

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, Infrastructure, Intergovernmental relations, Ozone.

Dated: June 22, 2021.

Edward H. Chu,

Acting 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 Q—Iowa

■ 2. In § 52.820, the table in paragraph (e) is amended by adding the entry “(54)” in numerical order to read as follows:

§ 52.820 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(54)Section 110(a)(2) Infrastructure Requirements for the 2015 O ₃ NAAQS.	Statewide	11/30/18	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule].	[EPA-R07-OAR-2021-0378; FRL-10024-86-Region 7]. This action proposes to approve the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II)—prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(D)(i)(I)—prongs 1 and 2 will be addressed in a separate action. 110(a)(2)(I) is not applicable.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R07-OAR-2021-0391; FRL-10025-26-Region 7]

Air Plan Approval; Missouri Redesignation Request and Associated Maintenance Plan for the Jefferson County 2010 SO₂ 1-Hour NAAQS Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 27, 2017, the State of Missouri submitted a request for the Environmental Protection Agency (EPA) to redesignate the Jefferson County, Missouri, 2010 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) nonattainment area to attainment and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. The State provided supplemental information on: May 15, 2018; February 7, 2019; February 25, 2019; and April 9, 2021. In response to these submittals, the EPA is proposing to take the following actions: Approve

the State’s plan for maintaining attainment of the 2010 1-hour SO₂ primary standard in the area; and approve the State’s request to redesignate the Jefferson County SO₂ nonattainment area to attainment for the 2010 1-hour SO₂ primary standard.

DATES: Comments must be received on or before July 29, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2021-0391 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 Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7629 or by email at keas.ashley@epa.gov.

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2021-0391, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.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. 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 the December 2017 SIP submittal from July 31, 2017 to September 7, 2017 and held a public hearing on August 31, 2017. The State received and addressed nineteen combined comments from a total of five sources. The State revised the maintenance plan based on public comment prior to submitting to the EPA.

On April 9, 2021, Missouri submitted a supplement to the SIP revision to the EPA consisting of an addendum to the Consent Agreement between Ameren and Missouri. The Consent Agreement addendum incorporates monitoring, reporting and recordkeeping requirements needed to make the emissions limits contained in the Consent Agreement practically enforceable. Missouri held a public hearing for this SIP supplement on January 28, 2021 and made the supplement available for public review and comment from December 28, 2020 through February 4, 2021. Missouri received supportive comments from Ameren.

In addition, as explained above (and in more detail in the technical support document which is included in the docket for this action), the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What is the background for the EPA's proposed actions?

On June 2, 2010, the EPA revised the primary SO₂ NAAQS, establishing a new 1-hour standard of 75 parts per billion (ppb).¹ Under the EPA's regulations at 40 CFR part 50, the 2010 1-hour SO₂ NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T).² Ambient air quality monitoring data

for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including State-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.³

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS.⁴ On August 5, 2013, the EPA designated a portion of Jefferson County, Missouri, as nonattainment for the 2010 1-hour primary SO₂ NAAQS, effective October 4, 2013.⁵ The designation was based on 2008–2010 monitoring data in Herculaneum, Missouri, which monitored violations of the standard (see section III of this document for additional monitoring information). This action established an attainment date five years after the effective date for the areas designated as nonattainment for the 2010 SO₂ NAAQS (*i.e.*, by October 4, 2018). The State was also required to submit a SIP for the Jefferson County SO₂ nonattainment area to the EPA that meets the requirements of CAA sections 110, 172(c) and 191–192 within 18 months following the October 4, 2013, effective date of designation (*i.e.*, by April 4, 2015). The State of Missouri submitted the “Nonattainment Area Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard Jefferson County Sulfur Dioxide Nonattainment Area” on June 5, 2015, and subsequently withdrew the plan on March 30, 2018, following several intervening steps discussed later in this section.

On February 2, 2016, the State submitted a request asking the EPA to determine that the Jefferson County SO₂ nonattainment area attained the 2010 1-hour primary SO₂ NAAQS per the EPA's Clean Data Policy. The clean data policy represents the EPA's interpretation that certain planning-related requirements of part D of the Act, such as the attainment demonstration, reasonably available control measures (RACM), and reasonable further progress (RFP), are suspended for areas that are in fact

attaining the NAAQS. A determination of attainment, or clean data determination, does not constitute a formal redesignation to attainment. If the EPA subsequently determines that an area is no longer attaining the standard, those requirements that were suspended by the clean data determination are once again due.

