



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2025-0138; FRL-12693-01-R7]

Air Plan Approval; Missouri; Removal of Obsolete Rules on Control of NO_x Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the Missouri Department of Natural Resources (MoDNR) on November 14, 2018. MoDNR requests that the EPA remove from its SIP two rules related to control of emissions of nitrogen oxides (NO_x). One of the rules previously applied to electricity generating units (EGUs) and certain non-EGUs in a portion of the state and the other rule previously applied to EGUs throughout the entire state. The EPA has already approved a SIP revision that included provisions to sunset the two rules, and removal of the now-sunsetted rules from the SIP would not 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 **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2025-0138 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: William Stone, Environmental Protection Agency, Region 7 Office, Air Permitting and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

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

Table of Contents

- I. Written Comments
- II. What is Being Addressed in this Document?
- III. Have the Requirements for Approval of a SIP Revision Been Met?
- IV. What Action is the EPA Taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2025-0138, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from [egulations.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. What is Being Addressed in this Document?

The EPA is proposing to approve the removal of 10 Code of State Regulations (CSR) 10-6.360, *Control of NO_x Emissions From Electric Generating Units and Non-Electric Generating Boilers* (referred to here as the Missouri NBTP Rule), and 10 CSR 10-6.350, *Emission Limitations and Emissions Trading of Oxides of Nitrogen* (referred to here as the Missouri EGU Emission Rate Rule), from the Missouri SIP.

A. Background on the Missouri NBTP Rule

In 1998, the EPA issued the NO_x SIP Call to address interstate ozone pollution for the 1979 and 1997 ozone national ambient air quality standards (NAAQS). 63 FR 57356 (October 27, 1998). As applied to Missouri after amendments, the NO_x SIP Call

required the state to address interstate ozone pollution for the 1979 ozone NAAQS by revising its SIP to reduce NO_x emissions in the eastern one-third of the state during the May-September "ozone season" starting in 2007. 69 FR 21604 (April 21, 2004). The NO_x SIP Call included a model state rule for the NO_x Budget Trading Program (NBTP), an interstate cap-and-trade program for seasonal NO_x emissions. The NBTP was designed to cover existing and new EGUs over 25 MW (large EGUs) and existing and new non-EGU boilers and combustion turbines with maximum design heat input over 250 mmBtu/hr (large non-EGUs). States could meet most of their NO_x SIP Call obligations by revising their SIPs to include state rules that required these sources to participate in the NBTP.

Missouri adopted the Missouri NBTP Rule in 2005 as part of the state's plan to address its NO_x SIP Call obligations. The rule applied only in the eastern one-third of the state, where existing and new large EGUs and existing large non-EGUs were required to participate in the NBTP starting in 2007. Contrary to NBTP requirements, the rule's applicability provisions did not cover new large non-EGUs, but the EPA nevertheless approved the rule into the state's SIP in 2006. 71 FR 46860 (August 15, 2006); *see also* 71 FR 32291, 32296-97 (June 5, 2006) (discussing the EPA's reasons for proposing approval despite the rule's omission of new large non-EGUs).

In 2005, the EPA issued the Clean Air Interstate Rule (CAIR) addressing interstate ozone pollution for the 1997 ozone

NAAQS and interstate fine particulate matter (PM_{2.5}) pollution for the 1997 PM_{2.5} NAAQS. 70 FR 25162, May 12, 2005; see also 71 FR 25328 (April 28, 2006) (CAIR backstop Federal Implementation Plans (FIPs)). As applied to Missouri, CAIR's ozone-related provisions required the state to revise its SIP to reduce seasonal NOx emissions statewide starting in 2009. CAIR included a model state rule for the CAIR NOx Ozone Season Trading Program (the CAIR OS trading program), a new interstate cap-and-trade program that was designed to replace the NBTP starting with the 2009 ozone season. While CAIR called for the EPA to stop carrying out its functions administering the NBTP after the 2008 ozone season, the states' NOx SIP Call obligations remained in effect and had to be met through other compliance mechanisms. See 40 CFR 51.121(r). By default, the CAIR OS trading program applied only to existing and new large EGUs, but states covered by the NOx SIP Call could elect to also include their existing and new large non-EGUs, making it possible for the states to use the CAIR OS trading program as the compliance mechanism for meeting their ongoing NOx SIP Call obligations as to both large EGUs and large non-EGUs.

