations can be found in the technical support document (TSD) included in this rulemaking docket.

III. Background

The EPA has determined that exposure to certain levels of ground-level ozone is harmful to human health. On October 1, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under the EPA’s regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires the EPA to designate as nonattainment any areas that are violating the NAAQS. Based on quality-assured ozone monitoring data from 2015–2017, the EPA designated the St. Louis, MO-IL bistate area as Marginal nonattainment for the 2015 Ozone NAAQS with an effective date of August 3, 2018 (83 FR 25776). At that time, the area included Boles Township of Franklin County, St. Charles County, St. Louis County, and St. Louis City in Missouri, and Madison and St. Clair Counties in Illinois. As part of that same action, the EPA designated Jefferson County and the remaining portion of Franklin County, in Missouri, and Monroe County in Illinois, as attainment/unclassifiable. Several

¹ The EPA’s proposed clean data determination for the Missouri portion is available at 91 FR 9519, and the Illinois portion is available at 91 FR 9516.

environmental and public health advocacy groups, three local government agencies, and the State of Illinois filed a total of six petitions for review challenging the EPA's 2015 ozone NAAQS designations promulgated on April 30, 2018, including the EPA's designation for the St. Louis, MO-IL nonattainment area. The District of Columbia Circuit Court consolidated the petitions into a single case, *Clean Wisconsin v. EPA*, 964 F.3d 1145 (D.C. Cir. 2020).

On July 10, 2020, the U.S. Court of Appeals for the District of Columbia granted the EPA's request for a voluntary remand of the Jefferson County, Missouri, and Monroe County, Illinois, designations (among other designations). The Court upheld the EPA's designation of Boles Township as nonattainment and the remainder of Franklin County as attainment/unclassifiable. In response to the Court's remand, the EPA revised the Jefferson County, Missouri, and Monroe County, Illinois designation to nonattainment on June 14, 2021 (86 FR 31438). The St. Louis, MO-IL nonattainment area for the 2015 ozone NAAQS consists of Boles Township in Franklin County, Jefferson County, St. Charles County, St. Louis County, and St. Louis City in Missouri; and Madison County, Monroe County, and St. Clair County in Illinois.

On October 7, 2022 (87 FR 60897), the EPA determined that the St. Louis area did not attain the standard by the Marginal area attainment date, and the area was reclassified to Moderate by operation of law. More recently, on November 25, 2024 (89 FR 92816), and December 17, 2024 (89 FR 101901), the EPA determined the Missouri portion of the area and the Illinois portion of the area, respectively, did not attain the standards by the Moderate attainment date, and both portions of the area were reclassified as Serious by operation of law.² On February 6, 2023, the EPA finalized approval of Missouri's Marginal plan elements (88 FR 7885). Missouri's submission to meet the Moderate ozone nonattainment area requirements is the subject of this action.

Emissions of VOC and NO_x contribute to the formation of ground-level ozone, which harms human health and the environment. Sections 172(c)(1),

182(b)(2), and 182(f) of the CAA require States to implement RACT in ozone nonattainment areas classified as Moderate and higher. Specifically, these areas are required to implement RACT for all major sources of VOC and NO_x and for all VOC sources covered by a Control Techniques Guideline. A CTG provides control technology recommendations to inform State, local, and Tribal air agencies as to what constitutes RACT for categories of VOC sources. Air agencies can use the recommendations in the CTG to inform their own determination as to what constitutes RACT. If there are no sources covered by a certain CTG within a nonattainment area, a State may submit a negative declaration, in place of regulatory requirements to apply RACT for that category of sources. The EPA defines RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762).

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for States with nonattainment areas that are required to submit them pursuant to CAA section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

CAA section 182, 42 U.S.C. 7511a, outlines SIP requirements applicable to ozone nonattainment areas for each classification. On December 6, 2018, the EPA published the final rule outlining the nonattainment area SIP requirements for the 2015 8-hour ozone standards. 83 FR 62998 (December 6, 2018); see 40 CFR part 51, subpart CC. Examples of these requirements include submission of modeling and attainment demonstration, reasonable further progress demonstration, reasonably available control technology, reasonably available control measures, and contingency measures. Moderate area classification triggers additional State requirements established under the provisions of the EPA's ozone implementation rule for the 2015 8-hour ozone NAAQS.

The EPA's SIP Requirements Rule for the 2008 ozone NAAQS indicates that States may meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls for a prior ozone NAAQS continue to represent adequate RACT control levels for the 2008 ozone NAAQS, or with a

combination of these two approaches. See 80 FR 12264, 12278–79 (March 6, 2015). As previously stated, a State may submit a negative declaration in instances where there are no sources covered by a particular CTG. The EPA's SIP Requirements Rule for the 2015 ozone NAAQS retains the existing general 2008 RACT requirements for purposes of the 2015 ozone NAAQS. See 83 FR 63007 (December 6, 2018).

