

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 proposed 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.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 20, 2010.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2010–21384 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2008–0538; FRL–9193–8]

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

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

**ACTION:** Supplemental proposed rule.

**SUMMARY:** EPA proposes to grant full approval of Missouri's attainment

demonstration State Implementation Plan (SIP) and control strategy for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Herculaneum, Missouri. This proposed action supplements the proposed conditional approval published by EPA on October 8, 2008, and explains why EPA now believes full approval is appropriate. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 1978. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act identified in EPA's October 2008 proposal, and demonstrates attainment of the 1.5 microgram per cubic meter ( $\mu\text{g}/\text{m}^3$ ) lead NAAQS in the Herculaneum, Missouri area. This action does not address any obligations which Missouri may have relative to the revised lead NAAQS promulgated by EPA in 2008.

**DATES:** Comments must be received on or before September 27, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2008–0538, by one of the following methods:

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

2. *E-mail*: [jay.michael@epa.gov](mailto:jay.michael@epa.gov).

3. *Mail*: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

**Instructions:** Direct your comments to Docket ID No. EPA–R07–OAR–2008–0538. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *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 *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 *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. 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:** Michael Jay at (913) 551–7460, or e-mail him at [jay.michael@epa.gov](mailto:jay.michael@epa.gov).

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

#### Table of Contents

I. Background
A. The SIP Process
1. What is a SIP?
2. What is the Federal approval process for a SIP?
3. What does Federal approval of a state regulation mean to me?
B. Background for the Proposal
II. Summary of the State Submittal
1. Plant Ventilation Design
2. Ventilation Study Objectives
3. Ventilation Study Results
4. Ventilation Limits
5. Ongoing Ventilation Testing and Reporting Requirements
6. Winter Construction Work Practices Manual Modification
7. Enforceability
III. Proposed Action
IV. Statutory and Executive Order Reviews

## I. Background

### A. The SIP Process

#### 1. 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.

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.

#### 2. What is the Federal approval process for a SIP?

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

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

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

#### 3. What does Federal approval of a state regulation mean to me?

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

### B. Background for the Proposal

The Environmental Protection Agency (EPA) established the National Ambient Air Quality Standard (NAAQS) for lead on October 5, 1978 (43 FR 46246). The 1978 NAAQS for lead is set at a level of 1.5 micrograms ( $\mu\text{g}$ ) of lead per cubic meter ( $\text{m}^3$ ) of air, averaged over a calendar quarter. The Herculaneum, Missouri area is designated nonattainment for the 1978 lead NAAQS. On November 12, 2008, EPA revised the lead NAAQS (73 FR 66964), lowering the level to  $0.15 \mu\text{g}/\text{m}^3$  calculated over a three-month rolling average. Missouri is required to bring any nonattainment areas into attainment of the 2008 lead NAAQS according to the timeline established in the Clean Air Act and in the November 12, 2008 final rulemaking. The final rulemaking also specifies that the  $1.5 \mu\text{g}/\text{m}^3$  standard will not be revoked for any current nonattainment area until the affected area submits, and EPA approves, an attainment demonstration which addresses the attainment of the new  $0.15 \mu\text{g}/\text{m}^3$  Pb NAAQS. EPA has not yet designated areas with respect to the 2008 NAAQS.

This rulemaking proposes approval of the Missouri SIP to bring the Herculaneum area into attainment of the  $1.5 \mu\text{g}/\text{m}^3$  NAAQS. However, although EPA believes this SIP is directionally correct in terms of achieving reductions in lead emissions, this proposed action does not address any future obligation of the state to address the revised standard.

During the 1980s and 1990s, Missouri submitted and EPA approved a number of SIP revisions for lead to address ambient lead concentrations in various areas of the state. One such area was Herculaneum, Missouri, where a primary lead smelter has been in operation since 1892. The primary lead smelter is currently owned and operated by the Doe Run Resources Company (hereafter referred to as "Doe Run"). Doe Run-Herculaneum is the only currently operating primary lead smelter in the United States.

The Herculaneum area was designated nonattainment for lead in 1991 (56 FR 56694, November 6, 1991, codified at 40 CFR 81.326), pursuant to new authorities provided by the Clean Air Act Amendments of 1990. The state also became subject to new SIP requirements under part D, Title I of the Act, added by the 1990 amendments. A revised SIP meeting the part D requirements was subsequently submitted in 1994. The plan established June 30, 1995, as the date by which the Herculaneum area was to attain compliance with the lead standard. However, the plan did not result in attainment of the standard and monitored ambient air lead concentrations in the Herculaneum area continued to show exceedances of the standard. Therefore, on August 15, 1997, after taking and responding to public comments, EPA published a notice in the **Federal Register** (62 FR 43647) finding that the Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline.