Missouri adopted 10 CSR 10-6.364, *Clean Air Interstate Rule Seasonal NOx Trading Program* (referred to here as the Missouri CAIR OS Rule), in 2007. The rule required existing and new large EGUs throughout the state and existing and new large non-EGUs in the eastern one-third of the state to participate in the CAIR OS trading program, thereby addressing both the state's ozone-

related CAIR obligations and the state's ongoing NOx SIP Call obligations as to both large EGUs and large non-EGUs. The Missouri CAIR OS Rule applied to all the sources covered by the Missouri NBTP Rule (and to additional sources) and established similarly structured but generally more stringent requirements. Accordingly, to avoid duplicative requirements, when adopting the Missouri CAIR OS Rule the state also amended the Missouri NBTP Rule to sunset its implementation when implementation of the Missouri CAIR OS Rule began. The EPA approved the Missouri CAIR OS Rule and the amendments sunsetting the Missouri NBTP Rule into the state's SIP in 2007 and 2008, respectively. 72 FR 71073 (December 14, 2007); 73 FR 17890 (April 2, 2008).

CAIR was remanded to the EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), *modified on rehearing*, 550 F.3d 1176 (D.C. Cir. 2008). In response to the remand, in 2011 the EPA issued the Cross-State Air Pollution Rule (CSAPR) addressing interstate ozone pollution for the 1997 ozone NAAQS and interstate PM_{2.5} pollution for the 1997 and 2006 PM_{2.5} NAAQS. 76 FR 48208 (August 8, 2011). As applied to Missouri after amendments, CSAPR's ozone-related provisions required the state's large EGUs to reduce seasonal NOx emissions statewide starting in 2015 by participating in the CSAPR NOx Ozone Season Trading Program (the CSAPR OS trading program), a new interstate cap-and-trade program designed to replace the CAIR OS trading program. CSAPR as amended also called for the EPA to stop carrying out its functions administering the CAIR OS trading

program after the 2014 ozone season. See 40 CFR 51.123(ff)(1)(ii). The requirements for sources to participate in the CSAPR OS trading program were initially implemented through FIPs, but the EPA provided options for states to adopt model SIP revisions that would either replace the FIPs while allowing sources to continue to participate in the interstate trading programs ("full" CSAPR SIP revisions) or else modify the FIP provisions governing emission allowance allocations while otherwise leaving the FIPs in place ("abbreviated" CSAPR SIP revisions). However, the CSAPR model SIP revisions did not provide a ready-made option for states to meet their ongoing NOx SIP Call obligations as to large non-EGUs by including the sources in the CSAPR OS trading program.

In 2016, the EPA issued the CSAPR Update addressing interstate ozone pollution for the 2008 ozone NAAQS. 81 FR 74504 (October 26, 2016). As applied to Missouri, the CSAPR Update required the state's large EGUs to further reduce seasonal NOx emissions statewide starting in 2017 by participating in the CSAPR NOx Ozone Season Group 2 Trading Program (the CSAPR OS G2 trading program), a new interstate cap-and-trade program designed to supplement the CSAPR OS trading program. For sources in states such as Missouri with ozone-related compliance requirements under both CSAPR and the CSAPR Update, the EPA coordinated compliance requirements by providing that the sources' participation in the CSAPR OS G2 trading program would be deemed to satisfy the requirements under both rules. See *id.*

at 74509 & n.21. Like the CSAPR OS trading program, the CSAPR OS G2 trading program was initially implemented through FIPs, but the EPA again provided options for states to adopt full or abbreviated SIP revisions to replace or modify the FIPs.

Following the promulgation of CSAPR, Missouri adopted 10 CSR 10-6.374, *Cross-State Air Pollution Rule Ozone Season NOx Trading Allowance Allocations*, in 2015 and submitted the rule as an abbreviated CSAPR SIP revision to modify the FIP's emission allowance allocation provisions for Missouri's large EGUs. The SIP submittal was rendered moot by the CSAPR Update, which established a more stringent seasonal NOx emission cap for Missouri's large EGUs, and the state's rule was not approved into the SIP in that original form. Following the promulgation of the CSAPR Update, Missouri adopted amendments to 10 CSR 10-6.374 in 2019 incorporating a complete set of trading program provisions consistent with the CSAPR Update and renaming the state's rule as the *Cross-State Air Pollution Rule NOx Ozone Season Group 2 Trading Program* (referred to here as the Missouri CSAPR OS G2 Rule). The state submitted the amended rule to the EPA as a full CSAPR SIP revision to replace the state's CSAPR Update FIP, and the EPA approved the rule into the SIP in 2019. 84 FR 66316 (December 4, 2019). Between the initial adoption and subsequent amendment of 10 CSR 10-6.374, the state also rescinded the Missouri CAIR OS Rule, removing it from the state's regulations, but the EPA has not approved removal of that rule from the state's SIP.

