

Canada), dual citizen of Canada and a third country other than a country listed in § 126.1 of this subchapter unless the conditions of § 126.18(c) are satisfied, or permanent resident registered in Canada in accordance with the Canadian Defense Production Act, and such other Canadian Crown Corporations identified by the Department of State in a list of such persons publicly available through the website of the Directorate of Defense Trade Controls and by other means.

\* \* \* \* \*

■ 6. Amend § 126.18 by revising paragraph (c)(2) to read as follows:

**§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.**

\* \* \* \* \*

(c) \* \* \*

(2) The end-user or consignee to have in place a process to screen its employees and for the employees to have executed a nondisclosure agreement that provides assurances that the employee will not transfer any defense articles to persons unless specifically authorized. The end-user or consignee must screen its employees for substantive contacts with restricted or prohibited countries listed in § 126.1. Substantive contacts include regular travel to such countries, recent or continuing contact with agents, brokers, and nationals of such countries, continued demonstrated allegiance to such countries, maintenance of business relationships with persons from such countries, maintenance of a residence in such countries, receiving salary or other continuing monetary compensation from such countries, or acts otherwise indicating a risk of diversion. An employee who has substantive contacts with persons from countries listed in § 126.1(d)(1) shall be presumed to raise a risk of diversion, unless DDTC determines otherwise. End-users and consignees must maintain a technology security/clearance plan that includes procedures for screening employees for such substantive contacts and maintain records of such screening for five years. The technology security/clearance plan and screening records shall be made available to DDTC or its agents for civil and criminal law enforcement purposes upon request.

\* \* \* \* \*

**PART 127—VIOLATIONS AND PENALTIES**

■ 7. The authority citation for part 127 continues to read as follows:

**Authority:** Sections 2, 38, and 42, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780; E.O. 13637, 78 FR 16129; Pub. L. 114–74, 129 Stat. 584.

■ 8. Amend § 127.12 by revising paragraph (b)(5) to read as follows:

**§ 127.12 Voluntary disclosures.**

\* \* \* \* \*

(b) \* \* \*

(5) Nothing in this section shall be interpreted to negate or lessen the obligations imposed pursuant to §§ 126.1(e), 126.16(h)(8), and 126.17(h)(8) of this subchapter.

\* \* \* \* \*

Bonnie Jenkins,

*Under Secretary, Arms Controls and International Security, Department of State.*

[FR Doc. 2022–01889 Filed 2–1–22; 8:45 am]

**BILLING CODE 4710–25–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R07–OAR–2021–0913; FRL–9351–01–R7]**

**Air Plan Approval; State of Missouri; Revised Plan for 1978 and 2008 Lead NAAQS**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to take action to approve the State of Missouri's request to remove its State Implementation Plan (SIP) for maintaining the 1978 Lead National Ambient Air Quality Standards (NAAQS) in portions of Iron County, Missouri, surrounding the former Glover smelter, and replace the maintenance plan with a plan for continued attainment of the 2008 Lead NAAQS. Missouri has entered into a Consent Agreement with the facility's current owner, the Doe Run Company (Doe Run), and has submitted the Consent Agreement for approval into the SIP along with a plan demonstrating continued attainment of the 2008 Lead NAAQS in the area. The EPA's proposed approval of the request is based on the determination that the area continues to meet the 1978 and 2008 Lead NAAQS and that the plan provides additional protections to air quality regardless of ownership and/or operational status of the Glover facility.

**DATES:** Comments must be received on or before March 4, 2022.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA–R07–OAR–2021–0913 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Written Comments” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551–7719 or by email at [doolan.stephanie@epa.gov](mailto:doolan.stephanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA.