On January 10, 2001, Missouri submitted a revised SIP to EPA for the Herculaneum area. The SIP contained control measures to reduce lead emissions to attain the standard, including building enclosure and ventilation projects, implementation of work practice standards, process throughput restrictions and hours of operation limitations. As required by section 172(c)(9) of the Act, the plan also included contingency measures to be implemented in the event that there were future exceedances of the lead standard in Herculaneum. These consisted of additional building enclosures and process controls, and a production curtailment measure. A 2000 Work Practices Manual, 2001 Consent Judgment, and Missouri rule 10 CSR 10-6.120 "Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations" were also included as part of the SIP submittal. The SIP established August 14, 2002, as the attainment date for the area. The plan included permitting, monitoring, and reporting requirements, an emissions inventory, implementation of all reasonably available control measures as expeditiously as practicable, provided for attainment of the NAAQS as demonstrated using modeling, provisions for reasonable further progress and implementation of contingency measures, and assurances that the state would be able to implement the plan, thereby satisfying the CAA section 172(c) nonattainment plan provision requirements. EPA

approved the SIP on April 16, 2002 (67 FR 18497).

Doe Run and the Missouri Department of Natural Resources (MDNR) operate co-located monitors at the Main Street/City Hall monitoring location, and in several other lead monitoring locations in the nonattainment area. These monitors are used to show whether or not the area is in attainment of the standard. Following the August 2002 attainment date, the Herculaneum area monitored attainment of the lead standard for 10 consecutive calendar quarters. In 2005, air quality monitors in the area again reported exceedances of the 1.5  $\mu\text{g}/\text{m}^3$  lead NAAQS in the first two calendar quarters in 2005. Monitored values are quality assured by MDNR and properly entered into the Air Quality System, EPA's repository for ambient air monitoring data. The values for the first two quarters of 2005 exceed the 1.5  $\mu\text{g}/\text{m}^3$  lead standard and, therefore, constitute violations of the standard for each quarter.

In accordance with the plan approved in 2002, a violation would trigger implementation of a contingency measure. The first set of contingency measures, consisting of additional building enclosures and process controls, was fully implemented by Doe Run prior to any monitored exceedances of the lead NAAQS. The second contingency measure, a production curtailment, was implemented following exceedance of the lead standard in the first and second calendar quarters of 2005. Despite implementation of all contingency measures, air monitors in Herculaneum recorded values above the 1.5  $\mu\text{g}/\text{m}^3$  lead standard in the third quarter of 2005.

Because the exceedance recorded in the third quarter of 2005 occurred despite implementation of all the control measures contained in the SIP, including all contingency measures developed and implemented to address exceedances, EPA proposed a SIP call on December 19, 2005 (70 FR 75093). The SIP call proposed to find the SIP substantially inadequate to attain and maintain the NAAQS for lead and proposed to require the state to revise the lead SIP for Herculaneum.

EPA finalized the SIP call on April 14, 2006 (71 FR 19432). The SIP call notified the state of EPA's finding that the SIP was substantially inadequate to provide for attainment and maintenance of the lead NAAQS in Herculaneum, and required the state to submit a revised SIP. Section 110(k)(5) of the CAA provides that after EPA makes a finding that a plan is substantially inadequate, it may establish a

reasonable deadline for correcting the deficiencies, but the date can be no later than 18 months after the state is notified of the finding. Based on a number of considerations detailed in the final rule, the SIP call required submission of the revisions within twelve months following date of signature of the final rulemaking.

Along with a deadline for SIP submittal by the state to EPA, the final SIP call established the date by which the state must demonstrate attainment of the standard in Herculaneum. Sections 110(k)(5) and 172(d) of the Act provide that EPA may adjust any SIP deadlines that are applicable under the Act, except that the attainment date may not be adjusted unless it has elapsed. For Herculaneum, the attainment date had been August 2002 (five years after the state was notified that the area failed to attain). The attainment date had elapsed, and the area was not attaining the standard. The attainment date could therefore be adjusted pursuant to section 110(k)(5) and section 172(d) of the Act, and the state was required to provide a plan for attainment as expeditiously as practicable. Based on information described in the final SIP call rule, EPA established an attainment date of April 7, 2008, two years from the date of signature of the final rulemaking. MDNR formally commented in support of the timelines contained in the SIP call, including the SIP submittal deadline and attainment date.

