

40 CFR Part 52**[MO-018-1018; FRL-5698-7]****Approval and Promulgation of Implementation Plans; State of Missouri****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed notice of failure to attain the National Ambient Air Quality Standard (NAAQS) for lead in the vicinity of the Doe Run Company's primary lead smelter in Herculaneum, Missouri.

SUMMARY: Pursuant to the Clean Air Act (CAA or the Act), the EPA has notified the state of Missouri that the Doe Run-Herculaneum nonattainment area failed to attain the NAAQS for lead (Pb) by June 30, 1995, as required under the provisions of the Act and the Missouri State Implementation Plan (SIP). This notification is based on the EPA's review of monitored air quality data for compliance with the NAAQS for lead. This notice is issued pursuant to the EPA's obligations under sections 179(c)(1) and (2) of the CAA, which require the EPA to make a determination of an area's attainment status following an applicable attainment date, and publish a notice in the Federal Register indicating that such a determination has been made. If EPA finalizes this notice, then pursuant to section 179(d)(1) of the CAA, Missouri would be required to submit a SIP revision, meeting the applicable provisions of the Act. This SIP revision would be required within one year of publication of the finding in the Federal Register.

DATES: Comments must be received on or before April 4, 1997.**ADDRESSES:** Comments may be mailed to Royan W. Teter, Environmental Protection Agency, Air Planning and

Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Royan W. Teter at (913) 551-7609.**SUPPLEMENTARY INFORMATION:****I. Background**

On June 3, 1986, the EPA issued a call for a revision to the Missouri SIP in response to violations of the NAAQS for lead near the Doe Run primary lead smelter in Herculaneum, Missouri (Doe Run-Herculaneum). The state submitted a SIP revision on September 6, 1990, with additional materials submitted on May 8, 1991. The 1990 SIP established February 1, 1993, as the attainment date for the Herculaneum area.

The CAA was amended on November 15, 1990. Sections 107(d)(1) and (5) of the Act, as amended, provide for areas to be designated as nonattainment with respect to the NAAQS. Upon promulgation of the nonattainment designation, a state must prepare a revision to the SIP in accordance with the requirements of section 172 of the CAA, showing how the area will be brought into attainment. The EPA promulgated a nonattainment designation for the area in the vicinity of Doe Run-Herculaneum under the authority granted by the CAA. The designation was published on November 6, 1991 (56 FR 56694), and became effective on January 6, 1992.

As a result of the EPA's promulgation of the nonattainment designation, the Part D requirements of the CAA became applicable to the Missouri SIP revision for Doe Run-Herculaneum. The EPA granted limited approval for Missouri's 1990 SIP revision on March 6, 1992 (57 FR 8076). The EPA did not give full approval because the state was required to submit a supplemental SIP revision meeting the applicable Part D requirements.

The state of Missouri initially submitted a SIP revision addressing the applicable Part D requirements of the CAA on July 2, 1993. The submission also provided for additional control measures in response to unanticipated emissions after the control measures were implemented under the 1990 SIP revision. These emissions resulted in violations of the lead NAAQS after the 1990 SIP revision attainment date of February 1, 1993. Upon review, the EPA determined that additional revisions were necessary. Missouri submitted these revisions in March and November 1994.

The final result was a SIP that established June 30, 1995, as the attainment date for the area and satisfied the Part D requirements of the CAA. The revised plan also contained a control strategy to address the violations of the NAAQS which occurred upon implementation of the control measures in the 1990 SIP revision. Dispersion modeling indicated that the subsequent control measures would result in attainment of the NAAQS for lead.

II. Proposed Action**A. Determination of Attainment Status**

By today's action, the EPA provides notice that the Herculaneum, Missouri, nonattainment area failed to attain the NAAQS for lead by June 30, 1995, as required by the approved SIP. This determination is based upon air quality data showing violations of the lead NAAQS during 1995 and 1996.

Since June 30, 1995 (second quarter 1995), a total of eight violations of the lead standard ($1.5 \mu\text{g}/\text{m}^3$ quarterly arithmetic mean) have been measured at multiple monitoring sites in Herculaneum, Missouri. The data are as follows:

LEAD AMBIENT AIR QUALITY DATA—VICINITY OF THE DOE RUN PRIMARY SMELTER, CALENDAR QUARTERLY VALUES (MICROGRAMS OF LEAD PER CUBIC METER OF AIR ($\mu\text{G}/\text{M}^3$)), HI-VOL MONITOR LOCATIONS