IV. Review of Missouri's SIP Submission

The State of Missouri submitted the Moderate ozone attainment plan for the St. Louis ozone nonattainment area to the EPA on September 6, 2023. This submission contains a number of attainment plan elements, including but not limited to: a 15% reasonable further progress (RFP) plan, contingency measures, I/M program, NNSR program, RACT determinations for major sources of VOC and NO_x and for VOC sources subject to a CTG and negative declarations, and an attainment demonstration. In this action, the EPA is proposing to approve the State's I/M program, NNSR program, and the VOC and NO_x RACT SIP elements. The EPA's review of these specific elements follows in this section. The EPA will address the remaining elements of the State's Moderate plan submittal in a separate action.

Section 182(c)(1) of the CAA requires States with ozone nonattainment areas classified as Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO_x and VOC. The EPA initiated the Photochemical Assessment Monitoring Stations (PAMS) program in February 1993. See 40 CFR part 58, appendix D. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as Serious, Severe, or Extreme. Since that time, the EPA has concluded that requiring enhanced monitoring for ozone nonattainment areas classified as Moderate or above is appropriate for the purposes of monitoring ambient air quality and better understanding ozone pollution. In the EPA's revision to the ozone standard on October 1, 2015, the EPA relied on the authority provided in sections 103(c), 110(a)(2)(B), 114(a), and 301(a)(1) of the CAA to expand the PAMS applicability to areas other than those that are Serious or above ozone nonattainment and to revise substantially the PAMS requirements in 40 CFR part 58, appendix D (80 FR 65292). Specifically, this rule required States with Moderate and above ozone nonattainment areas to develop and

² The EPA's rules dated November 24, 2024, and December 17, 2024, are the subject of ongoing litigation in the U.S. Court of Appeals for the Eighth Circuit and the U.S. Court of Appeals for the Seventh Circuit, respectively. Both cases are currently held in abeyance. The U.S. Court of Appeals for the Eighth Circuit granted Missouri's motion to stay the effectiveness of the underlying action pending judicial review on June 6, 2025.

implement an enhanced monitoring plan (EMP). These plans should detail enhanced ozone and ozone precursor monitoring activities to be performed to better understand area-specific ozone issues.

Missouri submitted the requisite enhanced monitoring plan to the EPA on October 11, 2024, and an update on January 29, 2026.³ Missouri's plan meets the requirements of 40 CFR part 58, appendix D.5(h) by maintaining an air monitoring network in the Missouri portion of the St. Louis area and working with the EPA through the air monitoring network review process to determine the adequacy of the ozone monitoring network, additional monitoring needs, and recommended monitor decommissions. Air monitoring data from the air monitoring network in the St. Louis area will continue to be quality assured, reported, and certified according to 40 CFR part 58. As part of the regular Annual Ambient Air Monitoring Plan and 5-year monitoring assessments reviews, the EPA sent a response letter to Missouri with approval of its enhanced monitoring plan on December 19, 2025.

Additionally, Missouri entered into source-specific consent agreements for two sources of VOC emissions and three sources of NO_x emissions located in the St. Louis area. These source-specific agreements are the enforceable mechanism for the respective RACT determinations for these specific sources. As part of this action, the EPA is proposing to approve these consent agreements, thereby incorporating them by reference into the Missouri SIP to become permanent and federally enforceable. These five source-specific agreements and associated RACT analyses are further discussed later in this section as well as in the TSD available in the docket for this action.

A. Vehicle Inspection and Maintenance Program

Under CAA section 182(b)(4), States with Moderate ozone nonattainment areas must implement an I/M program that is at least as stringent as the benchmark program of the EPA's Basic I/M performance standard. The goal of I/M programs is to identify and repair high-emitting vehicles to improve air

quality in areas that are not attaining the NAAQS.⁴ The CAA generally requires I/M programs for areas across the country that meet certain criteria, such as air quality status, population, and/or geographic location. The CAA also directed the EPA to establish minimum performance standards for Basic and Enhanced I/M programs. In general, States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the respective performance standard. The EPA's requirements for Basic and Enhanced I/M programs are found in 40 CFR part 51, subpart S.

