products or services advertised are substantially related to one or more of the purposes for which the organization is authorized to mail at special bulk third-class rates. However, if the material contains one or more advertisements that are not substantially related, the material is not eligible for the special rates, unless it is part of material that meets the content requirements described in 5.8 and is not disqualified from using the special bulk third-class rates under another provision.

c. Announcements of activities, e.g., bake sale, car wash, charity auction, oratorical contest, are considered substantially related if substantially all the work is conducted by the members or supporters of an authorized organization without compensation.

d. Advertisements for products and services, including products and services offered as prizes or premiums, are considered substantially related if the products and services are received by an authorized organization as gifts or contributions.

e. An advertisement, promotion, offer, or subscription order form for a periodical publication meeting the eligibility criteria in E211 and published by one of the types of nonprofit organizations listed in 2.0 is mailable at the special bulk third-class rates.

[Renumber existing 5.8 as 5.12, renumber existing 5.9 as 5.11, and add new 5.8 as follows:]

5.8 Periodical Publication Content Requirements

Advertisements for products and services in materials that meet the content requirements for a periodical publication are mailable at the special bulk third-class rates. The material mailed must meet the following requirements:

a. Have a title. The title must be printed on the front cover page in a style and size of type that make it clearly distinguishable from other information on the front cover page.

b. Be formed of printed sheets. (It may not be reproduced by stencil, mimeograph, or hectograph processes. Reproduction by any other process is permitted.) Any style of type may be used.

c. Contain an identification statement on one of the first five pages of the publication that includes the following elements:

(1) Title.

(2) Issue date. The date may be omitted if it is on the front cover or cover page.

(3) Statement of frequency showing when issues are to be published (daily; weekly; monthly; monthly except June; four times a year in June, August, September, and December; annually; irregularly, etc.).

(4) Name and address of the authorized organization, including street number, street name, and ZIP+4 or 5-digit ZIP Code. The street number and street name are optional if there is no letter carrier service.

(5) Issue number. Every issue of each publication is numbered consecutively in a series that may not be broken by assigning numbers to issues omitted. The issue number may be printed on the front or cover page instead of in the identification statement.

(6) International Standard Serial Number (ISSN), if applicable.

(7) Subscription price, if applicable.

d. Consist of at least 25% nonadvertising matter in each issue. Advertising is defined in E211.11.0.

* * * * *

[Renumber current 5.8 and 5.9 as 5.12 and 5.11, respectively; add new 5.10 as follows:]

5.10 Products Mailable at Special Bulk Third-Class Rates

The following products are mailable at special bulk third-class rates:

a. Low-cost items within the meaning of 26 U.S.C. 513(h)(2), Internal Revenue Code. At the beginning of each calendar year, the value of low-cost items is adjusted for cost of living. The standard established on January 1, 1995, provided that low-cost items have a cost of not more than $6.56. The cost is the cost to the authorized organization that mails the item or on whose behalf the item is mailed.

b. Items donated or contributed to the qualified organization. Such items do not have to meet the definition of a low-cost item as described in 5.10a.

c. A periodical publication (as defined in E211) of a nonprofit organization unless it is ineligible under E370.5.0 to be mailed at the special bulk third-class rates.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–11152 Filed 5–4–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–17–1–6023A; FRL–5197–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document takes final action to approve the State Implementation Plan (SIP) submitted by the state of Missouri for the purpose of bringing about the attainment of the National Ambient Air Quality Standard (NAAQS) for lead. The SIP was submitted by the state to satisfy certain Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary lead smelter in Herculaneum, Missouri (Doe Run-Herculaneum).

DATES: This action will be effective July 5, 1995 unless by June 5, 1995 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION:

I. Background

On June 3, 1986, 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. The state submitted an SIP revision on September 6, 1990, with additional materials submitted on May 8, 1991. After the state submitted the SIP, but before EPA acted on the state's submission, EPA promulgated a nonattainment designation for the area in the vicinity of Doe Run-Herculaneum under section 107(d) of the Clean Air Act (CAA), as amended. The designation was published on November 6, 1991 (56 FR 56694), and became effective on January 6, 1992.

As a result of 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. EPA granted limited approval for Missouri's 1990 SIP

revision on March 6, 1992 (57 FR 8076). EPA explained that the basis for the limited approval was that the state would be required to submit a supplemental SIP revision meeting the applicable Part D requirements.

