



Jeremiah W. (Jay) Nixon, Governor • Harry D. Bozoian, Director

DEPARTMENT OF NATURAL RESOURCES

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NOV 21 2016

Mr. Mark Hague
Regional Administrator
U.S. EPA, Region VII
11201 Renner Boulevard
Lenexa, KS 66219

Dear Mr. Hague:

The Missouri Department of Natural Resources' Air Pollution Control Program (air program) hereby submits the following clarification letter regarding the Missouri State Implementation Plan (SIP) revision titled "Redesignation Request and Maintenance Plan for the St. Louis (Missouri) 2008 Ozone Standard Nonattainment Area" (maintenance plan). The maintenance plan was submitted to you on September 12, 2016. It has come to our attention that a portion of section 5 of the maintenance plan may be interpreted differently than intended. The purpose of this letter is to clarify the emission reductions relied upon to demonstrate maintenance and describe the path forward for permitting after designation to attainment of the 2008 ozone standard.

Section 5 of the maintenance plan contains an emission inventory trend demonstrating maintenance of the 2008 ozone standard in future years. The introductory paragraphs of section 5 describe the inventory contents, years, and pollutants included in the maintenance demonstration. The final introductory paragraph highlights the commitment to continue all previously SIP-adopted control measures after redesignation to maintenance, and to complete an anti-backsliding demonstration for the removal of SIP-adopted controls. The introduction concludes with the following two sentences:

"In addition, nonattainment new NSR permitting requirements are expected to continue to apply to construction of new major sources and to significant modifications of existing sources due to the area's potential designation as nonattainment under the more recently promulgated 2015 ozone NAAQS. These existing and future control measures identified in the maintenance plan are relied upon to maintain the 2008 ozone NAAQS."

The nonattainment New Source Review (NSR) program is SIP-adopted and continues while the St. Louis area is designated nonattainment. Although the air program is requesting a redesignation of the area to attainment for the 2008 ozone standard, EPA expects to complete designations for the 2015 ozone standard within a relatively short period of time, expected by October 2017. The air program submitted a nonattainment recommendation to EPA on September 30, 2016 that would continue the same 5-county ozone nonattainment area for the

2015 ozone standard. Because of the impending 2015 ozone designations and supporting technical information, the air program expects a continuation of a nonattainment designation is likely under the 2015 standard and will apply nonattainment NSR requirements in the St. Louis area when a nonattainment designation occurs.

The conclusion sentence of the introductory paragraph states that "...these existing and future control measures identified in the maintenance plan are relied upon...". Considering the last two sentences together, it appears the continuation of nonattainment NSR review is relied upon to maintain the NAAQS. However, the air program did not rely on this permitting requirement in the technical demonstration because it is not guaranteed that the area will be designated nonattainment for the 2015 ozone standard for the entirety of the maintenance period through 2030. To be conservative and estimate higher emissions in the future year, which still demonstrate maintenance of the 2008 NAAQS, section 5 of the plan does not account for reductions due to a continuation of nonattainment NSR program. Specifically, sections 5.1.2 and 5.3 highlight rules relied upon in future year inventory development with nonattainment NSR omitted.

The air program does not intend to apply nonattainment NSR requirements in any designated attainment area for any period of time, including St. Louis. In fact, the air program would be statutorily prohibited from doing so. Chapter 643.055 of the Missouri Revised Statutes states that the Missouri Air Conservation Commission shall not establish standards and guidelines any stricter than those required under the Clean Air Act, unless they are found by the commission to be needed to have an EPA approved plan. In the case of nonattainment NSR continuing after an attainment designation, the Missouri Air Conservation Commission would need to review and approve a specific technical demonstration showing that the continuation of nonattainment NSR is necessary for an approvable SIP since this would be without precedent in previous SIP submittals to the commission. From section 5 of the maintenance plan, continuation of nonattainment NSR is not necessary to demonstrate maintenance of the 2008 Ozone NAAQS. Missouri did not provide a specific technical demonstration to the commission that continuation is necessary for maintenance as the future year inventory sufficiently meets the attainment year inventory emission levels without nonattainment NSR emission reductions. The air program asserts that the SIP is approvable given the inventory demonstration and other required contents of the maintenance plan.

Section 5.4 of the maintenance plan emphasizes the commitment to continuing Prevention of Significant Deterioration (PSD) permitting in attainment areas, and nonattainment NSR in nonattainment areas as required by 10 CSR 10-6.060. PSD requires Best Available Control Technology (BACT) for new major sources or significant modifications at existing major sources. Nonattainment NSR requires the Lowest Achievable Emission Rate (LAER), emission offsets, and alternate site analyses. In order to deviate from this rule, the air program would have to amend the rule or request a variance from the rule to allow for nonattainment NSR in an attainment area. The continuation of current permitting requirements for both attainment and

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nonattainment areas is a requirement of the portion of the Infrastructure SIP deemed administratively complete on January 8, 2014.

With this clarification, the air program expects that approvability of the maintenance plan with respect to nonattainment NSR will not be a concern to EPA.

Thank you for your attention to this matter. If you have any questions, please contact Ms. Darcy Bybee with the Missouri Department of Natural Resources' Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by telephone at (573) 751-4817.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Original signed by Kyra L. Moore

Kyra L. Moore
Director

KLM:sac

c: File# 2008-O3-7 Redesignation and Maintenance