

**FILED**

JAN 24 2025

**U.S. Court of Appeals  
Eighth Circuit**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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STATE OF MISSOURI,  
Petitioner,

**25-1141**

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al.  
Respondents.

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**PETITION FOR REVIEW**

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**RECEIVED**

JAN 24 2025

**U.S. COURT OF APPEALS  
EIGHTH CIRCUIT**

Pursuant to Clean Air Act Section 307(b)(1), 42 U.S.C. 7607(b)(1), the Administrative Procedure Act, 5 U.S.C. §§ 553(e) and 702, and Federal Rule of Appellate Procedure 15(a), Petitioner the State of Missouri hereby petitions this Court for review of Respondent United States Environmental Protection Agency's final rule titled "Finding of Failure to Attain and Reclassification of the Missouri Portion of the St. Louis Nonattainment Area as Serious for the 2015 Ozone National Ambient Air Quality Standards," published in the Federal Register at 89 FR 227 (November 25, 2024) (EPA Docket No. EPA-R07-OAR-2024-0540). A copy of EPA's final rule is attached to this Petition as Exhibit 1.

Jurisdiction and venue properly lie in this Court under 42 U.S.C. § 7607(b)(1). This Petition for Review is timely filed within sixty days of the date of publication in the Federal Register. 42 U.S.C. § 7607(b)(1).

January 24, 2025

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I further hereby certify that I caused a true and correct copy of the foregoing to be served on January 24, 2025, by the United States first-class mail on the following:

James Payne  
Acting Administrator  
United States Environmental Protection Agency  
Office of the Administrator  
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1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Office of General Counsel  
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Environment and Natural Resources Division  
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Washington, D.C. 20530

/s/ Samuel C. Freedlund

(o) Use or occupancy of National Forest System lands or facilities without a special use authorization, contract, approved plan of operations, or other written authorization when that written authorization is required.

(p) Knowingly or intentionally possessing any controlled substance in violation of Federal law.

(q) Knowingly or intentionally possessing any drug paraphernalia in violation of State law.

(r) Possessing any alcoholic beverage in violation of State law.

(s) Providing any alcoholic beverage to a minor in violation of State law.

■ 8. Amend § 261.12 by adding paragraphs (e) through (i) to read as follows:

**§ 261.12 National Forest System roads and trails.**

\* \* \* \* \*

(e) Operating a motor vehicle without a valid license as required by State law.

(f) Operating a motor vehicle while under the influence of an alcoholic beverage or a controlled substance in violation of State law.

(g) Operating a motor vehicle in violation of any State law other than those described in paragraph (e) or (f) of this section.

(h) Operating a vehicle or motor vehicle carelessly, recklessly, or in a manner or at a speed that would endanger or be likely to endanger any person or property.

(i) Operating a motor vehicle in violation of a posted sign or traffic control device.

■ 9. Amend § 261.15 by revising paragraphs (e) and (g) to read as follows:

**§ 261.15 Use of vehicles off roads.**

\* \* \* \* \*

(e) While under the influence of an alcoholic beverage or a controlled substance in violation of State law.

\* \* \* \* \*

(g) Carelessly, recklessly, or in a manner or at a speed that endangers or is likely to endanger any person or property.

\* \* \* \* \*

■ 10. Amend § 261.50 by revising paragraphs (a) and (b) to read as follows:

**§ 261.50 Orders.**

(a) The Chief, each Regional Forester, each Experiment Station Director, the head of each administrative unit, their deputies, or persons acting in these positions may issue orders, consistent with their delegations of authority, that close or restrict the use of described areas by applying the prohibitions authorized in this subpart, individually or in combination.

(b) The Chief, each Regional Forester, each Experiment Station Director, the head of each administrative unit, their deputies, or persons acting in these positions may issue orders, consistent with their delegations of authority, that close or restrict the use of any National Forest System road or National Forest System trail.

\* \* \* \* \*

■ 11. Revise § 261.52 to read as follows:

**§ 261.52 Fire.**

When provided by an order, the following are prohibited:

(a) Building, maintaining, attending, or using a fire, campfire, or stove fire.

(b) Using an explosive.

(c) Smoking.

