



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0223; FRL-9933-09-Region 7]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; 2013 Missouri State Implementation Plan for the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will approve Missouri's SIP for the Buick/Viburnum Trend lead National Ambient Air Quality Standard (NAAQS) nonattainment area near Boss, Missouri. EPA proposed approval of this plan on June 1, 2015. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes Missouri's SIP satisfies the applicable requirements of the Clean Air Act (CAA) identified in EPA's 2008 Final Rule and will bring the area into attainment of the 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) lead NAAQS in the Buick/Viburnum Trend, Missouri area.

In this action, EPA is also finalizing its approval of a

revision to the Missouri SIP to incorporate an amendment to an existing Missouri regulation to restrict lead emissions from specific sources. The amendment revises certain throughput and emissions limits applicable to the Buick Resource Recycling Facility (BRRF) in the Buick/Viburnum Trend lead nonattainment area. Approval of this rule ensures consistency between the state and Federally-approved rules, and ensures Federal enforceability of the revised state rule.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0223. All documents in the docket are listed on the www.regulations.gov web site. 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 either electronically through www.regulations.gov or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. The interested persons wanting to examine these

documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7719, or by email at doolan.stephanie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. EPA's Response to Comments.
- IV. What Action is EPA Taking?

I. What is Being Addressed in this Document?

In this document, EPA is granting final approval of Missouri's SIP for the lead NAAQS nonattainment area of Buick/Viburnum Trend. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964). EPA is also granting final approval to portions of a revision to the State of Missouri Code of State Regulations (CSR) 10-6.120, "Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations". This revision pertains to throughput limits applicable to the BRRF, which is the primary source of lead emissions in the Buick/Viburnum Trend nonattainment area. EPA's proposal containing the background

information for this action can be found at 80 FR 30965, June 1, 2015.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of the docket, the revision meets the substantive SIP requirements of the CAA, including Section 110 and implementing regulations.

III. EPA's Response to Comments

The public comment period on EPA's proposed rule opened June 1, 2015, the date of its publication in the **Federal Register**, and closed on July 1, 2015. During this period, EPA received one comment letter from the Doe Run Resource Recycling Division dated July 1, 2015. The comment letter and EPA's responses are summarized below.

Comment 1: The commenter states that in the June 1, 2015, proposed approval that the nomenclature for the Buick/Viburnum Trend nonattainment area is inconsistent. Doe Run requests that the term "Buick/Viburnum Trend" be used throughout. Doe Run also states that the secondary lead smelter nomenclature is incorrectly stated as "the Doe Run Buick Resource Recycling

Facility (BRRF)" and requests EPA to correct the nomenclature to use "The Buick Resource Recycling Facility (BRRF)" throughout.

Response 1: This comment recommends typographical corrections to the proposed rule that EPA has not relied upon in its decision making for this final action, and EPA is therefore not changing its final action based on this comment.

Comment 2: Doe Run states that the heading for section V.A.1. in the proposal is titled "BRRF Process Description," but that it contains both the BRRF process description and a discussion of the mine activities. Doe Run requests that the section be retitled as "Buick/Viburnum Trend Process Description."

Response 2: See Response 1.

Comment 3: Doe Run notes that section V.A.1. states "BRRF operates as a secondary smelter of lead, lead-containing materials including spent lead acid batteries, lead bullets and shot, lead-containing glass from cathode ray tubes, and lead-based paint chips from lead abatement projects." Doe Run requests that the statement be revised to more accurately reflect the facility operations by stating that "BRRF operates as a secondary lead smelter of lead, utilizing lead-containing materials including spent lead acid batteries, lead bullets and shot, lead-containing glass from cathode ray tubes, lead-based paint chips from lead abatement projects, and other lead bearing materials."

Response 3: EPA notes that the process information provided in section V of the proposal was reproduced from Missouri's attainment SIP which was made available for a 30-day public comment period before the document was submitted to EPA. EPA appreciates this comment as it clarifies process-related information. However, this comment does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

Comment 4: Doe Run notes that in the first paragraph of section V.A.1., EPA states that "Crushed and concentrated lead containing ore was formerly processed at the Herculaneum primary lead smelter, but since that facility ceased primary lead smelting in December 2013, the ore gets shipped out of the U. S. for overseas processing." Doe Run requests this statement to instead read, "The processed ore, called lead concentrate was formerly processed at the Herculaneum primary lead smelter, but since that facility ceased primary lead smelting in December 2013, the lead concentrate is currently shipped out of the U.S. for overseas processing."

Response 4: Please see Response 3.