On July 2, 1993, the state of Missouri submitted an SIP revision addressing the applicable Part D requirements of the CAA. The revision provided for additional control measures in response to unanticipated emissions associated with the control measures 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. The July 1993 SIP revision was adopted by the Missouri Air Conservation Commission (MACC), after proper notice and public hearing, on June 29, 1993.

In a letter dated September 30, 1993, EPA informed the state that the proposed amendment to Missouri rule 10 CSR 10–6.120 lacked sufficient emission limits to ensure attainment of the standard. On October 7, 1993, EPA notified the state that the SIP revision did not contain contingency measures which adequately addressed the requirements of section 172(c)(9). Missouri and Doe Run agreed to the required changes at meetings held October 18 and 19, 1993. The changes to the SIP were adopted by the MACC at a public hearing held on March 31, 1994. Final changes to Missouri rule 10 CSR 10–6.120 were adopted by the MACC, after proper notice and public hearing, on April 28, 1994, and became effective on August 28, 1994.

The state submitted supplemental material to EPA on June 30, 1994. Upon review, it was noted that the Consent Order signed by the MACC on March 31, 1994, did not contain implementation language for contingency measures. EPA had informed the state of the need for such language in a letter dated February 23, 1994. The implementation language had been included in a prior order adopted by the MACC in June 1993, and had been available for public review. The language was inadvertently omitted from the final order signed by the MACC in March 1994. A new Consent Order, which included the missing language, was signed by the MACC on September 29, 1994, and submitted to EPA on November 23, 1994.

The July 2, 1993, SIP, as revised and adopted in March 1994, and the revised September 29, 1994, Consent Order, satisfy the Part D requirements of the CAA. The revised plan also contains 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 indicates that the subsequent control measures will result in attainment of the NAAQS for lead. The new attainment date for the 1993 SIP revision is June 30, 1995. In addition, the submittal includes an amendment to Missouri rule 10 CSR 10–6.120 that revises all point source emission limits to a lbs./24-hour basis, and establishes enforceable criteria for determining compliance.

II. Criteria for Approval

This SIP revision was reviewed using the criteria established by the CAA. The requirements for all SIPs are contained in section 110(a)(2) of the CAA. Section 172(c) of the CAA specifies the provisions applicable to areas designated as nonattainment for any of the NAAQS. Further guidance and criteria are set forth in the ''State Implementation Plans for Lead Nonattainment Areas; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748).

III. Review of State Submittal

A. Control Strategy

In the 1993 SIP revision, the state generally used the emission inventory which was used in the 1990 SIP revision. However, it was necessary to reanalyze the facility because previously unanticipated emission points had been discovered and several existing emission sources had been relocated. Air dispersion modeling was used to determine that the additional controls were sufficient to attain the lead NAAQS.

The SIP contains the June 24, 1993, Consent Order, and a subsequent amendment to the Consent Order, dated March 1994, which were entered into by the Missouri Department of Natural Resources (MDNR) and the Doe Run Company. Both of these documents set forth the administrative requirements for the implementation of the control measures. The submittal also includes Missouri rule 10 CSR 10–6.120, which establishes enforceable emission limits and work practice requirements. The reader is referred to the EPA-prepared technical support document for a more complete discussion of the specific control measures to be implemented in the Consent Orders.

B. Attainment Demonstration

Section 192(a) of the CAA requires that SIPs must provide for attainment of the lead NAAQS as expeditiously as practicable but not later than five years from the date of an area's nonattainment designation. The lead nonattainment designation for the Herculaneum area was effective on January 6, 1992; therefore, the latest attainment date permissible by statute would be January 6, 1997. The Doe Run lead SIP demonstrates attainment by June 30, 1995, which meets the statutory requirement. This plan shows a predicted maximum ambient air lead concentration of 1.47 $\mu g/m^3$ which is below the NAAQS for lead of 1.5 $\mu g/m^3$.

The Industrial Source Complex Long-Term Model was used to demonstrate the adequacy of the control strategy. The procedures recommended in EPA's *Guideline on Air Quality Models (Revised)*, EPA 450/2–78–027R, July 1986, and *Supplement A to the Guideline on Air Quality Models (Revised)*, EPA 450/2–78–027R, July 1987, were followed.

C. Emission Inventory and Air Quality Data

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

The 1993 SIP revision emissions inventory (EI) relies heavily upon the 1990 SIP revision EI, which is based upon 1987 data. The 1990 baseline emissions were quantified through a review of journal articles, stack testing, personnel monitoring, and evaluation of post-1985 equipment and procedures. Dispersion modeling was employed in deriving the 1990 SIP control strategy which resulted in the 1990 postcontrol EI. The 1993 baseline EI was obtained by adjusting the 1990 postcontrol EI to account for dust surging problems associated with the installation of certain 1990 SIP controls, and the replacement of four scrubbers with a baghouse.