Since the CSAPR Update, the EPA has issued two more trading program rules addressing interstate ozone pollution, but neither of those rules currently applies to Missouri sources. In 2019, the CSAPR Update was remanded to the EPA for evaluation of possible additional emission reductions. *Wisconsin v. EPA*, 983 F.3d 303 (D.C. Cir. 2019). In response to the remand, in 2021 the EPA issued the Revised CSAPR Update requiring large EGUs in some other states, but not Missouri, to further reduce seasonal NOx emissions. 86 FR 23054 (April 30, 2021). Then in 2023, the EPA issued the Good Neighbor Plan addressing interstate ozone pollution for the 2015 ozone NAAQS. 88 FR 36654 (June 5, 2023). Although the Good Neighbor Plan as promulgated would have applied to large EGUs and certain non-EGU source categories in Missouri, the EPA has administratively stayed implementation of the rule's requirements for all sources in response to judicial stay orders. 88 FR 49295 (July 31, 2023); 88 FR 67102 (September 29, 2023); 89 FR 87960 (November 6, 2024). Under the terms of the administrative stay, Missouri's large EGUs continue to participate in the interstate CSAPR OS G2 trading program as required by the Missouri CSAPR OS G2 Rule.

As noted earlier in this section II.A., when the EPA stopped carrying out its functions administering the NBTP after the 2008 ozone season, states' NOx SIP Call obligations remained in effect. As relevant here, by adopting into its SIP control measures applicable to existing and new large EGUs and existing and new large non-EGUs (in the eastern one-third of the state)

to meet the requirements of the NOx SIP Call, Missouri triggered ongoing obligations for its SIP to include enforceable seasonal NOx mass emissions limits and associated monitoring requirements for these source categories. See 40 CFR 51.121(f)(2), (i)(1), and (r)(2). Initially the NOx SIP Call mandated that the monitoring provisions in each state's SIP require both their large EGUs and their large non-EGUs to monitor seasonal NOx mass emissions in accordance with 40 CFR part 75, but in 2019 the EPA amended the NOx SIP Call to allow states to revise their SIPs to provide alternative forms of monitoring requirements for their large non-EGUs. 84 FR 8422 (March 8, 2019).

Starting with the 2009 ozone season, Missouri met its ongoing NOx SIP Call mass emissions limit and monitoring obligations for both large EGUs and large non-EGUs through the Missouri CAIR OS Rule, which included both emission cap provisions administered by the EPA and requirements for covered sources to monitor their seasonal NOx emissions in accordance with 40 CFR part 75. When the EPA stopped carrying out its functions administering the CAIR OS trading program after the 2014 ozone season, a gap in the state's SIP was introduced that would have to be filled by other compliance mechanisms. For the state's NOx SIP Call-affected large EGUs, the current requirements under the Missouri CSAPR OS G2 Rule to participate in the CSAPR OS G2 trading program satisfy not only the state's CSAPR Update obligations for the 2008 ozone NAAQS and the state's ozone-related CSAPR obligations for the 1997 ozone NAAQS

but also the state's NOx SIP Call obligations for the 1979 ozone NAAQS as to large EGUs. See 40 CFR 52.38(b)(13)(ii). In addition, for the state's NOx SIP Call-affected large non-EGUs, the Missouri CAIR OS Rule's requirements to monitor seasonal NOx emissions in accordance with 40 CFR part 75 remain federally enforceable SIP requirements, notwithstanding the fact that the EPA has stopped carrying out its functions administering the trading program elements of that rule and the fact that the state has removed the rule from the state's regulations. Those monitoring requirements remain codified federal law. See 40 CFR 52.1320(c) (showing that 10 CSR 10-6.364 is still part of the Missouri SIP). However, since the EPA stopped carrying out its functions administering the CAIR OS trading program, there has been no provision of the state's SIP establishing enforceable seasonal NOx mass emissions limits for the state's NOx SIP Call-affected large non-EGUs. As such, while we consider this matter to be beyond the scope of the present proposal, at this point in time, Missouri does not have adequate SIP provisions meeting the requirements of 40 CFR 51.121(f)(2) and (r)(2) with respect to its large non-EGUs in the eastern one-third of the state.

