

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2023-0403; FRL-11259-01-R7]

### Air Plan Approval; MO; Control of Emissions From Volatile Organic Liquid Storage

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri State Implementation Plan (SIP) related to the control of emissions from volatile organic liquid storage. The revisions to this rule include adding incorporations by reference to other state rules, adding definitions specific to the rule, revising unnecessarily restrictive or duplicative language, and making administrative wording changes. These revisions do not impact the stringency of the SIP or have an adverse effect on air quality. The EPA's proposed approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** Comments must be received on or before September 21, 2023.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-R07-OAR-2023-0403 to [www.regulations.gov](http://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 [www.regulations.gov](http://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:** Bethany Olson, Environmental Protection Agency, Region 7 Office, Air Permitting and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7905; email address: [olson.bethany@epa.gov](mailto:olson.bethany@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-2023-0403, at [www.regulations.gov](http://www.regulations.gov). Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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 [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets).

### II. What is being addressed in this document?

The EPA is proposing to approve revisions to the Missouri SIP received on February 15, 2019, and June 10, 2021, and a supplemental submission on April 24, 2023. The revisions are to Title 10, Division 10 of the Code of State Regulations (CSR), 10 CSR 10-5.500 "Control of Emissions from Volatile Organic Liquid Storage." The purpose of the state regulation is to limit the volatile organic compound (VOC) emissions from installations with volatile organic liquid storage vessels in the St. Louis 1997 eight (8)-hour ozone nonattainment area by incorporating reasonably available control technology (RACT) as required by the Clean Air Act Amendments (CAAA) of 1990. Missouri made multiple revisions to the rule. These proposed revisions add incorporations by reference to other state rules, add definitions specific to the rule, revise unnecessarily restrictive or duplicative language, and make administrative wording changes. EPA proposes to find that these revisions meet the requirements of the Clean Air Act, do not impact the stringency of the SIP, and do not adversely impact air quality. The full text of the rule revisions as well as EPA's analysis of the revisions can be found in the

technical support document (TSD) included in this docket.

### III. 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 first SIP revision from June 15, 2018, to September 6, 2018, and held a public hearing on August 30, 2018. Missouri received ten comments from two sources during the comment period on 10 CSR 10-5.500. The EPA provided nine comments. Missouri responded to all comments and revised the rule based on public comments prior to submitting to EPA, as noted in the State submission included in the docket for this action. The State provided public notice on the second SIP revision from November 15, 2019, to February 6, 2020, and held a public hearing on January 30, 2018. Missouri received one comment from a staff member during the comment period. The State revised the rule purpose statement based on the comment prior to submitting to EPA. As explained above and in more detail in the technical support document which is part of this document, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### IV. What action is the EPA taking?

The EPA is proposing to amend the Missouri SIP by approving the State's request to revise 10 CSR 10-5.500 "Control of Emissions from Volatile Organic Liquid Storage." We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

### V. 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 finalize the incorporation by reference of the Missouri rule 10 CSR 10-5.500, with a state effective date of July 30, 2020, which regulates emissions from volatile organic liquid storage. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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).

## VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 14094 (88 FR 21879, April 11, 2023);
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The Missouri Department of Natural Resources did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and

applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

## List of Subjects in 40 CFR Part 52

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

Dated: August 16, 2023.

**Meghan A. McCollister**,  
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, the table in paragraph (c) is amended by revising the entry “10–5.500” to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

## EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
*	*	*	*	*
<b>Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area</b>				
10–5.500 .....	Control of Emissions From Volatile Organic Liquid Storage.	7/30/2020	[Date of publication of the final rule in the <b>Federal Register</b> ], [ <b>Federal Register</b> citation of the final rule].	Section (2)(N)4 is not SIP-approved. Section (5)(F) retains a previously approved version of the state rule text.
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2023–17986 Filed 8–21–23; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA–R03–OAR–2023–0089; FRL–10213–01–Region 3]****Air Plan Approval; Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Hampton Roads Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia (Commonwealth or Virginia). This revision pertains to the Commonwealth's plan, submitted by the Virginia Department of Environmental Quality (VADEQ), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the 1997 ozone NAAQS) in the Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area (Hampton Roads Area or Area). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 21, 2023.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2023–0089 at [www.regulations.gov](http://www.regulations.gov), or via email to [gordon.mike@epa.gov](mailto:gordon.mike@epa.gov). For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www.epa.gov/dockets/commenting-epa-dockets](http://www.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Om P. Devkota, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2172. Mr. Devkota can also be reached via electronic mail at [devkota.om@epa.gov](mailto:devkota.om@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 9, 2022, the VADEQ submitted a revision to the Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through December 31, 2032 in accordance with CAA section 175A.

**I. Background**

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),<sup>1</sup> EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated the Hampton Roads Area as moderate nonattainment for the 1997 ozone NAAQS. The 1997 Hampton Roads Ozone Maintenance Area includes the counties of Gloucester, Isle of Wight, James City, and York, as well as the cities of Chesapeake, Hampton, Newport News,

Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),<sup>2</sup> the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as “maintenance areas.” One of the criteria for redesignation is to have an approved maintenance plan, under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well as contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On June 1, 2007 (72 FR 30490), EPA approved a redesignation request (and maintenance plan) from VADEQ for the Hampton Roads Area. EPA published final approval of the redesignation request and maintenance plan on June 1, 2007 (72 FR 30490), and, as of that time, the area was designated as attainment for the 1997 ozone NAAQS. In accordance with CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 ozone NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).<sup>3</sup> However, in *South Coast Air Quality Management District v. EPA*<sup>4</sup> (South Coast II), the United States Court of Appeals for the District of Columbia vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for “orphan maintenance areas,” (*i.e.*, areas like the

<sup>1</sup> In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.070 ppm. 80 FR 65292 (October 26, 2015).

<sup>2</sup> The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

<sup>3</sup> See 80 FR 12315 (March 6, 2015).

<sup>4</sup> 882 F.3d 1138 (D.C. Cir. 2018).