EPA required MDNR to submit several specific plan elements to EPA in order to correct the inadequacy of the SIP. These specific elements were: (1) A revised emissions inventory, (2) a modeling demonstration showing what reductions would be needed to bring the area back into attainment of the lead NAAQS, (3) adoption of measures to achieve the reductions determined necessary by the modeled attainment demonstration, with enforceable schedules for implementing the measures as expeditiously as practicable, and (4) contingency measures meeting the requirements of Section 172(c)(9) of the CAA.

MDNR completed its revision to the SIP, and on April 26, 2007, the Missouri Air Conservation Commission approved the SIP revision after completing the required public notification, public hearing and comment period. On May 31, 2007, EPA received Missouri's revised SIP for the Herculaneum area. MDNR submitted supplemental information to EPA on March 19, 2008.

On October 8, 2008, EPA proposed conditional approval of Missouri's SIP submission (*see* 73 FR 58913). EPA stated that the proposal to conditionally

approve the SIP was due to the lack of enforceable conditions associated with one of the control measures. It provided a process to establish ventilation requirements, but MDNR had not yet specified these requirements. The ventilation study and resulting enforceable conditions and reduction in building fugitive emissions are significant elements of the proposed control strategy, and these projected emissions reductions contribute significantly to the control strategy modeling showing attainment. EPA did not believe it was appropriate to give full approval to the SIP until the ventilation study and associated enforceable conditions were submitted by the state, reviewed by EPA, and made available for public comment. EPA proposed conditional approval of the SIP as it provided substantial progress toward improving air quality, and the state asserted that it would adopt and submit the missing elements to EPA no later than one year following any EPA approval of the plan.

In the proposed conditional approval notice, EPA indicated that if Missouri submitted adequate ventilation control provisions prior to EPA taking final action on the proposed conditional approval, EPA would publish a supplemental proposed rule relating to those provisions, which might include a proposal to fully approve the SIP revision. EPA received the SIP revision addressing ventilation controls on September 3, 2009, following adoption by the Missouri Air Conservation Commission on July 29, 2009. EPA believes that the SIP revision contains enforceable ventilation conditions to ensure adequate building particle capture. Our technical review of the submission is detailed below. With the addition of this September 3, 2009 SIP supplemental revision, EPA proposes full approval of Missouri's SIP to bring Herculaneum into attainment of the 1.5  $\mu\text{g}/\text{m}^3$  lead NAAQS.

Since the SIP call was issued in April 2006, Herculaneum air monitors have recorded additional exceedances of the quarterly lead NAAQS. In total, since the third calendar quarter of 2002, exceedances have occurred in the first, second, and third quarters of 2005; first, third, and fourth quarters of 2006; second and third quarters of 2007; and the first quarter of 2008. The SIP submittal establishes April 7, 2008, as the attainment date and requires implementation of all measures required for attainment by that date. Since the first quarter of 2008, Herculaneum has not exceeded the 1.5  $\mu\text{g}/\text{m}^3$  NAAQS.

EPA received one set of comments on the proposed conditional approval. EPA

will respond to this set of comments, as well as any additional comments relating to this supplemental proposal, at the time EPA takes final action. In this proposed action, EPA seeks comments on the state's September 3, 2009, submission, particularly on the ventilation requirements, and on EPA's supplemental proposal to fully approve the state's attainment demonstration and control strategy SIP for Herculaneum. EPA believes that it has already provided adequate opportunity for comment on the other aspects of the SIP submittal (the May 31, 2007, submission) in its October 8, 2008, proposed rulemaking.

## II. Summary of the State Submittal

The October 8, 2008, proposed conditional approval (73 FR 58913) contains extensive discussion on Missouri's SIP submittal received to that point. The proposed action includes discussion on model selection, meteorological and emissions inventory input data, modeling results, control strategy, contingency measures, and enforceability, among other elements. For information on these elements, please refer to the October 8, 2008 **Federal Register** (73 FR 58913) and associated docket.

The September 3, 2009 SIP revision supplements the May 2007 SIP, and meets the last outstanding requirements of the 2007 Consent Judgment. The Consent Judgment contains control requirements, associated implementation schedules, and contingency measures, and is included as an enforceable document under the SIP. One of the Consent Judgment controls requires Doe Run to execute a ventilation study for the Sinter Building, Blast Furnace Building, and Refinery Building. Building openings, ventilation sources with either continuous or varying rates of operation, and a procedure for measuring inflow into the buildings must be identified within the study. The study must also include enforceable conditions developed to ensure that particles emitted within the process buildings are being appropriately captured by the ventilation systems.