(d) Smoking, except within an enclosed vehicle or building, at a recreation site, or while stopped in an area at least 3 feet in diameter that is barren or cleared of all flammable material.

(e) Entering or being in an area.

(f) Entering an area without any firefighting tool prescribed by the order.

(g) Operating an internal combustion engine.

(h) Welding or operating an acetylene or other torch with open flame.

■ 12. Amend § 261.53 by revising the section heading and introductory text to read as follows:

**§ 261.53 Special closures or restrictions.**

When provided by an order, it is prohibited to go into or be in any area which is closed or restricted for the protection of:

\* \* \* \* \*

■ 13. Amend § 261.54 by removing paragraph (f).

■ 14. Amend § 261.58 by revising paragraphs (b), (d), and (bb) to read as follows:

**§ 261.58 Occupancy and use.**

\* \* \* \* \*

(b) Entering or using a recreation site or portion thereof.

\* \* \* \* \*

(d) Occupying a recreation site with prohibited camping equipment prescribed by the order.

\* \* \* \* \*

(bb) Possessing an alcoholic beverage.

\* \* \* \* \*

**Homer Wilkes,**

*Under Secretary, Natural Resources and Environment.*

[FR Doc. 2024–27555 Filed 11–22–24; 8:45 am]

**BILLING CODE 3411–15–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[EPA–R07–OAR–2024–0540; FRL–12405–01–R7]

**Finding of Failure To Attain and Reclassification of the Missouri Portion of the St. Louis Nonattainment Area as Serious for the 2015 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is determining that the Missouri portion of the St. Louis, MO–IL bi-State nonattainment area failed to attain the 2015 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. The effect of failing to attain by the applicable attainment date is that the area will be reclassified by operation of law to “Serious” nonattainment for the 2015 ozone NAAQS on December 31, 2024, the effective date of this final rule. This action fulfills the EPA’s obligation under the Clean Air Act (CAA) to determine whether ozone nonattainment areas attained the NAAQS by the attainment date and to publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and identifying the reclassification. The corresponding action for the Illinois portion of the St. Louis, MO–IL bi-State area is being taken separately.

**DATES:** This final rule is effective on December 31, 2024.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2024–0540. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Wendy Vit, Environmental Protection Agency, Region 7 Office, Air and Radiation Division, 11201 Renner

Boulevard, Lenexa, Kansas 66219;  
telephone number: (913) 551-7697;  
email address: [vit.wendy@epa.gov](mailto:vit.wendy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Overview of Action

The EPA is required to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain (see CAA section 181(b)(2)). The EPA's determination of attainment for the 2015 ozone NAAQS is based on a nonattainment area's

design value (DV) as of the attainment date.<sup>1</sup>

The 2015 ozone NAAQS is met at an EPA regulatory monitoring site when the DV does not exceed 0.070 parts per million (ppm). For the Moderate nonattainment areas for the 2015 ozone NAAQS addressed in this action, the attainment date was August 3, 2024. Because the DV is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date (*i.e.*, December 31, 2023, in the case of Moderate

nonattainment areas for the 2015 ozone NAAQS). As such, the EPA's determinations for each area are based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2021, 2022, and 2023.

This action addresses the Missouri portion of the St. Louis bi-State nonattainment area (hereafter St. Louis area) that was classified as Moderate for the 2015 ozone NAAQS as of the Moderate area attainment date of August 3, 2024. Table 1 provides a summary of the DVs and the EPA's air quality-based determinations for the St. Louis area.

TABLE 1—SUMMARY OF NONATTAINMENT AREAS IN MISSOURI CLASSIFIED AS MODERATE FOR THE 2015 OZONE NAAQS

Nonattainment area	2021–2023 design value (DV) (ppm)	Attainment by the attainment date
St. Louis .....	0.074	Failed to attain.

The EPA is finding that the St. Louis area as shown in table 1 did not attain by the attainment date, because the 2021–2023 DVs are greater than 0.070 ppm. If the EPA determines that a nonattainment area classified as Moderate failed to attain by the attainment date, CAA section 181(b)(2)(B) requires the EPA to publish a document in the **Federal Register**, no later than 6 months following the attainment date, identifying each such area and identifying the applicable reclassification.