Missouri has operated an I/M program in the St. Louis area in some capacity since 1984. The current program, the Gateway Vehicle Inspection Program (GVIP), has been in operation since 2007. The statutory and regulatory authority contained in sections 643.300 to 643.355, Revised Statutes of Missouri (RsMO) and 10 CSR 10–5.381, authorizes the State to implement an I/M program to reduce air pollution from motor vehicles in the area. The Missouri I/M program requires on-board diagnostic (OBD) testing of gasoline powered motor light duty vehicles and trucks that are 1996 model year (MY) and newer, and diesel powered light duty vehicles and trucks that are 1997 MY and newer. The emissions inspection consists of an OBD test per 40 CFR 51.357(a)(12) and the standards established in 40 CFR 85.2207 and 85.2222. Missouri's GVIP differs slightly from the EPA's Basic I/M benchmark program but includes certain program elements or coverage differences (such as inclusion of light duty trucks) that, as described below, still result in greater emissions reductions than the EPA's Basic I/M benchmark program.

Missouri's Request To Replace the 2019 I/M Plan With the 2023 I/M Plan

The State submitted an I/M SIP (plan) on November 12, 2019, (hereinafter referred to as the 2019 I/M plan) and updated the State I/M rule for the St. Louis area (10 CSR 10–5.381, *Onboard Diagnostics Motor Vehicle Emissions Inspection*) effective May 30, 2022. The 2019 I/M plan removed vehicles in Franklin and Jefferson Counties from the I/M Program in the St. Louis area, while the State's I/M rule continued to include I/M requirements for vehicles in Jefferson County. On September 13, 2022, the EPA fully approved the

updated State rule but did not act on the portion of the 2019 I/M plan that removed Jefferson County vehicles from I/M requirements (see 87 FR 55918). In appendix B to its 2023 Moderate plan submittal, Missouri includes an updated I/M plan SIP (hereinafter referred to as the 2023 I/M plan) intended to fully replace the 2019 I/M plan and affirms that Jefferson County vehicles are included in the I/M program (consistent with 10 CSR 10–5.381). Missouri requests that the EPA approve the removal of the 2019 I/M plan from the federally enforceable SIP and replace it with the 2023 I/M plan.

The EPA compared the 2023 I/M plan with the 2019 I/M plan and determined that all I/M program design elements such as network type, test frequency, model year coverage, exemptions, vehicle type coverage, emissions type tests, emissions control device inspections, evaporative system function check, waiver rate, and compliance rate are identical. Therefore, we find there are no differences that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA, consistent with CAA section 110(l).

Missouri's I/M Program Certification as Meeting the EPA's Basic I/M Program Benchmark

Consistent with the I/M regulations, a State with an existing I/M program that is being submitted to the EPA to satisfy the I/M SIP requirement for a different ozone NAAQS would need to conduct and submit a performance standard modeling (PSM) analysis as well as make any necessary program revisions as part of its Moderate area SIP submission to ensure that its I/M program is operating at or above the Basic I/M performance standard level for the 2015 ozone NAAQS. When certifying that an existing I/M program meets applicable I/M requirements for a new NAAQS, it is necessary that the State ensures that an I/M program reflects the State's I/M rule's required elements for a Basic or Enhanced I/M program and the applicable classification for the new ozone NAAQS, and meets the EPA's I/M rule requirements. If an I/M program for a previous NAAQS contains the required elements for a new NAAQS, then the State may determine through the performance standard modeling analysis that an existing SIP-approved program would meet the applicable performance standard for purposes of the 2015 ozone NAAQS without modification. As noted above, a State's program elements may differ from the EPA's Basic benchmark

³ Missouri's 2025 monitoring network plan references the October 2024 EMP submission to the EPA, and Missouri's 2025 monitoring network assessment included a revised EMP in appendix C. The 2025 monitoring network plan was available for public comment and the State responded to comments received in their final submission to the EPA in August 2025. The EPA approved the 2025 network plan assessment and network plan via letter dated December 19, 2025. These documents are available in the docket for this action.

⁴ For more information, see *Overview of Vehicle Inspection and Maintenance (I/M) Programs* (EPA-420-F-21-067, October 2021) at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013CC0.pdf>.

I/M program elements so long as the overall emissions reductions meet or exceed the Basic benchmark program based on the PSM.

In Attachment B–3 to the 2023 Moderate plan submittal, Missouri provides an updated PSM analysis demonstrating that the GVIP meets or exceeds the EPA’s Basic I/M requirements for a Moderate ozone nonattainment area.⁵ The State conducted the required PSM following the EPA’s guidance document titled, *Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions*

Model (EPA’s PSM Guidance).⁶ This guidance identifies the attainment date as the appropriate analysis year for areas that have been reclassified.⁷

The Moderate attainment date for the St. Louis area for the 2015 ozone NAAQS was August 3, 2024. However, because that date falls in the middle of the ozone season, 2023 is the last complete year that was used to determine whether the area achieves attainment by the attainment date. Therefore, Missouri appropriately chose 2023 as the analysis year to be consistent with the year in which attainment would be determined.