**Table of Contents**

- I. Written Comments
- II. Background for the EPA's Proposed Action
- III. Missouri's Submission
- IV. The EPA's Analysis of the State's Request
  - 1. Air Monitoring Demonstrates Attainment of the 2008 Lead NAAQS
  - 2. Demonstration that the Plan will Protect the 2008 Lead NAAQS
  - 3. Verification of Continued Attainment
  - 4. Deconstruction or Demolition of Remaining Structures
  - 5. Other Differences Between the 2004 Maintenance Plan and 2003 Settlement Agreement and the 2020 Plan and 2020 Consent Agreement
- V. Requirements for Approval of a SIP Revision
- VI. The EPA's Proposed Action
- VII. Incorporation by Reference
- VIII. Environmental Justice Concerns
- IX. Statutory and Executive Order Reviews

**I. Written Comments**

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2021–0913, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not

consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

## II. Background for the EPA's Proposed Action

American Smelting and Refining Company Incorporated (ASARCO) constructed the Glover facility in 1968 prior to the Clean Air Act (CAA) and any associated permitting or air pollution control requirements. In 1978, the EPA promulgated a national ambient air quality standard (NAAQS) for lead of 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) averaged over a calendar quarter (43 FR 46246, October 5, 1978). To comply with the 1978 standard, in 1980 the state submitted its attainment plan which was approved by EPA into the Missouri State Implementation Plan (SIP) (46 FR 23412, April 27, 1981). The area surrounding the facility was subsequently designated as nonattainment for the 1978 Lead NAAQS on November 6, 1991 (56 FR 56694). On August 14, 1996, Missouri submitted a second attainment plan for the area that was approved by EPA into Missouri's SIP (62 FR 9970, March 5, 1997). On August 30, 1998, the Doe Run Company (Doe Run) acquired all ASARCO's Missouri lead interests including the Glover facility. The transfer of ownership was approved into the Missouri SIP on April 16, 2002, in a SIP approval action that primarily pertains to the Herculaneum primary lead smelter (67 FR 18497). On October 29, 2004, the EPA redesignated the area surrounding the Glover facility to attainment of the 1978 Lead NAAQS and approved the maintenance plan for ensuring continued maintenance of the standard (69 FR 63072). As part of the 2004 maintenance plan approval, the EPA approved the Settlement Agreement between Missouri and Doe Run, dated October 31, 2003, into the SIP.

Doe Run ceased smelting operations at the facility in November 2003. Subsequent to ceasing operations, monitors recorded 3-month rolling calendar quarter average lead concentrations in the area that were continuously below  $0.15 \mu\text{g}/\text{m}^3$ , the level of the 2008 Lead NAAQS. Because the lead concentrations monitored in ambient air were less than the 2008 Lead NAAQS level, EPA designated the

area as unclassifiable/attainment for that NAAQS (75 FR 71033, November 21, 2010).

In 2013, Doe Run initiated demolition of buildings and other structures at the facility. During these activities, ambient air monitors in the Glover area violated the 2008 Lead NAAQS. Doe Run ceased these activities temporarily to implement more stringent dust control measures before resuming demolition. There were no subsequent violations of the 2008 Lead NAAQS.

In its October 7, 2020 SIP revision request, Missouri reports that as of December 2019, most of the deconstruction and removal activities at the Glover facility are complete. Doe Run demolished the sinter plant and associated baghouses; removed the furnaces, feed conveyors, kettles and casting line; and capped and vegetated the ASARCO slag pile. In its October 7, 2020 SIP revision request, Missouri also reports that Doe Run has filed closure plans for the Glover facility with Missouri's Land Reclamation Program. In January 2018, the Land Reclamation Program approved Doe Run's Metallic Minerals Waste Management Closure Plan for the Glover facility. Two stacks still stand on the premises. Additionally, the unloading building is still in use as a lead concentrate storage and transfer station.

## III. Missouri's Submission

On October 7, 2020, Missouri submitted a request to strengthen the SIP by replacing its maintenance plan and associated Consent Agreement for the 1978 Lead NAAQS for the former Doe Run Glover lead smelter in Iron County, Missouri, with a plan for continued attainment of the 2008 Lead NAAQS (hereinafter "2020 Plan"). Missouri's request includes a June 6, 2020 Consent Agreement between Missouri and Doe Run (hereinafter "2020 Consent Agreement") as a replacement for the 2003 Settlement Agreement. The 2020 Consent Agreement restricts lead emitting activities, requires fugitive emissions controls and contingency measures, and applies to current and future owners of the facility. Once incorporated into the SIP, any change to the 2020 Consent Agreement would require a SIP revision and accompanying determination by the EPA that the revision remains at least as protective as the current agreement under the CAA before the changes could take effect.