Date	S Dunklin 29-099- 0014	H Dunklin 29-099- 0005	H Golf course 29-099- 0008	H North 29-099- 0009	H Ursaline 29-099- 0010	H Rutz 29-099- 0011	H Div. man- ager 29-099- 0013	H Broad Street 29-099- 0015
1995:								
3rd	1.4	1.2	0.3	0.3	0.2	1.0	1.2	4.1
4th	1.9	1.7	0.4	0.8	0.1	1.6	1.3	6.3
1996:								
1st	2.3	1.9	0.3	0.4	0.1	1.4	.8	2.3
2nd	1.6	1.2	0.5	0.1	0.2	2.4	0.8	5.7
3rd	0.8	0.6	0.1	0.2	0.3	0.7	0.5	4.0

Notes:¹ (S) = State monitor, (H) = Herculaneum monitor.² *Italics* Quarterly Air Quality Values exceed the National Ambient Air Quality Standard (NAAQS) for lead; the NAAQS for lead is $1.5 \mu\text{g}/\text{m}^3$ and is the arithmetic mean of a series of daily (24-hour) values from hi-vol monitors measuring particulate matter, within a three-month (calendar quarter) period.

Attainment of the lead standard is based upon regulations found in 40 CFR 50.12. The lead national primary and secondary air quality standards are 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter. The data indicate that four monitors in the Herculaneum area continue to measure violations of the NAAQS for lead in spite of the state's efforts.

Under section 179(c)(1) of the CAA, the EPA has the responsibility for determining whether a nonattainment area has attained the lead NAAQS. The EPA must make an attainment determination as expeditiously as practicable, but no later than six months after the attainment date for the area. The Act also requires the EPA to publish a notice of its findings in the Federal Register.

In the case where the area fails to attain the NAAQS by the applicable attainment date, the EPA policy (Shaver 1995) specifies that the EPA will notify the affected state(s) by letter and Federal Register notice of the EPA's findings. The EPA notified Missouri of its finding on August 27, 1996.

B. Implementation of Contingency Measures

Upon receipt of notification, affected states are required to implement specific contingency measures previously identified in the approved SIP. These measures were identified and submitted under section 172(c)(9) of the CAA. These measures are to be undertaken without further action on the part of the state or the EPA. In general, the EPA expects all actions needed to effect full implementation of the contingency measures to occur within 60 days of notification. On December 10, 1996, the EPA received written notification from the Missouri Department of Natural Resources that all contingency measures in the approved SIP have been implemented.

C. Call for Revision of Missouri's SIP

In accordance with section 179(d) of the CAA, upon publication of the EPA's notice indicating an area has failed to attain, states must within one year submit a SIP revision meeting all of the requirements of sections 110 and 172 of the Act and any additional measures as may be reasonably prescribed, including all measures that can be feasibly implemented in light of technological achievability, costs, and other factors. With this document, the EPA gives notice that it has notified the Governor of Missouri that the Herculaneum, Missouri, area has failed to attain the

NAAQS for lead. This notice requests public comment on this determination.

Retention of the area's nonattainment status under section 107(d) of the Act does not impose any new requirements on small entities. Retention of the nonattainment designation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the area must adopt new regulations, based on its nonattainment status, the EPA will review the effect of those actions on small entities at the time the state submits those regulations. The Administrator certifies that retention of the area's nonattainment status will not affect a substantial number of small entities.

III. Administrative Requirements

A. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), the EPA is required to determine whether regulatory actions are significant and therefore should be subject to the Office of Management and Budget review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that today's finding of failure to attain results in none of the effects identified in section 3(f). Under section 179(c) of the CAA, findings of failure to attain for nonattainment areas are based upon air quality considerations, in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in section III of this notice, findings of failure to attain for nonattainment areas under section 179(c) of the CAA do not in and of themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

C. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, the EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

The EPA believes, as discussed above, that the proposed finding of failure to attain for the Herculaneum, Missouri, lead nonattainment area is a factual determination based upon air quality considerations and does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, National parks, Wilderness areas, Lead.

Authority: 42 U.S.C. 7401-7671q.

Dated: February 18, 1997.

Dennis Grams,

Regional Administrator.

[FR Doc. 97-5416 Filed 3-4-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 70

[MO 014-1014; FRL-5698-8]

Approval and Promulgation of Implementation Plan and State Operating Permit Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to Missouri's State Implementation Plan (SIP) concerning Missouri's rule 10 CSR 10-6.110, Submission of Emission Data, Emission Fees, and Process Information. This rule also clarifies the requirements for the payment of emission fees to support Missouri's Title V program and was submitted as part of the state's plan to comply with Title V of the Clean Air Act (CAA).