The ventilation study works together with door closure and building siding inspection requirements to achieve an overall objective, or control measure, of effective building enclosure. By minimizing building openings and ensuring adequate ventilation, the buildings will be operated and maintained in such a fashion as to minimize fugitive emissions from the buildings. The SIP requires this overall building enclosure control measure, and

also requires adequate ventilation in each of the process buildings under the ventilation study element. The control strategy modeling attributes a control efficiency to the overall building enclosure control measure, and this control efficiency is included in all attainment demonstration calculations.

EPA believes that the September 3, 2009 supplemental SIP submittal contains the necessary enforceable conditions associated with the ventilation study to ensure that the ventilation-related control measures are met. MDNR and Doe Run conducted a series of tests to ensure adequate inflow at specific ventilation rates. These rates are proposed as enforceable conditions. MDNR has also revised the Work Practices Manual to include additional recordkeeping, compliance monitoring, and corrective action requirements associated with building ventilation. In addition, MDNR has revised the Work Practices Manual to include language to minimize the occurrence of construction when temperatures are below 39 degrees Fahrenheit. This should decrease construction when the plant watering system, a control measure to decrease in-plant road dust, cannot be operated. The supplemental SIP includes Work Practices Manual revision language (Attachment E in the docket), as well as a new Consent Judgment attachment (Attachment M in the docket). The submittal of the Work Practices Manual language as part of the supplemental SIP constitutes an official revision to the Work Practices Manual. These revisions will be enforceable by EPA if approved into the SIP.

### 1. Plant Ventilation Design

The smelter at Herculaneum has three process buildings: The Sinter Building, the Blast Furnace Building, and the Refinery Building. Each building contains ventilation for specific process units as well as baghouses that service the overall buildings.

The Sinter Building contains a number of baghouses and process ventilation systems. Once concentrate is delivered from the mines and mills to the smelter, the concentrate is processed through the sinter plant. The concentrate is mixed and crushed with other feedstock materials such as silica, iron ore, and limestone fluxes. Recycled process material such as returned sinter, blast furnace slag, and baghouse fume may also be added to this mixture to produce the sinter feed. A thin layer of sinter feed enters the sinter machine and is ignited by a series of natural gas burners. A main sinter feed layer is then laid on top of this ignition layer. This layered sinter bed enters the updraft

portion of the sinter machine, where air is drawn across the sinter bed from the bottom to the top, driving the thermal reaction. The lead sulfide contained in the feed is oxidized, producing lead oxide and releasing sulfur dioxide. Off-gasses from the sintering process are sent to a baghouse which removes particulate matter. The off-gasses continue on to the acid plant where sulfur dioxide is recovered as sulfuric acid. The sinter machine produces a continuous feed of sinter cake (also called sinter roast) which is crushed and sorted by size. The larger pieces are transported to the blast furnace or to temporary storage, while the undersized pieces return to the mix room to await reprocessing through the sinter machine.

Baghouses servicing the Mix Drum, Crusher, Cooler, Cage Paktor, 76" Smooth Rolls, and conveyor CV22 capture and scrub air (remove particles) from specific parts of the sintering process. The #6 Baghouse scrubs the air that circulates within the Sinter Building itself. Flows from all seven of these units combine to be released out of the main stack. This combined flow is termed the Sinter Plant Combination Trail. Within the Sinter Building the sinter machine wheel tunnel also has its own dedicated ventilation system. This system prevents hot gases containing lead particles from escaping out the sides of the conveyor while the sinter feed is processed through the sinter machine. Air captured by the sinter machine wheel tunnel ventilation system is sent to the #3 Baghouse for scrubbing. Air is also pulled from the top of the conveyor into the #3 Baghouse. After being treated in the Acid Plant, off-gases from the sinter machine join the stream of scrubbed air emerging from the #3 Baghouse. This entire stream is then sent through the main stack. See "Sinter Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.

After processing through the Sinter Building, sinter cake is melted in Doe Run-Herculaneum's two blast furnaces. The sinter cake is mixed with coke and other feed materials and transferred to the top of a furnace. Air feeds through the bottom of the furnace, resulting in coke combustion. The coke combustion heats the sinter cake to approximately 3,000 degrees Fahrenheit and produces carbon monoxide. The carbon monoxide reacts with lead and other metal oxides to produce molten lead, waste slag, and carbon dioxide. The lead bullion settles to the bottom of the furnace, where it is tapped into holding pots and transferred to the dressing area for further refining.

The slag (a sand-like byproduct with small amounts of lead, copper, zinc, and other materials) floats to the top of the furnace, is tapped off and either recycled into the sinter feed or transported to the slag storage area at the south end of the facility.

