



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0835; FRL 9952-79-Region 7]

Approval of Air Quality Implementation Plans; 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 lead National Ambient Air Quality Standard (NAAQS) received by EPA on October 20, 2014. EPA proposed approval of this plan on February 29, 2016. 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 (CAA) identified in EPA's Final Rule published in the **Federal Register** on October 15, 2008, and will bring the area surrounding the Exide Technologies Canon Hollow facility in Forest City, Missouri, into attainment of the 0.15 microgram per cubic meter (ug/m³) lead NAAQS.

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-2015-0835. All documents in the docket are listed on the <http://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 through www.regulations.gov or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

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.

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I. What is Being Addressed in this Document?

In this document, EPA is granting final approval of Missouri's SIP to address violations of the lead NAAQS near the Exide Technologies - Canon Hollow facility in Holt County, Missouri. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. The applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will bring the area into compliance with the 0.15 microgram per cubic meter ($\mu\text{g}/\text{m}^3$) lead NAAQS. EPA's proposal containing the background information for this action can be found at 81 FR 10182, February 29, 2016.

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 CAA, including section 110 and implementing regulations.

III. EPA's Response to Comments

The public comment period on EPA's proposed rule opened February 29, 2016, the date of its publication in the **Federal Register**, and closed on March 30, 2016. During this period, EPA received two comments posted anonymously to the Regulations.gov website.

One comment pertains to mold in indoor air and not the subject of the proposed approval of the SIP revision to address lead in ambient air. Because the comment is anonymous, EPA is unable to contact the commenter directly to offer assistance. However, EPA offers that the commenter may contact Ms. Gina Grier of EPA Region 7 directly at (913) 551-7078 for more information and assistance on the commenter's concerns about mold.

The second comment states that he/she is in agreement with EPA's proposed action to approve the revision to the SIP and the commenter offers two suggestions. The first suggestion is to estimate the cost of water washing to clean haul routes on the facility property and the second is a concern that limiting truck traffic on the facility property may reduce the resources purchased in the state of Missouri.

EPA's response to the first suggestion regarding water washing to clean the on-site haul routes is that the use of water to remove lead from on-site roads was studied and determined to be a cost-effective and necessary strategy to control lead during the development of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Smelters, promulgated January 5, 2012 (77 FR 580). Because the Exide Canon Hollow facility is a secondary lead smelter, it must comply with the requirements of this rule, including, among other things, the requirement to conduct twice daily water washing of on-site haul routes. This cleaning is necessary to control lead-containing dust in order to meet the 2008 lead NAAQS. The NESHAP is related to the NAAQS in that the NESHAP requires attainment of the same 0.15 ug/m^3 standard for lead at the fenceline. No change has been made to address this suggestion.

Regarding the concern that limiting truck traffic may reduce the resources purchased in the state of Missouri, the state and facility arrived at the limitations on truck traffic using EPA's AERMOD computer-based modeling. Truck traffic along haul routes is known to increase the amount of lead-containing dust that becomes re-entrained in ambient air. Modeling was used

to estimate the amount of truck traffic along facility haul routes that could be allowed without causing a NAAQS violation at the fenceline. Thus, the limitations are necessary to safeguard the NAAQS level which EPA has determined to be protective of human health and the environment. It also should be noted that the restrictions on truck traffic that are required by the SIP only pertain to traffic on the facility property; there are no limitations on the amount of truck traffic on public roads. No change has been made to address this concern.

IV. What Action is EPA Taking?

EPA is taking final action to amend the Missouri SIP to approve the SIP revision for the 2008 lead NAAQS. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964).

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the EPA-Approved Kansas Source-Specific Requirements. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been

incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

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

¹ 62 Fed. Reg. 27968 (May 22, 1997).

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: September 13, 2016.

Mark Hague.
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. Amend § 52.1320 by adding paragraphs (d) (31) and (e) (71) to read as follows:

§52.1320 Identification of Plan

(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of Source	Order/Permit number	State effective date	EPA Approval date	Explanation
* * * * *				
(31) Exide Technologie s Canon Hollow, MO	Consent Judgment 14H0-CC00064	10/10/14	[Insert date of publication in the Federal Register]_and [Insert Federal Register citation]	

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(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(71) Exide Technologies Compliance Plan 2008 lead NAAQS	Forest City	10/15/14	[<u>Insert date of publication in the Federal Register</u>] and [<u>Insert Federal Register citation</u>]	[EPA-R07-OAR-2015-0835; FRL 9952-79-Region 7]

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[FR Doc. 2016-22981 Filed: 9/23/2016 8:45 am; Publication Date: 9/26/2016]