As discussed in section II, the maintenance plan for the facility approved by the EPA in 2004 and its federally enforceable Settlement Agreement contain emission controls

and contingency measures based on the facility's operation as a lead smelter. The 2004 maintenance plan and 2003 Settlement Agreement no longer represent the types of controls and contingency measures necessary to ensure the control of fugitive lead containing dust and to secure the facility against re-entrainment due to future demolition of on-site structures and/or disturbance of lead-contaminated soil that may cause a violation of the lead standard. For these reasons, Missouri and Doe Run executed the 2020 Consent Agreement that updates the emissions controls to work practice standards for the control of fugitive lead-contaminated dust, revises the contingency measures to be implemented in the event of a future violation to include fugitive dust controls that can be immediately implemented, and makes the controls and contingency measures applicable and binding on any future property owner and/or operator. The 2020 Consent Agreement contains provisions for restarting ambient air monitoring should conditions at the facility change and pose a potential for a future 2008 Lead NAAQS violation.

Section IV describes the EPA's analysis of Missouri's submission and rationale for its proposed approval demonstrating how the 2020 plan and 2020 Consent Agreement meet the general SIP submission requirements for approval pursuant section 110 of the CAA and specifically the requirements of section 110(l) which are described below.

## IV. The EPA's Analysis of the State's Request

As discussed above, the EPA's action to redesignate the area under the 1978 Lead NAAQS also contained EPA's approval of a maintenance plan to ensure that the area continues to attain the 1978 Lead NAAQS. On November 12, 2008, the EPA promulgated the 2008 Lead NAAQS and stated that the 1978 Lead NAAQS would continue to apply for a period of one year following the effective date of designations, except that for areas in nonattainment of the 1978 Lead NAAQS that standard would continue to be in effect until EPA approved a SIP for the 2008 Lead NAAQS (73 FR 66964, 67043). As explained above, EPA redesignated the Glover area to attainment of the 1978 Lead NAAQS on October 29, 2004. Thus, the 1978 Lead NAAQS was revoked for the Glover area one year following its attainment designation for the 2008 Lead NAAQS. While the 1978 Lead NAAQS was revoked for the Glover area, the 1978 Lead NAAQS

maintenance plan for the Glover area remained part of Missouri's SIP.

The state has requested that the EPA approve the October 7, 2020 submittal as a replacement for the SIP-approved maintenance plan for the 1978 Lead NAAQS and the 2020 Consent Agreement as a replacement for the 2004 Settlement Agreement.<sup>1</sup> The EPA is evaluating the request to ensure the request satisfies the requirement of section 110(l) of the CAA that the plan revision not interfere with any applicable requirement concerning attainment, reasonable further progress or any other applicable CAA requirement. The following paragraphs present the EPA's analysis of how the state's plan meets the requirements of CAA section 110(l).

### *1. Air Monitoring Demonstrates Attainment of the 2008 Lead NAAQS*

The State of Missouri operated a State and Local Air Monitoring Stations (SLAMS) ambient air monitor for lead for the Glover nonattainment area to demonstrate attainment of the 1978 Lead NAAQS. The data from this monitor were also used to designate the Glover area as unclassifiable/attainment for the 2008 Lead NAAQS. From January 2014 to May 2019, ambient air monitors recorded data that was below the level of the 2008 Lead NAAQS. The maximum annual three-month rolling average lead concentration for 2018 for the monitor operated by Missouri is 0.02  $\mu\text{g}/\text{m}^3$ .

In its 2018 Monitoring Network Plan, Missouri requested to cease operating its ambient lead monitor downwind from the Glover facility on the basis that the monitor met the regulatory requirements for monitor shutdown of 40 CFR 58.14(c), namely that the area has shown attainment of the lead standard for the previous five years and that the probability that 80 percent of the standard will be exceeded is less than 10 percent. In an approval letter dated April 19, 2019, EPA approved Missouri's request noting that EPA may require monitoring to be restarted in the future if a change in the facility status occurs (such as demolition, site cleanup or construction) that could result in

increased re-entrainment of lead dust.<sup>2</sup> Missouri discontinued sampling at the site in May 2019.

Doe Run currently operates two air monitors for lead in the area classified as non-ambient industrial source monitors. The sites are named the Glover Post Office Site and the Glover Big Creek Site. These air monitors also have not recorded violations of the 2008 Lead NAAQS since the violation that occurred during the 2013 demolition activities. The 2020 Consent Agreement states that Doe Run shall continue monitoring for airborne lead at the Glover Post Office site and the Glover Big Creek site until EPA approves the 2020 Plan and 2020 Consent Agreement into the Missouri SIP.

