

reference, Intergovernmental relations, Volatile organic compounds, Ozone.

Dated: September 24, 2004.

Norman Niedergang,

Acting Regional Administrator, Region 5.

■ 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 P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(166) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(166) On February 10, 2004, Indiana submitted final adopted revisions to its emission reporting rule as a requested revision to the Indiana State Implementation Plan. On April 12, 2004, Indiana submitted its final rule as published in the Indiana Register.

(i) Incorporation by reference. Indiana Administrative Code Title 326: Air Pollution Control Board, Article 2: Permit Review Rules, Rule 6: Emission Reporting. Adopted by the Air Pollution Control Board on December 3, 2003, filed with the Secretary of State on February 26, 2004 and effective on March 27, 2004. Adopted at 27 Indiana Register 2210–2215.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R07–OAR–2004–MO–0003; FRL–7831–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and notice of administrative change.

SUMMARY: EPA is announcing the redesignation of the lead nonattainment area in Iron County, Missouri, to attainment of the National Ambient Air Quality Standard (NAAQS) for lead. We are approving the maintenance plan for

this area including a settlement agreement which was submitted with the redesignation request. This final rule addresses a comment submitted in response to EPA's direct final rule published previously for this action on June 30, 2004. The effect of the state implementation plan (SIP) approval is to ensure Federal enforceability of the state air program plan to provide for maintenance of the lead NAAQS. The effect of the redesignation is to recognize that the area has attained the lead NAAQS and to focus future air quality planning efforts on maintenance of the lead NAAQS in the area. EPA is also providing notice of an administrative change to a table in the Code of Federal Regulations which identifies the Missouri SIP.

DATES: This final rule will be effective November 29, 2004.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101, or by going to the Regional Material in EDocket index at <http://docket.epa.gov/rmepub/> and doing a quick search on "R07–OAR–2004–MO–0003."

FOR FURTHER INFORMATION CONTACT: Joshua Tapp at (913) 551–7606, or by e-mail at tapp.joshua@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 2004, EPA simultaneously published a proposed rule (69 FR 39382) and a direct final rule (69 FR 39337) to approve the redesignation of the nonattainment area in Iron County, Missouri, bounded by Arcadia and Liberty Townships, to attainment for lead and to take final action to approve the submission for the Doe Run Primary Smelting Facility near Glover, Missouri, as an amendment to the SIP.

The basis for our approval of this redesignation and maintenance plan is described in more detail in the direct final rule (69 FR 39337). The Missouri Department of Natural Resources (MDNR) met the criteria under section 107(d)(3)(E) of the Clean Air Act Amendments (CAAA) for redesignation of the nonattainment area in Iron County to attainment for the lead standard as described in detail in the direct final rule.

The area was designated as nonattainment for lead in January 1992. The nonattainment area includes the portion of Iron County, Missouri, bounded by Arcadia and Liberty

Townships. The major source of lead emissions in this nonattainment area is the Doe Run Primary Smelting Facility, near Glover, Missouri.

Primary smelting of lead began at this location in 1968. Currently the facility has ceased production and has been operating on a care and maintenance schedule since December 1, 2003. The state submittal provided ambient air monitor data showing that this area has consistently shown compliance with the NAAQS for lead since the first quarter of 1997, well before the recent shutdown of the facility. Ambient monitoring for lead has shown compliance with the NAAQS for 28 consecutive calendar quarters. The NAAQS for lead is 1.5 micrograms per cubic meter (1.5 µg/m³), maximum quarterly average. A quarterly average is considered a violation of the standard if it is at least 1.6 µg/m³ when rounded to tenths from the hundredths place when monitored.

EPA guidance provides that, for lead, attainment should be demonstrated by modeling as well as monitoring. Air dispersion modeling using the ISCST Version 3 dated February 4, 2002, was used to evaluate the concentration of lead resulting from operations at the Doe Run Primary Lead Smelting Facility. The maximum concentration predicted by the model was a value of 1.252 µg/m³ which is in compliance with the lead standard. This maximum modeled value was obtained by incorporating the plume depletion, dry removal option in the ISCST model.

The facility is currently in a non-production mode, but attainment had been shown for several years prior to this change in operation in December 2003. EPA has determined that the improvement in air quality is due to permanent and enforceable SIP controls. EPA has also determined that the area has a fully approved SIP for the area meeting the requirements of section 110 and Part D of Title I of the CAA. The maintenance plan submitted as part of the SIP revision provides for maintenance of the relevant NAAQS in the area for at least ten years after the approval of redesignation to attainment and provides for adequate contingency measures to address any future violations. The basis for these determinations is described in detail in the direct final rule (69 FR 39337, 39339).

EPA received an adverse comment during the 30-day comment period and therefore withdrew the direct final rule on August 24, 2004 (69 FR 51956).

II. Today's Action

In this final rulemaking, EPA is responding to the adverse comment, and granting final approval to the redesignation of the lead nonattainment area in Iron County, Missouri, to attainment of the NAAQS for lead. We are also approving the maintenance plan for this area, including a state administrative settlement agreement which was submitted with the redesignation request.

III. Comment and Response

EPA received one adverse comment on EPA's June 30, 2004, rule. A summary of the adverse comment and EPA's response is provided below.