The state submittal provides a historical summary of the air quality from 1988 through the first calendar quarter of 1993. Ambient lead concentrations have fallen significantly with the implementation of the 1990 SIP controls; however, the average quarterly ambient lead concentrations at several monitors continue to remain above the NAAQS.

D. Reasonably Available Control Measures (RACM) (Including Reasonably Available Control Technology (RACT))

The submittal must contain provisions to assure that RACM (including RACT) are implemented (see

section 172(c)(1) of the CAA). See 57 FR 13549 and 57 FR 67748 for EPA's interpretation of the RACM and RACT requirement.

A 1989 report, entitled ''Evaluation of Lead Emission Controls at the Doe Run Company's Primary Lead Smelter at Herculaneum, Missouri,'' prepared for the Doe Run Company by Fluor Daniel, Inc. (the Fluor report), represents an RACT survey of the Herculaneum facility. The report contains a review of the unit processes and operating procedures, in use at the time the study was commissioned, relative to similar facilities. The report identified 24 potential emission control improvements and the associated capital outlay requirements. Each of these projects has been completed. The Consent Orders, which the state has submitted as part of its SIP revision, describe each project.

An RACM survey was conducted in accord with 57 FR 18072, EPA's guidance with respect to the selection of fugitive dust control measures. Five of the fifteen suggested measures were found to be applicable to the Herculaneum facility. The SIP adequately documents the reasons for which each measure was selected or rejected. Each selected measure is included in the revised Herculaneum Work Practice Manual and has been implemented in accordance with the schedule established in the June 24, 1993, Consent Order.

E. Reasonable Further Progress (RFP)

The SIP must provide for RFP, defined in section 171(1) of the CAA as such reductions in emissions of the relevant air pollutant as are required by Part D, or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

The emission reductions associated with the control strategy will be phased in according to the interim dates which are identified in the Consent Orders submitted with the SIP. These dates were established to allow for engineering and construction of control systems, and provide continuing improvement in air quality.

F. New Source Review (NSR)

Part D of Title I of the CAA requires that the submittal include a permit program for the construction and operation of new and modified major stationary sources. Missouri rule 10 CSR 10–6.020 identifies the current specific descriptions of the lead nonattainment areas in Missouri. 10 CSR 10–6.020 is utilized in conjunction with Missouri rule 10 CSR 10–6.060 which requires a permit for construction of, or major modification to, an installation with potential to annually emit one hundred (100) tons or more of a nonattainment pollutant, or a permit for a modification with potential to annually emit one hundred (100) tons or more of a nonattainment pollutant. Because these provisions include requirements for all nonattainment areas, and are not limited to lead, EPA is acting on the provisions in a separate rulemaking.

G. Contingency Measures

As provided in section 172(c)(9) of the CAA, all nonattainment area SIPs that demonstrate attainment must include contingency measures. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the state or EPA, upon a determination that the area has failed to meet RFP or attain the lead NAAQS by the applicable attainment date.

The contingency measures included in the July 2, 1993, SIP submittal were determined to be inadequate to address possible air quality violations at the Herculaneum facility. EPA notified the state, in an October 7, 1993, letter, that the SIP revision did not contain contingency measures which adequately addressed the requirements of section 172(c)(9). Based on the modeling, EPA concluded that the maximum predicted ambient lead concentration occurs in the northern zone, which is significantly impacted by elevated process fugitive emissions. EPA requested that contingency measures be developed which would address these fugitive emissions. MDNR and Doe Run agreed to the required changes at meetings held October 18 and 19, 1993. The changes to the SIP were adopted by the MACC, after proper notice and public hearing, on March 31, 1994.

The contingency measures in the SIP will be invoked if, beginning with the calendar quarter following the attainment date, an exceedance of the lead NAAQS is recorded. MDNR will notify Doe Run-Herculaneum of the exceedance, and implementation of all of the contingency measures will begin within 60 days from receipt of that notification.

H. Enforceability

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), 110(a)(2)(A), and 57 FR 13556). The state submittal includes a Consent Order entered into by the state and the Company which contains all of the control and contingency measures, with enforceable dates for implementation.