The 2020 Consent Agreement provides a process for resumption of monitoring should certain lead-emitting activities resume at the facility. Through this action, the EPA is proposing to allow Doe Run to discontinue sampling at these two monitoring sites per the 2020 Consent Agreement based on EPA's determination that historical monitoring demonstrates that air quality in the area will remain in compliance with the 2008 Lead NAAQS based upon the facility operations allowed by the 2020 Consent Agreement.

### *2. Demonstration That the Plan Will Protect the 2008 Lead NAAQS*

Missouri has demonstrated the continued attainment of the standard through fugitive emission controls and work practice standards that have been verified by the ongoing attainment of the 2008 Lead NAAQS at the ambient air monitor. The 2008 Lead NAAQS, 0.15  $\mu\text{g}/\text{m}^3$  averaged over a rolling calendar quarter, is more stringent than the 1978 Lead NAAQS, 1.5  $\mu\text{g}/\text{m}^3$  averaged over a calendar quarter. The activities at the facility are limited under paragraph 1.A of the 2020 Consent Agreement to handling and storage of lead concentrate material. Under paragraph 1.A Doe Run shall not resume or recommence any lead smelting, refining, molding, casting, or any other activity at the Glover facility that will result in production-related lead emissions without Missouri's written approval.

Other requirements from the 2020 Plan and 2020 Consent Agreement between Missouri and Doe Run (and its successors) include continued operation of a vehicle wash station, street cleaning, road sprinkler systems, and the requirement to maintain the fence

line surrounding the facility to preclude public access.

Paragraph 1.B. of the 2020 Consent Agreement requires Doe Run to continue to operate a vehicle wash station designed to wash a vehicle's undercarriage, sides, backs and tailgates, tires, and wheels. Every vehicle leaving the Glover facility after loading or unloading concentrate or lead-bearing materials must be washed in the wash station prior to exiting the facility. The vehicle wash requirement was a contingency measure in the 2004 maintenance plan; whereas, it is a requirement of the 2020 Consent Agreement.

Paragraph 1.C. of the 2020 Consent Agreement requires Doe Run to continue to conduct street cleaning using a regenerative air sweeper or a device of comparable efficiency. Street cleaning will continue for all interior roads traveled by trucks transporting concentrate or lead-bearing material trucks from the loading or unloading area to the wash station at least once each week that loading or unloading occurs. During periods when freezing temperatures may form snow, ice or hazardous conditions, street cleaning operations may be suspended. This requirement differs from the 2004 maintenance plan only in that Doe Run was previously required to conduct street cleaning once per day; the 2020 Consent Agreement requires street cleaning once per week. The 2004 maintenance plan requirement was based on the assumption that the facility would continue to operate as a lead smelter. Since November 2003 the facility has been used to store lead concentrate, a process that emits less lead, reducing the frequency of street cleaning will remain protective of the NAAQS.

Paragraph 1.D., of the 2020 Consent Agreement requires Doe Run to continue operating its sprinkler system to reduce lead emissions from transportation activities within the Glover Facility. The sprinkler system shall be operated for truck haul routes when there are 10 or more trucks carrying concentrate or lead-bearing material that have loaded or unloaded at the facility on any calendar day, except on days when there is precipitation or the ambient temperature is less than 39 degrees Fahrenheit. The 2020 Consent Agreement requirements to operate the sprinkler system are the same as the 2003 Settlement Agreement except that the Work Practice Manual containing these requirements was an attachment to the 2003 Agreement, while the requirements of the sprinkler system operations are included within

<sup>1</sup> Because the Glover Area was designated as an unclassifiable/attainment area for the 2008 Lead NAAQS, Missouri is not required to submit a plan for attaining the 2008 Lead NAAQS. See 75 FR 71033, November 22, 2010. While Missouri's submittal is entitled "Plan for Continued Attainment of the 2008 Lead Standard in Liberty and Arcadia Townships in Iron County Doe Run—Glover Facility", the plan is not an attainment plan subject to the requirements of section 172 of the CAA or a maintenance plan subject to the requirements of section 175A of the CAA.

