

**COMMENTS AND RESPONSES ON
PROPOSED AMENDMENT
10 CSR 10-1.010
GENERAL ORGANIZATION
AND
RECOMMENDATION FOR ADOPTION**

On February 5, 2013, the Missouri Air Conservation Commission held a public hearing concerning the proposed amendment to 10 CSR 10-1.010 General Organization. The following is a summary of comments received and the Missouri Department of Natural Resources' Air Pollution Control Program corresponding responses. Any changes to the proposed amendment are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the rule action as revised.

NOTE 1 - Legend for rule actions to be voted on is as follows:

- * *Shaded Text - Rule sections or subsections unchanged from Public Hearing. This text is only for reference.*
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NOTE 2 - All unshaded text below this line will be printed in the Missouri Register.

**Title 10 - DEPARTMENT OF
NATURAL RESOURCES**

Division 10 - Air Conservation Commission

Chapter 1 - Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2012, the commission amends a rule as follows:

10 CSR 10-1.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published

in the *Missouri Register* on November 15, 2012 (37 MoReg 1646-1648). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: EPA suggested adding language to the public information subsection to specify how interested persons can be added to the email distribution list for public hearing notices.

RESPONSE AND EXPLANATION OF CHANGE: In response to EPA's comment, language was added to paragraph (3)(C)2. of the public information subsection to contact the Air Pollution Control Program Air Quality Planning Section Chief to be added to the email distribution list.

10 CSR 10-1.010 General Organization

(1) Applicability. (*Not Applicable*)

(2) Definitions. (*Not Applicable*)

(3) General Provisions.

(A) Authorization. Chapter 643, RSMo.

(B) Organization and Operation.

1. Air Conservation Commission. The seven (7) member commission is the state's governing body for the control, abatement, and prevention of air pollution (643.030 and 643.040, RSMo) having authority (643.050, 643.055, 643.225, and 643.305, RSMo) to—
 - A. Adopt, promulgate, amend, and rescind rules;
 - B. Establish air quality control regions;
 - C. Require submission of relevant information;
 - D. Conduct and hold hearings upon appeals from orders, permit denials, and other actions of the director, settle compliance disputes at public hearings before the commission, or refer alleged violations to the county prosecutor or attorney general;
 - E. Develop facts, make investigations, and make orders and determinations;
 - F. Prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution, including emergency alert procedures;
 - G. Grant authority to political subdivisions to control air pollution;
 - H. Grant, modify, and revoke exceptions and variances to rules; and
 - I. Suspend the order of rulemaking when necessary for public health, safety, and welfare prior to filing the final order of rulemaking.
2. Director. The director of the Department of Natural Resources, serving at the pleasure of the governor, or the director's authorized representative, has the responsibility and the authority (643.060, RSMo) to—

- A. Employ staff and consultants as necessary to carry out the Missouri Air Conservation Law;
 - B. Accept, receive, and administer grants, gifts, or other funds from public and private agencies;
 - C. Receive, budget, and expend appropriated moneys;
 - D. Arrange, notify, attend, and record all meetings of the Missouri Air Conservation Commission (MACC);
 - E. Investigate complaints, issue abatement orders, recommend that the MACC request legal action be taken by the attorney general under 643.090.2, RSMo, recommend legal action be taken by the attorney general under 643.090.2, RSMo, and enforce provisions of the Missouri Air Conservation Law;
 - F. Receive and act upon reports, plans, specifications, and permit applications submitted under rules promulgated by MACC;
 - G. Receive and investigate petitions for variances and submit recommendations to MACC;
 - H. Carry out the directions of MACC between meetings including conducting inspections and investigations, obtaining and assembling data, and preparing reports;
 - I. Submit revisions of the State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) for approval; and
 - J. Enact air pollution emergency alert procedures.
3. Staff director. The staff director of the Air Pollution Control Program of the Department of Natural Resources serves at the pleasure of the commission and handles the day-to-day matters, including all responsibilities delegated to the director's authorized representative.
4. Air Pollution Control Program. The program is divided into five (5) sections with the main task descriptions listed below—
- A. The Fiscal and Budget Section—
 - (I) Serves as human resource liaison and training coordinator;
 - (II) Oversees sunshine request responses and record management;
 - (III) Prepares annual program budget;
 - (IV) Coordinates proposed legislation and fiscal note responses at the department's request;
 - (V) Processes all financial transactions for procurement, deposits, collections, and payroll;
 - (VI) Manages the cash accounts;
 - (VII) Administers grants; and
 - (VIII) Maintains physical inventory and fixed assets;
 - B. The Compliance and Enforcement Section—
 - (I) Provides compliance assistance to regulated entities;
 - (II) Coordinates with and provides oversight of the regional offices and the local air pollution control agencies in matters of compliance and enforcement;

