Docket No.	Location	Type	Date
CGD09–05–134	Chicago, IL	Safety Zones (Parts 147 and 165)	11/19/2005
CGD09–05–136	Charlevoix, MI	Safety Zones (Parts 147 and 165)	12/7/2005
CGD09–05–138	Cleveland, OH	Safety Zones (Parts 147 and 165)	12/20/2005
CGD11–05–029	Rio Vista, CA	Special Local Regulations (Part 100)	10/14/2005
CGD11–05–030	San Francisco Bay, CA	Special Local Regulations (Part 100)	10/6/2005
CGD11–05–032	San Francisco Bay, CA	Special Local Regulations (Part 100)	10/8/2005
CGD11–05–033	San Francisco Bay, CA	Special Local Regulations (Part 100)	11/2/2005
CGD13–05–039	Puget Sound, WA	Security Zones (Part 165)	10/24/2005
COTP Charleston–05–133.	Charleston, SC	Safety Zones (Parts 147 and 165)	10/11/2005
COTP Jacksonville–05–121.	Jacksonville Beach, FL	Safety Zones (Parts 147 and 165)	11/3/2005
COTP Jacksonville–05–128.	Port Canaveral, FL	Security Zones (Part 165)	10/2/2005
COTP Jacksonville–05–129.	Port Canaveral, FL	Security Zones (Part 165)	10/7/2005
COTP Jacksonville–05–131.	Port Canaveral, FL	Security Zones (Part 165)	10/10/2005
COTP Jacksonville–05–132.	Port Canaveral, FL	Security Zones (Part 165)	10/19/2005
COTP Jacksonville–05–144.	Port Canaveral, FL	Safety Zones (Parts 147 and 165)	10/26/2005
COTP Jacksonville–05–160.	Kissimmee, FL	Safety Zones (Parts 147 and 165)	12/10/2005
COTP Jacksonville–05–161.	Jacksonville, FL	Safety Zones (Parts 147 and 165)	12/6/2005
COTP Jacksonville–05–169.	Vilano Beach, FL	Safety Zones (Parts 147 and 165)	12/29/2005
COTP Key West–05–136.	Monroe County, FL	Safety Zones (Parts 147 and 165)	10/3/2005
COTP San Francisco Bay–05–009.	San Francisco Bay, CA	Security Zones (Part 165)	11/7/2005
COTP San Francisco Bay–05–010.	San Francisco Bay, CA	Safety Zones (Parts 147 and 165)	12/12/2005
COTP San Juan–05–147.	Puerto Rico	Security Zones (Part 165)	10/28/2005
COTP San Juan–05–157.	Guayanilla, PR	Safety Zones (Parts 147 and 165)	11/23/2005
COTP Savannah–05–148.	Savannah, GA	Security Zones (Part 165)	11/2/2005
COTP St. Petersburg–05–152.	Cape Coral, FL	Safety Zones (Parts 147 and 165)	11/7/2005
COTP St. Petersburg–05–119.	Tampa Bay, FL	Safety Zones (Parts 147 and 165)	10/7/2005
COTP St. Petersburg–05–134.	Clearwater, FL	Safety Zones (Parts 147 and 165)	10/8/2005

[FR Doc. 06–3563 Filed 4–13–06; 8:45 am]
BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2005–MO–0007; FRL–8158–7]

Finding of Substantial Inadequacy of Implementation Plan; Call for Missouri State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing our December 19, 2005, proposed finding that the Missouri State Implementation Plan (SIP) for lead is substantially inadequate to attain or maintain the National Ambient Air Quality Standard (NAAQS) for lead within the city limits of Herculaneum, Missouri. Pursuant to our authority in the Clean Air Act to call for plan revisions, the SIP has been found inadequate to attain and maintain the NAAQS within this portion of Jefferson County, as evidenced by three quarters of monitored violations in 2005. These violations occurred despite implementation of all control measures contained in the SIP, including all contingency measures established to address violations. EPA received comments on this proposal and is responding to these comments in this rulemaking. This rulemaking requires Missouri to revise the SIP to meet all of the applicable requirements of section 110 and part D of Title I of the Clean Air Act with respect to lead in the nonattainment area. The state is required to submit revisions to the SIP within twelve months of this final rulemaking. The SIP is required to provide for attainment of the lead NAAQS in the Herculaneum nonattainment area as expeditiously as practicable, but no later than two years after issuance of this final rule. If the state fails to submit a revised SIP by the deadline, it will be subject to sanctions under the provisions of the Clean Air Act.

