

for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 rule or action. This 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 8, 2004.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(115) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(115) Amended regulations were submitted on January 16, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rule 18-2-101 (Paragraphs 41 and 111), amended on November 15, 1993 and Rule R-18-2-702, amended on December 26, 2003.

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R07-OAR-2004-MO-0002; FRL-7805-1]

#### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) which pertains to a state rule and maintenance plan applicable to the Doe Run Resource Recycling Lead Facility at Buick, Missouri. This revision revises certain furnace production limits at the facility, which are contained in the state rule and maintenance plan.

Approval of this revision will ensure consistency between the state and federally-approved rules and maintenance plan, and ensure Federal enforceability of the revised state rule and maintenance plan.

**DATES:** This direct final rule will be effective October 25, 2004, without further notice, unless EPA receives adverse comment by September 23, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07-OAR-2004-MO-0002, by one of the following methods:

1. **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. **Agency Web site:** <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search;" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. **E-mail:** [robinson.judith@epa.gov](mailto:robinson.judith@epa.gov).

4. **Mail:** Judith Robinson, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. **Hand Delivery or Courier:** Deliver your comments to Judith Robinson, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to RME ID No. R07-OAR-2004-MO-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of

special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. 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:** Judith Robinson at (913) 551-7825, or by e-mail at [robinson.judith@epa.gov](mailto:robinson.judith@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

- What is a SIP?
- What is the Federal Approval Process For a SIP?
- What Does Federal Approval of a State Regulation Mean to Me?
- What is Being Addressed in This Document?
- Have the Requirements For Approval of a SIP Revision Been Met?
- What Action is EPA Taking?

#### **What Is a SIP?**

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the federally-enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable

documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### **What Is the Federal Approval Process for a SIP?**

In order for state regulations to be incorporated into the federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

#### **What Does Federal Approval of a State Regulation Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the federally-approved SIP is primarily a state responsibility. However, after the regulation is federally-approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

#### **What Is Being Addressed in This Document?**

We are revising the maintenance plan for western Iron County, Missouri, as an amendment to the SIP. This was submitted to us on April 29, 2003. The plan includes production limit changes in order to match revisions to 10 CSR 10-6.120 that revised furnace throughput limits. These changes allow Doe Run greater operational flexibility without increasing net lead emissions. It also corrects grammatical errors and

updates the quarterly monitor results. The area has been redesignated as attainment of the NAAQS for lead and there have not been any monitored exceedances.

We are also taking final action to approve the revision to rule 10 CSR 10-6.120, Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations, which was submitted to us on May 6, 2003. The revision to this rule pertains to the Doe Run Resource Recycling Facility and lowers the maximum daily throughput limit for the Blast Furnace from 1000 tons per day (tpd) to 786 tpd. It raises the limits for the Reverberatory Furnace from 360 tpd to 500 tpd and the limits for the Rotary Melt Furnace from 240 tpd to 300 tpd. There is a net reduction in the short-term throughput for three separate units. The blast furnace unit with the largest emission rate (104 pounds per ton (lbs/ton)) was the only unit whose throughput was reduced. The two other units had higher throughput increases but lower emission rates: Reverberatory furnace (65 lbs/ton) and rotary melt (32 lbs/ton). Since all units are vented to the same stack, these changes will result in a reduction of ambient lead concentrations. There is no net increase in maximum daily throughput so the maximum potential lead emissions are expected to decrease. This will also allow the company greater operational flexibility without increasing net lead emissions. It will also maintain the NAAQS for lead.

The Doe Run Resource Recycling Facility is limited by permit to 140,000 tons per year for production. Doe Run estimates that the Facility will increase potential production from 140,000 tons per year to 175,000 tons per year. The proposed increase is subject to approval by Missouri under its construction permitting program. A condition of granting such a permit is modeling the new potential emission and showing that the new plant configuration will not exceed any allowable prevention of significant deterioration (PSD) increment or NAAQS including the NAAQS for lead.

Approval of this revision does not impact or modify the existing Doe Run permit. Moreover this approval in no way affects Doe Run's obligation to comply with the production limitations under the current PSD permit.

#### **Have the Requirements for Approval of a SIP Revision Been Met?**

The state submittals have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittals 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 this document, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

#### What Action Is EPA Taking?

We are taking final action to approve the submission for the Doe Run Resource Recycling Facility near Buick, Missouri, as an amendment to the SIP. The effective date is December 5, 2002.

We are also taking final action to approve the revision to rule 10 C.S.R. 10-6.120, Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations, as an amendment to the SIP. The effective date is April 30, 2003.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives relevant adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### 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 by the Office of Management and Budget. For this reason, 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 rule 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 rule approves 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, 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). 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 rule 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 is not economically significant.

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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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 October 25, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 rule or action. This 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, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: August 9, 2004.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart AA—Missouri

■ 2. Section 52.1320 is amended:

■ a. In the table to paragraph (c) under Chapter 6 by revising the entry for 10-6.120.

■ b. In the table to paragraph (e) by adding an entry at the end of the table.

The revision and addition read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
*	*	*	*	*
<i>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</i>				
*	*	*	*	*
10–6.120 .....	Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations.	4/30/03	8/24/04 [insert FR page citation].	
*	*	*	*	*

\* \* \* \* \*

(e) \* \* \*

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
Revised Maintenance Plan of Doe Run Resource Recycling Facility near Buick, MO.	Dent Township in Iron County .....	4/29/03	8/24/04 [insert FR page citation].	Furnace daily throughput limits required to be consistent with rule 10 CSR 10–6.120. Annual production cap in Doe Run construction permit not affected by this rulemaking.

[FR Doc. 04–19337 Filed 8–23–04; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R07–OAR–2004–MO–0003; FRL–7804–3]

**Approval and Promulgation of Implementation Plans; State of Missouri; Designation of Areas for Air Quality Planning Purposes, Iron County; Arcadia and Liberty Townships; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On June 30, 2004 (69 FR 39337), EPA published a direct final rule announcing the redesignation of the lead nonattainment area in Iron County, Missouri, to attainment of the National Ambient Air quality Standard (NAAQS) for lead and announcing the approval of the maintenance plan for this area

including a settlement agreement. The direct final action was published without prior proposal because EPA anticipated no adverse comment. EPA stated in the direct final rule that if EPA received adverse comment by July 30, 2004, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received a timely adverse comment on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address the comment in a subsequent final action based on the parallel proposal also published on June 30, 2004 (69 FR 39382). As stated in the parallel proposal, EPA will not institute a second comment period on this action. **DATES:** The direct final rule published on June 30, 2004, at 69 FR 39337, is withdrawn as of August 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** James Hirtz at (913) 551–7472 or by e-mail at [hirtz.james@epa.gov](mailto:hirtz.james@epa.gov).

**List of Subjects**

*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.

*40 CFR Part 81*

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

Dated: August 12, 2004.

**William A. Spratlin,**

*Acting Regional Administrator, Region 7.*

■ Accordingly, the revision to 40 CFR 52.1320 and 40 CFR 81.326, published in the **Federal Register** on June 30, 2004 (69 FR 39337), which was to become effective on August 30, 2004, is withdrawn.

[FR Doc. 04–19230 Filed 8–23–04; 8:45 am]

BILLING CODE 6560–50–P