- (III) Administers an asbestos program as required;
 - (IV) Administers a gasoline vapor recovery program as required;
 - (V) Administers a motor vehicle inspection/maintenance program as required;
 - (VI) Oversees source compliance testing;
 - (VII) Resolves violations through out-of-court settlements or orders with the assistance of the attorney general's office or the department's legal counsel;
 - (VIII) Requests approval from MACC for referral to the attorney general's office for those violations in which a settlement was not achieved; and
 - (IX) Provides technical reviews and recommendations for variance requests to MACC;
- C. The Air Quality Analysis Section—
- (I) Develops and quality-assures the point, area, and mobile source emission inventory for EPA National Emissions Inventory (NEI) submittal and program use;
 - (II) Coordinates with the Environmental Services Program and local air pollution control agencies when applicable on establishing and maintaining ambient air monitoring sites and collecting ambient air data;
 - (III) Develops and implements the annual Monitoring Network Plan and coordinate Ambient Air Monitoring Network Reviews;
 - (IV) Reviews and approves permit applicant ambient air quality monitoring Quality Assurance Project Plans (QAPPs);
 - (V) Conducts and provides emissions and ambient air quality analysis for other sections in the program;
 - (VI) Updates and maintains the program's air quality monitoring, emissions, and other databases; and
 - (VII) Develops risk assessment levels in support of the Title V program for review and approval by the Department of Health and Senior Services;
- D. The Air Quality Planning Section—
- (I) Maintains state air rules and Missouri SIP for consistency with the latest federal and state requirements;
 - (II) Develops, tracks, and implements rulemakings for new rules, amendments to rules, and rescissions of rules;
 - (III) Develops, tracks, and implements SIP revisions;
 - (IV) Conducts air quality modeling required to support rule and SIP actions;
 - (V) Implements public participation requirements of state and federal laws for rulemakings and SIP revisions;
 - (VI) Coordinates rulemakings and SIP actions with the secretary of state, EPA, other regulatory bodies, private industries,

environmental interests, and other stakeholders; and
(VII) Establishes mobile source emissions budgets and participates in inter-agency consultation processes in accordance with federal transportation conformity requirements to ensure transportation activities are consistent with air quality goals; and

E. The Permits Section—

- (I) Receives, evaluates, and makes recommendations to the director to approve, approve with conditions, or deny applications for construction permits;
- (II) Provides technical support to legal counsel for [these] permits issued and appealed by an applicant or citizen;
- (III) Reviews construction permits prepared by local air pollution control agencies;
- (IV) Processes operating permit applications, amendments, and modifications in a timely manner according to the rules and requirements;
- (V) Processes relocation notification for portable equipment; and
- (VI) Maintains the Missouri Clean Air Act Title V Program to ensure continued authorization of the program in Missouri.

(C) Public Information. The Air Pollution Control Program provides information to the public as follows:

1. Publish a notice in the Jefferson City, Missouri newspaper to provide information on how the public may review and provide comment on draft rule text and Regulatory Impact Reports for a period of at least sixty (60) days;
2. Post public hearing notices for rule and SIP actions at least thirty (30) days prior to public hearing on the Air Pollution Control Program's website and send via e-mail to established program distribution list that includes required parties and other interested stakeholders. These notices provide information on timing of proposed MACC actions and how the public may participate in all rulemaking and SIP actions. Contact the Air Pollution Control Program Air Quality Planning Section Chief to be added to the email distribution list;
3. Publish in the *Missouri Register*—
 - A. Proposed rule actions at least thirty (30) days prior to a public hearing; and
 - B. Final rule actions adopted by MACC with recognition of public hearing comments;
4. Provide construction and operating permit notices as described in 10 CSR 10-6.060 Construction Permits Required and 10 CSR 10-6.065 Operating Permits;
5. Present any revision to department-supplied forms to the regulated community for a forty-five (45)-day comment period; and
6. Make all records retained for or by the Air Pollution Control Program

available for public inspection and copying by any person, except for records which either are required to be or which may be kept confidential under Missouri Law.

- (D) Reorganization of 1974. The Omnibus Reorganization Act of 1974 transferred the Air Conservation Commission and its functions (Chapter 643, RSMo) by Type II transfer. Under this act, the position of executive secretary was abolished and the director of the Department of Natural Resources assumed the responsibilities delegated to the executive secretary by 643.060, RSMo. The position of staff director was created to provide the day-to-day operation of the Air Pollution Control Program and the Air Pollution Control Program staff was transferred to the Department of Natural Resources (DNR). The director of DNR, the staff director of the Air Pollution Control Program, and the program staff enforce the rules and implement the policy of the Air Conservation Commission.
- (4) Reporting and Record Keeping. *(Not Applicable)*
- (5) Test Methods. *(Not Applicable)*

**COMMENTS AND RESPONSES ON
PROPOSED AMENDMENT**

10 CSR 10-2.330

CONTROL OF GASOLINE REID VAPOR PRESSURE

AND

RECOMMENDATION FOR ADOPTION

On February 5, 2013, the Missouri Air Conservation Commission held a public hearing concerning the proposed amendment to 10 CSR 10- 2.330 Control of Gasoline Reid Vapor Pressure. The following is a summary of comments received and the Missouri Department of Natural Resources' Air Pollution Control Program corresponding responses. Any changes to the proposed amendment are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the rule action as proposed.

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**Title 10 - DEPARTMENT OF
NATURAL RESOURCES**

Division 10 - Air Conservation Commission

**Chapter 2 - Air Quality Standards and Air Pollution Control Rules Specific to the Kansas
City Metropolitan Area**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2011, the commission amends a rule as follows:

10 CSR 10-2.330 Control of Gasoline Reid Vapor Pressure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2012 (37 MoReg 1769). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no comments on the proposed amendment.