Missouri’s Moderate plan I/M performance standard modeling was

prepared using the EPA’s MOtor Vehicle Emission Simulator model version 3 (MOVES3) model, the latest version of the model available at the time of the State’s SIP development and submission. Based on the State’s PSM, the State certifies that the existing I/M program meets the Basic I/M program requirements of CAA section 182(b)(4) for the St. Louis area under the 2015 8-hour ozone NAAQS. In Table 1, the EPA provides a comparison between Missouri’s GVIP elements and the appropriate Basic I/M performance standard for areas designated nonattainment for the 8-hour ozone NAAQS, found at 40 CFR 51.352(e).

TABLE 1—COMPARISON OF MISSOURI GVIP ELEMENTS TO THE EPA’S BASIC I/M BENCHMARK PROGRAM

I/M design element	Basic I/M benchmark program	Missouri GVIP
Network type	Centralized Testing	Decentralized Testing.
Start Date	4 years after effective date	Continuing.
Test Frequency	Annual	Biannual.
Model Year Coverage	1968 and newer	1996 and newer for gasoline powered light duty vehicles and gasoline powered light duty trucks; 1997 and newer diesel powered light duty vehicles and diesel light duty trucks.
Exemptions ⁸	None	First two years, first four years and under 40,000 miles, under 12,000 miles in two years, motorcycles, heavy duty vehicles, electric, hydrogen powered, plug-in hybrid, out of area, historic vehicles, school buses, tactical military vehicles, under 60 days at a Federal installation, and specially constructed vehicles.
Vehicle Type Coverage	Light duty vehicles	Gasoline powered and diesel powered light duty vehicles and light duty trucks.
Emission Type Test	1968–2000: Idle test	1996–newer: OBD Checks.
Emission Control Device Inspections.	2001–newer: OBD Checks	
Evaporative System Function Check.	None	Only if requesting cost based waiver.
Stringency	2001 and newer light duty vehicles as part of the OBD system check.	1996 and newer light duty vehicles and trucks as part of the OBD system check.
Waiver Rate	A 20% emission test failure rate among pre-1981 model year vehicles.	N/A.
Compliance Rate	0%	3% or less.
	100%	99.34% for light duty vehicle; 95.46% for light duty truck used as a passenger truck; 74.76% for light duty truck used as a light commercial truck. ⁹

The State’s MOVES modeling runs for 2023 compare the GVIP with the EPA’s benchmark program for the Basic I/M performance standard. Table 2 shows

the results of the State’s PSM analysis, which demonstrate that the GVIP satisfies the Basic I/M program requirements because the GVIP results

in lower emissions of the ozone precursors, VOC and NO_x, than the Federal benchmark Basic I/M program.

⁵ Attachment B–3 to the State’s 2023 Moderate plan submittal is included in the docket for this action.

⁶ EPA–420–B–22–034, *Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model*, October 2022.

⁷ October 2022 Performance Standard Modeling Guidance, p. 10.

⁸ This is a summary of the exemptions. Please see Missouri’s regulation at 10 CSR 10–5.381(1)(B) for the exact requirements to qualify for these exemptions and any necessary steps for vehicle owners.

⁹ These numbers are Compliance Factors as used by MOVES to adjust the Compliance Rates for waivers issued and for the percentage of the subject fleet in the applicable MOVES source types. For more information, see October 2022 Performance Standard Modeling Guidance, p. 24.

TABLE 2—PSM RESULTS FOR MISSOURI COUNTIES SUBJECT TO GVIP
[Tons per July weekday]

County/area	GVIP NO _x (tpd)	Basic I/M benchmark NO _x (tpd)	Difference NO _x (tpd)*	GVIP VOC (tpd)	Basic I/M benchmark VOC (tpd)	Difference VOC (tpd)*
Jefferson County	3.78	3.87	−0.09	1.88	1.93	−0.05
St. Charles County	6.39	6.52	−0.13	3.23	3.30	−0.07
St. Louis County	20.52	20.89	−0.37	8.69	8.85	−0.16
St. Louis City	7.54	7.62	−0.08	2.10	2.13	−0.03
Missouri Area Total	38.23	38.90	−0.67	15.90	16.21	−0.31

* A negative value indicates the GVIP program results in lower emissions than the EPA's Basic I/M performance standard. A positive value indicates the GVIP program results in higher emissions than the EPA's Basic I/M performance standard.