Air pulled from the conveyor (CV) 10 Grizzley, CV10, CV11, CV12, CV13, CV14, the Scale Belt, Crow's Nest, "D" Kettle, and Furnace Front is sent to the #5 Baghouse. Air from the CV leg is sent to the #8 Baghouse for scrubbing, while air from the Blast Furnace feed floor goes to the #6 Baghouse. General air that circulates throughout the Blast Furnace Building and is not captured by any process ventilation is sent to the #7 Baghouse. (See "Blast Furnace Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.)

After the blast furnace, molten lead bullion is transferred to one of four large dressing kettles where it is allowed to cool. As the bullion cools, copper, nickel, and other impurities are skimmed from the surface layer. Next, the decopperized lead is transferred to a series of natural gas-heated refining kettles where additional impurities are removed.

Kettles 1, 2, 3, 9, 10 and 11 have their own ventilation systems which capture emissions that may escape during the heating, separation, and skimming processes. Each kettle ventilation system feeds into the #8 Baghouse, where the air collected from the kettles is scrubbed for particulate. The air that circulates within the Refinery Building itself is pulled into the #9 Baghouse for scrubbing before exiting out a stack. (See "Refinery Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.)

## 2. Ventilation Study Objectives

Under the 2007 Consent Judgment, Doe Run was required to conduct a ventilation study to establish enforceable flow rates and/or fan amperes to ensure adequate particle capture within the smelter's process buildings. (See, Section 2.A.20 of the 2007 Consent Judgment, included in the docket.)

As described in the October 8, 2008, proposed conditional approval rulemaking (73 FR 58913), data from Herculaneum has shown that building fugitives (air that escapes out of the building without first being processed through a control device, such as a baghouse) can significantly impact the concentration of lead in ambient air in Herculaneum. The objective of the ventilation study is to minimize building fugitives by ensuring the

ventilation systems within each process building are sufficient to adequately capture particles released within the process buildings. Also, the ventilation study identifies flow rate or fan amperage requirements sufficient to minimize building fugitives. These flow rates and fan amperes must then be made enforceable.

In order to show the ventilation systems are adequate, Doe Run tested inflow at all building openings. The face velocity of 200 fpm has been identified as a critical velocity in the capture of particulates by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers. EPA Method 204, "Criteria For and Verification of a Permanent or Temporary Total Enclosure," also requires that "the average facial velocity (FV) of air through all natural draft openings (NDOs) shall be at least 3,600 m/hr (200 fpm). The direction of air flow through all NDO's shall be into the enclosure." A face velocity of 200 fpm at all building openings is therefore used to verify that ventilation is adequate to ensure particulates are not escaping out of building openings. Doe Run demonstrated that it achieves a 200 feet per minute (fpm) inflow at all building openings when the ventilation systems are run at the proposed minimum flows.

Before setting minimum flows, the critical ventilation points of interest were identified. Doe Run's process building ventilation systems have many components. To ensure adequate building ventilation, Doe Run measured fans or groups of fans whose proper operation would provide sufficient draft to achieve the required inflow. In some instances, Doe Run was able to directly measure ventilation flow rates. In these cases, a flow rate requirement was set instead of a fan amperage requirement. For the Sinter Building, the key points of measurement are the sinter machine wheel tunnel flow, #3 Baghouse flow just after it exits the #3 Baghouse (after the flow from the Acid Plant joins the #3 Baghouse flow), the #6 Baghouse flow, and the Sinter Plant Combination flow. For the Blast Furnace Building, the #5 Baghouse, #6 Baghouse, #7 Baghouse, and #8 Baghouse flows are critical. In the Refinery Building, the critical flows include the #8 Baghouse and #9 Baghouse.

## 3. Ventilation Study Results

To identify building openings, Doe Run created a list of all doors, both man doors (less than 35 square feet) and equipment doors (more than 35 square feet). The doorways are identified in Attachment J1, J2, and K of the docket. To ensure that particles are not escaping

out of the buildings when the doors were open, Doe Run tested at each doorway. Inflow testing was conducted in accordance with the Standard Operating Procedure (SOP) for Building Inflow Testing Utilizing Hand-Held Anemometers. (A copy of the SOP is attached to the Attachment E, Work Practices Manual Revision document in the docket.)