10 CSR 10-2.330 Control of Gasoline Reid Vapor Pressure.

- (1) Applicability. This rule shall apply throughout Clay, Platte and Jackson counties.
- (2) Definitions. Definitions of certain terms used in this rule can be found in 10 CSR 10-6.020.
- (3) General Provisions and Effective Dates of Compliance.
 - (A) No person shall sell, dispense, supply, offer for sale, offer for supply, transport or exchange in trade for use gasoline intended for final use in the applicable areas that exceeds the Reid Vapor Pressure (RVP) limit in subsection (3)(B).
 - (B) The RVP of gasoline subject to this rule shall be restricted starting in 2001 as follows:

RVP

(psi)	Facility	Time Period
7.0 psi	All facilities	June 1
or less		through September 15

- (C) Gasoline blends having at least nine percent (9%) but not more than ten percent (10%) ethyl alcohol by volume of the blended mixture shall have an RVP limit of one (1) pound per square inch (psi) higher than the limit contained in subsection (3)(B).
- (4) Gasoline Sampling Procedures. Gasoline sampling shall follow the procedures outlined in ASTM D4057-06(2011) *Standard Practice for Manual Sampling of Petroleum and Petroleum Products*, as published August 2011 (Approved June 1, 2011). This standard is incorporated by reference in this rule, as published by American Society for Testing and Materials (ASTM) International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
- (5) Gasoline Testing Procedures for RVP and Determination of Compliance.

- (A) Gasoline testing shall follow the procedures contained in either ASTM D6378-10 *Standard Test Method for Determination of Vapor Pressure (VPX) of Petroleum Products, Hydrocarbons, and Hydrocarbon-Oxygenate Mixtures (Triple Expansion Method)*, as published November 2010 (Approved October 1, 2010) or ASTM D5191-10b *Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)*, as published November 2010 (Approved October 1, 2010). These standards are incorporated by reference in this rule, as published by American Society for Testing and Materials (ASTM) International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.
 - (B) To determine compliance when field analysis indicates the RVP is between seven and zero-tenths (7.0) psi and seven and three-tenths (7.3) psi for conventional gasoline or between eight and zero-tenths (8.0) psi and eight and three-tenths (8.3) psi for nine to ten percent (9%–10%) ethyl alcohol blends, Missouri Department of Natural Resources (MDNR) will conduct additional testing. Additional testing shall include independent analysis by three (3) separate laboratories of three (3) independent samples taken sequentially, in accordance with sections (4) and (5) of this rule. If all of the measured RVP of the samples are above seven and zero-tenths (7.0) psi for conventional gasoline or above eight and zero-tenths (8.0) psi for nine to ten percent (9%–10%) ethyl alcohol blends, the department may take enforcement action.
- (6) Record Keeping.
- (A) All persons subject to this rule shall maintain records of any RVP testing and test results during the compliance period specified in section (3). These records shall be kept for at least two (2) years after the date of a completed RVP test. These records shall be made available immediately upon request for review or duplication by Department of Natural Resources personnel and city and county personnel certified under 643.140, RSMo.
 - (B) Each bill of lading, invoice, loading ticket, delivery ticket, and other document that accompanies a shipment of gasoline (which includes gasoline blended with ethyl alcohol) shall contain a legible and conspicuous statement that the RVP of the gasoline does not exceed seven and zero-tenths (7.0) psi, in accordance with this rule for conventional gasoline, or that the RVP does not exceed eight and zero-tenths (8.0) psi for nine to ten percent (9%–10%) ethyl alcohol blends.
 - (C) Each bill of lading, invoice, loading ticket, delivery ticket, and other document which accompanies a shipment of gasoline containing ethyl alcohol shall contain a legible and conspicuous statement that the gasoline being shipped contains ethyl alcohol and that the percentage concentration of ethyl alcohol is between nine percent to ten percent (9%–10%), as required under subsection (3)(C) of this rule.
 - (D) All persons subject to this rule shall keep records of the bill of lading, invoice, loading ticket, delivery ticket, and other documents accompanying a shipment of gasoline during the compliance period specified in section (3). These records shall be kept for at least two (2) years after the date of delivery. These records shall be made available immediately upon request for review or duplication by Department of Natural Resources personnel and city and county personnel certified under 643.140, RSMo.

- (E) The director may require additional record keeping on a case-by-case basis. The director may require records be kept for additional periods of time for enforcement compliance.
- (7) Violations and Penalties. Persons violating this rule shall be subject to enforcement action as authorized in 643.085 and 643.151, RSMo.
- (8) Exemptions.
 - (A) Gasoline that exceeds the RVP limits will not violate this rule if the gasoline is separately stored, sealed, clearly labeled and not used until it is in compliance with this rule. The label shall state that the gasoline is prohibited by Missouri law from being sold, dispensed, supplied, offered for sale, offered for supply, transported or exchanged in trade until the specific date that the gasoline shall be in compliance with this rule.
 - (B) An individual consumer of gasoline who dispenses gasoline into his/her personal motor vehicle is exempt from this rule.
 - (C) Gasoline used only to fuel agricultural vehicles on property zoned for agricultural use is exempt from this rule.
 - (D) Owners and operators of facilities that only dispense gasoline into individual motor vehicles are not required to conduct the RVP testing specified in section (5).
 - (E) Federal specification reformulated gasoline (RFG) fully satisfies the requirements of section (3) of this rule.

