

*OCS block area* means the names given by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOE) to define the OCS areas used to facilitate management or leasing on the OCS.

**§ 146.405 Safety and Security notice of arrival for vessels arriving at a place on the OCS.**

(a) *General.* The owner or operator of each vessel subject to this section must submit an initial NOA to the National Vessel Movement Center (NVMC):

(1) If the voyage time is more than 96 hours, at least 96 hours before the vessel arrives at a place on the OCS from a foreign port or place or from a different OCS block area to engage in OCS activities;

(2) If the voyage time is less than 96 hours and more than 24 hours, before departure, or;

(3) If the voyage time is less than 24 hours, at least 24 hours before the vessel arrives at a place on the OCS.

(b) *Information required in an NOA.* The following information is required from the owners or operators of vessels submitting an NOA:

(1) All the information specified in 33 CFR Table 160.206 with the exception of information required in items (2)(iii) through (2)(vi) and item (6). Item (8) is also not required except as pursuant to the laws on vessel entry (19 U.S.C. 1434) and clearance (46 U.S.C. 60105). Vessel owners and operators should protect any personal information they gather in preparing notices for transmittal to the NVMC so as to prevent unauthorized disclosure of that information;

(2) The area in which they are conducting their operations. This area can be submitted as either the name of the places, the BOE block numbers, or the latitudes and longitudes of the places on the OCS where operations are being conducted; and

(3) If any person onboard, including a crewmember, is not required to carry a passport for travel, then passport information required in Table 160.206, items (4)(iv) through (vi), and (5)(iv) through (vi), need not be provided for that person.

(c) *Updates to a submitted NOA.* Unless otherwise specified in this section, whenever the most recently submitted NOA information becomes inaccurate, the owner or operator of that vessel must revise and re-submit the NOA within the times required in paragraph (e) of this section. An owner or operator does not need to revise and re-submit an NOA for the following:

(1) A change in submitted arrival time that is less than 6 hours;

(2) Changes in the location, latitude and longitude, of the vessel from the location at the time the NOA was reported; or

(3) Changes to personnel positions or duties on the vessel.

(d) *Methods of submission.* The notice must be submitted to the NVMC by electronic Notice of Arrival and Departure format using methods specified at the NVMC's Web site at <http://www.nvmc.uscg.gov/>.

(e) *Required reporting time of an NOA update.* The owner or operator of each vessel subject to this section must submit an NOA update:

(1) If the most recently submitted NOA, or NOA update, differs by 24 hours or more from the current estimated time of arrival, the owner or operator of the vessel must provide an update as soon as practicable but at least 24 hours before the vessel arrives at the OCS location where the owner or operator plans to perform OCS activities;

(2) If the most recently submitted NOA, or NOA update, differs by less than 24 hours from the current estimated time of arrival, the owner or operator of the vessel must provide an update as soon as practicable but at least 12 hours before the vessel arrives at the OCS location where the owner or operator plans to perform OCS activities; or

(3) If the remaining voyage time is less than 24 hours, the owner or operator of the vessel must provide an update as soon as practicable, but at least 12 hours before the vessel arrives at a place on the OCS.

(f) *Towing vessels.* When a towing vessel controls a vessel required to submit an NOA under this subpart, the owner or operator of the towing vessel, or lead towing vessel if there is more than one, is responsible for submitting only one NOA containing the information required for the towing vessels and the vessel under its control.

(g) This section does not apply to vessels merely transiting the waters superjacent to the OCS and not engaged in OCS activities.

Dated: December 22, 2010.

**Robert J. Papp, Jr.,**

*Admiral, U.S. Coast Guard Commandant.*

[FR Doc. 2011-569 Filed 1-12-11; 8:45 am]

**BILLING CODE 9110-04-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2010-0675; FRL-9250-8]

**Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Gopher Resource, LLC**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Minnesota Pollution Control Agency (MPCA) on July 29, 2010, to revise the Minnesota State Implementation Plan (SIP) for lead (Pb) under the Clean Air Act (CAA). The State has submitted a joint Title I/Title V document (joint document) in the form of Air Emission Permit No. 03700016-003, and has requested that the conditions laid out with the citation "Title I Condition: SIP for Lead NAAQS" replace an existing Administrative Order (Order) as the enforceable SIP conditions for Gopher Resource, LLC. The existing Order was approved by EPA on October 18, 1994. MPCA's July 29, 2010, revisions were meant to satisfy the maintenance requirements for the 1978 Pb National Ambient Air Quality Standard (NAAQS), promulgated at 1.5 micrograms per cubic meter, or 1.5 µg/m<sup>3</sup>.