Comment 5: Doe Run requests that EPA revise the third paragraph of section V.A.1. from "BRRF's production is limited to 175,000 tons of total lead production each year . . ." to "175,000 tons of total refined lead production per year . . ."

Response 5: EPA disagrees. Section V.A.1. refers to the lead production limit in Missouri regulation 10 Code of State Regulation (CSR) 10-6.120, which states that "This installation [BRRF] shall limit total lead production to one hundred seventy-five thousand (175,000) tons per year." 10 CSR 10-6.120 does not make a distinction between total lead production and total refined lead production.

Comment 6: In paragraph three of section V.A.1., EPA states that "Spent batteries are stored in a battery bunker until processed in a shredder." Doe Run requests that the statement read: "Spent batteries are stored in the containerized storage area until processed in the battery shredder."

Response 6: Please see Response 3.

Comment 7: In section V.A.1., EPA states that "The batteries further undergo a separation process under which the lead and metal parts are separated from the plastic and other debris." Doe Run requests that this statement be revised as follows: "The batteries further undergo a separation process under which the lead and metal parts are separated from the plastic and other materials." Doe Run also requests EPA to change "The plastic and other debris are skimmed off and sent to recycling facilities" to "The plastic is skimmed off and sent to recycling facilities."

Response 7: Please see Response 3.

Comment 8: In section V.A.1, the fifth paragraph states that "The lead sulfate paste is passed through a filter press and neutralized with hydrated lime to form calcium sulfate . . ."

Doe Run requests that this statement be revised to read: "The lead sulfate paste is passed through a filter press . . ."

Response 8: Please see Response 3.

Comment 9: Regarding the first paragraph in section V.A.2, Doe Run disagrees with EPA's statement that the annual lead emissions from the Casteel Mine and the K & D Crushing Operations are "significant" to the total emissions of 18.34 tons per year. Doe Run further requests a change in EPA's statement from "processing of lead containing rock until it becomes wet concentrate that is shipped to other customers," to "processing of lead containing rock to produce lead concentrate to be shipped to customers."

Response 9: The commenter makes two separate comments in its "Ninth" comment per the progression of its comment letter. For consistency in numbering, EPA is also addressing these comments together.

Regarding Doe Run's comment that the Casteel Mine and the K & D Crushing Operations are not "significant" to the total emissions of 18.34 tons per year, EPA disagrees. In Section 3, Emissions Inventory, of Missouri's attainment SIP, four facilities, including the Casteel Mine and K & D Crushing, are

listed that reported more than 0.01 tpy lead for inventory years 2009 through 2011. Missouri has determined that these facilities are significant and required modeling in order to determine their impacts at the monitor. This comment does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

As summarized above, Doe Run has commented on the wording of the third sentence in the first paragraph of section V.A.2. Please see Response 1.

Comment 10: In the third paragraph of section V.A.2, EPA states that "At the Buick Mine and Mill, ore is hauled from the active mining faces to a central crusher where it is crushed . . ." Doe Run requests this sentence to be revised to state, "At the Buick Mine and Mill, ore is hauled from the active mining faces to an underground central crusher where it is crushed . . ."

Additionally, in this same paragraph, EPA states that "After being crushed aboveground to less than 5/8-inch in size, the ore subjected to wet milling and grinding with rods and ball mills . . ." Doe Run has requested the word "is" to be inserted between "ore" and "subjected."

Response 10: Please see Response 1.

Comment 11: In the fourth paragraph of section V.A.2., EPA states "As stated above, the Herculaneum facility ceased operations smelting operations in December 2013; thus, the concentrate is shipped overseas to primary lead smelting operations or other customers." Doe Run requests this sentence be revised to state "As stated above, the Herculaneum facility ceased smelting operations in December 2013; thus, the concentrate is shipped overseas to customers' primary lead smelting operations or other customers."

Response 11: Please see Response 1.

Comment 12: Doe Run commented that "mg/m³" had been incorrectly used in the proposal instead of "µg/m³" throughout the document.

Response 12: EPA checked the **Federal Register** proposed rule at <http://www.regulations.gov/#!documentDetail;D=EPA-R07-OAR-2015-0223-0001> and found that the correct units, µg/m³, were used. No change is necessary.

Comment 13: Section V.D.f. states that "By February 4, 2013, install a dry lime SO₂ scrubber to further process gases as they exit the pulse-jet baghouse . . ." Doe Run comments that this statement does not accurately reflect the language of the Consent Decree and it should read "By February 4, 2013, install a dry lime SO₂ scrubber to further process the exit gas stream before routing reverberatory furnace process to the main stack."