<sup>2</sup> The April 19, 2019 EPA approval letter of Missouri's 2018 monitoring network plan is included in the docket for this action.

paragraph 1.D of the 2020 Consent Agreement. The 2020 Consent Agreement also provides Missouri the authority to request Doe Run to develop a new work practice manual or standard operating procedures for the sprinkler system that ensures these minimum requirements are met.

All deliveries of concentrate shall unload only at the unloading building per paragraph 1.E. of the 2020 Consent Agreement. The siding, roll-up doors, and roof monitor enclosure of this building shall be maintained to minimize fugitive emissions of lead containing dust. Doe Run shall repair or cover any hole, rip, or tear in the siding or roll-up doors that are larger than one foot (12 inches) in any dimension within 24 hours after discovery. Doe Run must ensure all personnel access and roll-up doors remain closed except as needed for employees or vehicles to enter or exit the building. At least weekly during loading or unloading activity, Doe Run shall inspect all doors, siding, and openings to ensure compliance and maintain a record documenting compliance with Paragraphs 1.D. and 1.E. The 2020 Consent Agreement requirements are more specific about the inspection for leaks and the requirements to address them than the 2003 Settlement Agreement.

Per paragraph 1.H. of the 2020 Consent Agreement Doe Run shall continue to maintain a fence that precludes public access to the general Glover Facility area. The minimum fence line Doe Run shall maintain is identified in Appendix A of the 2020 Consent Agreement. The purpose of the fence line is to maintain a distinction between ambient and non-ambient air to prevent public access to the area. The 2020 Consent Agreement requires Doe Run or its successor to continue to maintain the fence line until Missouri determines in writing that all closure and remediation activities in the area surrounding the Glover facility are complete. The 2020 Consent Agreement is more specific in requiring any successor(s) to maintain the fencing until the remediation is complete to prevent public access to lead contaminated areas.

### 3. Verification of Continued Attainment

The state has the legal authority to enforce and implement the requirements of the 2020 Consent Agreement to ensure ongoing attainment of the 2008 Lead NAAQS, which will be permanent and enforceable upon approval into Missouri's SIP.

The state commits in its 2020 plan to ensure that Doe Run or its successor

will continue to operate the facility only for lead concentrate transport and storage under the emission controls described above. If facility operations change, Doe Run or its successor is required to follow the requirements of paragraph 1.G of the 2020 Consent Agreement for deconstruction or demolition activities described in the next section. The limitations on future deconstruction or demolition activities at the facility is not included in the 2004 plan or 2003 Settlement Agreement; these documents were written with the expectation that the facility would continue to operate as a lead smelter; the 2020 Consent Agreement is more comprehensive as it addresses deconstruction and demolition activities.

### 4. Deconstruction or Demolition of Remaining Structures

If any demolition or deconstruction is planned at the facility by Doe Run or its successors for the remaining structures at the Glover Facility, per paragraph 1.G of the 2020 Consent Agreement, Doe Run or its successor shall notify Missouri's Air Director. Concurrent with its notification, Doe Run shall either:

a. Submit to the Missouri Air Director a plan for fugitive dust control related to such activities and a schedule for restarting air lead monitoring at the Glover Post Office and Glover Big Creek monitoring sites under the approved *Quality Assurance Project Plan for Ambient Air Quality Monitoring for the Lead Monitoring Network at the Doe Run Company Glover Division, Version 2.0, December 2019*; or

b. Submit to the Missouri Air Director a plan for fugitive dust control prior to the commencement of demolition or deconstruction activities, and if requested, include a new plan and schedule for new temporary monitoring sites at locations other than the Glover Post Office and Glover Big Creek monitoring sites and an accompanying Quality Assurance Project Plan (QAPP) for any such sites.

For either option listed above, monitoring will be conducted every other day starting a minimum of five calendar days in advance of the demolition or deconstruction activities and must continue for a minimum of three months following the completion of the activities.