**COMMENTS AND RESPONSES
AND
RECOMMENDATION FOR ADOPTION**

**PROPOSED REVISION TO
THE MISSOURI STATE IMPLEMENTATION PLAN —
ATTAINMENT DEMONSTRATION FOR THE
2008 LEAD NATIONAL AMBIENT AIR QUALITY STANDARD —
BUICK/VIBURNUM TREND LEAD NONATTAINMENT AREA**

On February 5, 2013, the Missouri Air Conservation Commission held a public hearing concerning the proposed revision to the State Implementation Plan (SIP) for the Buick/Viburnum Trend Lead Nonattainment area. This plan was developed to bring this nonattainment area into attainment of the 2008 Lead National Ambient Air Quality Standard (NAAQS) pursuant to Section 172(c) of the federal Clean Air Act. On November 22, 2010, the EPA designated the boundaries of the Buick/Viburnum Trend area as nonattainment for the 2008 Lead NAAQS based on air quality data from 2007-2009. The lead nonattainment area includes four lead emitting sources. Specifically, these sources are the Buick Resource Recycling Facility (BRRF) which is a secondary lead smelter, The Doe Run Resources Corporation (Doe Run) Buick Mine and Mill, the Doe Run Casteel Mine, and K & D Crushing, which is located at the surface of the Casteel Mine. This plan includes an emissions inventory, control measures, contingency measures and a technical demonstration that the proposed emission controls will result in the attainment of the 2008 Lead NAAQS for the area. Fourteen (14) combined comments were received concerning this proposed plan during the public comment period. Revisions were made to the plan as a result of these public comments.

The complete document has not been reprinted in the briefing document due to its volume. The entire document is available for review at the Missouri Department of Natural Resources', Air Pollution Control Program, 1659 East Elm Street, Jefferson City, Missouri 65101, (573) 751-4817. The plan and its appendices are also available for viewing at <http://www.dnr.mo.gov/env/apcp/stateplanrevisions.htm>

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the plan action as amended. If the commission adopts this plan action, it will be the department's intention to submit this plan to the U.S. Environmental Protection Agency (EPA) for inclusion in the Missouri State Implementation Plan.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program (Air Program) received fourteen (14) comments from three (3) sources: EPA and combined comments on behalf of The Doe Run Resources Corporation (Doe Run) and Buick Resource Recycling Facility (BRRF) LLC.

COMMENT #1: EPA commented that in Section 4.1.D, Base Year Selection, modeling was conducted using meteorological data from August 1, 2009, to July 31, 2010. 40 CFR Part 51, Appendix W requires the use of a minimum of one year for on-site meteorological data. Section 8.3.1.2 of Appendix W states that if one year or more (including partial years), up to five years,

of site specific data is available; this data is preferred for use in air quality analyses. EPA acknowledged that data limitation issues played a role in the time period selected and requested additional information supporting the decision to utilize the specific time period chosen.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program appreciates EPA's cooperation in the development of this plan document. There were a number of limiting factors that reduced the potential data sets that could be considered after gathering and verifying model input data. The time period selected must have complete meteorological, emissions data, and monitoring data of sufficient quality that is representative of the base case (pre-control) evaluation period. Because the base case process configuration changed with process and emission control construction activities at BRRF beginning in November 2010, this marked the end of base case operations. Therefore, appropriate modeling datasets had to represent a period before November 2010.

A review of the available on-site meteorological data showed that the most significant limiting factor was meteorological data. Some meteorological data was available beginning in January 2008, but there were a variety of factors that further limited the use of all of this on-site data. For example, for a number of months, there were a number of operational issues (during the initial operation of the data collection equipment) that prevented collection of quality meteorological data. There were other documented instances where data was not recorded, sometimes no data at all for a number of days, due to interruptions initiated by storms, or various equipment malfunctions at BRRF, or other issues. Out of the remaining meteorological data set from January 2009 through October 2010, there were a limited number of months satisfying the minimum 90% data completeness requirements. For example, the recording instruments were damaged in a storm resulting in the loss of all on-site meteorological data from June 9, 2009 through July 13, 2009. Based on a quality review of the remaining available on-site meteorological data, the continuous data set that best represented the on-site locational specificity and satisfied completeness criteria was August 2009 through July 2010. Additionally, both monitoring data and hourly emissions data (for BRRF and the Buick Mine and Mill) were available for this same selected period. The selected base year period meets 40 CFR 51, Appendix W requirements to use a minimum of one year for on-site meteorological data.

As a result of EPA's comment, new language has been added to the plan to provide further discussion supporting the decision to use meteorological data for the selected one year period from August 1, 2009, to July 31, 2010.

COMMENT #2: EPA commented the information presented in Figure 5, Predicted Maximum Three-Month Rolling Average, of the plan is informative but also suggested an additional figure be provided to depict the predicted maximum three-month rolling average for lead in relation to the Buick/Viburnum Trend fencelines. EPA commented the additional figure should more clearly depict, perhaps through magnification of detail, that the predicted maximum three-month rolling average model results clearly indicate attainment of the 2008 Lead NAAQS along the fencelines.

RESPONSE AND EXPLANATION OF CHANGE: As a result of EPA's comment, two new figures have been added to complement the information in the Attainment Demonstration Figure 5 [one figure for BRRF and one figure for the Buick Mine/Mill]. The new higher resolution figures clearly show attaining receptors along the fencelines for both operations.