**DATES:** This direct final rule will be effective March 14, 2011, unless EPA receives adverse comments by February 14, 2011. If adverse comments are 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 Docket ID No. EPA-R05-OAR-2010-0675, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 692-2551.

4. *Mail:* John Mooney, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John Mooney, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed

information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2010-0675. 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is 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 <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 docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886-0258 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0258, [chang.andy@epa.gov](mailto:chang.andy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
  - A. When and why did the State make this submittal?
  - B. Did the State hold public hearings for this submittal?
- II. What is EPA's analysis of MPCA's submittal?
  - A. Gopher Resource, LLC, and General SIP Conditions
  - B. Emissions Units, Processes, and Limits
  - C. Stack Emissions Testing
  - D. Consistency With the Existing Order
  - E. Rescission of the Order.
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. Background**

*A. When and why did the State make this submittal?*

MPCA submitted this revision to the Minnesota SIP on July 29, 2010. Air Emission Permit No. 03700016-003 was submitted as a joint document, and MPCA requested that the conditions labeled "Title I Condition: SIP for Lead NAAQS" serve as the enforceable SIP conditions for the Gopher Resource, LLC, (Gopher) facility. The State's submittal, as well as EPA's analysis of the submittal elements, will be discussed in subsequent sections of this document.

Portions of Dakota County were designated as nonattainment for the 1978 Pb NAAQS on January 6, 1992. It was found that Gopher was the primary source of elevated Pb levels in the area. Gopher was formerly known as Gopher Smelting and Refining Company, and the change to Gopher Resource, LLC will be discussed in Section IIA, below.

EPA approved a request to redesignate Dakota County as attainment for the 1978 Pb NAAQS on October 18, 1994. The redesignation request was part of a SIP revision which also included a maintenance plan in accordance with section 175A of the CAA, as interpreted by a September 4, 1992, EPA memorandum entitled, "Procedures for Processing Requests to Redesignate Areas to Attainment." EPA also approved the Order for Gopher on October 18, 1994. This Order was originally issued by MPCA for the facility on June 22, 1993, and contained

emissions limits and other requirements ensuring attainment of the 1978 Pb NAAQS.

Section 175A(b) of the CAA required MPCA to submit an update to its maintenance plan, which the agency did on November 18, 2002. On this date, the State also submitted a request to replace the existing Order with a joint document, in this case, a permit. This concept does not set any new precedent, because Minnesota routinely houses the conditions necessary to attain and maintain the NAAQS in facility permits. The required SIP conditions are denoted as, "Title I Condition: SIP for (pollutant) NAAQS." However, EPA did not act on the submittal because, among other things, the revisions to the SIP for Gopher removed contingency measures from the maintenance plan.

On November 19, 2007, MPCA formally withdrew the request to replace the Order with the joint document, but asked that EPA consider the maintenance plan update, which EPA approved on June 3, 2008 (73 FR 31614). On November 16, 2010, the Administrator of EPA signed designations for Pb nonattainment areas for the 2008 Pb NAAQS, for those areas exceeding 0.15 µg/m<sup>3</sup>. A subsequent **Federal Register** notice published on November 22, 2010 (75 FR 71033), confirmed that portions of Eagan, located in Dakota County, and identical to the current maintenance area for the 1978 Pb NAAQS, are in nonattainment for the 2008 Pb NAAQS. However, the 1978 Pb NAAQS remains in effect for the Eagan area until December 31, 2011. MPCA's July 29, 2010, requested revisions are meant to address only the maintenance requirements of the 1978 Pb NAAQS.

