6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0708; FRL-9942-78-Region 7]

Approval and Promulgation of Air Quality Implementation Plans; State of Kansas; 2015 Kansas State Implementation Plan for the 2008 Lead Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to grant full approval of Kansas's attainment demonstration State Implementation Plan (SIP) for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Salina, Saline County, Kansas, received by EPA on February 25, 2015. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act identified in EPA's Final Rule published in the **Federal Register** on October 15, 2008, and will bring the designated portions of Salina, Kansas, into attainment of the 0.15 microgram per cubic meter (ug/m^3) lead NAAQS.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0708, to http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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 http://www2.epa.gov/dockets/commenting-epa-dockets.

Publicly available docket materials are available either electronically in www.regulations.gov or at the EPA, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office’s official hours of business

are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal 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.

Table of Contents

I. What is Being Addressed in this Document?

In this document, EPA is addressing Kansas' attainment demonstration State Implementation Plan (SIP) for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area in portions of Salina, Saline County, Kansas. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will bring the area into attainment of the 0.15 microgram per cubic meter (ug/m^3) lead NAAQS.

II. Have the Requirements for the 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, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. What Action is EPA Taking?

EPA is proposing to grant full approval of Kansas' attainment demonstration SIP for the 2008 lead NAAQS. EPA is proposing this action in order to solicit comments. Final rulemaking will occur after consideration of any comments received.

IV. Background

EPA established the NAAQS for lead on October 5, 1978 (43 FR 46246). On October 15, 2008, EPA established a new lead NAAQS of 0.15 ug/m^3 in air, measured as a rolling three-month average. (73 FR 66964). On November 22, 2011, portions of Salina, Saline County, Kansas, were designated as nonattainment for the 2008 lead NAAQS. (76 FR 72097). Under sections 191(a) and 192(a)of the CAA, Kansas is required to submit to EPA an attainment demonstration SIP revision for lead and to demonstrate the nonattainment area will reach attainment of the 2008 lead NAAQS no later than five years from the date of the nonattainment area designation.

V. Technical Review of the Attainment Demonstration SIP for the 2008 Lead NAAQS

A. Facility Description

There are two lead-emitting sources contributing to the Salina lead nonattainment area: Exide Technologies (Exide) and Metlcast Products (Metlcast). A description of the operation of these two facilities is presented below.

1. Exide Process Description

The Exide facility in Salina, Kansas, manufactures lead acid batteries for automobiles, trucks, and watercraft. Lead emissions result from breaking open used batteries, re-melting the lead, and reformulating new batteries. The lead is released in particulate form and generally captured within building structures or by air pollution control equipment; however, some lead particulates escape to the ambient air, despite facility process enclosures and the efficiency of air pollution control equipment. The facility reports lead emissions greater than 0.5 tons per year (tpy).

The production operations at the facility consist of seven pasting lines, five ball mills and ten oxide mills with emissions controlled by 15 process baghouses, 16 battery assembly lines, and 41 lead reclaim pots with emissions

controlled for 29 of those pots by five baghouses. Lead alloy ingots are charged to a melting pot, from which the molten lead flows into molds that form the battery grids. Paste is made in a batch process. A mixture of lead oxide powder, water, and sulfuric acid produces a positive paste, and the same ingredients in a slightly difference proportion with the addition of an expander make the negative paste. Pasting machines then force pastes into the interstices of the grids, which are then made into plates. The pasted plates are then cured through alternating cycles of steaming and drying. From the ovens, the cured plates are loaded into the assembly process where they are automatically stacked in an alternating positive/negative order. Emissions from the battery manufacturing process are controlled by baghouses.

2. Metlcast Process Description

The Metlcast facility is located to the north of the Exide facility, near the violating lead monitor. The Metlcast facility uses three electric induction furnaces to cast gray iron. The scrap metal used to produce the gray iron most likely has varying amounts of lead, depending on the source of the scrap. When heated, the lead is driven off the molten metal in the form of particulates. Elemental lead and lead compounds in the form

of particulates are captured by the facility's air pollution control equipment; however, some lead-contaminated particulates escape to the ambient air.