The EPA has reviewed Missouri's 2023 I/M program submittal and determined that the emission reductions from the GVIP meet or exceed the Basic I/M performance standard. The EPA finds that the modeling analysis was conducted in accordance with the EPA's October 2022 Performance Standard Modeling Guidance. Since the St. Louis I/M program (GVIP) meets the applicable I/M performance requirements and also meets the Basic I/M requirements of CAA section 182(b)(4) and 40 CFR 51, subpart S, we are proposing to approve Missouri's I/M program Moderate SIP element for the St. Louis nonattainment area under the 2015 ozone NAAQS. And for the reasons described previously, the EPA is proposing to remove the 2019 I/M plan from Missouri's federally enforceable SIP and to replace it with the 2023 I/M plan.

B. Nonattainment New Source Review Program

CAA section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and CAA section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Specifically, these provisions require that the State's plan provide for permits for the construction and operation of new or modified major stationary sources within the nonattainment area, in accordance with CAA section 173. The EPA most recently approved revisions to the State's nonattainment new source review provisions as part of the State's construction permits required rule, 10 Code of State Regulations (CSR) 10–6.060, on April 23, 2026. (91 FR 21724). These provisions provide for appropriate new source review for sources of ozone precursors undergoing construction or major modification in

the St. Louis nonattainment area without need for modification of the SIP-approved rule. Therefore, the EPA concludes that the requirements of CAA section 172(c)(4) and (5) have been met and proposes to approve this element of the State's Moderate ozone plan. Additionally, the EPA approved Missouri's Marginal plan on December 7, 2022, which the EPA also found satisfied these CAA requirements for the 2015 8-hour ozone standard for the St. Louis nonattainment area (See 87 FR 74573).

C. Reasonably Available Control Technology

In appendix C of Missouri's 2023 Moderate plan submittal, the State includes a demonstration and discussion of the State's RACT analysis for all major sources of VOC and NO_x in the nonattainment area. The State's demonstration also addresses the CTG covered sources and affirms negative declarations for CTG categories for which there are no subject sources in the nonattainment area. For each major source or CTG source category, the State determines which State rule requirements or other applicable requirements constitute RACT for a given source category. Table 1 of the State's RACT demonstration lists all VOC source categories along with the relevant CTG or alternative control technology (ACT) document, the relevant State or federal regulation, and the State's RACT determination for that category. Table 2 similarly lists the NO_x source categories and includes the relevant ACT document, applicable State or federal requirements, and the State's RACT determination for that category. Table 3 lists all St. Louis area VOC RACT rules that are currently SIP-approved as well as the purpose and applicability of each rule. Table 4 lists the State rules which incorporate by reference the relevant federal requirements such as New Source

Performance Standards, Maximum Achievable Control Technology, and National Emission Standards for Hazardous Air Pollutants requirements for various pollutant and source categories. The EPA's TSD tables note the relevant State regulation or other applicable requirement which serves as the enforceable mechanism for each source or source category's RACT determination. Table 5 presents information for each major VOC source in the St. Louis nonattainment area, including the relevant emissions information as well as applicable standards and rules. Table 6 presents information for each major NO_x source in the St. Louis nonattainment area, including unit-level emissions data, and details the basis for the State's RACT determination. Tables 7 through 9 provide NO_x control equipment costs for selected major sources of NO_x.

The EPA has previously determined that certain Missouri VOC regulations have met RACT for requirements associated with past ozone NAAQS and incorporated them into the Missouri SIP. See actions dated January 23, 2012 (77 FR 3144) and January 6, 2014 (79 FR 580). As noted previously, Missouri includes a list of all SIP-approved VOC RACT State rules in table 3 of appendix C to the State's submittal. The EPA approved Missouri's NO_x RACT rule, 10 CSR 10–5.510, into the SIP on May 18, 2000 (65 FR 31482). As detailed in the EPA's TSD, we reviewed Missouri's RACT determinations and applicable State regulations and determined whether they continue to satisfy RACT based on comparisons with existing federal requirements, other State regulations, and any other available information.

Source Consent Agreements

For five major sources of VOC and/or NO_x, Missouri entered into new source-specific consent agreements to establish permanent RACT requirements for each

source and submitted those consent agreements to the EPA for approval and inclusion in the Missouri SIP to become federally enforceable. These consent agreements are included in the Missouri submission as Attachment C–1 for Anheuser Busch (APCP–2023–022), Attachment C–4 for Ameren Labadie (APCP–2023–021A), Attachment C–5 for Ameren Sioux (APCP–2023–020), Attachment C–6 for Ameren Meramec (APCP–2023–019), and Attachment C–8 for Elementis Specialties, Inc., (APCP–2023–025). Attachment C–9 includes further discussion of the methodology and rationale behind the emissions limits and operational requirements that are established in the source consent agreements to meet RACT obligations for each of those facilities. The requirements contained in these consent agreements are summarized here and further evaluated in the TSD.