On June 23, 2017, the EPA published a notice of proposed rulemaking to approve the State's request for a clean data determination. The proposal was based on 2014–2016 monitoring data—the Mott Street monitor design value (dv) was 23 parts per billion (ppb)—and modeling data (a mix of 2013–2015 actual and allowable emissions).^{6,7} After considering public comments received, the EPA published a Notice of Final Rulemaking (NFRM) approving the State's request for a clean data determination in the **Federal Register** on September 13, 2017.⁸

On December 27, 2017, the State submitted a request for redesignation of the Jefferson County SO₂ nonattainment area to attainment and a SIP revision containing a 10-year maintenance plan for the area. On May 15, 2018, the State submitted a clarifying letter that Appendix A (containing the emissions inventory for the area) and Appendix B (containing a Consent Agreement for certain sources in the area) of the SIP submittal should be considered part of the SIP revision request. On February 7, 2019, and February 25, 2019, the State submitted supplemental modeling information to the EPA. On April 9, 2021, the State submitted an addendum to the Consent Agreement which contains the emissions limits and monitoring, reporting, and recordkeeping requirements needed to determine compliance with the emissions limits for the covered sources. This proposal document discusses the EPA's review of the redesignation request, the maintenance plan (including Consent Agreement and addendum), and the supplemental information and provides support for the EPA's proposed approval of the request to redesignate the area to attainment and for proposed approval of the 10-year maintenance plan. Additional analysis of the redesignation request, 10-year maintenance plan, Consent Agreement and addendum, and supplemental modeling information is

⁶ See 82 FR 28605.

⁷ The State or Local Air Monitoring Station (SLAMS) was moved from Main Street to Mott Street in 2011 with EPA approval. The Mott Street SLAMS location was selected to characterize source specific (both SO₂ and lead) emissions from the Doe Run Herculaneum primary lead smelter.

⁸ See 82 FR 42945.

³ 40 CFR part 50, appendix T, section 3(b).

⁴ CAA section 107(d)(1)(A)(i).

⁵ 78 FR 47191 (August 5, 2013), codified at 40 CFR 81.326.

¹ See 75 FR 35520.

² See 40 CFR 50.17.

provided in a Technical Support Document (TSD) included in the docket to this proposed rulemaking.⁹

IV. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation of a nonattainment area provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

V. What is the EPA’s analysis of the request?

The EPA’s evaluation of Missouri’s redesignation request and maintenance

plan is based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E) and relevant guidance. On April 16, 1992, the EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 and supplemented this guidance on April 28, 1992.^{10 11} The EPA has provided further guidance on processing redesignation requests in several guidance documents. For the purposes of this action, the EPA will be referencing two of these documents: (1) The September 4, 1992 memo “Procedures for Processing Requests to Redesignate Areas to Attainment” (Calcagni Memo); and (2) the EPA’s April 23, 2014 memorandum “Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions” (2014 SO₂ Guidance).¹²

Criterion (1)—The Jefferson County SO₂ Nonattainment Area Has Attained the 2010 1-Hour SO₂ NAAQS

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). The EPA determined that the area attained the 2010 1-hour SO₂ NAAQS in its September 2017 NFRM approving the State’s request for a clean data determination meeting the requirements of CAA section 107(d)(3)(E)(i). That

determination was primarily based on a modeling analysis of recent actual emissions for sources in and around the nonattainment area. As described further in the TSD for this action, the Supplemental modeling submitted by Missouri in February 2019 to support the redesignation request and maintenance plan is based on a modeling demonstration of permanent and enforceable emissions at sources in the nonattainment area that similarly demonstrates the area is attaining the standard. Therefore, the EPA’s determination that the area had achieved clean data is consistent with the proposed action to redesignate the area.

Following the EPA’s determination that the area had achieved clean data, the EPA reviewed quality assured monitoring data recorded in the EPA’s Air Quality System (AQS) from the Mott Street monitoring station. The 3-year, 2018–2020 design value for the Mott Street monitor is 14 ppb and continues to meet the 2010 1-hour SO₂ NAAQS, as shown in Table 1. If the 3-year design value violates the NAAQS prior to the EPA acting in response to the State’s request, the EPA will not take final action to approve the redesignation request.¹³ As discussed in more detail later in this section, Missouri has committed to continue monitoring in this area in accordance with 40 CFR part 58.

TABLE 1—2015–2020 MOTT STREET MONITOR DATA (PARTS PER BILLION (ppb)); 99TH PERCENTILE (99%) AND 3-YEAR DESIGN VALUE (dv)

Site	2015 99th %	2016 99th %	2017 99th %	2018 99th %	2019 99th %	2020 99th %	2015–2017 dv	2016–2018 dv	2017–2019 dv	2018–2020 dv
Mott Street	38	13	18	12	12	17	23	14	14	14

Criterion (2)—Missouri Has a Fully Approved SIP Under Section 110(k); and Criterion (5)—Missouri Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment under a NAAQS, the CAA requires the EPA to determine that the State has met all applicable requirements for that NAAQS under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the State has a fully approved SIP under section 110(k) for that NAAQS for

the area (CAA section 107(d)(3)(E)(ii)). The EPA proposes to find that Missouri has met all applicable SIP requirements for purposes of redesignation for the Jefferson County SO₂ nonattainment area under section 110 of the CAA (general SIP requirements). Additionally, the EPA proposes to find that the Missouri SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, the EPA

proposes to determine that the SIP is fully approved with respect to all requirements applicable for the 2010 1-hour SO₂ NAAQS for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In proposing to make these determinations, the EPA ascertained which requirements are applicable to the Jefferson County SO₂ nonattainment area and, if applicable, that they are fully approved under section 110(k).

⁹ The TSD discusses the EPA’s review of the CAA section 107(d)(3)(E) redesignation criteria: (i) A determination of attainment; (iii) a determination that the improvement in air quality is due to permanent and enforceable reductions in emissions; and (iv) a fully approved maintenance plan as well

CAA section 175A maintenance plan criteria: (1) Attainment inventory; (2) maintenance demonstration; and (3) continued monitoring. The EPA’s review of the remaining redesignation and maintenance plan criteria are sufficiently addressed in the preamble language to the NPRM.