Response 13: EPA agrees but notes that the requirement is not in the Consent Decree but rather is found in paragraph V, item 6.F. of the 2013 Consent Judgment (appendix M of the attainment SIP). As stated in the proposal, Section V.D. contains a brief discussion of the control measures. This comment further describes those control measures, but does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

Comment 14: Doe Run comments that section V.D.i. references item a.; however, it should reference item b.

Response 14: EPA agrees. EPA notes that Section 5.1, Consent Judgment Measures, of Missouri's attainment SIP also references item A. However, as depicted in the process flow diagram on page A-7 in Appendix A of Missouri's attainment SIP, for the reverberatory furnace, EPA notes that Doe Run is correct; the Dry Scrubber Baghouse CD37 follows the exit gases from the reverberatory furnace and is not part of the South Refinery described in item a. (depicted on page A-9 of Missouri's attainment SIP). This comment does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

Comment 15: Section V.D.j. states that "By October 31, 2014, install "batwing" style ventilation covers to improve . . ." Doe Run requests that this language be revised to state "By October 31, 2014, install "batwing" style ventilation covers, or covers with equivalent or better capture efficiency to improve . . ."

Response 15: As stated in the proposal, Section V.D. contains a brief discussion of the control measures. This comment further describes those control measures, but does not substantively impact the decision to approve the attainment SIP, and EPA is therefore not changing its proposed action based on this comment.

Comment 16: The fourth paragraph of section V. E. refers to the "mines and mills." The statement should be revised to refer specifically to the "Buick Mine and Mill and the Casteel Mine."

Response 16: Please see Response 1.

Comment 17: In section V.H.a., EPA states that the negative pressure requirement is in "inches Hg." Doe Run comments that the correct units are "mm Hg."

Response 17: Please see Response 1.

Comment 18: Doe Run requests EPA to refer in the first paragraph of section VI.B. to the limits of Missouri regulation 10-6.120 as "175,000 tons of refined lead per year." Also, Doe Run comments that in section VI.B. the proposal should consistently refer to "lead" rather than "Pb."

Response 18: With regard to 10 CSR 10-6.120, please see Response 5. With regard to the use the words "lead" and "Pb," interchangeably, please see Response 1.

Comment 19: In the third paragraph of section VI.B., EPA states that "The modeled total emissions in the attainment demonstration SIP are 176,482 tons of Pb produced per year." Doe Run requests that this sentence be revised to state "The modeled total emissions in the attainment demonstration SIP are based on 176,482 tons of refined lead produced per year."

Response 19: EPA agrees that the sentence should indicate that the "modeled total emissions in the attainment demonstration SIP are based on 176,482 tons of lead produced per year. As discussed above in Responses 5 and 18, the language "refined" is not found in the Missouri regulation.

IV. What Action is EPA Taking?

EPA is taking final action to amend the Missouri SIP to approve Missouri's SIP for the Buick/Viburnum Trend lead NAAQS nonattainment area near Boss, Missouri. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964). EPA is also granting final approval to portions of a revision to the State of Missouri CSR 10-6.120, "Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations".

Incorporation by Reference

In this action, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Missouri Rule 10 CSR 10-6.120 (with the exclusions of Paragraph 10-6.120 (3)(B)1. and Table 1, and the 0.00087 gr/dscf main stack emissions limit for BRRF) described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this

rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rulemaking would approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

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).

This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action

merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rulemaking also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect,

the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this proposed rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking 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 such future rule or action.

List of Subjects in 40 CFR Part 52

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

Dated: August 18, 2015.

Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 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 amend the table in paragraph (c) by revising the entry for Missouri Rule 10 CSR 10-6.120 and the table in paragraph (d) by adding entry (29) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.120	Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations	3/30/09	[Insert Federal Register date of publication date] and [Insert Federal Register citation]	Paragraph (3) (B)1 and Table, Provision Pertaining to Limitations of Lead Emissions from Specific Installations, have not been approved as a part of the SIP. The requirement to limit main stack lead emissions at BRRF to 0.00087 gr/dscf lead in Paragraph (3) (B)2 has not been approved as a part of the SIP.
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(d) * * *

EPA-Approved Missouri Source-Specific Permits and Orders

Name of Source	Order/permit number	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
(29) Doe Run Buick Resource Recycling Facility.	Consent Judgment 13IR-CC00016	7/29/13	[Insert Federal Register date of publication date] and [Insert Federal Register citation]	

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[FR Doc. 2015-21199 Filed: 8/27/2015 08:45 am; Publication Date: 8/28/2015]