For Anheuser Busch, the State compared operational characteristics and requirements to those of similar beer packaging process operations located in New Hampshire and Colorado. Based on that review, Missouri concluded that good operating practice, proper maintenance, and pollution prevention is RACT for these processes at this installation as provided in the Consent Agreement in Attachment C–1 of the submittal. The terms of the agreement are very similar to the requirements included in the EPA-approved RACT regulation developed for breweries located in ozone nonattainment areas in Colorado. In Attachment C–9, Missouri provided additional information on the development of the new emission control requirements in the Consent Agreement for this facility. Missouri concludes that a process loss limitation of eight percent monthly and six percent on a 12-month rolling basis constitutes VOC RACT for the St. Louis facility. The Missouri consent agreement with Anheuser Busch includes requirements in paragraph 2. In addition to the numeric emission limitations, paragraph 2 requires good engineering practice, work practice standards, an operating training program, as well as methods to reduce container damage and spillage. The consent agreement also includes the necessary reporting and recordkeeping requirements associated with the emissions limitations and operational requirements. The EPA also researched other brewery operations and found facilities in New Jersey and Texas which similarly found good operating practice and pollution prevention to minimize process loss and VOC emissions constitutes RACT or even Best Available

Control Technology (BACT). This review supports the State's conclusion that good operating practices, proper maintenance, and pollution prevention, along with the numerical emission limitations in the consent agreement, satisfies VOC RACT for Anheuser Busch.

For Elementis Specialties, Inc., the State reviewed the prior VOC RACT analysis for this facility and reviewed the EPA's RACT/BACT/LAER clearinghouse (RBLCL) and WebFIRE (the EPA's web-based emissions factor information retrieval tool) to attempt to compare with other State requirements for a similar facility. However, this search yielded no additional facilities with the same source classification codes (SCC). Because the State was not able to find any more stringent requirements for this source type, the State concludes that the existing emission limits and operational requirements at Elementis continue to represent RACT. Missouri's consent agreement with Elementis Specialties, Inc., includes operational limitations in paragraph 2 specifying that emissions from the Parkson Filter Press, Bentone Reaction Tanks, South Horizontal Belt Filter Vacuum Pump, North Horizontal Belt Filter Vacuum Pump, PUG Mill Baghouse Receiver, and Ashbrook Simon Hartley Filter Press must be controlled via the Regenerative Thermal Oxidizer (RTO) at all times. The RTO must be operated in accordance with manufacturer's specifications and operate at a temperature set point of 1500 degrees Fahrenheit unless a specific issue or incident prevents it. The RTO shall operate with a minimum destruction efficiency of 95%. The consent agreement also includes the necessary reporting and recordkeeping requirements associated with the aforementioned emissions and operational limitations. Therefore, the EPA finds the State established consent agreement ensures continued permanent enforceability of the requirements which constitute VOC RACT for this facility.

For Ameren Labadie, the State evaluated recent emissions patterns to determine an emissions limit indicative of current control technology being implemented at Labadie, namely the continued use of low-NO_x burners (LNB), overfire air (OFA), and a neural network. Through the continued operation of these NO_x emissions controls, the Labadie units had an average NO_x emission rate of 0.09–0.10 lbs NO_x/mmBTU. The State added a 20 percent compliance margin to this average emission rate range to account for potential future variability due to

increased cycling associated with renewable and other intermittent generation sources. Therefore, the Labadie consent agreement includes a limit of 0.12 lb/mmBTU with a 30-day averaging period. In addition to the emissions rate limit, the consent agreement also includes a technology-based requirement for all existing NO_x controls at the facility to ensure continuous NO_x emissions control throughout the ozone season at the facility. This limit is consistent with or more stringent than the rules adopted by other states presented in our TSD. These limits are also within the range of the ACT expected emissions rates for controlled coal-fired, tangential, pre-NSPS boilers (e.g., LNB + OFA and SCR/SNCR). Based on this information, the EPA agrees that the limits satisfy NO_x RACT for this source.

For Ameren Sioux, the State evaluated current control technology being implemented at Sioux, namely the continued use of OFA and selective non-catalytic reduction (SNCR) to control NO_x emissions. The State evaluated emissions rates recorded shortly after SNCR was installed at Sioux in 2007, which were approximately 0.15 lbs/mmBTU. Adding a 20 percent compliance margin yields an ozone season rate limit of 0.18 lbs NO_x/mmBTU. This represents a reduction from recorded emissions at Sioux in recent years which were in the range of 0.24 lbs/mmBTU. Similar to the Labadie agreement, the agreement for Sioux includes a technology requirement in addition to the numeric emissions limit. The numeric emissions limit and the technology requirement work in parallel to ensure NO_x emissions are continuously controlled during the ozone season. Missouri's limits in the consent agreement are consistent with or more stringent than the rules adopted by other states shown in our TSD. The limits are also within the range of the ACT expected emission rates for controlled coal-fired, tangential, pre-NSPS boilers (e.g., LNB + OFA and SCR/SNCR). Based on this information, the EPA agrees that the limits satisfy NO_x RACT for this source.