Comment: The commenter was concerned that air pollution from Missouri industrial sources effect the air quality in states to the east of Missouri, including New Jersey, and EPA should focus on protecting public health and improving air quality.

Response: The commenter did not take issue with any specific determinations made by EPA with respect to approval of the redesignation request and maintenance plan. The commenter submitted no analysis or data suggesting that lead emissions in the Glover area had any effect on other states. With respect to the commenter's concern about transported emissions, we note that the air dispersion modeling submitted by the Missouri Department of Natural Resources for the redesignation of the lead nonattainment area in the Glover, Missouri, area indicated that the NAAQS for lead had been attained and would be maintained. The Doe Run facility is located within the boundaries of the Liberty and Arcadia townships in Iron County, Missouri. There are no predicted violations of the NAAQS for lead in the ambient air in the vicinity of the Doe Run facility. The predicted lead concentrations resulting from the operation of the lead smelter decrease rapidly as the distance from the lead sources increases. The NAAQS for lead is 1.5 micrograms per cubic meter averaged over a calendar quarter. A review of the modeling indicates that lead concentrations decrease to approximately 0.01 micrograms per cubic meter at approximately 10 kilometers from the facility. The modeling predictions are supported by the measurements made in the local area. Due to the highly localized impacts of lead emissions from the facility, it is extremely unlikely that any significant lead concentrations from the smelter would reach any areas outside Missouri.

EPA also notes that this action will not result in any increases in emissions from the facility. The maintenance plan commits to continuing to implement the lead emission control measures which resulted in attainment of the lead standard and to implementing contingency measures as necessary to address exceedances of the lead NAAQS. Any significant new growth would be subject to Missouri's construction permitting program. Therefore, EPA's action will not result in any additional air quality problems with respect to lead, either locally or in other states.

IV. Final Action

Final rule. EPA is granting final approval to the redesignation of the lead nonattainment area in Iron County, Missouri, to attainment of the NAAQS for lead. We are approving the maintenance plan for this area including a settlement agreement which was submitted with the redesignation request. For the reasons stated in the direct final rule referenced previously, EPA has determined that the submission meets the criteria under section 107(d)(3)(E) of the CAA for redesignation, and the maintenance plan requirements in section 175A of the CAA.

Administrative change. We are also adding numbers to entries previously published in table (e) in § 52.1320. On May 13, 2004 (69 FR 26506), table (e) was amended and the entry for the "Vehicle I/M Program" for St. Louis is designated (47). On August 24, 2004 (69 FR 51955), table (e) was amended and the entry for the "Revised Maintenance Plan of Doe Run Resource Recycling Facility near Buick, Mo.," is designated (48).

V. 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.*). This rule

approves preexisting requirements under state law. In addition, the redesignation is an action which affects the status of a geographic area but does not impose any new requirements on governmental entities or sources. Therefore because it 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 and redesignation do 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 December 28, 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

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: October 8, 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 as follows:

■ a. In the table to paragraph (d) by adding entry (22) in numerical order.

■ b. In the table to paragraph (e) designating the entry for "Vehicle I/M Program" as (47) and designating the entry for "Revised Maintenance Plan of Doe Run Resource Recycling Facility near Buick, MO.," as (48) and by adding entry (49) in numerical order.

§ 52.1320 Identification of plan.

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(d) * * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
(22) Doe Run Lead Smelter, Glover, MO.	Settlement Agreement	10/31/03	10/29/04	

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(49) Lead Maintenance Plan.	Iron County (part) within boundaries of Liberty and Arcadia Townships.	1/26/04	10/29/04	

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.326 the table entitled "Missouri-Lead" is amended by revising the entry for "Iron County (part) Within

boundaries of Liberty and Arcadia Townships" to read as follows:

§ 81.326 Missouri.

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MISSOURI-LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Iron County (part) Within boundaries of Liberty and Arcadia Townships.	October 29, 2004	Attainment.		

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R03-OAR-2004-VA-0002a; FRL-7831-5]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Municipal Waste Combustor Emissions From Large Existing Municipal Solid Waste Combustor Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the Commonwealth of Virginia Department of Environmental Quality (DEQ) municipal waste combustor plan (the plan) for implementing emission guideline (EG) requirements promulgated under the Clean Air Act (the Act). The plan establishes emission limits, monitoring, operating, and recordkeeping requirements for existing large MWC with a unit capacity of more than 250 tons per day (TPD) of municipal solid waste (MSW). An existing MWC unit is defined as one for which construction commenced on or before September 20, 1994.

DATES: This rule is effective December 28, 2004 without further notice, unless EPA receives adverse written comment by November 29, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-VA-0002 by one of the following methods:

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

B. *Agency Web Site:* <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail:* [http://wilkie.walter@epa.gov](mailto:wilkie.walter@epa.gov).

D. *Mail:* R03-OAR-2004-VA-0002, Walter Wilkie, Chief, Air Quality Analysis, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03-OAR-2004-VA-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://www.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 and the Federal [regulations.gov](http://www.regulations.gov) Web sites are an "anonymous access" system, 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://www.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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new MWC units and emission guidelines (EG) applicable to existing MWC units. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively. See 60 FR 65387. Subparts Cb and Eb regulate the following: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.