DATES: This rule is effective on May 15, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2005–MO–0007. All documents in the docket are listed on the *http://www.regulations.gov* Web site. 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 through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, KS. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 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: Gwen Yoshimura at (913) 551–7073, or E-mail her at *yoshimura.gwen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA.

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Background and Submittal Information

What is a SIP?

Section 110 of the Clean Air Act (CAA or Act) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards 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. For areas which are not meeting the ambient standards for any of these pollutants, part D of Title I of the CAA contains additional SIP requirements which must be met in such areas.

Each state must submit these regulations and control strategies to us 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 background for the finding?

EPA established the National Ambient Air Quality Standard (NAAQS) for lead on October 5, 1978 (43 FR 46246). The standard for lead is set at a level of 1.5 micrograms (μg) of lead per cubic meter (m3) of air, averaged over a calendar quarter.

During the 1980s and 1990s, Missouri submitted and EPA approved a number of SIP revisions for lead to address ambient lead problems in various areas of the state. One such area was in Herculaneum, Missouri, which is the site of the Doe Run primary lead smelter. Doe Run-Herculaneum is the only currently operating primary lead smelter in the United States.

The most recent SIP revisions for the Doe Run-Herculaneum area were approved in the **Federal Register** on May 16, 2002 (67 FR 18497). The SIP established August 14, 2002, as the attainment date for the area and satisfied the nonattainment area requirements in the CAA. The SIP contained control measures to reduce lead emissions to attain the standard, and contingency measures, as required by section 172(c)(9) of the Act, to achieve emission reductions in the event of future violations. In addition, the plan outlined contingency measures that would be implemented in the event that there were future violations of the lead standard in Herculaneum.

After the August 2002 attainment date, the Herculaneum area monitored attainment of the lead standard for 10 consecutive calendar quarters. However, air quality monitors in the area reported exceedances of the standard in the first three calendar quarters in 2005 even though Doe Run has implemented all control measures contained in the 2001 SIP revision. Doe Run has also implemented all of the contingency measures required by the current SIP. The values for each of the three quarters exceed the 1.5 $\mu g/m^3$ lead standard, and therefore constitute violations of the standard for each quarter.

As such, because the violations recorded in 2005 have occurred despite implementation of all the control measures contained in the SIP, including all contingency measures that were to address the violations, EPA finds that the SIP is substantially inadequate to attain and maintain the NAAQS for lead.

For more information on the background on Doe Run-Herculaneum and the basis for the finding, please refer to the Proposed Rule, published December 19, 2005 (70 FR 75093).

EPA's Final Action

What comments were received on the December 19, 2005, proposal and what is EPA's response?

The proposed SIP call solicited comments on all aspects of the proposal, and specifically requested comments on the following proposed actions relating to the Missouri SIP for lead in the Herculaneum nonattainment area:

1. Find that the SIP is substantially inadequate to attain and maintain the NAAQS for lead in the area;
2. Require that Missouri revise the SIP to meet all of the applicable requirements of section 110 and part D of Title I of the Act with respect to lead in the nonattainment area;
3. Require the state to submit revisions to the SIP within twelve months of the final rulemaking;
4. Require that the SIP provide for attainment of the lead NAAQS in the Herculaneum nonattainment area as expeditiously as practicable, but no later than two years after issuance of the final rule.

EPA received seven written comments in response to the proposed findings noted above. Five of the seven comments related to health concerns and general support for EPA's proposed action. One commenter voiced specific support of the proposed timeline and rule. One commenter supported a shorter timeframe for attainment of the standard. However, this commenter interpreted the proposed timeframe incorrectly, stating that it provided for three years for Doe Run to demonstrate attainment, instead of the proposed two. The comment is further addressed below. No commenters opposed finding the SIP substantially inadequate and finding that it must be revised as described in the proposal (proposed actions 1 and 2 identified above). With the exception of the aforementioned commenter (who advocates for a shorter timeframe) none of the commenters specifically disputed the proposed timeframe for SIP submission and attainment of the standard.