If Doe Run restarts monitoring or installs new temporary monitors pursuant paragraph 1.G of the 2020 Consent Agreement, the following shall apply:

a. If an air monitor measures any of the following concentrations of lead in the air, Doe Run shall cease the

activities that led to the high concentrations as expediently as practicable:

1. A 24-hour average concentration of  $1.5 \mu\text{g}/\text{m}^3$  or higher;

2. two consecutive measurements where the average concentration of the two days is  $0.5 \mu\text{g}/\text{m}^3$  or higher;

3. four consecutive measurements where the average concentration of the four days is  $0.25 \mu\text{g}/\text{m}^3$  or higher;

4. 15 consecutive measurements where the average concentration of the 15 days is  $0.15 \mu\text{g}/\text{m}^3$  or higher.

b. Doe Run shall notify Missouri's Air Director in writing within seven calendar days after the day in which the measured lead concentration triggered an exceedance of any of these levels. The notification shall include all measured lead concentrations that contributed to the exceedance, an explanation of the activities that led to the exceedance, and the steps Doe Run took to cease such activities as expediently as practicable.

c. Following an exceedance of any of the levels Missouri has established listed above in subparagraph 5.a., Doe Run must submit an updated dust control plan and obtain Missouri's approval before resuming on-site activities. At a minimum, any such update to the dust control plan must consider measures to control lead containing dust including the use of water mister-type dust control devices, installation of temporary physical barriers around the activity site to block fugitive dust emissions, increased road washing and sweeping, and intensive washing of interiors of structures subject to demolition or deconstruction.

The fugitive dust controls and lead monitoring requirements listed above are necessary in the event that the facility use changes from its current status as a lead concentrate transportation and storage facility and Doe Run or its successor initiates on-site activities that would disturb lead containing dust, such as demolition or deconstruction. If Doe Run is required to resume air monitoring based upon a change in activities at the facility and the area violates the NAAQS, the 2020 Consent Agreement specifies steps to be taken to control the lead containing dust and return the area to compliance with the standard. The 2003 Settlement Agreement does not address deconstruction or demolition activities.

### 5. Other Differences Between the 2004 Maintenance Plan and 2003 Settlement Agreement and the 2020 Plan and 2020 Consent Agreement

Since the Glover facility no longer smelts lead, Missouri did not include

items specific to Doe Run's former smelter operations from the 2004 maintenance plan and 2003 Settlement Agreement to the 2020 Plan and 2020 Consent Agreement. These items are listed below:

- Requirements for the operation of the former Sinter Plant and Blast Furnace;
- Limits on stack emissions for lead;
- Limits on hours of operation; and
- Weight limits for how much lead may be produced.

The previous contingency measures were also not carried forward because they were focused on the lead smelting process, such as lowering stack lead emission limits, increasing the Sinter baghouse efficiency, and modification of the refinery skims handling procedures. The implementation of a vehicle wash station was a previous contingency measure that was implemented and carried forward as a requirement of the 2020 Consent Agreement. Expansion of the sprinkler system use was a previous contingency measure that was modified in the 2020 Consent Agreement by making the sprinkler system a requirement for specific haul roads, under dry conditions with temperatures greater than 39 degrees Fahrenheit and when 10 or more trucks will be loaded or unloaded on a given day.

As discussed in this section, lead emissions are not expected to increase provided that activities remain the same and Doe Run (and any future owner) complies with the requirements of the 2020 Consent Agreement. In the case that activities at the facility do change, the 2020 Consent Agreement provides a process for resumption of monitoring should certain lead-emitting activities resume at the facility. This requirement to resume monitoring provides an additional measure to ensure continued attainment of both the 1978 NAAQS and the 2008 NAAQS.

For the reasons explained in this section, the EPA proposes to find that approval of the 2020 plan and 2020 Consent Agreement replacing the 2004 plan and 2003 Settlement Agreement will not interfere with attainment or maintenance of the NAAQS, and thus satisfies CAA section 110(l). Additionally, the EPA proposes to approve the 2020 plan and 2020 Consent Agreement into Missouri's SIP because they include controls and contingency measures that will ensure protection of the 2008 Lead NAAQS under the current and future operating status of the facility.

## V. Requirements for Approval of a SIP Revision

Pursuant to section 110(l) of the CAA, any SIP revision must ensure that it does not interfere with attainment or reasonable further progress towards attainment for any NAAQS, or with any other applicable requirement of the Act. For the reasons explained above, the EPA proposes to find Missouri's 2020 plan and 2020 Consent Agreement, as submitted to the EPA on October 7, 2020, as a replacement to the 2004 plan and 2003 Settlement Agreement, does not interfere with attainment or maintenance of the NAAQS, and thus satisfies CAA section 110(l). If future activities include demolition or deconstruction of any of the remaining structures, the 2020 Plan and 2020 Consent Agreement provide for re-instating air monitors to ensure that deconstruction or demolition of the facility, activities that are known to re-entrain lead dust, do not lead to violations of the 2008 Lead NAAQS, and thereby protect human health and the environment. All the requirements of the 2020 Consent Agreement are also imposed on Doe Run's successors in the event of a future property transaction.