Under CAA section 181(b)(2)(A), the effect of this determination is that the St. Louis area will be reclassified by operation of law as Serious on the effective date of this final rule. The reclassified area will then be subject to the Serious area requirement to attain the 2015 ozone NAAQS as expeditiously as practicable, but not later than August 3, 2027.

Upon reclassification, stationary air pollution sources in the St. Louis ozone nonattainment areas will be subject to Serious ozone nonattainment area New Source Review (NSR) and title V permit requirements. The source applicability thresholds for major sources and major source modification emissions will be 50 tons per year (tpy) for volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). For new and modified major stationary sources subject to review under Missouri regulation 10 CSR 10–6.060, in the EPA approved

State implementation plan (SIP),<sup>2</sup> VOC and NO<sub>x</sub> emission increases from the proposed construction of the new or modified major stationary sources must be offset by emission reductions by a minimum offset ratio of 1.20 to 1 (see CAA section 182(c)(10)).

Once reclassified as Serious, Missouri must submit to the EPA the SIP revisions for this area that satisfies the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the 2015 Ozone NAAQS SIP Requirements Rule (see 83 FR 62998, December 6, 2018). The EPA is establishing deadlines for submitting SIP revisions for newly reclassified areas in a separate action.

##### II. What is the background for this action?

On October 26, 2015, the EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard (see 80 FR 65452, October 26, 2015). In that action, the EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 ppm. Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.070 ppm.

Effective on August 3, 2018, the EPA designated 52 areas throughout the

country as nonattainment for the 2015 ozone NAAQS (see 83 FR 25776, June 4, 2018). As part of that action, the EPA designated the St. Louis, MO-IL bi-State area as Marginal nonattainment for the 2015 Ozone NAAQS. The area included Boles Township of Franklin County, St. Charles County, St. Louis County, and St. Louis City in Missouri, and Madison and St. Clair Counties in Illinois. As part of that same action, EPA designated Jefferson County and the remaining portion of Franklin County, in Missouri, and Monroe County in Illinois, as attainment/unclassifiable. On July 10, 2020, the District of Columbia Circuit Court remanded the Jefferson County, Missouri, and Monroe County, Illinois, designations (among other designations) to the EPA. The Court upheld EPA's designation of Boles Township as nonattainment and the remainder of Franklin County as attainment/unclassifiable. In response to the Court remand, the EPA revised the Jefferson County, Missouri, and Monroe County, Illinois, designation to nonattainment on May 26, 2021 (86 FR 31438).

In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area's ozone problem, determined by the area's DV (see 83 FR 10376, May 8, 2018). The EPA established the attainment date for Marginal, Moderate, and Serious nonattainment areas as 3 years, 6 years, and 9 years, respectively, from the effective date of the final designations.

<sup>1</sup> A DV is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The data handling conventions for calculating DVs for the 2015 ozone NAAQS are specified in appendix U to 40 CFR part 50. The DV

for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area.

<sup>2</sup> Specifically, we are referring to the EPA-approved Missouri regulation 10 Code of State Regulations (CSR) 10–6.060, titled “Construction Permits Required.” Most recently revised and approved into Missouri's SIP on August 11, 2022 (85 FR 49530).



Thus, the attainment date for Marginal nonattainment areas for the 2015 ozone NAAQS was August 3, 2021, the attainment date for Moderate areas was August 3, 2024, and the attainment date for Serious areas is August 3, 2027. On October 7, 2022 (87 FR 60897), the EPA determined that 22 areas, including the St. Louis area addressed in this action, did not attain the standards by the Marginal attainment date, and was reclassified as Moderate by operation of law.

### III. What is the statutory authority for this action?

The statutory authority for this determination is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, sections 181 and 182.

CAA section 107(d) provides that when the EPA establishes or revises a NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether an area is not meeting (or is contributing to air quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Subpart 2 of part D of title I of the CAA governs the classification, state planning, and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be classified at the same time as the area is designated based on the extent of the ozone problem in the area (as determined based on the area's DV). Classifications for ozone nonattainment areas are "Marginal," "Moderate," "Serious," "Severe," and "Extreme," in order of stringency. CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification.

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the ozone standard based on the area's DV as of that date. Under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1307, upon application by any state, the EPA may grant a 1-year extension to the attainment date when certain criteria are met. One criterion for a first attainment date extension is that an area's fourth highest daily maximum 8-hour value for the attainment year must not exceed the level of the standard.