B. Model Selection, Meteorological and Emissions Inventory Input Data

Exide conducted air dispersion modeling to evaluate the effectiveness of the proposed control strategy. Kansas reviewed the results of the air model which demonstrates attainment of the 2008 Lead NAAQS and the results form the basis of the attainment SIP. EPA conducted an independent review of the modeling. The results of the modeling will be discussed in more detail in section V.C. of this document.

The model, AERMOD, was utilized and is EPA's preferred model for demonstrating attainment of the lead NAAQS. AERMOD estimates the combined ambient impact of sources by simulating Gaussian dispersion of emissions plumes. Emission rates, wind speed and direction, atmospheric mixing heights, terrain, plume rise from stack emissions, initial dispersion characteristics of fugitive sources, particle size and density are all factors considered by the model when estimating ambient impacts. Exide conducted the dispersion modeling in accordance with "Air Quality Dispersion Modeling Protocol for SIP Attainment

Demonstration," dated March 2013. Results of the modeling are reported in appendix A of the Kansas attainment SIP, available in the docket associated with this proposed action.

Exide used the surface and upper air meteorological data from the Salina airport (SLN) for years 2007 through 2011. EPA recommends the use of five years of meteorological data for the model (40 CFR Part 51, appendix W, section 8.3.1.2). EPA conducted a review of the meteorological data used for the modeling and agreed with Kansas's determination that it is representative of meteorological conditions in the nonattainment area. The meteorological data were run through AERMOD's pre-processors to make the data usable by the model.

As required by section 172(c)(3) of the CAA, an emission inventory was developed for this nonattainment area. At Exide, ten baghouses were each modeled as separate point sources and ten oxide mills stacks were modeled as discharging from one 65-foot stack. Potential emissions rates for the point sources were determined from stack test data, using an average of three runs from the highest measured average emissions rates since 2007, or the most recent infrastructure update for the source. Appendix A of the attainment SIP contains a detailed listing of the emissions modeled for each point source. A factor of 3.3 to 12

times each point source emission rate was applied to demonstrate the levels necessary to achieve attainment of the 2008 Pb NAAQS.

Fugitive sources of lead at the Exide facility include process fugitives and vehicular fugitives from truck haul routes. The fugitive emissions were modeled as volume sources. Building process fugitives were estimated with a 99 percent capture efficiency on the basis of total building enclosures with negative pressure and local exhaust ventilation (LEV). Haul route fugitives were estimated using the Paved Roads section of Chapter 13.2.1 of EPA's AP-42 guidelines.[1]

Metlcast's emissions were modeled as volume sources because its operations occur in an open building with wall and roof vents, so there are no stacks from which to conduct emissions testing. Emissions estimates were based on the volatilized fraction of the lead fraction of the facility's 2011 production, which was estimated to be 6910 tons. The quantity of lead emissions was estimated over a 12-hour per day operating shift over 365 days per year.

In accordance with 40 CFR part 51, appendix W, background concentrations must be considered when determining NAAQS compliance. Background concentrations are intended to include

[1] AP-42, Compilation of Air Pollutant Emission Factors, Fifth Edition, http://www.epa.gov/ttnchie1/ap42/.

impacts attributable to natural sources, nearby sources (excluding the dominant source(s)), and unidentified sources. The calculated background concentration includes all sources of lead not already included in the model run script. The background concentration includes distant sources of lead or naturally occurring lead in soils that has become re-entrained in the atmosphere.

A background value is typically calculated by averaging the monitored concentrations of lead in air from an ambient air monitor within the nonattainment area. In this case, however, the ambient air monitor is located between the two facilities so that it is not possible to calculate a background value for lead from the monitoring data that does not include the influence of one of the facilities, regardless of wind direction. Instead, Kansas used a background level of 0.01 $\mu g/m^3$ which is the national non-source oriented monthly average ambient lead concentration determined by EPA in its final "Integrated Science Assessment for Lead (ISA)," dated June 2013 (http://www.epa.gov/ncea/isa/lead.htm). Tables 2-13 and 2-15 of the ISA provide detailed statistics based upon the national monitoring network to support a background lead level of 0.01 $\mu g/m^3$. The use of this nationally determined background level is

further supported by data from the temporary non-source oriented lead monitor located north of the nonattainment area in Salina, Kansas, which recorded an average lead concentration of 0.005 $\mu g/m^3$. Also, a lead monitor formerly located in Wichita, Kansas, reported average concentrations of 0.0076 $\mu g/m^3$.