COMMENT #3: EPA commented that the plan should include the rationale and/or documentation that definitively demonstrates the areas depicted as “too steep to fence.” EPA maintains this additional information is needed to fully support the assertion that such areas are indeed unnavigable and that public access is indeed sufficiently precluded in order to ensure that the public is not exposed to an area that is predicted to be in violation of the 2008 Lead NAAQS. RESPONSE AND EXPLANATION OF CHANGE: The Air Program reviewed the plan and supporting documentation and determined that additional discussion is appropriate to document the unnavigable status of any areas depicted as “too steep to fence” such as areas around the Buick Mill and Buick Mine vents. In addition, during this review it was established that fencing is possible surrounding two areas previously deemed “too steep to fence” – Buick Mine shaft vents 1 and 3. The revised SIP document now includes only one area designated and documented as “too steep to fence” as depicted in the Buick Mill figure in Appendix I. Additional language documenting the unnavigable status of this area has been added to the SIP document. For example, public access to the Buick Mill facility is precluded utilizing a combination of fenceline, a tailings impoundment that is not traversable by foot or vehicle, a mine water lake, and a twenty-four hour guard at the facility.

The fencelines surrounding Buick Mine shaft vents 1 and 3 have been expanded to require installation of fences such that the steepest terrain is now fenced. This is accomplished by expanding the required fenceline coordinates to allow contiguous fencelines that traverse less steep terrain while including the steepest terrain surrounding these mine shaft vents. The expansion of the required fencelines is now documented by the figures in Appendix I and by including a tabular listing of the minimum fenceline coordinates as part of Appendix I, in addition to inclusion of fenceline coordinates as part of the model run script. In summary, as a result of EPA’s comment, the plan has been revised to include a discussion of the rationale used to verify that an area at the Buick Mill is unnavigable and documentation of expanded fencelines around the Buick Mine shaft vents 1 and 3.

COMMENT #4: EPA commented that Figure I-7 of Appendix I should be revised to include the (complete) fenceline to preclude public access to areas that exceed the 2008 Lead NAAQS. RESPONSE AND EXPLANATION OF CHANGE: The Air Program reviewed all of the Figures in Appendix I and determined Figure I-7 is incomplete by including only the existing fenceline along the northwest quadrant of the Buick Mill operation and an area on the South designated as “too steep to fence.” As a result of EPA’s comment, Figure I-7 of Appendix I has been revised to also include the proposed new fenceline, in addition to indicating the existing fenceline, both of which preclude public access.

COMMENT #5: EPA commented that the language in the 2013 Consent Judgment [see Appendix M of the plan] should be modified by clarifying that any future requests from BRRF to change the fencelines presented in Appendix I will only be permitted if the future proposed fencelines are larger than presented in Appendix I. The 2013 Consent Judgment language should be modified to clarify that any future requests to make fencelines smaller than the minimum referenced distance from the facility as modeled for the plan would require a modeling demonstration, a Consent Judgment modification and a SIP revision including public notice and comment.

RESPONSE AND EXPLANATION OF CHANGE: The SIP document requires Doe Run to notify the Air Program of all fenceline modifications. Any changes to the control strategy

contained in the SIP document or any modifications to make the fenceline smaller will require a new corresponding SIP revision with appropriate air dispersion modeling. As a result of this comment, all parties have agreed to remove the last sentence of paragraph 8.D. of the proposed Consent Judgment to avoid confusion because it could be interpreted to mean that only impact modeling, and not a full SIP revision, would be required in the event of a fenceline change below the minimum established levels. Any changes to the Consent Judgment have been reviewed and agreed to by the parties involved including the Missouri Attorney General's Office.

COMMENT #6: EPA commented that much of the language in paragraphs 8.D. and 8.E. of the 2013 Consent Judgment is duplicative and recommended deletion of the duplicative language. RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, paragraph 8.E. has been deleted to eliminate duplicity.

COMMENT #7: Doe Run and BRRF commented they appreciate the cooperation and professionalism of the Air Program's Air Quality Planning Section staff throughout this lengthy and complex process. Doe Run and BRRF support the final approval of this plan by the Missouri Air Conservation Commission and assert that this SIP revision meets all applicable federal Clean Air Act requirements through enforceable control measures that demonstrate, through modeling, attainment of the 2008 Lead NAAQS.

RESPONSE: The Air Program also appreciates the support and cooperation of both Doe Run and BRRF in the development of this plan. No change was made to the SIP document as a result of this comment.

COMMENT #8: Doe Run and BRRF commented the Executive Summary and other parts of the SIP include a description of the relationship between the Doe Run Company and BRRF that they believe is not necessary for the SIP document. Similarly, Doe Run and BRRF suggested the removal of the corporate history in sections 1.1.B and 1.1.F as unnecessary to the SIP document. Doe Run also noted references to the Doe Run Company should reflect the name of the company as The Doe Run Resources Corporation d/b/a The Doe Run Company.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program maintains the description of the relationship between The Doe Run Resources Corporation d/b/a The Doe Run Company and BRRF is indeed necessary and should remain in the SIP document to clarify these operations are part of the same parent corporation. Similarly, corporate history information explains the progression of changes up to and including the present situation. During the development of the Attainment Demonstration, it was noted several times that BRRF and mining and milling operations were separate and wholly-owned subsidiaries of The Doe Run Resources Corporation. To further emphasize this separation, the signatories for the 2013 Consent Judgment include a representative for both. As a result of this comment and in an effort to further clarify as suggested, the first mention of the Doe Run Resources Corporation was changed to include the "d/b/a" detail and subsequent mentions will thereafter be referred to as Doe Run, specifically with respect to the Casteel Mine as well as the Buick Mine and Mill.