MPCA has worked closely with EPA to form a joint document that meets all the requirements to replace the existing Order as the enforceable SIP conditions for the Gopher facility. As previously mentioned, Minnesota houses all conditions necessary to attain and maintain the NAAQS in facility permits through a joint document. The conditions of this joint document are established under Minnesota's Clean Air Act Title I authority and Title V permitting authority. The State's July 29, 2010, submittal from MPCA is the Title V permit for Gopher Resource, LLC, with appropriately denoted Title I SIP conditions. This joint document will replace the existing Order, and although this SIP revision has been submitted in conjunction with reissuance of the facility's operating permit, this action will focus only on the relevant changes to the facility's Title I SIP conditions for Pb.

*B. Did the State hold public hearings for this submittal?*

The public notice for the joint document and associated SIP revision was published in the *St. Paul Pioneer Press* on February 17, 2010. The public notice period for the joint document began on February 18, 2010, and lasted until March 19, 2010. MPCA did not receive a request to hold a public hearing, but did receive comments on the reissuance of the Title V permit. However, none of the comments that MPCA received were applicable to the maintenance requirements for the 1978 Pb NAAQS, and no changes to the joint document were made as a result of the comments.

## II. What is EPA's analysis of MPCA's submittal?

### A. Gopher Resource, LLC, and General SIP Conditions

The existing Order refers to the facility as "Gopher Smelting and Refining Company," whereas the joint document submitted by MPCA on July 29, 2010, correctly identifies the facility as "Gopher Resource, LLC." This change reflects only a change of ownership structure, whereas the actual ownership remained largely unchanged. General SIP conditions, such as those that describe when facility changes require a SIP revision, have been reworded or clarified to fit with MPCA's current format for such conditions. Additional conditions that allowed the facility a choice in compliance options in the Order have been updated to reflect the compliance choice made by Gopher. Lastly, the joint document organizes and names emissions units differently than the Order, thereby reflecting current operations. Aligning the current name of the facility into the SIP prevents potential confusion as to the correct name of the facility, and the enforceable conditions in the joint document now apply to the same properly designated entity on both the State and Federal levels. Therefore, EPA finds the updated name of Gopher Resource, LLC, to be approvable. The changes to the general SIP conditions as outlined in the joint document pertain to format only; these changes ensure that MPCA has been consistent with other joint documents, and because there are no significant emissions changes that stem from formatting, rewording, or clarifications, EPA finds these revisions to be approvable. Gopher has selected a set of compliance options based on EPA regulations and guidelines, or based on the previously approved Order, and therefore, EPA finds these changes to be approvable. Organizing emissions units

to reflect current operations aligns State and Federal nomenclature; therefore, EPA finds these changes to be approvable.

### B. Emissions Units, Processes, and Limits

The State-submitted joint document contains updated emissions units and processes that reflect current operations. Flue dust agglomeration is no longer a process at Gopher, nor does there exist a central vacuum system. The existing Order refers to six refining kettles instead of the ten that are currently in operation; these ten kettles are reflected in the joint document. These kettles vent to the main stack SV003, and although there has been a change in the specifics of the emissions units, the emissions limits for SV003 in the joint document are identical to those found in the Order. Therefore, EPA does not expect a net effect on the emissions exiting at SV003, nor does EPA expect a violation of the 1978 Pb NAAQS to occur as a result of these added units.

Gopher has added two additional Torit dust collectors that collect fugitive Pb emissions from raw material handling, the battery breaking dock, material transfer rooms, and the furnace areas. These dust collectors exhaust into the new Torit stack SV008, and the purpose of these collectors is to control dust that was observed to "leak" from various points, *i.e.*, it was assumed that the dust at these new collectors was going into Torit stack SV002. Emissions that were assumed to be entering the SV002 in their entirety are now being split between SV002 and SV008.

MPCA performed a modeling analysis showing that the added Torit stack SV008 would not result in negative ambient impacts. The modeling shows that the area of maximum impact, on a monthly average level, is  $0.78 \mu\text{g}/\text{m}^3$ . Monitoring data from Air Quality System ID# 270370465 has corroborated compliance with the 1978 Pb NAAQS; the highest quarterly average recorded between 2007 and 2009 (consistent with the form of the 1978 Pb NAAQS) was  $0.70 \mu\text{g}/\text{m}^3$ . Available data from 2010 have demonstrated compliance with the 1978 Pb NAAQS as well. Based on the static emission limits, as well as supporting modeling and monitoring data, EPA finds the requested revisions concerning emissions units, processes, and limits to be approvable.