In the absence of the ability to establish a background lead level derived from a monitor within the nonattainment area, EPA agrees that the use of this non-source oriented average monthly ambient lead value from the ISA represents a conservative estimate of background for use in the Salina attainment modeling.

C. Control Strategy

The following describes the control strategy detailed in the Kansas attainment SIP to achieve the 2008 lead NAAQS. The Kansas control strategy focuses on control measures to be implemented at Exide because it is the greater source of lead emissions of the two facilities in the nonattainment area.

In April 2006, Exide began a five-year project to replace all ten of its oxide mills. The project included replacement of associated baghouses and the addition of HEPA filters for each oxide mill source. The project was completed in March 2011. On

October 1, 2013, the oxide mill baghouse emissions were routed to a new 65-foot stack.

From September 2009 to February 2014, Exide also replaced its five general purpose baghouses (BH1 through BH5). Baghouse 1 (BH1) was replaced and its stack height was increased to 80 feet in a project completed on February 19, 2014.

On July 19, 2013, Exide completed increasing the stack heights of the ball mill baghouses (BH11 through BH15) by 37 feet as necessary by the attainment modeling.

To address process fugitives, Exide installed LEVs over processing operations located in negative pressure total enclosures to increase the effectiveness of lead particulate capture. This 99 percent reduction in emissions from the ball mill process is required by the Federally-enforceable construction permit issued by Kansas to Exide, effective date August 18, 2014. The permit is appendix C of the attainment SIP. The construction permit contains total enclosure standards including the requirement to maintain a negative pressure of at least 0.013 mm of mercury which is consistent with the secondary lead smelter NESHAP (77 FR 556, January 5, 2012). Although the Exide facility is not a secondary lead smelter, the concepts for

controlling lead emissions are similar, and are therefore relevant.

The Federally-enforceable construction permit also required Exide to complete paving all roadways by July 31, 2014. The additional paving of an area of approximately 15,200 square yards in the northwest section of the facility demonstrates a reduction of 0.04 tons of lead per year which represents a 29 percent reduction in lead emissions.

D. Modeling Results

Exide's modeling report can be found in appendix A of the Kansas attainment SIP. The modeling was conducted to determine the impacts of the additive lead emissions of both the Exide and Metlcast facilities, and the assumed area background of 0.01 $\mu g/m^3$ lead, on off-site receptors including the air monitor and two nearby elementary schools.

The results of the modeling demonstrate that with the control strategy described above in paragraph V.C. above, the facilities will attain the 2008 Lead NAAQS. At the point of maximum impact, which is approximately 50 feet to the northeast of the ambient air monitor, the model predicts a lead concentration of 0.137 $\mu g/m^3$. This is below the 2008 Lead NAAQS

of 0.15 µg/m^3. At the ambient air monitor, the model predicts a lead concentration of 0.137 µg/m^3.

By comparison, the ambient air monitoring data demonstrate that the facility has measured lead concentrations below the 0.15 µg/m^3 lead standard since the rolling calendar quarter ending September of 2013. The average rolling quarterly lead level in ambient air from the quarter ending September 2013 to the quarter ending May 2015 is 0.096 µg/m^3, which is less than the model-predicted lead level.

Exide also modeled the lead concentrations at two nearby elementary schools to ensure that there would be no unacceptable lead impacts. At Schilling Elementary School, the ambient lead levels in air are predicted to be 0.018 µg/m^3, and the predicted lead levels for Coronado Elementary School are predicted to be 0.028 µg/m^3. The predicted levels of lead in ambient air are less than 15 percent of the standard; therefore, there is no concern for exceeding the standard at either of these locations under the Federally-enforceable control strategy described in paragraph V.C. above.