Doe Run undertook several flow testing campaigns. Data from these campaigns are included in the docket (see Attachments C1–C3). Some doors initially did not meet the 200 fpm inflow requirement. Doe Run modified these doors by permanently sealing or weather-stripping the doors to prevent particles from escaping. Some doors that were initially identified were found to be inappropriate for an inflow test. For example, doors such as B24 open to a different, enclosed part of the building and not to the outside air (see "Summary of Sinter Building Door Inflows" and "Summary of Blast Furnace and Refinery Building Door Inflows"). The first floor of the mix room is part of the Sinter Plant first floor. A portion of the wall separating the first floor mix room from the Sinter Plant first floor has been removed. This allows the #6 Baghouse to pull in and scrub air from the first floor of the mix room together with the rest of the Sinter Building's general air. Unmodified first floor mix room doors would therefore be subject to the 200 fpm inflow requirement. MDNR characterizes the second floor of the mixing room as a large settling chamber. Most second-floor mix room doors were not subject to inflow testing. Second floor mix room doors are infrequently used; the door most commonly used is door S16, which is the only connection between the second floor mix room and the Sinter Plant Building (see Attachment J2 in the docket). The second floor mix room therefore does not use the Sinter Building's ventilation, nor does it have a ventilation system of its own. Therefore, door S16 will be subject to inflow tests, to verify that air is flowing into the Sinter Plant Building at 200 fpm or more. The remaining mix room doors S8–S15, S17 and S18 will not be subject to inflow testing. See Attachment J1 in the docket for a Sinter Building door diagram.

During the final testing campaign, Doe Run held the fan amperes and flow rates for the critical ventilation systems steady while measuring doorway inflows. The final testing campaign for the Blast Furnace and Refinery Buildings took place on March 26, 2009. As shown in Attachment L in the docket for this rulemaking, all doorways met

the 200 fpm inflow requirement when Baghouse #7 fan was at 210 amperes or higher, Baghouse #8 fan was at about 73 amperes or higher, and Baghouse #9 fan was about 163 amperes or higher. Under the 2007 Consent Judgment, #5 Baghouse is required to meet a 300,000 actual cubic feet per minute (acfm) flow rate, and #6 Baghouse must meet a minimum 50,000 acfm flow rate. Together, these account for all of the critical ventilation systems for the Blast Furnace Building and the Refinery Building.

The final testing campaign for the Sinter Building took place May 12 and 13, 2009. Because of the batch nature of the sintering process, there are periods when the sinter machine is not in use. When operating, the sinter machine runs at about 500 degrees Fahrenheit, greatly heating the air around it and thus affecting air flow. It was therefore necessary to create two ventilation scenarios: One for when the sinter machine was operating and heating the air in the building, and a second for when the sinter machine was not operating and the air from the sinter building is much cooler. Doe Run tested both scenarios in May 2009. As shown in "Summary: Sinter Building Door Inflows" in the docket, all non-modified doors were above the 200 fpm inflow requirement when the Sinter Plant Combination Trail was above 169,000 acfm. To test the non-production scenario, Doe Run tested select doors and found a flow rate of 100,000 acfm to be adequate.

In addition to the Sinter Plant Combination Trail, there are three other critical flows within the Sinter Building. The #6 Baghouse is required by the Consent Judgment to meet a minimum flow rate of 50,000 acfm. Doe Run additionally created a minimum 70 fan amperage requirement for the #6 Baghouse. The Consent Judgment also requires the #3 Baghouse to meet a minimum flow rate of 225,000 acfm, and the sinter wheel tunnel to meet a 15,000 acfm flow rate. Doe Run studied the relationship between flow and fan amperes for the sinter wheel tunnel. They found that a minimum fan amperage of 58 will maintain a 15,000 acfm flow (see Attachment H). Doe Run will be required to maintain a minimum of 58 amperes at the sinter wheel tunnel.

#### 4. Ventilation Limits

From the results gathered during the Ventilation Study, MDNR adopted the following ventilation flow rate and fan amperage limits:

Sinter Plant Combination Trail  
Production period minimum = 169,000 acfm;

Sinter Plant Combination Trail Non-Production minimum <sup>1</sup> = 100,000 acfm;  
#6 Baghouse Fan = 70 amps;  
#7 Baghouse Fan = 210 amps;  
#8 Baghouse Fan = 73 amps;  
#9 Baghouse Fan = 163 amps;  
Sinter Wheel Tunnel Ventilation Fan <sup>2</sup> = 58 amps.

The Work Practices Manual revision and the 2007 Consent Judgment allow ventilation equipment to be shut down for maintenance work being performed on the ventilation or related process units. The shut downs must be logged and recorded. The Work Practices Manual revision also allows ventilation systems to be shut down if all lead manufacturing process units within a given building have been turned off and all corresponding production has ceased for at least 24 consecutive hours, unless the Consent Judgment contains other specifications.