B. Background on the Missouri EGU Emission Rate Rule

Missouri adopted the Missouri EGU Emission Rate Rule in 2000 as part of the state's plan to attain the 1979 ozone NAAQS in the St. Louis nonattainment area. As subsequently amended, the rule established NOx emission rate limits during the ozone season for EGUs over 25 MW throughout the state starting in

2004. The rule also authorized a form of trading between covered sources to promote compliance flexibility, but it did not include a cap on NOx mass emissions. The EPA approved the Missouri EGU Emission Rate Rule as initially adopted and as subsequently amended into the state's SIP in 2000 and 2005, respectively. 65 FR 82285 (December 28, 2000); 70 FR 40193 (July 13, 2005).

As discussed in section II.A. of this document, Missouri adopted the Missouri CAIR OS Rule in 2007, requiring existing and new large EGUs throughout the state and existing and new large non-EGUs in the eastern one-third of the state to participate in an interstate cap-and-trade program for seasonal NOx emissions starting in 2009. The Missouri CAIR OS Rule applied to all the sources covered by the Missouri EGU Emission Rate Rule (and potentially to additional sources). Further, although the requirements of the two rules were structured differently, both rules promoted compliance flexibility by allowing some form of trading among covered sources, and the Missouri CAIR OS Rule was considered more stringent. Accordingly, to avoid duplicative requirements, when adopting the Missouri CAIR OS Rule the state also amended the Missouri EGU Emission Rate Rule to sunset its implementation when implementation of the Missouri CAIR OS Rule began. The EPA approved the amendments sunsetting the Missouri EGU Emission Rate Rule into the state's SIP in 2008. 73 FR 17890 (April 2, 2008).

C. Current Proposed Action

In this action, the EPA is proposing to approve the removal of the Missouri NBTP Rule and the Missouri EGU Emission Rate Rule from the state's SIP. As discussed in sections II.A. and II.B. of this document, in anticipation of the implementation of the Missouri CAIR OS Rule starting in the 2009 ozone season, Missouri amended the Missouri NBTP Rule and the Missouri EGU Emission Rate Rule to end their implementation after the 2008 ozone season, and the EPA has already approved those amendments into the Missouri SIP. Because no substantive provisions of the Missouri NBTP Rule and the Missouri EGU Emission Rate Rule remain operative, the rules currently have no effect on emissions or air quality. Accordingly, their removal from the SIP would not interfere with any applicable requirement concerning attainment or reasonable further progress or any other applicable CAA requirement.

As noted in section II.A. of this document, the EPA stopped carrying out its functions administering the CAIR OS trading program after the 2014 ozone season. Since that time, the Missouri SIP has not included provisions establishing enforceable seasonal NO_x mass emissions limits for existing and new large non-EGUs in the eastern one-third of the state as required by the state's ongoing obligations under the NO_x SIP Call. However, the sunset after the 2008 ozone season of the Missouri NBTP Rule and Missouri EGU Emission Rate Rule did not create this gap, and the removal of the already-sunsetted rules

from the state's SIP would not exacerbate the gap. The EPA remains ready to assist Missouri in remedying the gap.

For the foregoing reasons, the EPA proposes to find Missouri's November 14, 2018, request to remove the Missouri NBTP Rule and the Missouri EGU Emission Rate Rule from the state's SIP approvable in accordance with CAA section 110, including specifically CAA section 110(l).

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 this SIP revision from February 28, 2018, to April 5, 2018 and received one comment from the EPA. Missouri's official submission addressed the EPA's comment. In addition, as explained above the revision meets 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 approve Missouri's request to remove 10 CSR 10-6.350 and 10 CSR 10-6.360 from the SIP because the rules are no longer operative. 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 remove rules that were previously incorporated by reference from the applicable Missouri SIP. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to remove 10 CSR 10-6.350 and 10 CSR 10-6.360 discussed in section II. of this preamble and as set forth below in the proposed revision 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).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Executive Order 14192: Unleashing Prosperity Through Deregulation: Executive Order 14192 does not apply because actions that approve SIPs are exempted from review 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 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, and Ozone.

Dated: April 11, 2025.

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

§ 52.1320 [Amended]

2. In § 52.1320, the table in paragraph (c) is amended by removing the entries "10-6.350" and "10-6.360" under the heading "Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri".

[FR Doc. 2025-07259 Filed: 4/28/2025 8:45 am; Publication Date: 4/29/2025]