For Ameren Meramec, the State evaluated recent emissions to set an emission limit commensurate with primarily natural gas combustion in the units at Meramec. The State also noted that Meramec was scheduled to retire by December 2022 and has not operated since that time. The emissions limit is set at 0.055 lbs NO_x/mmBTU for Meramec, which the State determined is beyond RACT for this facility. Missouri's limits in the consent agreement are consistent with or more

stringent than the rules adopted by other states shown in our TSD. The limits are also within the range of the ACT expected emission rates for tangential and wall-fired, pre-NSPS natural gas boilers with post-combustion controls (e.g., SCR). Based on this information, the EPA agrees that the limits satisfy NO_x RACT for this source.

Missouri also included cost analyses for certain major sources and source types to support its conclusion that additional NO_x emissions controls for the relevant units are not economically feasible.

For the reasons explained here and in the TSD, the EPA proposes to find the substantive requirements of the State's source specific consent agreements satisfy the RACT obligations for those respective facilities. There are certain other aspects of the consent agreements which the EPA must consider when determining whether the agreements are fully approvable.

Choice of Law Provisions

All five consent agreements include provisions termed as "choice of law" clauses. Specifically, paragraph 10 of the Anheuser Busch and Elementis Specialties, Inc., agreements state, "*This Consent Agreement shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. The parties agree that the enforceability of this Consent Agreement shall be subject to the procedures for enforcement of orders granted to the Department.*" The EPA interprets this provision, and similar "choice of law" provisions in the Ameren consent agreements, to bind the "parties" to the consent agreement, namely the State of Missouri and Anheuser Busch, Elementis Specialties, Inc., and Ameren. Furthermore, following approval of the consent agreements into the SIP by the EPA, enforcement of the consent agreement under sections 113 or 304 of the CAA would be governed by federal law.

Force Majeure Provisions

All five consent agreements include "force majeure" provisions which excuse a source from liability if an event, such as a natural disaster, act of terrorism, labor dispute or stoppage, war, national or regional emergency, pandemic, epidemic, local disease outbreak, public health emergency, or quarantine, occurs which causes performance of an obligation under the consent agreement to be practically

impossible, despite the source's best efforts to fulfill the obligation. If a force majeure event occurs that meets the criteria of the consent agreement, the consent agreement requires the source to notify the State within five business days following commencement of the force majeure event, and include actions taken to minimize the impact thereof. According to the terms of each consent agreement, the source and the State agree that the pertinent obligations and deliverables of the consent agreement will be rescheduled rather than cancelled.

The EPA has evaluated the force majeure provisions in the consent agreements in light of CAA requirements for SIP provisions. The EPA interprets them to provide the sources an affirmative defense to any form of liability, whether monetary penalties or injunctive relief, in the event of violations of the emission limitations or other control requirements applicable to the sources, so long as the source meets the requirements to qualify for the force majeure provision. As such, these force majeure provisions constitute a "complete" affirmative defense and are thus consistent with CAA requirements for SIP provisions.

The EPA notes that the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) has issued decisions that are relevant to affirmative defense provisions. In the first, *Env't Comm. of the Fla Elec. Power Coordinating Grp, Inc. v. EPA*, the court held that affirmative defense type provisions that only preclude monetary penalties as a remedy for violations of emission limitations or other SIP requirements, i.e., a "partial" affirmative defense, are invalid. *Env't Comm. of the Fla Elec. Power Coordinating Grp, Inc. v. EPA*, 94 F.4th 77, 116 (D.C. Cir. 2024). More recently, in *SSM Litigation Group v. EPA*, the court further clarified that an affirmative defense type provision that instead precludes any form of liability or remedy for violations of emission limitations or other SIP requirements, i.e., a "complete" affirmative defense, is valid. *SSM Litigation Group v. EPA, et al.*, 150 F.4th 593 (D.C. Cir. 2025). In that decision, the D.C. Circuit held in part that a complete affirmative defense is permissible because it does not function as an exemption from applicable emission standards. 150 F.4th at 600 ("[a]n affirmative defense allows a defendant to avoid liability, but it does not alter the underlying legal requirements"). The court reasoned that a "complete affirmative defense to liability does not render an emission

limitation non-continuous under 42 U.S.C. 7602(k)." *Id.* Although the court's decision in *SSM Litigation Group* pertained specifically to an affirmative defense provision that a State may elect to include in title V permits for sources in such State, the court's reasoning would apply more broadly to affirmative defenses that a State may elect to include in its SIP provisions applicable to sources outside of the title V permit context.