Further, the State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from June 30, 2020 to August 6, 2020. A public hearing was held by the Missouri Air Conservation Commission (MACC) on July 30, 2020 before approval of the SIP revision request and submittal to EPA. No comments were received. In addition, as explained above in the analysis of the state's submittal, the proposed SIP revision meets the substantive requirements of the CAA, including section 110 of the CAA and implementing regulations.

## VI. The EPA's Proposed Action

The EPA is proposing to approve Missouri's request to strengthen the State Implementation Plan (SIP) by removing its maintenance plan and associated Consent Agreement for the 1978 Lead NAAQS for the former Doe Run Glover lead smelter in Iron County, Missouri, and replacing it with a plan for continued attainment of the 2008 Lead NAAQS and a new Consent Agreement. On October 29, 2004, the area surrounding the Glover facility was redesignated to attainment for the 1978 lead NAAQS, which is 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) averaged over a calendar quarter (69 FR 63072). On

October 7, 2020, the state submitted a request to replace the maintenance plan to ensure that the area continues to maintain the 2008 Lead NAAQS, for which the area was designated unclassifiable/attainment in 2010. The 2008 Lead NAAQS replaced the 1978 NAAQS and is  $0.15 \mu\text{g}/\text{m}^3$  averaged over a rolling calendar quarter. Based on EPA's review of the state's submittal which is described in detail in the previous sections, EPA proposes to approve Missouri's request. Missouri's request includes a 2020 Consent Agreement that restricts lead emitting activities, requires fugitive emissions controls and contingency measures, and applies to current and future owners of the facility. Once incorporated into the SIP, any change to the agreement would require a SIP revision and accompanying determination by EPA that the revision remains at least as protective as the current agreement under the CAA before the changes could take effect.

## VII. Incorporation by Reference

In this document, the EPA is proposing to approve regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing the incorporation by reference of the Missouri Source-Specific Orders described as follows: The Doe Run Glover Facility Consent Agreement, APCP-2020-002, dated February 2, 2020, replaces the Doe Run Lead Smelter (Glover, MO) Settlement Agreement, dated October 31, 2003 (approved by EPA on October 29, 2004). The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials will be approved by the EPA for inclusion in the State implementation plan, will be incorporated by reference by EPA into that plan, and will be fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup>

Also, in this document, as described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Source-Specific Permits and Orders from the Missouri State Implementation Plan, which is

<sup>3</sup> 62 FR 27968 (May 22, 1997).

incorporated by reference in accordance with the requirements of 1 CFR part 51.

**VIII. Environmental Justice Concerns**

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. If an area is designated nonattainment of the NAAQS, the CAA provides for the EPA to redesignate the area to attainment upon a demonstration by the state authority that the criteria for a redesignation are met, including a showing that air quality is attaining the NAAQS and will continue to maintain the NAAQS in order to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

The EPA utilized the EJSSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs are contained in the docket for this action. The results indicate there are vulnerable populations in the area such as low-income individuals.

This action addresses a plan for continued attainment of the 2008 Lead NAAQS for the Glover, Missouri area. As discussed in this document, Missouri has demonstrated that the air quality in the Glover area is attaining the 2008 Lead NAAQS and will ensure continued attainment of the NAAQS. The 2020 Plan and 2020 Consent Agreement are as protective or more protective of vulnerable populations in the area than the 2004 maintenance plan and 2003 Settlement Agreement because they include broader provisions for the activities, including deconstruction and demolition, that are most likely to cause a future NAAQS violation. For these reasons, this proposed action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-

income populations and/or indigenous peoples.

**IX. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), 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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section VIII of this action, "Environmental Justice Concerns."

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Environmental protection, Air pollution control, Incorporation by reference, and Lead.

Dated: January 20, 2022.