EPA reviewed and independently verified the modeling conducted by Exide. Based on EPA's analysis of the attainment modeling and its outcomes, EPA believes that the Kansas control

strategy will bring the designated portions of Saline County, Kansas, into attainment of the 2008 Lead NAAQS.

E. Reasonably Available Control Measures (RACM) Including Reasonably Available Control Technology (RACT) and Reasonable Further Progress (RFP)

Section 172(c)(1) of the CAA requires nonattainment areas to implement all RACM, including emissions reductions through the adoption of Reasonably Available Control Technologies (RACT), as expeditiously as practicable. EPA interprets this as requiring all nonattainment areas to consider all available controls and to implement all measures that are determined to be reasonably available, except that measures which will not assist the area to more expeditiously attain the standard are not required to be implemented[2]. In March 2012, EPA issued guidance titled, "Implementation of Reasonably Available Control Measures (RACM) for Controlling Lead Emissions" (RACM Guidance)[3].

Section 172(c)(2) of the CAA requires areas designated as nonattainment for criteria pollutants to include a demonstration of Reasonable Further Progress (RFP) in attainment demonstrations. Section 171(1) of the CAA defines RFP as annual incremental reductions in emissions of the relevant air

[2] See 58 FR 67751, December 22 1993, for a discussion of this interpretation as it relates to lead.
[3] http://www.epa.gov/oar/lead/pdfs/2012ImplementationGuide.pdf

pollutants as required by part D, or emission reductions that may reasonably be required by EPA to ensure attainment of the applicable NAAQS by the applicable date. Part D does not include specific RFP requirements for lead.

EPA recommends a RACT analysis for facilities emitting 0.5 tpy lead per year or more. (73 FR 66964). In 2011, Exide reported lead emissions of 1.45 tons per year[4]. Metlcast's annual emissions were conservatively estimated based on its production to be approximately 0.004 tons of lead per year. Thus, only Exide exceeds the threshold for determining RACT to comply with the 2008 Lead NAAQS. Page 12 of the lead attainment SIP discusses the Kansas RACT/RACM analysis.

Kansas determined that the ongoing emission control projects detailed in appendix B of the attainment SIP document and listed above in paragraph V.C. meet the requirements of EPA's RACM Guidance. As stated in the final lead NAAQS rule, RFP is satisfied by the strict adherence to a compliance schedule which is expected to periodically yield significant emission reductions. The control measures described in paragraph V.C above have been modeled and demonstrated to achieve the lead NAAQS and also comply with RACM and RFP.

[4] EPA's 2011 National Emissions Inventory (NEI) v.2, February 5, 2015.

RFP is addressed by the control strategy occurring in a timeframe consistent with the CAA. Upon implementation of the control strategy and practices described above, ambient air quality concentrations are expected to drop at or below attainment levels immediately. The nonattainment area's ambient air quality monitor began reporting lead concentrations below the 2008 lead NAAQS for the three-month rolling average for July through September 2013.

Based on the RACM analysis and the combined reduction in lead emissions to meet the 2008 Lead NAAQS, which demonstrates RFP, EPA proposes to approve the Kansas SIP as meeting the requirements of sections 172(c)(1) and (c)(2) of the CAA.

F. Attainment Demonstration

CAA section 172 requires a state to submit a plan for each of its nonattainment areas that demonstrates attainment of the applicable ambient air quality standard as expeditiously as practicable, but no later than the specified attainment date. This demonstration should consist of four parts: (1) Technical analyses that locate, identify, and quantify sources of emissions that are contributing to violations of the lead NAAQS; (2) analyses of future year emissions reductions and air quality improvement resulting from already-adopted national, state, and

local programs and from potential new state and local measures to meet the RACT, RACM, and RFP requirements in the area; (3) adopted emissions reduction measures with schedules for implementation; and (4) contingency measures required under section 172(c)(9) of the CAA.

The requirements for the first two parts are described in the sections on emissions inventories, RACT/RACM and air quality above and in the discussion of the attainment demonstration that follows immediately below. Requirements for the third and fourth parts are described in the sections on the control strategy and the contingency measures, respectively.