COMMENT #9: Doe Run and BRRF provided suggested revisions throughout the SIP document to clarify various details such as actual 2012 production information for BRRF and the Doe Run Buick Mine/Mill, update the process description and process flow diagrams to reflect current operations at BRRF, and ensure consistency with requirements per the 2013 Consent Judgment and other obligations. Other suggested clarifications address the status and obligations

related to the 2011 multimedia Consent Decree, as well as descriptive source information for stationary sources located within the nonattainment area.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments and a review of the entire Attainment Demonstration, changes were made throughout the document to provide clarification where appropriate.

COMMENT #10: In section 1.1.D, Doe Run and BRRF suggested the removal of statements regarding the ownership of land in the nonattainment area as well as removal of language discussing preclusion of public access since this information is provided in the Appendices.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, statements regarding land ownership were removed as suggested. However, as noted above in response to Comments #3 and #4 from EPA, additional language was added to the SIP document to provide more discussion regarding the area designated as “too steep to fence”.

COMMENT #11: In section 2.1, Doe Run and BRRF suggested the removal of the discussion explaining the reasons for relocating a monitor to the Buick Northeast air monitoring site. Additional language was suggested for removal regarding the proximity of the Buick North and South monitors in relation to the BRRF fenceline because “close” is not defined. Doe Run and BRRF commented that this information does not seem necessary for the SIP.

RESPONSE AND EXPLANATION OF CHANGE: The Bixby West monitor is the monitor that was relocated to the current Buick Northeast monitor location. The Bixby West and Buick Northeast monitors were not existent at the time of the promulgation of the 2008 Lead NAAQS and resultant designation determinations. Once the Buick North and South monitors could no longer be used for sampling of ambient air, data from the Bixby West monitor became of critical importance to the determination of NAAQS compliance for the area. The SIP language about the relocation of this monitor is nearly identical to language presented in the state’s air quality monitoring network plan, which is made public via the program’s and EPA’s websites. Since the Buick Northeast monitor has replaced the Bixby West monitor as the most significant location for NAAQS compliance monitoring, the history of the site is relevant to the plan. For these reasons, the Bixby West monitor relocation discussion remains in the SIP document.

Further, the purpose of this SIP revision is to bring the nonattainment area into compliance with the 2008 Lead NAAQS. The plan uses modeling to demonstrate attainment but ultimately air quality monitoring data must be used to show attainment. To this end, an appropriately designed, stable air quality monitoring network is important to the SIP revision. The unique geographical nature of this nonattainment area creates monitor siting criteria obstacles related to terrain, electricity availability and neighboring forests. There are very few appropriate sites available for air quality monitoring, making a discussion of the existing monitoring site locations in the public interest and therefore, relevant to this plan. Locations of the Buick North and South monitors are relevant because the data from these monitors was of critical importance in the designation of the nonattainment area after the lead standard was revised in 2008. These monitors later became nonambient because they are currently inside the fenceline. As a result of this comment, the vague reference to “close to locations outside the fenceline” has been clarified and the discussion of the history and significance of these two monitors has been retained.

COMMENT #12: Doe Run and BRRF suggested the removal of language summarizing control measures in section 6.1 and another summary (of key controls) in section 7 since this information is set forth elsewhere and to minimize any confusion.

RESPONSE: The language suggested for removal in the first paragraph of section 6.1 and the second paragraph of section 7 is not intended to repeat or summarize; rather, this language provides examples of the key types of controls required to demonstrate compliance with the 2008 Lead NAAQS. No change was made to the SIP document as a result of this comment.

COMMENT #13: Doe Run and BRRF suggested revisions to Section 8.1 *List of Contingency Measures* to eliminate potential misinterpretation as to the schedule and implementation of the contingency measures.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program intended section 8.1 of the proposed plan to merely list contingency measures and refers the reader to the Consent Judgment for the exact details of how and when the contingency measures are to be implemented. Nonetheless, in deference to the comment and for clarity, edits similar to those suggested by Doe Run have been made to section 8.1 of the SIP document to better reflect the timeframe and triggering scheme of each individual contingency measure.

COMMENT #14: Doe Run and BRRF commented that they have provided a mark-up or red-line version of the SIP and Consent Judgment with numerous typographical corrections and minor clarifications, as well edits to make the documents consistent with those of the 2013 Herculaneum Lead Attainment Demonstration SIP revision where appropriate.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program appreciates the thorough review of the plan documents by both Doe Run and BRRF, and as a result of this comment, has made many of the suggested minor edits. Any changes to the Consent Judgment have been reviewed and agreed to by the parties involved including the Missouri Attorney General's Office.

**COMMENTS AND RESPONSES
AND
RECOMMENDATION FOR ADOPTION**

**PROPOSED REVISION TO
THE MISSOURI STATE IMPLEMENTATION PLAN —
ATTAINMENT DEMONSTRATION FOR THE
2008 LEAD NATIONAL AMBIENT AIR QUALITY STANDARD —
HERCULANEUM LEAD NONATTAINMENT AREA**

On February 5, 2013, the Missouri Air Conservation Commission held a public hearing concerning the proposed revision to the State Implementation Plan (SIP) for the Herculaneum Lead Nonattainment area. This plan was developed to bring Herculaneum, MO into attainment of the 2008 Lead National Ambient Air Quality Standard (NAAQS) pursuant to Section 172(c) of the federal Clean Air Act. On November 22, 2010, the EPA designated the city limits of Herculaneum as nonattainment for the 2008 Lead NAAQS based on air quality data from 2007-2009. Herculaneum contains the nation's only primary lead smelter, which shall be shutting down its smelting (blast furnace and sinter plant) operations on or before April 30, 2014. This plan includes an emissions inventory, control measures, contingency measures and a technical demonstration that the proposed emission controls will result in the attainment of the 2008 Lead NAAQS for the area. Six (6) comments were received concerning this proposed plan during the public comment period. Revisions were made to the plan as a result of these public comments.