In the event an area fails to attain the ozone NAAQS by the applicable attainment date and is not granted a 1-year attainment date extension, CAA section 181(b)(2)(A) requires the EPA to make the determination that an ozone nonattainment area failed to attain the ozone standard by the applicable attainment date, and requires the area to be reclassified by operation of law to the higher of: (1) The next higher classification for the area, or (2) the classification applicable to the area's DV as of the determination of failure to attain.<sup>3</sup> Section 181(b)(2)(B) of the CAA requires the EPA to publish the determination of failure to attain and accompanying reclassification in the **Federal Register** no later than 6 months after the attainment date, which in the case of the Moderate nonattainment areas considered in this determination is February 3, 2025.

Once an area is reclassified, each state that contains a reclassified area is required to submit certain SIP revisions in accordance with its more stringent classification. The SIP revisions are intended to, among other things, demonstrate how the area will attain the NAAQS as expeditiously as practicable, but no later than August 3, 2027, the Serious area attainment date for the 2015 ozone NAAQS. Per CAA section 182(i), a state with a reclassified ozone nonattainment area must submit the applicable attainment plan requirements "according to the schedules prescribed in connection with such requirements" in CAA section 182(c) for Serious areas, but the EPA "may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions." The EPA is addressing the SIP revision and implementation deadlines for newly reclassified Serious areas, as well as the continued applicability of Moderate area requirements if they have not yet been met, in a separate rulemaking.

### IV. How does the EPA determine whether an area has attained the standard?

The level of the 2015 ozone NAAQS is 0.070 ppm.<sup>4</sup> Under the EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-

hour average ambient ozone concentration (*i.e.*, DV) does not exceed 0.070 ppm. When the DV does not exceed 0.070 ppm at each ambient air quality monitoring site within the area, the area is deemed to be attaining the ozone NAAQS. Each area's DV is determined by the highest DV among monitors with valid DVs.<sup>5</sup> The data handling convention in appendix P dictates that concentrations shall be reported in "ppm" to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a computed 3-year average ozone concentration of 0.0709 ppm is truncated to 0.070 ppm and attains the 2015 ozone NAAQS.

The EPA's determination of attainment is based upon hourly ozone concentration data for calendar years 2021, 2022, and 2023 that have been collected and quality-assured in accordance with 40 CFR part 58 and reported to the EPA's Air Quality System (AQS) database.<sup>6</sup>

State and local monitoring network plans are subject to approval by the EPA on an annual basis and any interim modifications to those plans must also be approved by the EPA.<sup>7</sup> The annual monitoring network plan process is provided in 40 CFR 58.10 and the requirements governing system modifications and monitor discontinuations are laid out in 40 CFR 58.14. Where state or local agencies seek to modify the ambient air quality

<sup>5</sup> According to appendix U to 40 CFR part 50, ambient monitoring sites with a DV of 0.070 ppm or less must meet minimum data completeness requirements in order to be considered valid. These requirements are met for a 3-year period at a site if daily maximum 8-hour average ozone concentrations are available for at least 90% of the days within the ozone monitoring season, on average, for the 3-year period, with a minimum of at least 75% of the days within the ozone monitoring season in any one year. Ozone monitoring seasons are defined for each State in appendix D to 40 CFR part 58. DVs greater than 0.070 ppm are considered to be valid regardless of the data completeness.

<sup>6</sup> The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, state, local, and Tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. Access is through the website at <https://www.epa.gov/aqs>.

<sup>7</sup> Annual monitoring network plans for each state are available at <https://www.epa.gov/amtic/state-monitoring-agency-annual-air-monitoring-plans-and-network-assessments>.

<sup>3</sup> All nonattainment areas named in this action that failed to attain by the attainment date would be classified to the next higher classification, Serious. None of the affected areas has a DV that would otherwise place an area in a higher classification.

<sup>4</sup> See 40 CFR 50.19.

monitoring networks by discontinuing a monitor station, the EPA may approve such modifications subject to the criteria established in 40 CFR 58.14(c). The EPA may not approve such discontinuation if doing so would compromise data collection needed for implementation of a NAAQS. If a monitor has been discontinued subject to 40 CFR 58.14 such that the discontinuation results in insufficient data to calculate a valid DV according to appendix U to 40 CFR part 50, the

EPA will determine the applicable area's attainment status based on the remaining monitors in the area.