The dispersion modeling is the attainment demonstration used to verify that the control strategies will bring the area into attainment of the 2008 Lead NAAQS. In order to determine whether the emission reduction strategies will result in continued attainment of the NAAQS, the modeled maximum lead concentration in ambient air (based on a rolling three-month average) is added to the calculated background lead concentration of 0.01 $\mu g/m^3$, then compared to the 2008 Lead NAAQS, which is 0.150 $\mu g/m^3$. As discussed above, the dispersion modeling predicts that the cumulative impacts of both facilities, with the addition of background lead levels, meet

the 2008 Lead NAAQS. The predicted maximum three-month rolling average lead concentration is 0.137 µg/m^3. Therefore, EPA proposes to approve the Kansas attainment demonstration because the dispersion modeling demonstrates attainment of the standard.

G. New Source Review (NSR)

Within the CAA, section 172(c)(5) requires permits for construction and operation of new and modified major sources located within the nonattainment area. A special permitting process applies to such sources, referred to as a nonattainment new source review program. Section 173 of the CAA mandates nonattainment new source review and an approved state SIP must meet the requirements of 40 CFR 51.165.

Kansas Administrative Regulation (K.A.R.) 28-19-16 et seq. require major stationary sources of air pollution emissions located within any area that has been identified as not meeting a national ambient air quality standard for the pollutant for which the source is major to obtain a permit prior to construction or major modification. EPA approved the Kansas nonattainment new source review regulations on January 16, 1990, (55 FR 1420).

K.A.R. 28-19-300(a)(1)(F) requires any person who proposes to construct or modify a stationary source or emissions unit to

obtain a construction permit before commencing such construction or modification if the potential-to-emit of the proposed stationary source or emissions unit, or the increase in the potential-to-emit resulting from the modification, equals or exceeds 0.6 tons per year of lead or lead compound. In addition, K.A.R. 28-19-301(d) states that a construction permit or approval shall not be issued if the air contaminant emissions from the source will interfere with the attainment or maintenance of any ambient air quality standard. EPA approved K.A.R. 28-19-300(a) and K.A.R. 28-19-301(d) on July 17, 1995. (60 FR 36361).

H. Contingency Measures

As required by CAA section 172(c)(9), the SIP submittal includes contingency measures to be implemented if the area has failed to make RFP or if the area fails to attain the NAAQS by December 2016. If the air quality data for any three-month rolling period after the implementation of the control measures identified in the construction permit for Exide exceed the 0.15 ug/m^3 three-month rolling average lead standard, the facility shall implement the contingency measures set forth in sections X and XI of the construction permit which are found in appendix C of the attainment SIP.

The Exide construction permit contains the following contingency measures described below.

(1) Within 60 days after the effective date of the permit, Exide shall develop and submit to the Kansas Department of Environmental Health (KDHE) for approval, compliance plans that shall be implemented in accordance with section XII of the construction permit and include:

a. An analysis of site conditions and operations that potentially may impact, directly or indirectly, KDHE ambient air monitors, including, but not limited to a root cause analysis and corrective/preventive action process for attaining and maintaining the 0.15 ug/m^3 standard, start up and shut down procedures, and other improvements or optimizations that may become evident based on identified potential sources of lead emissions. Each measure is to be assigned a timeline for implementation and to be ranked with regard to ease of implementation, cost and effectiveness;

b. A fugitive dust control plan that shall include an implementations timeline for each measures. The plan may include, but not be limited to new enclosures or

improvements to existing enclosures, work practices for minimizing fugitive emissions during maintenance activities, and countermeasures during period of adverse meteorological conditions and/or agricultural conditions and practices on grounds surrounding the plant that may affect fugitive dust impact on KDHE ambient monitors;

c. Identification and prioritization of measures, as developed in a. and b. above that shall be implemented immediately upon notification by KDHE of the first lead NAAQS violation. The contingent list of measures may be modified upon approval by KDHE of more effective measures identified by the root cause analysis.

The compliance plan found in appendix F of the SIP was placed on public notice on November 20, 2014. No comments were received. KDHE submitted Exide's compliance plan for approval as an enforceable part of the attainment SIP.