The 2007 Consent Judgment contains other specification for the sinter machine wheel tunnel, #3 Baghouse, #5 Baghouse, and #6 Baghouse. It requires the sinter machine wheel tunnel to be operated at 15,000 acfm regardless of sinter machine operation. It requires #3 Baghouse flow to be maintained at a minimum 225,000 acfm, #5 Baghouse flow at a minimum of 300,000 acfm, and #6 Baghouse flow to be maintained at a minimum of 50,000 acfm. All flow rates are to be maintained at all times, including times when the Blast Furnace is not operational. Doe Run is required to comply with these requirements. These limits are incorporated into the Doe Run Herculaneum Work Practices Manual and are currently enforceable by MDNR as requirements thereof.

Limits resulting from the Ventilation Study for the #3 Baghouse, #5 Baghouse and #6 Baghouse are the same as the flow requirements already present in the 2007 Consent Judgment.

#### 5. Ongoing Ventilation Testing and Reporting Requirements

The Work Practices Manual revision requires an automatic data logging system to record the following information at least once every minute: Fan amperes from the sinter machine wheel tunnel, #6, #7, #8, and #9 Baghouses; and flow rates from #5 Baghouse, #6 Baghouse, the combined

#3 Baghouse/Acid Plant trail, and the Sinter Plant Combination Trail.

The data logger will set off a "warning alarm" should any three consecutive minutes of data be below the applicable limit. The operator will then troubleshoot and work to bring the flow or fan amperage back into compliance with the limit. The data logger will trigger an "actionable alarm" should any fifteen consecutive minutes of data be below the applicable limit. Doe Run will produce a detailed log of the event and all actions taken to restore flow. Corrective action must be taken as quickly as possible, including the shut down of all processes within the affected building if necessary to prevent lead-bearing emissions from escaping. Within 24 hours of restoration of operations, a flow test must be conducted at the point(s) where the ventilation system failed.

Each calendar quarter, Doe Run must conduct an inflow test of all applicable doors and openings. Testing will be done in accordance with the SOP included as part of the Work Practices Manual revision. If a man door shows inflow below 200 fpm, the door must be permanently sealed or replaced with a double door chamber system. These projects must be completed no later than three months following the low-flow measurement. Once the doors are modified in this fashion, they will not be subject to future inflow tests. Doe Run may petition MDNR to use an alternative method of addressing low-flow doors. MDNR will consider the petition only if the proposal is submitted in writing within 30 days of the low-flow measurement. The petition must outline the particle capture benefit from the alternative door project, and state why permanent sealing or a double door chamber system are not feasible or appropriate. If an equipment door shows inflow below 200 fpm, Doe Run must install heavy-duty industrial clear vinyl strip curtains within two months of the low-flow measurement. Inflow measurements are still required in doorways with vinyl strip curtains. Doe Run may petition MDNR to use an alternative method to address a non-compliant door. The same timing and analytical requirements apply to the equipment door petition as exist for the man door petition. If an equipment door is modified and measures low-flow again within a year of modification, Doe Run will propose a project to MDNR to significantly reduce the outflow of air emissions from the door in question. See the Work Practices Manual revision (Attachment E) for more details.

All data associated with the ventilation study Work Practices

<sup>1</sup> The Sinter Plant Combination Trail flow requirement switches to the Non-Production 100,000 acfm minimum requirement when both the sinter machine and feed belt motors measure zero amps.

<sup>2</sup> The Sinter Wheel tunnel damper will be welded in place.

Manual requirements must be maintained for at least five years, and made available to MDNR upon request. Doe Run must submit a quarterly report to MDNR summarizing any 15 minute alarms and associated corrective actions. The report must also include results from the quarterly inflow study. For a list of which doors are subject to inflow testing, see docket document "Summary of Sinter Plant Building Door Inflows" and "Summary of Blast Furnace and Refinery Building Door Inflows." If Doe Run measures any inflows less than 200 fpm, the report must identify these and provide a schedule for modifying the doors. Any changes to doorways as a result of previous inflow studies will also be reported. In addition, Doe Run's quarterly report must describe any actions taken or recommendations to prevent ventilation system shutdowns or to improve corrective action responses. If MDNR determines a more timely or effective procedure is possible, Doe Run must submit a written update to the Work Practices Manual for MDNR's approval. The underlying ventilation requirements remain in effect pending MDNR approval of any updates or revisions. If EPA approves this SIP revision, including the provisions of the Work Practices Manual and Consent Judgment, any subsequent changes must also be approved by EPA as revisions to the SIP.