#### V. What is the EPA's determination for the area?

The EPA is determining that the St. Louis Moderate nonattainment area addressed in this action failed to attain the 2015 ozone NAAQS by the attainment date of August 3, 2024. As shown in table 1, at least one monitor in this area had a 2021–2023 DV greater than 0.070 ppm. The EPA has further

determined that the St. Louis area did not meet the requirement under section 181(a)(5)(B) and 40 CFR 51.1307 necessary to grant a 1-year extension of the attainment date, because at least one monitor in the area had a 2023 fourth highest daily maximum 8-hour average that was greater than 0.070 ppm. Table 2 shows the annual fourth highest daily maximum 8-hour average ozone concentration and 2021–2023 DV for each monitor in the St. Louis, MO-IL area.

TABLE 2—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE ST. LOUIS, MO-IL AREA \*

AQS site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
290990019 .....	Jefferson .....	Missouri .....	0.073	0.067	0.078	0.072
291831002 .....	Saint Charles .....	Missouri .....	0.067	0.071	0.080	0.072
291831004 .....	Saint Charles .....	Missouri .....	0.065	0.067	0.073	0.068
291890005 .....	Saint Louis .....	Missouri .....	0.065	0.061	0.077	0.067
291890014 .....	Saint Louis .....	Missouri .....	0.065	0.067	0.081	0.071
295100085 .....	St. Louis City .....	Missouri .....	0.068	0.068	0.077	0.071
171190120 .....	Madison .....	Illinois .....	0.070	0.076	0.078	0.074
171190122 .....	Madison .....	Illinois .....	0.070	0.067	0.078	0.071
171193007 .....	Madison .....	Illinois .....	0.070	0.072	0.077	0.073
171630010 .....	Saint Clair .....	Illinois .....	0.066	0.067	0.077	0.070

\* Monitors that did not meet completeness criteria and do not have a valid design value are not shown.

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

Pursuant to CAA section 181(b)(2), the EPA is determining that the St. Louis area failed to attain the 2015 ozone NAAQS by the applicable attainment date of August 3, 2024. Therefore, upon the effective date of this final action, the area will be reclassified, by operation of law, to Serious for the 2015 ozone NAAQS. Once reclassified as Serious, the area will be required to attain the standard “as expeditiously as practicable” but no later than 9 years after the initial designation as nonattainment, which in this case would be no later than August 3, 2027.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because our action to determine whether this area has attained the NAAQS by the attainment date is governed, per CAA section 181(b)(2)(A), solely by area

design values as of that date. The area design values relied upon in this document are calculations based on the certified air quality monitoring data governed by EPA's regulations and involve no judgment or discretion. Thus, notice and public procedures are unnecessary to take this action. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### VII. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Order 14094 (88 FR 21879, April 11, 2023).

##### B. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the PRA of 1995 (44 U.S.C. 3501 *et seq.*). This action does not contain any information collection activities and serves only to make a final determination that the St. Louis nonattainment area failed to attain the

2015 ozone standards by the August 3, 2024, attainment date where such area will be reclassified as Serious nonattainment for the 2015 ozone standards by operation of law upon the effective date of the final reclassification action.

##### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities. The determination of failure to attain the 2015 ozone standards (and resulting reclassifications), do not in and of themselves create any new requirements beyond what is mandated by the CAA. This final action would require the State to adopt and submit SIP revisions to satisfy CAA requirements and would not itself directly regulate any small entities.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no



enforceable duty on any state, local, or Tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the Federal Government and the States for purposes of implementing the NAAQS is established under the CAA.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.” This action does not have Tribal implications as specified in Executive Order 13175. This action does not apply on any Indian reservation land, any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction, or non-reservation areas of Indian country. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant

regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

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 communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. The EPA defines 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.” The 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 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 communities with EJ concerns.

*K. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes a factual determination for an identified entity,

the St. Louis area, based on facts and circumstances specific to that entity. The determinations of attainment and failure to attain the 2015 ozone NAAQS do not in themselves create any new requirements beyond what is mandated by the CAA.

