2. In § 256.46, revise paragraph (b) to read as follows:

§ 256.46 Submission of bids.

* * * * *

(b) MMS requires a deposit for each bid. The notice of sale will specify the bid deposit amount and method of payment.

* * * * *

[FR Doc. 99–19262 Filed 7–27–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region VII Tracking No. MO–076–1076; FRL–6408–3]

Finding of Failure To Submit a Revised State Implementation Plan (SIP) for Lead; Missouri; Doe Run-Herculaneum Lead Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today EPA is taking final action to find that the state of Missouri failed to submit a revised SIP required for the Doe Run-Herculaneum lead nonattainment area. The deadline for these SIP revisions was August 15, 1998.

The failure-to-submit finding triggers the 18-month time clock for the mandatory application of sanctions and a 2-year time clock for a Federal Implementation Plan (FIP) under the Clean Air Act (CAA). This action is consistent with the mechanism of the CAA for ensuring timely SIP submissions.

EFFECTIVE DATE: July 14, 1999.

FOR FURTHER INFORMATION CONTACT: Aaron J. Worstell, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7787.

SUPPLEMENTARY INFORMATION:

I. Background

What Is the Doe Run-Herculaneum Lead Nonattainment Area?

The Doe Run-Herculaneum lead nonattainment area is the area within the vicinity of the Doe Run primary lead smelter which fails to meet the national ambient air quality standards (NAAQS or standard) for lead. In 1991 the area was designated as nonattainment for lead pursuant to section 107(d) of the CAA. The nonattainment designation was codified in 40 CFR part 81 and became effective on January 6, 1992. See 56 FR 56694 (November 6, 1991). The nonattainment designation applies to that part of Jefferson County, Missouri, which is within the city limits of the town of Herculaneum. The Doe Run Company has operated a primary lead smelter in Herculaneum since 1892.

In response to the nonattainment designation for Doe Run-Herculaneum, the State of Missouri submitted a SIP intended to control lead emissions in the area and thereby attain compliance with the lead standard. The plan established June 30, 1995, as the date by which the Doe Run-Herculaneum area was to have attained compliance with the lead standard. However, the plan failed to provide for attainment of the standard, and observed lead concentrations in the Herculaneum area continue to violate the standard.

What Is the Air Quality Standard for Lead?

EPA established the NAAQS for lead on October 5, 1978 (43 FR 46246). The standard for lead is set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g/m^3$), averaged over a calendar quarter. In setting the standard, EPA considered that for a population of young children, the maximum safe blood lead level (as a geometric mean) was 15 micrograms per deciliter ($\mu g/dl$) and that of this amount, as much as 12 $\mu g/dl$ may be attributable to nonair sources. Therefore, the difference of 3 $\mu g/dl$ was estimated to be the maximum safe contribution to mean blood levels from lead in the air. Furthermore, EPA considered epidemiological evidence that the general relationship between air lead ($\mu g\ Pb/m^3$) and blood lead ($\mu g\ Pb/dl$) is 1 to 2; that is, every 1 $\mu g/m^3$ lead in the air results in an increase of 2 $\mu g/dl$ in blood lead for children. As a result, EPA determined that the lead standard should be 1.5 $\mu g/m^3$.

What Are the Adverse Health Effects of Lead?

Exposure to lead occurs mainly through the inhalation of air and the ingestion of lead in food, water, soil, or dust. It accumulates in the blood, bones, and soft tissues. Because it is not readily excreted, lead can also adversely affect the kidneys, liver, nervous system, and other organs. Excessive exposure to lead may cause neurological impairments such as seizures, mental retardation, and/or behavioral disorders. Even at low doses, lead exposure is associated with damage to the nervous systems of fetuses and young children, resulting in learning deficits and lowered IQ. Recent studies also show that lead may be a factor in high blood pressure and subsequent heart disease.

More detailed information on the adverse health effects of lead can be found in the rulemaking promulgating the lead standard.

Why Has EPA Made a Finding of Failure To Submit?

On August 15, 1997, after taking and responding to public comments, EPA published a document in the **Federal Register** providing notification that the Doe Run-Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline (62 FR 43647). Pursuant to section 179(d) of the CAA, within 12 months of the publication of the failure-to-attain finding (i.e, by August 15, 1998), the state of Missouri was required to submit a revised SIP providing for attainment of the lead standard in the area. However, the state of Missouri failed to submit the required SIP revision by the deadline, and EPA is therefore making a finding of failure to submit. The Governor of Missouri was notified of the state's deficiency on February 25, 1999.

What Are the Consequences of Failure To Submit?