¹⁰ See 57 FR 13498.
¹¹ See 57 FR 18070.
¹² https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.
¹³ See 2014 SO₂ Guidance, at 56.

a. The Jefferson County SO₂ Nonattainment Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emissions control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, the EPA has required certain States to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a State are not linked with a nonattainment area's designation and classification in that State. The EPA believes that the requirements linked with a nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a State regardless of the designation of any one area in the State. Thus, the EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, the EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with an area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (*i.e.*, for redesignations) of

conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements.¹⁴

Title I, part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 5 of part D, which includes section 191 and 192 of the CAA, establishes requirements for SO₂, nitrogen dioxide and lead nonattainment areas. A thorough discussion of the requirements contained in sections 172(c) can be found in the General Preamble for Implementation of Title I.¹⁵

Section 172 and subpart 5 requirements. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the NAAQS. The EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, States with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements.

The EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA section 107(d)(3)(E)(ii) and (v) and therefore need not be approved into the SIP before the EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, the EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard.¹⁶ The EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard.¹⁷ This

¹⁴ See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

¹⁵ See 57 FR 13498.

¹⁶ See 57 FR 13498, 13564.

¹⁷ *Id.*

interpretation was also set forth in the Calcagni Memo. The EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to the 2010 1-hour SO₂ NAAQS in the EPA's 2014 SO₂ Guidance, and suspends a State's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). Courts have upheld the EPA's interpretation of section 172(c)(1) for "reasonably available" control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining.¹⁸

Therefore, because the Jefferson County SO₂ nonattainment area is currently attaining the 2010 1-hour SO₂ NAAQS, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are not part of the "applicable implementation plan" required to have been approved prior to redesignation per CAA section 107(d)(3)(E)(ii) and (v). The other section 172 requirements that are designed to help an area achieve attainment—the section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress, the requirement to submit the section 172(c)(9) contingency measures, and the section 172(c)(6) requirement for the SIP to contain control measures necessary to provide for attainment of the NAAQS—are also not required to be approved as part of the "applicable implementation plan" for purposes of satisfying CAA section 107(d)(3)(E)(ii) and (v).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The requirement for an emissions inventory can be satisfied by meeting the inventory requirements of the maintenance plan.¹⁹ However, when the State withdrew its attainment plan for the area in March 2018, it did not withdraw the baseline emissions inventory submitted with that plan. On November 23, 2018, the EPA published a notice of proposed rulemaking in the **Federal Register** proposing to approve that the State met the section 172(c)(3)

¹⁸ *NRDC v. EPA*, 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club v. EPA*, 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club v. EPA*, 314 F.3d 735, 744 (5th Cir. 2002); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). But see *Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015).

¹⁹ Calcagni Memo at 6.

requirement to submit an emissions inventory for the Jefferson County SO₂ nonattainment area.²⁰ On February 13, 2019, the EPA published a final rulemaking in the **Federal Register** approving the State's emissions inventory for the Jefferson County SO₂ nonattainment area.²¹

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The State has an approved nonattainment NSR program.²² Regardless, the State has demonstrated that the Jefferson County SO₂ nonattainment area will be able to maintain the NAAQS without part D NSR in effect. Missouri's PSD program will be in effect in the Jefferson County SO₂ nonattainment area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the EPA believes the Missouri SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 176 conformity requirements. Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that the EPA promulgated pursuant to its authority under the CAA.

Missouri has an approved general conformity SIP.²³ Moreover, the EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because, like other requirements listed above, State conformity rules are still required

after redesignation and federal conformity rules apply where State rules have not been approved.²⁴

As noted in the 2014 SO₂ Guidance, transportation conformity is required under CAA section 176(c) to ensure that federally supported highway and transit project activities are consistent with ("conform to") the purpose of the SIP. Transportation conformity applies to areas that are designated nonattainment, and those areas redesignated to attainment ("maintenance areas" with plans developed under CAA section 175A) for transportation-related criteria pollutants. Due to the relatively small, and decreasing, amounts of sulfur in gasoline and on-road diesel fuel, the EPA's conformity rules provide that they do not apply to SO₂ unless either the EPA Regional Administrator or the director of the State air agency has found that transportation-related emissions of SO₂ as a precursor are a significant contributor to a PM_{2.5} nonattainment problem, or if the SIP has established an approved or adequate budget for such emissions as part of the RFP, attainment or maintenance strategy.²⁵ Neither the EPA nor Missouri has made such a finding for transportation related emissions of SO₂ for the Jefferson County SO₂ nonattainment area.

For these reasons, the EPA proposes to find that Missouri has satisfied all applicable requirements for purposes of redesignation of the Jefferson County SO₂ nonattainment area under section 110 and part D of title I of the CAA.

b. The Jefferson County SO₂ Nonattainment Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

The EPA has fully approved the applicable Missouri SIP for the Jefferson County SO₂ nonattainment area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. As indicated above, the EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's attainment status are not applicable requirements for purposes of redesignation. The EPA has approved all part D requirements applicable under the 2010 SO₂ NAAQS, as identified above, for purposes of this redesignation.

Criterion (3)—The Air Quality Improvement in the Jefferson County SO₂ Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). The EPA proposes to find that Missouri has demonstrated that the observed air quality improvement in the Jefferson County SO₂ nonattainment area is due to permanent and enforceable reductions in emissions. Specifically, the EPA considers the shutdown of the Doe Run Herculaneum primary lead smelter (lead smelter), identified as the key contributor to the SO₂ NAAQS violations at the Mott Street monitor, to be both permanent and enforceable.²⁶ As stated on page 10 of the Calcagni Memo, "Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly." The lead smelter was limited to the terms of a consent decree entered by Doe Run, Missouri, and the EPA in the United States District Court in the Eastern District of Missouri (2011 Consent Decree).²⁷ On December 31, 2013, pursuant to the terms of the 2011 Consent Decree, the lead smelter permanently ceased operations of the sintering plant. The 2011 Consent Decree also required the lead smelter to permanently cease smelting operations and retire the blast furnaces by April 30, 2014; the lead smelter ceased operation of the blast furnaces on December 31, 2013, concurrently with the cessation of operation of the sintering plant. In addition, the Consent Decree required Doe Run to surrender air permits for the emission units required to be permanently shut down by the Consent Decree. Given the well-established correlation of much lower SO₂ emissions at the Mott Street monitor during periods when the lead smelter has been shut down, the EPA

²⁶ See EPA's final Technical Support Document (TSD) for the Jefferson County SO₂ Nonattainment Area, in the docket for EPA's initial round of 2010 SO₂ designations at EPA-HQ-OAR-2012-0233-0318.

²⁷ Case No. 4:10-cv-01895-JCH on December 21, 2011.

²⁰ See 83 FR 59348.

²¹ See 84 FR 3703.

²² See 80 FR 31844.

²³ See 78 FR 57267.

²⁴ See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

²⁵ See 40 CFR 93.102(b)(1), (2)(v).

anticipates that the SO₂ NAAQS will continue to be attained. See Table 1 for recent monitoring data trends at this monitor.

Additionally, the State entered into a Consent Agreement with Ameren Missouri (Ameren), included as

Appendix B to the maintenance plan submission, limiting the SO₂ emissions from three Ameren facilities. One facility, Ameren-Rush Island Energy Center (Rush Island), is located within the nonattainment area boundary. The

other two facilities, Ameren Meramec Energy Center (Meramec) and Ameren Labadie Energy Center (Labadie) are located outside of the nonattainment area boundary. The Consent Agreement emission limits are provided in Table 2.

TABLE 2—AMEREN/MISSOURI CONSENT AGREEMENT SO₂ EMISSION LIMITS

Source	Emission limit per source (pounds per hour)	Averaging time
Labadie	40,837	24-hr block average.
Meramec	7,371	24-hr block average.
Rush Island	13,600	24-hr block average.

Because it is located inside of the Jefferson County SO₂ nonattainment area, the State modeled Rush Island at a constant emission rate of 14,600 lbs SO₂/hr for every hour of the year in all five years (2013–2017) of the modeling analysis. This modeled emission rate corresponds to the facility’s enforceable 24-hour block average limit for hourly SO₂ emissions of 13,600 lbs SO₂/hr when accounting for variability. The State modeled Meramec and Labadie as nearby sources in accordance with the code of federal regulations (CFR) 40 CFR part 51, appendix W, *Guideline on Air Quality Models*. That is, the State modeled Meramec and Labadie’s permitted/allowable emission rate from the Consent Agreement with actual temporally varying heat input levels. Please see the TSD for details of the modeling inputs and additional discussion of the air quality modeling. The modeling results demonstrate attainment and project continued maintenance of the NAAQS, and the TSD also contains discussion of the EPA’s review of the modeling.

Therefore, the EPA is proposing to find that the air quality improvement in the Jefferson County SO₂ nonattainment area is due to permanent and enforceable reductions in emissions.

Criterion (4)—The Jefferson County SO₂ Nonattainment Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

To redesignate a nonattainment area to attainment, the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Jefferson County SO₂ nonattainment area to attainment for the 2010 1-hour SO₂ NAAQS, the State submitted a SIP revision to provide for the maintenance of the 2010 1-hour SO₂ NAAQS for at

least 10 years after the effective date of redesignation to attainment. The EPA is proposing to find that this maintenance plan for the area meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation request to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems necessary to assure prompt correction of any future 2010 1-hour SO₂ violations. The Calcagni Memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully later in this section, the EPA is proposing to determine that Missouri’s maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Missouri SIP.

b. Attainment Emissions Inventory

As part of a State’s maintenance plan, the air agency should develop an attainment inventory to identify the level of emissions in the affected area

which is enough to attain and maintain the SO₂ NAAQS.²⁸ The EPA is proposing to approve that Missouri has met this requirement through modeling of permanent and enforceable emissions limits that will result in continued attainment and maintenance of the NAAQS. Missouri also provided emissions inventories as part of the maintenance plan. Specifically, Missouri selected 2014 as the attainment emissions inventory year for developing an emissions inventory for SO₂ in the nonattainment area through 2030. Please see the TSD included in the docket for this action for details of the base year, attainment year and future year emissions inventories and the EPA’s review of these inventories. The TSD also details the EPA’s review of the modeling demonstration provided by Missouri which forms the basis for the EPA’s approval of this maintenance plan requirement.

c. Maintenance Demonstration

The Calcagni memo describes two ways for a State to demonstrate maintenance of the NAAQS for a period of at least 10 years following the redesignation of the area: (1) The State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can model to show that the future mix of sources and emission rates will not cause a violation of the standard. The memo goes on to say that areas that are required to model to demonstrate attainment of the standard should complete the same level of modeling to demonstrate that the permanent and enforceable emissions are enough to maintain the standard. The State performed several modeling iterations to demonstrate that the standard will be maintained. In its February 7, 2019, and February 25, 2019, supplemental

²⁸ See 2014 SO₂ Guidance, at 66.

modeling, Missouri has demonstrated maintenance by modeling all sources inside of the nonattainment area at their permanent, enforceable, allowable emission rates, nearby sources at their permanent, enforceable, allowable emission rates (with actual operating conditions for 2013–2017), and other sources addressed through the use of a background concentration. The EPA proposes that the supplemental modeling provided by Missouri demonstrates the standard will be attained and maintained for at least 10 years following redesignation of the area, consistent with the second method outlined in the Calcagni memo by which a State may demonstrate maintenance of the NAAQS. Please see the TSD for details of the modeling inputs, results and the EPA's review of them. The EPA is proposing to approve Missouri's maintenance plan including the supplemental modeling and a background concentration revised by the EPA as meeting the maintenance demonstration requirement.

d. Monitoring Network

Missouri has committed to continue operating the “appropriate SO₂ network in the Jefferson County nonattainment area” in accordance with the requirements of 40 CFR part 58, and approved annual monitoring network plans, to verify the attainment status of the area. The State committed to quality assure the data in accordance with 40 CFR part 58 and submit the data to the EPA's air quality system (AQS). The maintenance plan, consistent with the State's 2019 annual ambient monitoring network plan, indicate that the Mott Street monitor is the only SLAMS or SLAMS like monitor operational in the nonattainment area.²⁹

There are also three industrial source monitors located around Rush Island.³⁰ These monitors are required per the Consent Agreement between Ameren and the State.³¹ The Consent Agreement required the monitors to start operation by December 2015 and operate 12 consecutive quarters (3 years). The industrial source monitors have also been identified in the State's annual ambient monitoring network plans since 2015.³² The Consent Agreement also requires certain responses by Ameren if

elevated monitoring values are recorded at any of the industrial source monitors.

The maintenance plan and Consent Agreement requires Ameren to operate the industrial source monitors for a minimum of 12 consecutive quarters. The maintenance plan and Consent Agreement do not establish that the monitors must be operated as SLAMS-like monitors which would make them subject to the discontinuation requirements of 40 CFR part 58.³³ However, because the EPA is proposing to approve the requirement to operate the industrial source monitors, and that the contingency measures may be triggered by data recorded by these industrial source monitors, as contained in the Consent Agreement, into the SIP, the monitors must operate until the EPA approves a revision to the SIP to remove the monitoring requirements.

Because the industrial source monitors were not identified by the State as necessary to meet the requirements of the Data Requirements Rule (DRR) they are not subject to the requirements of 40 CFR 51.1203(c).³⁴ The 2018 annual monitoring network plan commits the State to “continuing to work with Ameren to collect quality assured SO₂ ambient air quality data and meteorological data near the Rush Island power station to provide quantifiable and useful information to supplement the ongoing 1-hour SO₂ NAAQS implementation process.”

Because there is no regulatory obligation, or commitment from Ameren or the State to operate the industrial source monitors as SLAMS-like or for the duration of the maintenance period, the EPA is proposing to approve that the

²⁹ However, the EPA notes that the industrial source monitors are operated in accordance with an approved industrial source monitoring quality assurance project plan (QAPP) and quality management plan (QMP). The relevant QAPP and QMP documents are included in the docket for this action. The QMP outlines the quality assurance audits to be conducted by Missouri staff to ensure the industrial monitoring data is collected in a manner equivalent to SLAMS and may be used to determine NAAQS compliance. See Missouri's 2016 Ambient Monitoring Network Plan contained in the docket for this action for more information.

³⁰ The EPA promulgated the DRR August 21, 2015. The DRR requires air agencies to characterize air quality, either by monitoring or modeling, around sources that emit 2,000 tons per year (tpy) or more of SO₂. The requirement for air quality characterization near a source may be avoided by adopting enforceable emission limits that ensure that the source will not emit more than 2,000 tpy of SO₂. On January 15, 2016, the State submitted a final list identifying the sources in the State around which SO₂ air quality will be characterized. Rush Island was not included in the list because it is within the Jefferson County SO₂ nonattainment area. Starting in 2016, Missouri's annual monitoring network plans state that monitoring around Rush Island is being conducted by agreement between the State and Ameren.

State is meeting its obligation to continue monitoring in the area, and verify ongoing attainment and maintenance, via operation of the Mott Street SLAMS monitor and that Missouri's maintenance plan meets the “Monitoring Network” requirement.³⁵ However, as previously noted, because the EPA is proposing to approve the Consent Agreement into the SIP, continued operation of the industrial source monitors will be required until the EPA approves a revision to the SIP to remove the monitoring requirements.³⁶ The available recent monitoring data from these industrial monitors is included in the TSD associated with this action.

e. Verification of Continued Attainment

Each air agency should ensure that it has the legal authority to implement and enforce all measures necessary to attain and maintain the 2010 SO₂ NAAQS. The air agency's submittal should indicate how it will track the progress of the maintenance plan for the area either through air quality monitoring or modeling.³⁷

Missouri has the legal authority to enforce and implement the maintenance plan for the Jefferson County 2010 SO₂ nonattainment area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future SO₂ attainment problems.³⁸ As noted, the State will track the progress of the maintenance plan by continuing to operate the Mott Street monitor. Additionally, the State committed to provide future inventory updates to track emissions during the 10-year maintenance period. State Regulation 10 CSR 10–6.110, *Reporting Emission Data, Emission Fees, and Process Information*, (which is SIP approved) requires that all installations with a construction or operating permit report its annual emissions to the State. The methods for calculating and reporting emissions are detailed in each installation's applicable permit. The data collected on emissions inventory questionnaires from permitted sources form the basis of the point source emissions inventory that is

³⁵ Any change in the operational status or location of the Mott Street monitor must be approved by the Regional Administrator in accordance with the requirements of 40 CFR part 58.

³⁶ The EPA would also need to approve the monitor changes as part of the State's annual monitoring network plan.

³⁷ See 2014 SO₂ Guidance at 67–68.

³⁸ The EPA last determined that Missouri's SIP was sufficient to meet the requirements of section 110(a)(2)(E)(i) of the CAA on March 22, 2018 (83 FR 12496).

²⁹ See Missouri's 2019 Ambient Monitoring Network Plan contained in the docket for this action.

³⁰ The industrial monitors are not classified as SLAMS nor as Data Requirements Rule monitors.

³¹ The Consent Agreement is included as Appendix B of the maintenance plan.

³² The EPA approved the State's 2019 Ambient Monitoring Network Plan via letter dated January 8, 2021. Missouri's 2019 Plan and the EPA's approval letter are included in the docket for this action.

compiled annually.³⁹ In addition, in compliance with the EPA's Air Emissions Reporting Requirements [80 FR 8787], Missouri develops a comprehensive emissions inventory of point, area, and mobile sources every 3 years. This triennial inventory compiled by the State is contained in the EPA's national emissions inventory (NEI) which is made publicly available every 3 years. For these reasons, the EPA is proposing to find that Missouri's maintenance plan meets the "Verification of Continued Attainment" requirement.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the State. A State should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a State will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The triggering mechanisms contained in the maintenance plan and Consent Agreement are based on monitoring data from the Mott Street monitor and the industrial source monitors around the Ameren Rush Island facility. The EPA finds it appropriate to rely on monitoring data to trigger the contingency plan because the Mott Street monitor is being relied upon to demonstrate continued maintenance in the area as discussed in the Monitoring Network section of this document. Additionally, the industrial source monitors were sited consistent with relevant EPA guidance to capture maximum impacts from the Rush Island plant.⁴⁰ Because the Rush Island plant

is the largest remaining source in the maintenance area, the EPA agrees that monitoring around the Rush Island plant would be the best indicator of any potential future air quality issues in the maintenance area and thereby represents a reasonable triggering mechanism for the State's contingency plan.

The State listed two types of triggers of its contingency plan. The first, a "warning level response," will be triggered by a 99th percentile of daily maximum 1-hour average SO₂ concentrations greater than 79 ppb in a single calendar year in the Jefferson County maintenance area. The second, an "action level response," will be triggered if a violation of the NAAQS is recorded in the Jefferson County maintenance area, specifically if the 3-year average of annual 99th percentile daily maximum 1-hour concentrations is 76 ppb or higher.

If the warning level response is triggered, a study must be completed to determine whether the monitored SO₂ value indicates a trend toward higher concentrations in the Jefferson County maintenance area. The study will evaluate whether the trend, if any, is likely to continue. The study shall be completed as expeditiously as possible, but no later than 24 months after the State has determined that a warning level response has been triggered. It should be noted that the EPA does not require a State to implement contingency measures when occasional exceedances are recorded.

If the action level response is triggered and is not found to be due to an exceptional event as defined at 40 CFR part 50.1(j), measures to address the violation shall be implemented as expeditiously as possible, but no later than 24 months after quality assured ambient data that has been entered into the AQS database indicating that this trigger has occurred. If a new measure or control is already promulgated and scheduled to be implemented at the federal or State level, and that measure or control is determined to be enough to address the upward trend in ambient SO₂ concentrations within the maintenance area, additional local measures may be unnecessary. Furthermore, Missouri will submit to the EPA an analysis demonstrating the proposed action level response measures are adequate to return the area to attainment. Contingency measures considered will be based on an analysis of the cause of the elevated ambient SO₂ concentrations from the entity(ies) likely to be contributing to the elevated concentrations. Measures may include improvements to existing control

devices, addition of secondary control devices or improvements in housekeeping and maintenance, among other measures. It is not possible to develop a comprehensive list of contingency measures that can address all possible violations until the cause of the elevated concentrations is known. Any contingency measures implemented will require a compliance plan and expeditious compliance timeline from the entity(ies) involved. The EPA is proposing to find that Missouri's maintenance plan meets the "Contingency Measures" requirement.