The state submittal also includes an amendment to Missouri rule 10 CSR 10–6.120 which revises all point source emission limits from a lbs./day to a lbs./24-hour basis, and establishes enforceable criteria for determining compliance. The change from lbs./day to lbs./24-hour was necessary to make the emission limits consistent with the new test methods specified in the rule for determining compliance. Missouri rule 10 CSR 10–6.120 contains provisions which are applicable to other lead smelters in the state. EPA has not reviewed the adequacy of the rule as it relates to sources other than the Herculaneum smelter. EPA proposes approval of this rule only as it relates to Doe Run-Herculaneum.

Changes to the Herculaneum Work Practice Manual have also been included with this SIP revision. The Work Practice Manual serves as an enforcement document for the state and EPA. These work practices are designed to limit the fugitive emissions at the facility and are enforced through recordkeeping requirements. Noncompliance with the established work practices is a violation of Missouri rule 10 CSR 10–6.120. Any change to the Work Practice Manual requires a revision to the Missouri SIP, per Missouri's May 8, 1991, submittal letter.

IV. Implications of This Action

This SIP revision will significantly expand the current SIP. It contains a control strategy which provides for modifications to various feed circuits, the installation of additional ventilation systems, and the installation of additional pollution control devices. The modeling performed in support of the SIP revision indicates that the emissions control strategy will result in attainment of the NAAQS for lead. In addition, Missouri rule 10 CSR 10–6.120 has been amended such that all point source emission limits will be based upon an enforceable 24-hour average emission rate.

EPA Action

By this action EPA grants full approval of Missouri's July 2, 1993; June 30, 1994; and November 23, 1994, submittals. This SIP revision meets the requirements of section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to

approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., 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, EPA may certify that the rule will not have a significant 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.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

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 July 5, 1995. 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: April 12, 1995.

Dennis Grams,

Regional Administrator.

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. 7401–7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(87) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(87) In submittals dated July 2, 1993; June 30, 1994; and November 23, 1994, MDNR submitted an SIP to satisfy Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary smelter in Herculaneum, Missouri. Although Missouri rule 10 CSR 10–6.120 contains requirements which apply statewide to primary lead smelting operations, EPA takes action on this rule only insofar as it pertains to the Doe Run Herculaneum facility. Plan revisions to address the other lead smelters in the state are under development.

(i) Incorporation by reference.

(A) Revised regulation 10 CSR 10–6.120 (section (1), section (2)(B), section (3)) entitled Restriction of Emissions of Lead From Primary Lead Smelter-Refinery Installations, effective August 28, 1994.

(B) Consent Order, entered into between the Doe Run Company and MDNR, dated July 2, 1993.

(C) Consent Order amendment, signed by the Doe Run Company on March 31, 1994, and by MDNR on April 28, 1994.

(D) Consent Order amendment, signed by the Doe Run Company on September 6, 1994, and by MDNR on November 23, 1994.

(ii) Additional material.

(A) Revisions to the Doe Run Herculaneum Work Practice Manual submitted on July 2, 1993.

(B) Revisions to the Doe Run Herculaneum Work Practice Manual submitted on June 30, 1994.

§ 52.1323 [Amended]

3. Section 52.1323 is amended by removing paragraph (g) and redesignating paragraph (h) as paragraph (g).

[FR Doc. 95–10976 Filed 5–4–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[UT11–1–6726a, UT12–1–6727a, and UT13–1–6746a; FRL–5184–5]

Approval and Promulgation of Air Quality Implementation Plans; Utah; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving revisions to the State Implementation Plan (SIP) submitted by the Governor of Utah on November 12, 1993 and on May 20, 1994. The November 12, 1993 submittal included revisions to the State's new source review (NSR) permitting regulations to meet the new NSR requirements of the amended Clean Air Act (Act) for all of its nonattainment areas. The May 20, 1994 submittal included a revision to the State's definition of volatile organic compounds. The Governor submitted the nonattainment NSR rules with numerous other ozone SIP revisions and an ozone redesignation request for the Salt Lake and Davis County nonattainment areas. EPA will be acting on the other portions of the Governor's November 12, 1993 submittal in separate notices. EPA finds that the State's NSR rules meet the Federal nonattainment NSR permitting requirements of the Act for all of its nonattainment areas, and that the State's revised definition of volatile organic compounds is consistent with the federal definition.

DATES: This final rule is effective on July 5, 1995 unless adverse or critical comments are received by June 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be addressed to Vicki Stamper, 8ART–AP, at the EPA Regional Office listed. Copies of the State's submittal and other relevant information are available for