The complete document has not been reprinted in the briefing document due to its volume. The entire document is available for review at the Missouri Department of Natural Resources', Air Pollution Control Program, 1659 East Elm Street, Jefferson City, Missouri 65101, (573) 751-4817. The plan and its appendices are also available for viewing at <http://www.dnr.mo.gov/env/apcp/stateplanrevisions.htm>

The Missouri Department of Natural Resources' Air Pollution Control Program (Air Program) recommends the commission adopt the plan action as amended. If the commission adopts this plan action, it will be the Air Program's intention to submit this plan to the U.S. Environmental Protection Agency (EPA) for inclusion in the Missouri State Implementation Plan.

SUMMARY OF COMMENTS: The Air Program received six (6) comments from two (2) sources: The Doe Run Company and EPA.

COMMENT #1: The Doe Run Company commented that it appreciates the cooperation and professionalism of the Air Program's Air Quality Planning Section staff throughout this lengthy and complex process. Doe Run supports the final approval of this plan by the Missouri Air Conservation Commission and asserts that this SIP revision meets all applicable federal Clean Air Act requirements through enforceable control measures that demonstrate, through modeling, attainment of the 2008 Lead NAAQS.

RESPONSE: The Air Program also appreciates Doe Run's support and cooperation in the development of this plan. No change was made to the plan as a result of this comment.

COMMENT #2: EPA commented that language in paragraph 7.A of the proposed consent judgment (found in Appendix O) implies that the fenceline at the Herculaneum facility could be made smaller than the referenced minimum distance from the facility without modification to the SIP. EPA understands that the Air Program will be establishing a minimum zone of public access preclusion so that Doe Run has the ability to relocate its existing fenceline to this minimum referenced attainment boundary but EPA asserts that any fenceline changes smaller than this referenced zone of public access preclusion will require a new SIP revision and corresponding modeling and Consent Judgment modifications. EPA suggests that the Consent Judgment language be changed to reflect this requirement.

RESPONSE AND EXPLANATION OF CHANGE: As referenced by the commenter and as will be discussed in greater detail in the next comment, the Air Program has now used refined modeling to define the ambient air / attainment boundary within the current existing fenceline. Any shrinking of the fenceline below this minimum zone of public access preclusion will require an appropriate SIP revision. As a result of this comment, all parties have agreed to remove the last sentence of paragraph 7.A of the proposed Consent Judgment to avoid confusion because it could be interpreted to mean that only impact modeling, and not a full SIP revision, would be required in the event of a fenceline change below the minimum established levels.

COMMENT #3: In a similar comment, Doe Run also pointed out that the proposed Consent Judgment contemplates a zone of public access preclusion inside the current fenceline around the buildings of any remaining operations. The proposed plan modeled attainment with the 2008 Lead NAAQS with a margin of safety at the current fenceline but the SIP document was not clear as to the precise location of this attainment boundary in anticipation of the more refined modeling within the existing fenceline. Doe Run's consultant, Shell Engineering, conducted, and submitted to the Air Program, modeling at 10 meter intervals within the fenceline to confirm the Air Program's similar refined modeling run. Doe Run provides language for suggested changes to sections 5.1 & 5.3 of the proposed SIP document as well as a clarification in paragraph 7.A of the Consent Judgment. Paragraph 7.A, in turn, refers to Appendix G to establish the minimum zone of public access preclusion. The commenter further recommends that Appendix G be amended to include the enforceable coordinates of the perimeter receptors of this ambient air / attainment boundary zone as a result of this tighter receptor grid modeling completed inside the area which is currently considered non-ambient.

RESPONSE AND EXPLANATION OF CHANGE: As a result of ongoing discussions and these comments, consensus was reached among the Air Program, EPA and Doe Run that it is appropriate to allow Doe Run the flexibility to reduce the current fenceline down to the point that models attainment. This will benefit the community by expediting any future redevelopment / land reuse plans. Because of the margin of safety modeled at the current fenceline and because of the significant reductions in lead air emissions as a result of the shutdown of the blast furnace and sinter plant, the Consent Judgment was drafted with the intent of establishing a zone of public access preclusion surrounding the remaining process buildings (current refinery and strip mill) as the commenters stated. In order to define the zone, the Air Program conducted refined modeling inside the current fenceline with a very fine receptor grid of 10 meters for both control strategy scenarios. This very fine receptor grid spacing represents the approximate distance between hypothetical "fence posts" that are being used to define this minimum zone of public access preclusion (necessary to establish the ambient / attainment boundary). The results of the modeling showed that these non-ambient or preclusion zones for Scenario A are larger than the