*L. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 2025. Filing a petition for reconsideration by the Administrator of this action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of this action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 18, 2024.

**Meghan A. McCollister,**  
*Regional Administrator, Region 7.*

For the reasons stated in the preamble, 40 CFR part 81 is amended as follows:

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 1. 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**

■ 2. In § 81.326, the table entitled “Missouri—2015 8-Hour Ozone NAAQS [Primary and Secondary]” is amended by revising the entry “St. Louis, MO-IL,” to read as follows:

**§ 81.326 Missouri.**

\* \* \* \* \*

**MISSOURI—2015 8-HOUR OZONE NAAQS**  
[Primary and Secondary]

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date <sup>2</sup>	Type
St. Louis, MO-IL: .....	.....	Nonattainment .....	12/31/24	Serious.

MISSOURI—2015 8-HOUR OZONE NAAQS—Continued  
[Primary and Secondary]

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date <sup>2</sup>	Type
Franklin County (part). Boles Township: Jefferson County ..... July 14, 2021 <sup>3</sup> . St. Charles County. St. Louis County. City of St. Louis.				
*	*	*	*	*

<sup>1</sup> Includes any Indian country in each county or area, unless otherwise specified. The 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.

<sup>2</sup> This date is August 3, 2018, unless otherwise noted.

<sup>3</sup> EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

\* \* \* \* \*

[FR Doc. 2024–27382 Filed 11–22–24; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 180**

[EPA–HQ–OPP–2021–0308; FRL–12327–01–  
OCSPP]

**Various Fragrance Components in  
Pesticide Formulations; Tolerance  
Exemption**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of various fragrance components listed in Unit II of this document when they used as inert ingredients in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils when the end-use concentration does not exceed 33 parts per million (ppm). Innovative Reform Group, on behalf of The Clorox Company, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of various fragrance components, when used in accordance with the terms of those exemptions.

**DATES:** This regulation is effective November 25, 2024. Objections and

requests for hearings must be received on or before January 24, 2025 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0308, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information****A. Does this action apply to me?**

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers

determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

**B. How can I get electronic access to other related information?**

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

**C. How can I file an objection or hearing request?**

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0308 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before January 24, 2025.

EPA's Office of Administrative Law Judges (OALJ), where the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Revised Order Urging Electronic Service and Filing", dated

**United States Court of Appeals**  
***For The Eighth Circuit***  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329  
**St. Louis, Missouri 63102**

**Maureen W. Gornik**  
***Acting Clerk of Court***

**VOICE (314) 244-2400**  
**FAX (314) 244-2780**  
**[www.ca8.uscourts.gov](http://www.ca8.uscourts.gov)**

January 27, 2025

Samuel Charles Freedlund  
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Saint Louis, MO 63101

RE: 25-1141 State of Missouri v. EPA

Dear Counsel:

We have received a petition for review of an order of the United States Environmental Protection Agency, with payment in the amount of \$600 for the docket fee.

The petition has been filed and docketed in the case number listed above. A copy of the petition is hereby served upon the respondent in accordance with Federal Rule of Appellate Procedure, 15(c).

Counsel in the case must supply the clerk with an Appearance Form. Counsel may download or fill out an [Appearance Form](#) on the "Forms" page on our web site at [www.ca8.uscourts.gov](http://www.ca8.uscourts.gov).

Your attention is invited to the briefing schedule pertaining to administrative agency cases, a copy of which will be sent under separate Notice of Docket Activity. The clerk's office provides a number of practice aids and materials to assist you in preparing the record and briefs. You can download the materials from our website, the address of which is shown above. Counsel for both sides should familiarize themselves with the material and immediately confer regarding the briefing schedule and contents of the appendix.

Maureen W. Gornik  
Acting Clerk of Court

CJO

Enclosure(s)

cc: Andrew Bailey  
Joshua Divine  
Todd Kim  
James R. McHenry III  
James O. Payne

District Court/Agency Case Number(s): 89 Fed. Reg. 227

**Caption For Case Number: 25-1141**

State of Missouri

Petitioner

v.

United States Environmental Protection Agency

Respondent



**Addresses For Case Participants: 25-1141**

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