(2) Within 30 days after KDHE notification, for each NAAQS violation or for failure to maintain reasonable further progress (RFP), Exide shall develop and submit to KDHE a root cause analysis which shall include but not be

limited to: the investigation of production/operations performance, including startup, shutdown, malfunction and maintenance periods and the resulting data and discussion; meteorological data for the site and surrounding area; Exide's fenceline site monitoring data; and any other conditions or events that may be relevant to lead emissions and/or that may influence or impact KDHE ambient air monitor results. Exide shall develop and submit to KDHE documentation of corrective actions taken for each occurrence for which there is found to be a controllable or preventable contributing factor or root cause.

(3) In addition to the root cause analysis described above and corrective/preventative action process, Exide shall implement selected and approved contingency measures as outlined in the compliance plan developed by Exide described in paragraph (1) above. Exide shall submit to KDHE documentation of implemented measures, including identification of measures and timeline for implementation and effect.

(4) Exide shall compile analyses and results from the contingency measures described above in paragraphs (2)

and (3) and shall implement further contingency measures identified in the KDHE-approved compliance plan.

(5) Exide shall implement measures from the compliance plan for control of fugitive dust and submit to KDHE the documentation from implementation of these measures, the timeline for implementation and effect.

(6) Exide shall conduct stack testing on an increased frequency as determined by KDHE. The scope and frequency will be based on KDHE's evaluation of the root cause analysis required by paragraph (2) above.

(7) Exide shall submit to KDHE for approval a revised attainment demonstration with new modeling of emissions rates and/or work practices, or other proposed changes, for attainment of the 2008 lead NAAQS. The demonstration shall include the timeline for implementation.

These additional contingency measures will also be subject to EPA approval as part of the SIP. Any future changes to contingency measures would require a public hearing at the state level and EPA approval as a formal SIP revision. Until such time as EPA approves any substitute measure, the measures included in the approved SIP will be the enforceable measure. EPA does not intend to approve any substitutions that cannot be implemented

in the same timeframe as the original measure. These measures will help ensure compliance with the 2008 lead NAAQS as well as meet the requirements of section 172(c)(9) of the CAA. EPA proposes to approve Kansas's SIP as meeting the requirements of section 172(c)(9) of the CAA.

I. Enforceability

As specified in section 172(c)(6) and section 110(a)(2)(A) of the CAA, and 57 FR 13556, all measures and other elements in the SIP must be enforceable by the state and EPA. The enforceable document included in the Kansas SIP submittal is the construction permit dated August 18, 2014. The construction permit contains all control and contingency measures with enforceable dates for implementation. Upon EPA approval of the SIP submission, Exide's construction permit will become state and Federally enforceable, and enforceable by citizens under section 304 of the CAA.

EPA proposes to approve the Kansas SIP as meeting the requirements of sections 172(c)(6) and 110(a)(2)(A) of the CAA, and 57 FR 13556.

VI. Proposed Action

EPA is proposing to grant full approval of the Kansas attainment demonstration SIP for the Saline County 2008 lead

NAAQS nonattainment area. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will result in attainment of the 0.15 ug/m^3 standard in the Saline County, Kansas, area.

Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the proposed 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).

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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);
- 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 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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).

The Congressional Review Act, 5 U.S.C. section 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 action 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 proposed 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. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental

relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 17, 2016.

Mark Hague,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, 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 R - Kansas

2. Amend § 52.870 by:

a. Revising paragraph(d) by adding new entry (5) at the end of the table; and

b. Revising paragraph (e) by adding entry (43) at the end of the table.

The revisions read as follows:

§52.870 Identification of plan.

(d)* * *

EPA-Approved Kansas Source-Specific Requirements

Name of Source	Permit or case No.	State effective date	EPA approval date	Explanation
* * * * * * *				
(5) Exide Technologies	1690035	8/18/14	**[**Insert date of publication in the **Federal Register**] and [Insert **Federal Register** citation]	
* * * * * * *				

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(e)* * *

EPA-Approved Kansas Nonregulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
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(43)Attainment plan for 2008 lead NAAQS	Salina	2/3/15	**[**Insert date of publication in the **Federal Register**] and [Insert **Federal Register** citation]	[EPA-R07-OAR-2015-0708].
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