In addition to the contingency plan contained in the maintenance plan, the Consent Agreement contains specific contingency plan triggers and requirements for Ameren. Specifically, the Consent Agreement requires that Ameren perform an air quality analysis if any elevated monitoring values are recorded (one occurrence of a measured SO₂ concentration that exceeds 75 ppb for one hour) at any of the three industrial source monitors. Ameren must submit this air quality analysis including the monitored information and any relevant operational information to Missouri within a specified time frame.

If through discussion of the air quality analysis, it is established that the elevated monitoring values were attributable to Ameren Rush Island, Ameren would provide the State with proposed potential mitigation measures, SO₂ emissions limitations, and a compliance schedule.

The EPA proposes to conclude that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, the EPA proposes to find that the maintenance plan SIP revision submitted by Missouri for the Jefferson County 2010 SO₂ nonattainment area meets the requirements of section 175A of the CAA and proposes to approve the plan.

VI. What are the actions the EPA is proposing to take?

The EPA is proposing to approve the maintenance plan for the Jefferson County 2010 SO₂ 1-hour NAAQS nonattainment area into the Missouri SIP (as compliant with CAA section 175A). The maintenance plan demonstrates that the area will continue to maintain the 2010 1-hour SO₂ NAAQS and includes a process to develop contingency measures to remedy any future violations of the 2010

³⁹This information is available to the EPA or members of the public upon request from the State of Missouri.

⁴⁰See Missouri's 2015 and 2016 annual monitoring network plans contained in the docket for this action for more information about the siting of the monitors around Rush Island.

1-hour SO₂ NAAQS and procedures for evaluation of potential violations.

Additionally, the EPA is proposing to determine that the Jefferson County 2010 SO₂ 1-hour NAAQS nonattainment area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS. On this basis, the EPA is proposing to approve Missouri's redesignation request for the area. Final approval of Missouri's redesignation request would change the legal designation of the portion of Jefferson County designated nonattainment at 40 CFR part 81 to attainment for the 2010 1-hour SO₂ NAAQS.

VII. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. If an area is designated in nonattainment of the NAAQS, the CAA provides for the EPA to redesignate the area to attainment upon a demonstration by the state authority that air quality is attaining the NAAQS and will continue to maintain the NAAQS in order to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

VIII. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri State Implementation Plan described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through 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).

IX. Statutory and Executive Order Reviews

Under the Clean Air Act (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, if 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 (Pub. L. 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
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The

analysis for this determination is contained in Section VII of this action, "Environmental Justice Concerns."

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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Maintenance plan, Redesignation, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, Designations, Redesignation, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 22, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 81 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 entry "(34)" in numerical order.
 - b. The table in paragraph (e) is amended by adding the entry "(79)" in numerical order.

The additions 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
(34) Ameren Missouri	Consent Agreement and Addendum No. ACP-2015-034.	12/14/2020	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule].	

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(79) Jefferson County 1-hour SO ₂ NAAQS Maintenance Plan and Supplemental Modeling Analyses.	Jefferson County	12/27/17; 5/15/18; 2/7/19; 2/25/19; and 4/9/21	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	This action approves the Maintenance Plan and the Supplemental Modeling Analyses for the Jefferson County area.

■ 3. In § 52.1343, add paragraph (c) to read as follows:

§ 52.1343 Control strategy: Sulfur dioxide.

(c) *Redesignation to attainment.* EPA has determined, as of [date of publication of the final rule in the **Federal Register**], that the Jefferson County 2010 SO₂ nonattainment area is redesignated to attainment of the 2010 SO₂ 1-hour National Ambient Air Quality Standard (NAAQS) in

accordance with the requirements of Clean Air Act (CAA) section 107(d)(3) and has approved its maintenance plan and supplemental modeling demonstration analyses as meeting the requirements of CAA section 175A.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 5. In § 81.326, revise the entry “Jefferson County, MO” in the table entitled “Missouri—2010 Sulfur Dioxide NAAQS [Primary]” to read as follows:

§ 81.326 Missouri.

* * * * *

MISSOURI—2010 SULFUR DIOXIDE NAAQS [Primary]

Designated area ¹	Designation	
	Date ²	Type
Jefferson County, MO	[Date 30 days after date of publication of the final rule in the Federal Register]	Attainment.
Jefferson County (part):		
That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner:		
(Herculaneum USGS Quadrangle) 718360.283 4250477.056, 729301.869 4250718.415, 729704.134 4236840.30, 718762.547 4236558.715.		
(Festus USGS Quadrangle) 718762.547 4236558.715, 729704.134 4236840.30, 730066.171 4223042.637, 719124.585 4222680.6.		
(Selma USGS Quadrangle) 729704.134 4236840.30, 730428.209 4236840.3, 741047.984 4223283.996, 730066.171 4223042.637.		
(Valmeyer USGS Quadrangle) 729301.869 4250718.415, 731474.096 4250798.868, 730428.209 4236840.3, 729704.134 4236840.30.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is April 9, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2021-13693 Filed 6-28-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[EPA-HQ-OAR-2014-0464; FRL-10024-28-OAR]

Error Correction of the Area Designations for the 2010 1-Hour Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard (NAAQS) in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; withdrawal.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing its August 22, 2019, proposed rule, which proposed both to determine that the EPA made an error in the area designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard (NAAQS) for portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas, and to correct the proposed error by modifying the designations of those areas to unclassifiable. The EPA is withdrawing the proposed rule because the EPA, informed in part by technical information received during the public comment period on the proposed rule that further supports the EPA's initial designations of these areas, no longer believes the bases identified in the proposed error correction support the proposed conclusion that an error correction is appropriate.