The force majeure provision in each consent agreement at issue in this SIP revision functions as a complete affirmative defense because it allows a defendant to avoid liability if the failure to perform an obligation under the consent agreement has been caused by a force majeure event, but it does not alter the underlying legal requirements that are applicable to the source pursuant to the consent agreement. Accordingly, any emission limitations or other emission controls requirements in the consent agreements apply continuously, in accordance with section 302(k) of the CAA. Furthermore, in accordance with section 110 of the CAA, following approval of the consent agreement into the SIP, any modification of the consent agreement would require the State to submit, and the EPA to approve, the revised consent agreement as a revision to the SIP. Accordingly, the EPA proposes to approve the force majeure provisions in each consent agreement as complete affirmative defense provisions.

Based on the evaluation described here and in the TSD, the EPA proposes to approve Missouri's September 6, 2023, submittal including the five source-specific consent agreements as satisfying the Moderate VOC RACT requirements of CAA section 182(b)(2) and NO_x RACT requirements of CAA section 182(f), respectively, for the St. Louis nonattainment area under the 2015 8-hour ozone standards.

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 State provided public notice on this SIP revision from June 26, 2023, through August 3, 2023, and held a public hearing on July 27, 2023. The State received comment submissions from 39 separate entities, including one submission that included two separate reports and individual comment letters from 114 citizens. The State provided the comments received and responses to those comments in appendix E to its submission. The submission satisfied the completeness criteria of 40 CFR part

51, appendix V. The EPA sent a letter to the State of Missouri on September 13, 2023, indicating that the submission met the requirements of appendix V and therefore that the EPA determined the submission was administratively complete. The EPA's completeness letter is included in the docket for this rulemaking. As discussed previously, the elements addressed in this action meet the relevant substantive SIP requirements of the CAA, section 110 and EPA's implementing regulations.

VI. Proposed Action

The EPA is proposing to approve certain elements of Missouri's September 6, 2023, submittal addressing the Moderate ozone requirements for the Missouri portion of the St. Louis, MO–IL bi-state nonattainment area. For the reasons described in section V., the EPA proposes to approve the submitted vehicle inspection and maintenance program, certification of the nonattainment new source review program, and reasonably available control technology determinations for major sources of VOC and NO_x SIP elements as meeting applicable Moderate area requirements for the 2015 8-hour ozone NAAQS. The EPA is not acting on the remaining Moderate SIP elements at this time. We are processing this as a proposed rulemaking because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to add incorporation by reference of the following source-specific consent agreements as requested by the State of Missouri: APCP–2023–022, APCP–2023–025, APCP–2023–019, APCP–2023–020, and APCP–2023–021A. These agreements are discussed in section IV. of this preamble and as set forth below in the proposed amendments to 40 CFR part 52. The EPA has made, and will continue to

make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- 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.

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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2026.

James Macy,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 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:

■ a. The table in paragraph (d) is amended by adding the entries “(39)”, “(40)”, “(41)”, “(42)”, and “(43)” in numerical order.

■ b. The table in paragraph (e) is amended by revising the entry “(84)” and adding the entry “(86)” in numerical order.

The additions and revision read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
(39) Anheuser Busch	APCP-2023-022	6/20/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7].
(40) Elementis Specialties, Inc	APCP-2023-025	6/22/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7].
(41) Union Electric Company d/b/a Ameren Missouri—Meramec Energy Center.	APCP-2023-019	6/22/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7].
(42) Union Electric Company d/b/a Ameren Missouri—Sioux Energy Center.	APCP-2023-020	6/22/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7].
(43) Union Electric Company d/b/a Ameren Missouri—Labadie Energy Center.	APCP-2023-021A	8/28/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7].

* St. Louis County.

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(84) Implementation plan for the Missouri inspection and maintenance program.	St. Charles County, St. Louis County, Jefferson County, and St. Louis City.	9/6/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7]. Appendix B of the state's Moderate plan, Inspection and Maintenance Program—2023 Revision.
(86) Missouri Moderate Area Attainment Plan for the 2015 8-hour Ozone National Ambient Air Quality Standards.	St. Louis Area: Missouri counties of Jefferson, St. Charles, and St. Louis along with the City of St. Louis and Boles Township in Franklin County.	9/6/2023	[Date of publication of the final rule in the Federal Register 91 FR [Federal Register] page where the document begins of the final rule].	[EPA-R07-OAR-2026-5842; FRL-13521-01-R7]. This action approves only the elements of the Moderate plan which satisfy the NNSR, vehicle I/M, and the VOC and NO _x RACT requirements as contained in CAA sections 172(c)(4) and (5), 182(b)(2) and (4), and 182(f).