**Meghan A. McCollister,**  
*Regional Administrator, Region 7.*

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:

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

**Subpart—AA Missouri**

- 2. In § 52.1320:
  - a. Remove and reserve paragraph (d)(22) and add paragraph (d)(34); and
  - b. Remove and reserve paragraph (e)(49) and add paragraph (e)(81).

The revisions and additions read as follows:

**§ 52.1230 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS**

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
----------------	---------------------	----------------------	-------------------	-------------

\* \* \* \* \*

(22) Reserved

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS—Continued

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
(34) Doe Run Glover Facility	Consent Agreement, APCP–2020–002.	6/2/2020	[Date of publication of the final rule in the <b>Federal Register</b> ], [ <b>Federal Register</b> citation of the final rule].	

(e) \* \* \*

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(49) Reserved				
(81) Glover Lead Plan for Continued Attainment of the 2008 Lead NAAQS.	Iron County (part) within boundaries of Liberty and Arcadia Townships.	10/7/2020	[Date of publication of the final rule in the <b>Federal Register</b> ], [ <b>Federal Register</b> citation of the final rule].	[EPA–R07–OAR–2021–0913; FRL–9351–01–R7].

[FR Doc. 2022–01500 Filed 2–1–22; 8:45 am]  
**BILLING CODE 6560–50–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS–R6–ES–2018–0055; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BD17

**Endangered and Threatened Wildlife and Plants; Threatened Species Status for Chapin Mesa Milkvetch and Designation of Critical Habitat; Withdrawal**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), withdraw the proposed rule to list the Chapin Mesa milkvetch (*Astragalus schmolliae*) as a threatened species under the Endangered Species Act of 1973, as amended (Act). We concurrently withdraw the proposed rule to designate critical habitat for the species. This withdrawal is based on our conclusion that the conservation plan for Chapin Mesa milkvetch at Mesa Verde National Park, and its associated implementation plan, in addition to new standard operating procedures for fire management at Mesa Verde National Park, reduce the threats to the species

such that it no longer meets the Act’s definition of an “endangered species” or a “threatened species.” Therefore, we are withdrawing our proposal to list the Chapin Mesa milkvetch as a threatened species and our proposal to designate critical habitat for the species.

**DATES:** The proposed rule that published on September 17, 2020 (85 FR 58224), to list the Chapin Mesa milkvetch as a threatened species and to designate critical habitat for the Chapin Mesa milkvetch is withdrawn on February 2, 2022.

**ADDRESSES:** Relevant documents used in the preparation of this withdrawal are available on the internet at <http://www.regulations.gov> at Docket No. FWS–R6–ES–2018–0055.

**FOR FURTHER INFORMATION CONTACT:** Ann Timberman, Western Colorado Field Supervisor, U.S. Fish and Wildlife Service, Colorado Ecological Services Office, 445 West Gunnison Ave., Suite 240, Grand Junction, CO 81501; telephone 970–243–2778. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Previous Federal Actions**

On September 17, 2020, we proposed to list Chapin Mesa milkvetch as a threatened species under the Act (16 U.S.C. 1531 *et seq.*), and to designate critical habitat (85 FR 58224). Please refer to that proposed rule for a detailed description of previous Federal actions concerning Chapin Mesa milkvetch

prior to 2020. The September 17, 2020, proposed rule had a 60-day comment period, ending November 16, 2020. During this public comment period, we invited the public to comment on the proposed rule in light of draft conservation plans for the species from Mesa Verde National Park (Park) and the Ute Mountain Ute Tribe. Since publication of the proposed rule, the Park provided supplemental information to their plan that allowed the Service to conclude the plan is sufficiently certain to be implemented and effective, and we consider this in making our final listing determination, in accordance with the Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE) (68 FR 15100; March 28, 2003).

**Supporting Documents**

Prior to publishing the proposed listing rule (85 FR 58224; September 17, 2020), we conducted a species status assessment (SSA) for the Chapin Mesa milkvetch, with input and information provided by the Park, the Colorado Natural Heritage Program, and the Ute Mountain Ute Tribe. The results of this assessment are summarized in an SSA report, which represents a compilation of the best scientific and commercial data available concerning the status of the species, including the past, present, and future stressors to this species (Service 2021a, entire). Additionally, the SSA report contains our analysis of required habitat and the existing conditions of that habitat. After