Once a year, Doe Run is required to conduct the flow testing campaign again, and address any issues identified. Ventilation systems discussed in the Work Practices Manual revision (Attachment E) may only be altered to improve capture and control of emissions. Improvement plans must be submitted and approved by MDNR before any improvement project may take place. Any unauthorized modification that affects the flow rate, fan amperes, or capture and control of emissions within the Sinter Building, Blast Furnace Building, or Refinery Building ventilation systems is a violation of the Work Practices Manual and Consent Judgment.

Finally, if an ambient air quality monitor in Herculaneum monitors a quarterly value over 1.4 micrograms per cubic meter, Doe Run must conduct a fluid modeling study of flow patterns within the process buildings. This study would determine if additional ventilation is appropriate and if so, where the ventilation unit(s) should be positioned. Doe Run must complete the study within three months of receipt of the quarterly monitoring value.

#### 6. Winter Construction Work Practices Manual Modification

In the first quarter of 2008, prior to the April 2008 attainment date in the SIP submittal, ambient air monitors in Herculaneum recorded values well over the 1.5 microgram per cubic meter lead NAAQS. Doe Run determined the cause was in-plant road dust stirred up by construction-related activities. Because the activities took place in weather below 39 degrees Fahrenheit, Doe Run was not able to run its watering system to control the in-plant road dust.

To prevent this problem in the future, MDNR has modified the Work Practices Manual. The additional language requires projects to be suspended if they have the potential to cause fugitive emissions and water cannot be used for dust suppression due to cold weather. It also prompts Doe Run to plan construction projects such that deadlines do not occur during cold weather periods.

#### 7. Enforceability

As specified in section 172(c)(6) and section 110(a)(2)(A) of the CAA, all measures and other elements in the SIP must be enforceable by the state and EPA. Enforceable documents included in Missouri's SIP submittal are the May 2007 Consent Judgment, January 2007 Work Practices Manual, and the Consent Judgment and Work Practices Manual modifications submitted to EPA on September 3, 2009. The Consent Judgment contains all control and contingency measures with enforceable dates for implementation. The Consent Judgment also includes monitoring, recordkeeping, and reporting requirements to ensure that the control and contingency measures are met. The Work Practices Manual includes the requirements of the Consent Judgment, as well as specific operating procedures and additional reporting requirements. The state adopted the original documents into Missouri's state regulations on April 26, 2007, and adopted the modifications on July 29, 2009, making them state-enforceable. Upon EPA approval of the SIP submission, both documents would become state and federally enforceable, and enforceable by citizens under section 304 of the Act. As described above in the discussion of specific ventilation requirements, EPA believes the ventilation requirements in the Consent Judgment and Work Practices Manual as revised are enforceable and meet the requirements of the CAA. We further note that values below the required fan amperage or flow rate may constitute a violation; the alarm

mechanisms laid out in the Work Practices Manual do not prevent MDNR or EPA from finding Doe Run in violation of it and SIP requirements. EPA previously requested comments on the enforceability of the SIP submitted in its October 8, 2008 proposed conditional approval. We are now requesting comments specifically relating to the ventilation requirements which are the subject of this notice.

We also noted in the October 2008 proposal that the Consent Judgment contains provisions for stipulated penalties and sanctions should Doe Run fail to comply with provisions of the Consent Judgment or Work Practices Manual. EPA is not bound by the state's Consent Judgment penalties, and would enforce against violations of these documents under section 113 of the Clean Air Act or other Federal authorities, rather than the Consent Judgment, if it approves the Consent Judgment and Work Practices Manual into the SIP.

### III. Proposed Action

EPA proposes approval of Missouri's attainment demonstration SIP and associated control measures for the 1978 lead National Ambient Air Quality Standards in the nonattainment area of Herculaneum, Missouri. The ventilation requirements contained within the revised SIP minimize the potential for building fugitives escaping into the outside air, and the winter construction Work Practices Manual modification minimizes the potential for uncontrolled lead emissions associated with cold-weather construction activities. EPA proposes full approval of the SIP as it demonstrates attainment of the 1.5  $\mu\text{g}/\text{m}^3$  lead NAAQS, and fulfills the requirements of the Clean Air Act. The rationale for this proposed action is stated in the October 8, 2008, proposed conditional approval and in this supplemental proposal. As stated previously, EPA requests comments on the September 3, 2009 supplemental submittal, and on EPA's proposed full approval of the 2007, 2008, and 2009 submittals.

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 proposed 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 proposed 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.

#### List of Subjects in 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.

Dated: August 17, 2010.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2010–21446 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**