same corresponding zones surrounding the current refinery and strip mill for Scenario B. To be the most conservative, the larger of the two areas' zones, (Scenario A's zones) are being used to establish these minimum zones of public access preclusion regardless of which operating Scenario Doe Run chooses. The plan still requires Doe Run to notify the Air Program of all fenceline modifications. Also, any changes to the control strategy beyond what is contained in this plan or any fenceline modifications below these minimum modeled zones would require a new corresponding SIP revision with appropriate air dispersion modeling as discussed above in the previous comment. As a result of this comment, similar language, to that suggested by Doe Run, was added to sections 5.1 through 5.3 of the SIP document. In addition, Chapter 6 *Attainment Demonstration* was revised with corresponding applicable text. Two figures illustrating the refined modeling results, the current fenceline along with these minimum zones of preclusion were added or modified and the figures were renumbered as appropriate. Paragraph 7.A of the proposed Consent Judgment was modified slightly to clarify that the minimum zones of public access preclusion are enforceable as indicated in Appendix G. Lastly, Appendix G was updated with the map and perimeter coordinates of the two attainment boundary zones surrounding the remaining process buildings of the strip mill and current refinery.

COMMENT #4: In another comment, Doe Run cites section 2.1 *Air Quality Monitoring Network* which states that “[m]onitoring data from Doe Run monitors shall be conducted pursuant to a Quality Assured Project Plan (QAPP)”. Doe Run suggests an edit to clarify that the current QAPP for the collection of data at the Doe Run monitors has already been approved by the Air Program and the facility will continue to monitor consistent with this QAPP.

RESPONSE AND EXPLANATION OF CHANGE: The paragraph of the proposed SIP document quoted by the commenter is not entirely clear as to whether the applicable air quality monitoring QAPP is currently approved. The Air Program has approved Doe Run's air quality monitoring QAPP, so as a result of this comment, Doe Run's suggested edit was incorporated into the final version of this plan as recommended.

COMMENT #5: Doe Run suggests revisions to Section 8.1 *List of Contingency Measures* to eliminate potential misinterpretation as to the schedule and implementation of the contingency measures.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program intended this section of the proposed plan to be merely a list contingency measures and refers the reader to the Consent Judgment for the exact details of how and when the contingency measures are to be implemented. Nonetheless, in deference to the comment and for clarity, edits similar to those suggested by Doe Run have been made to this section of the SIP document to better reflect the timeframe and triggering scheme of each individual contingency measure.

COMMENT #6: Doe Run commented that they have provided a mark-up or red-line version of the SIP and Consent Judgment with numerous typographical corrections and minor clarifications, as well edits to make the documents consistent with those of the 2013 Buick/Viburnum Lead Attainment Demonstration SIP revision where appropriate.

RESPONSE AND EXPLANATION OF CHANGE: The Air Program appreciates Doe Run's thorough review of the plan documents and as a result of this comment, has made most of the suggested minor edits. Any changes to the Consent Judgment have been reviewed and agreed to by the parties involved including the Missouri Attorney General's Office.

**COMMENTS AND RESPONSES ON
THE PROPOSED REVISION TO
THE MISSOURI STATE IMPLEMENTATION PLAN —
EARLY PROGRESS PLAN
FOR THE MISSOURI PORTION OF THE ST. LOUIS NONATTAINMENT AREA FOR
THE 2008 8-HOUR GROUND-LEVEL OZONE
NATIONAL AMBIENT AIR QUALITY STANDARD
AND
RECOMMENDATION FOR ADOPTION**

On February 5, 2013, the Missouri Air Conservation Commission held a public hearing in Jefferson City, Missouri concerning this proposed revision to the Missouri State Implementation Plan (SIP). This proposed revision to the SIP will add the following Early Progress Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-hour Ground-Level Ozone National Ambient Air Quality Standard (NAAQS). This early progress plan provides the basis for establishing transportation conformity motor vehicle emission budgets for Missouri's portion of St. Louis nonattainment area under the 2008 ozone NAAQS. The following is a summary of comments received and the Missouri Department of Natural Resources' corresponding responses. Any changes to the proposed plan are identified in the responses to the comments.

The document has not been printed in the briefing document due to its volume. The complete document, as amended, is available for review at the Missouri Department of Natural Resources', Air Pollution Control Program, 1659 East Elm Street, Jefferson City, Missouri 65101, (573) 751-4817. It is also available online at <http://www.dnr.mo.gov/env/apcp/stateplanrevisions.htm>

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the plan action as amended. If the commission adopts this plan action, it will be the department's intention to submit this plan to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

SUMMARY OF COMMENTS: The department's Air Pollution Control Program received two comments from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA commented that the narrative in Section 3 of the plan, the Transportation Conformity Section, indicated that the new motor vehicle emissions budgets established in the plan will replace the current motor vehicle emissions budgets established under the 1-hour ozone NAAQS. They noted that while the current budgets will no longer be used once the new budgets are found adequate by EPA, they will continue to exist, and therefore are not being replaced. EPA offered suggested language to better describe this situation.
RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program appreciates the EPA's comment that provides greater clarity and technical accuracy regarding the new motor vehicle emissions budgets established in the plan. As a result of this

comment, the plan has been revised by incorporating language that is consistent with EPA's suggestion into the Transportation Conformity Section of the document.

COMMENT #2: The EPA suggested a language revision to Section 2 of the plan in order to provide additional clarity regarding the demonstration of progress towards attainment.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program appreciates the EPA's suggested language that improves clarity and accuracy of the plan. As a result of this comment, the plan has been revised by incorporating EPA's suggested language into Section 2, the Demonstration of Progress towards Attainment Section of the document.