DATES: As of June 29, 2021, the proposed rule published at 84 FR 43757 on August 22, 2019, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Corey Mocka, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Policy Division, 109 T.W. Alexander Drive, Mail Code C539-04, Research Triangle Park, NC 27711; phone number: (919) 541-5142; email address: mocka.corey@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 13, 2016, the EPA designated portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas as nonattainment for the 2010 1-hour primary SO₂ NAAQS (81 FR 89870,

codified at 40 CFR 81.344) ("Round 2 Supplement"). On February 13, 2017, Vistra Energy, which owns SO₂ emissions sources in each of the three areas, sent the EPA a petition for reconsideration, purportedly pursuant to Clean Air Act (CAA) section 307(d)(7)(B) and the Administrative Procedure Act 5 U.S.C. 553(e), and for administrative stay of the EPA's nonattainment designations for portions of Freestone and Anderson Counties ("Big Brown Steam Electric Station area"), Rusk and Panola Counties ("Martin Lake Electrical Station area"), and Titus County ("Monticello Steam Electric Station area"). On March 15, 2017, the Texas Commission on Environmental Quality (TCEQ) also submitted a request for an administrative stay of the Round 2 Supplement final designations for these areas in Texas.¹ On September 21, 2017, the EPA initially responded to Vistra Energy's February 2017 petition for reconsideration by indicating an intent to undertake an administrative action with notice and comment to revisit the nonattainment designations for the three areas, but explained that pending completion of such action, the nonattainment designations remained in effect.^{2 3}

The EPA published a proposed rule in the **Federal Register** on August 22, 2019, titled "Error Correction of the Area Designations for the 2010 1-Hour Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard (NAAQS) in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas" (84 FR 43757) ("Proposed Error Correction"). Under the EPA's CAA authority at section 110(k)(6) to correct errors in acting on state implementation plans (SIPs) or in issuing designations, redesignations, classifications or reclassifications, the EPA proposed that in designating these areas as nonattainment under CAA sections 107(d)(1)(A)(i), (d)(1)(B)(ii), and (d)(2)(A), it erred in not giving greater weight to Texas's preference to characterize air quality through monitoring, and to steps undertaken by

¹ Additionally, TCEQ submitted a petition for reconsideration on December 11, 2017, and on December 19, 2017, Vistra Energy provided additional information regarding facility retirements and the deployment of additional SO₂ monitors to support its February 2017 petition for reconsideration and administrative stay.

² https://www.epa.gov/sites/production/files/2018-09/documents/3143_signed_response.pdf.

³ The EPA recently found that Texas has failed to submit State Implementation Plans to satisfy certain nonattainment planning requirements of the CAA for portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County. See 85 FR 48111.

Texas to begin monitoring in these three areas, when considering all available information; in relying on available air quality analyses in making the initial designations that the EPA recognized included certain limitations; or a combination of these two issues. Therefore, to correct these proposed errors, the EPA also proposed that the previously designated nonattainment areas in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas each be revised to reflect an unclassifiable designation under CAA section 107(d)(1)(A)(iii). The EPA has not finalized the Proposed Error Correction and is not doing so in this action. Instead, the EPA is now withdrawing the Proposed Error Correction.⁴

II. Reasons for Withdrawing the Proposed Error Correction*A. Additional Air Quality Modeling*

In the Proposed Error Correction, the EPA proposed that it erred in relying on available air quality modeling submitted by Sierra Club in making the initial nonattainment designations for these three areas. The EPA explained in the proposed action that the modeling submitted by Sierra Club ("December 2015" and "March 2016" modeling), which purported to show nonattainment, was developed in accordance with the general recommendations on modeling provided by the EPA but stated that the modeling contained "key limitations and uncertainties." We made this statement in the Proposed Error Correction despite also acknowledging that we had explained in the record for the Round 2 Supplement that individually these key limitations and uncertainties would not significantly change modeled results or, in many cases, could result in underestimation of SO₂ concentrations. In the Proposed Error Correction, the EPA also stated that given the possible collective significance of these issues and, in the case of the areas around the Martin Lake and Monticello facilities, given that the maximum modeled concentrations are within about 10 percent of the 2010 SO₂ NAAQS, we were less confident in our prior statements that potential adjustments to the Sierra Club modeling would not result in modeled values near

⁴ Additionally, as detailed in a separate document published elsewhere in this issue of the **Federal Register** that has been signed concurrently along with this withdrawal notice, the EPA is also now denying the administrative petitions from Vistra Energy and TCEQ. See <https://www.regulations.gov> under Docket ID No. EPA-HQ-OAR-2014-0464.