EPA sets forth below a summary of the comments received and our responses.

Issue 1: Timeframe

Comment 1: One commenter states that the proposed rule would provide one year for SIP development and then another two years before attainment

must be demonstrated, totaling three years before attainment must be demonstrated. The commenter states that this time period is too long.

Response to Comment 1: The time period outlined in the comment is incorrect. The timeframe proposed in the SIP call provides one year for SIP development following date of signature of the final rule, and two years after signature of the final rule to attain the standard. EPA based this timeframe on available information as described in the proposed SIP call finding (70 FR 75093, 75094, 75095). In particular, EPA explained that the applicable requirement of the CAA, section 110(k)(5), provides that after making a finding of substantial inadequacy, EPA is authorized to establish a reasonable time, not to exceed 18 months, for the state to correct the inadequacy. EPA also stated that a SIP submittal date of less than 18 months would be reasonable since Missouri had been working to address the violations of the lead standard since at least April 2005. In its comment supporting the 12-month submittal deadline, Missouri stated that because of administrative requirements under state law, Missouri ordinarily needs 18 months to complete rulemaking. In this instance, however, Missouri agreed that 12 months is a reasonable deadline for submittal of the revisions needed to correct the deficiencies.[1] The commenter did not provide any information indicating that the revisions could be submitted in a shorter timeframe. Therefore, for the reasons set forth above and in the proposal, we have determined that the submittal date for the SIP required by this rulemaking will be 12 months from the date of signature of this final rule.

With respect to the attainment date for the Herculaneum area, we noted in the proposal that the attainment date was August 2002,[2] and that the attainment date must be adjusted because it has elapsed.[3] For reasons discussed in the proposal,[4] including the fact that the state had already identified several control measures which could be implemented in the near term, EPA proposed an attainment date of no later than two years from the date of signature of the final rule. In its comments the state supported this date. The commenter did not provide any information indicating that attainment could be achieved sooner.[5]

Based on the available information, EPA is establishing an attainment date requiring attainment as expeditiously as practicable, but no later than two years following signature of this final rule. As no information has been presented showing that this timeframe is not reasonable, EPA is adopting the timeframe stated in the proposal.

Issue 2: Health Effects of Lead

Comment 2: Several commenters described the adverse health effects of lead emissions.

Response to Comment 2: EPA recognizes that lead is a human health concern. Today's action will require the state to address lead emissions by revising the SIP to provide for attainment of the lead standard. EPA believes that this action will result in reductions in lead emissions in the area.

Issue 3: Use of Other EPA Authorities

Comment 3: One commenter requests that EPA use its emergency authority under section 303 of the Clean Air Act to order Doe Run to cease operation until an acceptable SIP is submitted and approved.

Response to Comment 3: As indicated in the proposal, the scope of this rulemaking is to determine whether the Missouri SIP for lead is substantially inadequate and, if so, to determine the appropriate schedule for the state to correct the inadequacies. Use of EPA's authority under section 303 is therefore outside the scope of this rulemaking.

Comment 4: One commenter (the Missouri Department of Natural Resources) requests that EPA include a provision in the SIP call which would place more of the responsibility for responding to the SIP call on the Doe Run Company. The commenter suggests that this could be accomplished by a ''parallel'' preparation of a Federal Implementation Plan (FIP) in case Doe Run does not cooperate with the state in timely development of a SIP.

Response to Comment 4: EPA intends to monitor the state's progress in meeting the SIP submittal deadline and to take appropriate action to meet its statutory obligations, including promulgation of a Federal plan if the state fails to submit an approvable SIP. Under section 110(c)(1) of the CAA, EPA would be required to promulgate a Federal plan no later than two years after EPA finds that the state has failed to submit a plan, unless EPA approves a SIP revision before the Federal plan is promulgated. Promulgation of a Federal plan, however, is outside the scope of this SIP call, and would be addressed in a separate rulemaking.

Issue 4: NAAQS

Comment 5: One commenter states that there is question as to whether the existing National Ambient Air Quality Standard (NAAQS) for lead reflects current scientific knowledge and protects public health with an adequate margin of safety.

Response to Comment 5: The adequacy of the lead NAAQS is outside the scope of this SIP call. EPA is currently under a court-ordered deadline to complete review of the lead NAAQS (which review includes an assessment of current scientific knowledge) no later than September 1, 2008. More information on the lead NAAQS review may be found at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html.*

What action is EPA taking?

For the reasons stated above and in the proposal, EPA is finalizing the following actions relating to the Missouri SIP for lead in the Herculaneum nonattainment area:

1. Finding that the SIP is substantially inadequate to attain and maintain the NAAQS for lead in the area;
2. Requiring that Missouri revise the SIP to meet all of the applicable requirements of section 110 and part D of Title I of the Act with respect to lead in the nonattainment area;
3. Requiring the state to submit revisions to the SIP no later than April 7, 2007;
4. Requiring that the SIP provide for attainment of the lead NAAQS in the Herculaneum nonattainment area as expeditiously as practicable, but no later than April 7, 2008.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final 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). I certify that this final action will not have a significant economic impact on a substantial number of small

[1] In the proposal, EPA identified four plan elements which would be needed to correct the deficiency. These included a revised emissions inventory, a modeled attainment demonstration, adopted control measures shown to be necessary for attainment, and contingency measures.

[2] Five years after EPA notified the state that the area had failed to attain the standard, consistent with the requirements of sections 179(d)(3) and 172(a)(2).

[3] Section 110(k)(5) and 172(d).

[4] 70 FR 75093, 75095.

[5] We note that the CAA requires that the attainment date must be as expeditiously as practicable, so that if in the course of SIP development it is determined that an attainment date less than two years after the date of signature is practicable, the state must identify such earlier attainment date in its SIP submittal.

entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

EPA has determined that this final action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action will require the state of Missouri to revise laws and regulations to meet the NAAQS for lead. This requirement would not result in aggregate costs over $100 million to either the state or local districts. It is unclear whether a requirement to submit a SIP revision would constitute a Federal mandate. The obligation for a state to revise its SIP that arises out of sections 110(a) and 110(k)(5) of the CAA is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 658(a)(I)). Even if it did, the duty could be viewed as falling within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

This final action 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), because it is in keeping with the relationship and the distribution of power and responsibilities between EPA and the states as established by the CAA. This SIP call is required by the CAA because the current SIP is inadequate to attain the lead NAAQS. Missouri's direct compliance costs will not be substantial because the SIP call requires Missouri to submit only those revisions necessary to address the SIP deficiency and applicable CAA requirements.

Executive Order 13045: ''Protection of Children from Environmental health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it requires attainment of a previously promulgated health-based Federal standard. In addition, it is not economically significant.

Section 12 of the National Technology Transfer and Advancement Act of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with the National Technology Transfer and Advancement Act, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. In making a finding of a SIP deficiency, EPA's role is to review existing information against previously established standards (in this case, what constitutes a violation of the lead standard). In this context, there is no opportunity to use VCS. 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 final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 7, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 06–3592 Filed 4–13–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0088; FRL–8158–5]

RIN 2060–AM90

National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comment, we are withdrawing the direct final rule amendments to the national emission standards for hazardous air pollutants (NESHAP) for Refractory Products Manufacturing, published in the **Federal Register** on February 13, 2006. We stated in the direct final rule amendments that if we received adverse comment by March 15, 2006, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comment on the direct final rule amendments. We will address those comments in a subsequent final action based on the parallel proposal also published on February 13, 2006. As stated in the parallel proposal, we will not institute a second comment period on this action.

DATES: As of April 14, 2006, EPA withdraws the direct final rule amendments published on February 13, 2006 (71 FR 7415).

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0088. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information 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 through *http://www.regulations.gov* or in hard copy at the NESHAP for Refractory Products Manufacturing Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Refractory Products