### C. Stack Emissions Testing

MPCA requested in the joint document that the stack testing frequency be changed from once every year to once every two years. The basis of the request is found in the

Amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) From Secondary Lead Smelting (62 FR 32209). The amendments affirm that if a compliance test shows a source emitted Pb compounds at 1.0 milligram of lead per dry standard cubic meter (0.00044 grains of lead per dry standard cubic foot) or less during the time of the compliance test, the owner or operator of the lead smelter would be allowed up to 24 calendar months from the previous compliance test to conduct the next annual compliance test for Pb compounds. MPCA submitted emissions test reports from 2006 and 2008; the highest average concentration was recorded in 2006 at the main stack, and the concentration was .16 milligrams of lead per dry standard cubic meter. This value is 16% of the bi-annual stack testing frequency threshold. The facility has been complying with the NESHAP for secondary lead smelters since December 23, 1997, and to the extent that the NESHAP requirements are more stringent than the requirements contained in the SIP, EPA approves Gopher's request for bi-annual stack testing.

### D. Consistency With the Existing Order

EPA did not act on MPCA's November 18, 2002, joint document because provisions in that document would remove contingency plan elements from the maintenance plan. In its July 29, 2010, submittal, MPCA included contingency plans and associated record keeping requirements identical to those found in the Order. EPA finds the inclusion of contingency measures in the joint document to be appropriate and necessary in conjunction with section 175A(d) of the CAA.

Significant changes have been discussed in detail already, and EPA has determined that any other minor deviations from the existing Order are *de minimis*. For example, MPCA requested that mobile equipment traffic be allowed on non-paved areas for maintenance and inspection purposes. These activities are not expected to have a negative impact on the surrounding ambient air quality.

EPA finds that all elements included in the existing Order are included in the July 29, 2010, joint document. Adopting the joint document in lieu of the Order should not result in any applicability, emissions, or otherwise detrimental gaps. EPA also expects the Eagan area of Dakota County to continue to meet the 1978 Pb NAAQS.

### E. Rescission of the Order

On July 27, 2010, MPCA revoked the Order and subsequent amendments to the Order. For the reasons discussed in previous sections, the joint document submitted by MPCA on July 29, 2010, is appropriate and sufficient to serve as the only document that contains SIP conditions for Gopher Resource, LLC. As such, EPA finds it appropriate to rescind the original Order from the SIP.

### III. What action is EPA taking?

EPA is approving a joint Title I/Title V document submitted by MPCA for Gopher Resource, LLC. The conditions labeled, "Title I Condition: SIP for Lead" will replace the existing Order as the enforceable SIP conditions for the facility. Specifically, these conditions can be found in Air Emission Permit No. 03700016-003. The joint document includes elements necessary for Dakota County to continue meeting the 1978 Pb NAAQS. EPA is simultaneously rescinding the existing Order from the SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective March 14, 2011 without further notice unless we receive relevant adverse written comments by February 14, 2011. If we receive such comments, we will withdraw this action 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 the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective March 14, 2011.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting

Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action 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 March 14, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Lead, Reporting and recordkeeping requirements.

Dated: December 29, 2010.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 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 Y—Minnesota

- 2. In § 52.1220 the table in paragraph (d) is amended by removing the entry for "Gopher Smelting and Refining Company" and adding an entry for "Gopher Resource, LLC" in its place to read as follows:

#### § 52.1220 Identification of plan.

*	*	*	*	*
(d) * * *				

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
* * * * * Gopher Resource, LLC .....	* * * * * 03700016-003	* * * * * 06/29/10	* * * * * 01/13/11, [Insert page number where the document begins].	* * * * * Only conditions cited as "Title I condition: SIP for Lead NAAQS."
* * * * *	*	*	*	*

\* \* \* \* \*

[FR Doc. 2011-337 Filed 1-12-11; 8:45 am]

**BILLING CODE 6560-50-P**