



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2020-0256; FRL-10009-96-Region 7]

**Air Plan Approval; Missouri; Restriction of Emission of Lead
From Specific Lead Smelter-Refinery Installations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by Missouri on February 5, 2019. Missouri requests that EPA revise its approved plan which restricts emission of lead from specific lead smelter-refinery installations. The revisions remove emission restrictions for a facility that is no longer operating, update a reference to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for secondary lead smelters, and update incorporation by reference to testing methods. Minor editorial revisions have also been made for clarity. The EPA's proposed approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2020-0256 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7719; email address Doolan.stephanie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

Table of Contents

- I. Written Comments
- II. What is Being Addressed in this Document?
- III. Have the Requirements for Approval of a SIP Revision Been Met?
- IV. What Action is the EPA Taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2020-0256, at <https://www.regulations.gov>. 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve revisions to 10 Code of State Regulation (CSR) 10-6.120, *Restriction of Emission of Lead From Specific Lead Smelter-Refinery Installations*, in the

Missouri SIP. The EPA received the Missouri Department of Natural Resources' (MoDNR) SIP revision submission on February 15, 2019. The revisions are described in detail in the technical support document (TSD) included in the docket for this action. The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri State Implementation Plan (SIP).

The revisions to 10 CSR 10-6.120 eliminate restrictions for a facility that is no longer operational as a primary lead smelter, update the reference to the National Emissions Standards for Hazardous Air Pollutants (NESHAP), Subpart X, update the incorporation by reference information, and make editorial changes to the rule for clarity. The EPA believes that these revisions do not impact the stringency of the Missouri SIP and do not adversely impact air quality.

A list of the revisions Missouri made to 10 CSR 10-6.120 are as follows:

- The reference in paragraph (3), General Provisions, to the Herculaneum primary lead smelter and corresponding Table 1 which formerly contained lead emission limits has been removed because the Herculaneum facility no longer operating as a primary lead smelter. The Herculaneum area is a nonattainment area for the 2008 Lead National Ambient Air Quality Standard (NAAQS) and thus has an approved plan

to bring the area back into attainment of the standard. See 79 FR 62572, October 20, 2014. The lead emissions limits in the approved attainment demonstration SIP are more stringent than those in table 1; thus, EPA did not approve table 1 of the General Provisions in its August 28, 2015, action. See 80 FR 52190. Missouri's removal of the emissions limitations from its State rule does not affect the enforceability of the attainment SIP and the controls required to meet the NAAQS.

- Paragraph (5), Test Methods, has also been revised to incorporate the Secondary Lead Smelter NESHAP by reference, as well as, reference specific EPA test methods described in Missouri's rule 10 CSR 10-6.030(22).

As discussed above a detailed description of Missouri's revision and EPA analysis of the impact to air quality have provided in the TSD which is part of the docket for this action.

The revisions to this state regulation were placed on public notice for review and comment from June 29 through October 4, 2018. Missouri received three comments from two sources during the comment period: EPA provided two comments and Doe Run Resource Recycling Facility provided one comment on the rule revisions. Missouri responded to all three comments, as

noted in the State submission included in the docket for this action. Missouri responded to all three comments in its Order of Rulemaking dated January 2, 2019. The three comments Missouri received were:

- EPA commented on paragraph (5) of the proposed rule revision that the SIP revision request for subsection 10 CSR 10-6.030 (22), upon which the revisions regarding test methods in 10 CSR 10-6.120 relies, had not yet been approved. Since EPA submitted its comment, the Missouri SIP has been approved as a separate action to incorporate the revisions to 10 CSR 10-6.030. See 85 FR 4229, January 24, 2020.
- EPA also commented on the revisions to paragraph (5) encouraging MoDNR to reference 40 CFR part 60, appendix A, rather than adding references to 10 CSR 10-6.030(22) in subsections 5(B) and 5(C). MoDNR did not amend the rule text in response to this comment. Missouri's reliance on test methods incorporated by reference in 10 CSR 10-6.030(22) does not affect the stringency of the rule and remains protective of air quality.
- Doe Run Buick Resource Recycling Division submitted one comment to Missouri stating that it believes the correct lead emission limit to be 0.00043 gr/dscf. MoDNR's response

was to remove the reference to the specific numerical standard and to emphasize that Doe Run is still required to meet the Secondary Lead Smelter NESHAP, subpart X, which is incorporated in 10 CSR 10-6.075 as well. See 79 FR 371, June 10, 2014.

Missouri made editorial text revisions detailed in EPA's TSD for clarity which do not have an impact to air quality.

Based on a detailed analysis in its TSD of the revisions to the state rule that are listed above, EPA is proposing to approve the revisions to this rule because it promotes clarity by removing no longer needed emission limits for the former Herculaneum primary lead smelter refinery and will not have a negative impact on air quality.

III. 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. The State placed this rule revision on public notice from June 29 through October 4, 2008. MoDNR responded to all three comments received. As explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What Action is the EPA Taking?

The EPA is proposing to approve Missouri's request to revise 10 CSR 10-6.120. We are processing this as a proposed SIP revision because we are soliciting comments on it. Final rulemaking will occur after consideration of any comments received. The EPA is soliciting comment on the substantive and administrative revisions detailed in this document and in the TSD. EPA is not soliciting comment on existing rule text that has been previously approved by EPA into the SIP.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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, the 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Lead, Reporting and recordkeeping
requirements, Test methods.

Dated: May 21, 2020.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the 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-AA Missouri

2. In §52.1320, the table in paragraph (c) is amended by revising the entry "10-6.120" 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	10/25/18	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	
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