The Missouri Department of Natural Resources is currently working on a revised SIP to attain the lead standard in Herculaneum. If the state fails to submit a complete SIP revision within 18 months of July 14, 1999, then pursuant to section 179(a) of the CAA and 40 CFR 52.31, the offset sanction identified in section 179(b) of the CAA will be applied. If the state still has not made a complete submission six months after the offset sanction is imposed, then the highway funding sanction will apply in the affected area in accordance with 40 CFR 52.31. In addition, section 110(c) of the CAA provides that EPA promulgate a FIP no later than two years after a finding under section 179(a) if prior to that time EPA has not approved the submission correcting the deficiency.

The 18-month clock will stop, and the section 179(b) sanctions will not take effect if, within 18 months after the date of the finding, EPA finds that the state has made a complete submittal. In addition, EPA will not promulgate a FIP if the state makes the required SIP submittal and EPA takes final action to approve the submittal within two years of the effective date of EPA's finding.

II. Final Action

What Action Is EPA Taking?

We find that the State of Missouri failed to submit SIP revisions for the

Doe Run-Herculaneum lead nonattainment area as required by section 179(d) of the CAA for areas which fail to attain. The revised SIP for the Doe Run-Herculaneum lead nonattainment area was due by August 15, 1998.

This finding of failure to submit initiates the sanctions clock as described in section I of this document. The sanctions clock begins on the effective date of this rulemaking.

What Is the Effective Date for This Rule?

The effective date for this rule is July 14, 1999, the date this action was signed.

EPA is treating this action as a ''rule.'' Under the Administrative Procedures Act (APA), 5 U.S.C. 553(d)(3), agency rulemakings may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. This action concerns implementation plan submittals that are already overdue. On February 25, 1999, we sent a letter to the Governor of Missouri stating that we were planning to take the action we are taking today. Consequently, the state has been on notice that today's action was pending. The state and general public are aware of applicable provisions of the CAA that relate to failure to submit a required implementation plan. In addition, this action simply starts a sanctions clock that will not result in offset sanctions for 18 months and that the state may stop by submitting a revised SIP that is found complete by EPA under section 110(k) of the CAA. Furthermore, the FIP clock may be stopped if the revised SIP is found approvable under section 110 and part D of the CAA. These reasons support an effective date prior to 30 days after the date of publication.

Why Is EPA Taking This Action Without Proposing and Taking Comments First?

This action is a final agency action but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). We believe that, because of the limited time provided to make findings of failure to submit regarding SIP submittals, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, we invoke the good cause exception in the APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure-to-submit elements of an implementation plan required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the CAA for making such determinations.

Finally, notice and comment would be contrary to the public interest because it would divert our resources from the critical substantive review of submitted implementation plans. See 58 FR 51270, 51272, note 17 (October 1, 1993) and 59 FR 39832, 39853 (August 4, 1994).

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, a summary of the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on any of these entities. This action implements EPA's requirements to review SIPs for completeness under 40 CFR part 51, appendix V. The SIP submission requirements for stopping clocks are not judicially enforceable. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not establish a further health or risk-based standard because it implements a previously promulgated health-or safety-based standard.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes.

Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Since this final rule is not subject to notice-and-comment requirements under the APA, or any other statutes, it is not subject to sections 603 or 604 of the RFA. Furthermore, this action will not have a significant impact on a substantial number of small entities because these findings under section 110 and Subchapter I, Part D of the CAA do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FEC*, 773 F.2nd 327 (D.C. Cir. 1985) (agency's certification need only consider the impact of the rule on entities subject to the requirements of the rule). Instead, this action makes findings of failure to submit and establishes a schedule for Missouri to stop the clocks and does not directly regulate any entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

Sections 202 and 205 do not apply to this action because the findings that Missouri failed to submit the required SIP for the Doe Run'Herculaneum area do not, in and of themselves, constitute a Federal mandate because they do not impose any enforceable duty on any entity. In addition, the CAA does not permit EPA to consider the type of analyses described in section 205 in determining whether a state has failed to submit a required SIP. Finally, section 203 does not apply to the action because the SIP submittal schedule to stop the clocks would only affect the state of Missouri, which is not a small government.

G. Paperwork Reduction Act (PRA)

This rule does not contain any information requirements which require OMB approval under the PRA (44 U.S.C. 3501 *et seq.*).

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 14, 1999, the date of signature. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the U.S. Comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 27, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead.

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

Dated: July 14, 1999.

Dennis Grams,

Regional Administrator, Region VII.

[FR Doc. 99–19158 Filed 7–27–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300893; FRL–6090–9]

RIN 2070–AB78

Zinc Phosphide; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on timothy, alfalfa, and clover at 0.1 part per million (ppm) for an additional 1½ –year period. This tolerance will expire and is revoked on August 1, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on timothy, alfalfa, and clover. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective July 28, 1999. Objections and requests for hearings must be received by EPA, on or before September 27, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300893], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests