

and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is our decision on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on an analysis of the action being taken. The decision by OSM not to approve the State program amendment and, therefore, the transfer of \$3,840,000 from the Fund to the Commonwealth's General Fund is an administrative action that does not impose new obligations or requirements on small entities as determined by the size standard of the Small Business Administration at 13 CFR 121.201.

Small Business Regulatory Enforcement Fairness Act

For the reasons previously stated, this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates

For the reasons previously stated, this rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 21, 2004.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 917.17 is amended by revising the section heading and adding paragraph (c) to read as follows:

§ 917.17 State regulatory program amendments not approved.

* * * * *

(c) The amendment to Kentucky's program transferring \$3,840,000 from the Kentucky Bond Pool Fund to the Commonwealth's General Fund for the 2002–2003 fiscal year is not approved. The use of the Fund to provide new financial guarantees is hereby suspended.

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[FR Doc. 04–10746 Filed 5–12–04; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–MO–0001; FRL–7661–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) which updates changes to the non-regulatory portion of the Inspection and Maintenance (I/M) Program for the St. Louis area. The original SIP for the centralized St. Louis I/M program was approved in 2000 and the program was implemented in April 2000. Due to a regulatory amendment, the SIP was revised in 2002. At that time, the non-regulatory portion of the SIP was not revised. Approval of this revision will ensure consistency between the description of the program included in the approved SIP and the current Missouri program description.

DATES: This direct final rule will be effective July 12, 2004, without further notice, unless EPA receives adverse comment by June 14, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–MO–0001, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the

system, select "quick search;" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: Alan Banwart
banwart.alan@epa.gov.

4. Mail: Alan Banwart, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

Instructions: Direct your comments to RME ID No. R07-OAR-2004-MO-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT:

Alan Banwart at (913) 551-7819, or by e-mail at banwart.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

What Is the Federal Approval Process for a SIP?

What Does Federal Approval of a State Regulation Mean to Me?

What Is Being Addressed in This Document? Have the Requirements for Approval of a SIP Revision Been Met?

What Action Is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

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

and a formal adoption by a state-authorized rulemaking body.

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

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

What Does Federal Approval of a State Regulation Mean to Me?

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

What Is Being Addressed in This Document?

A request to revise the non-regulatory portion of the Vehicle Inspection and Maintenance (I/M) SIP for the St. Louis area was submitted to us. The SIP for the St. Louis I/M program was approved in 2000 and the program was implemented in April 2000. Due to a regulatory amendment, the SIP was revised in 2002. At that time, the non-regulatory portion of the SIP was not revised. The non-regulatory portion is the narrative description of the current I/M program. While the narrative description does not change regulatory requirements, some portions are necessary to meet the requirements of the Federal I/M rule. Other portions of the description are for informational purposes and do not address SIP elements required by the Federal rule. This revision will ensure consistency between the program description in the SIP and the current Missouri program description.

The information submitted on October 1, 2003, included a signed

approval of the Missouri SIP by the Missouri Air Conservation Commission (MACC), all public notice articles and a record of the public hearing. It also included the Missouri SIP for the Vehicle Inspection and Maintenance Program for the St. Louis Maintenance Area. There were 14 parts of the SIP submitted which included the non-regulatory section of the SIP and 13 SIP attachments: (1) State of Missouri Statutory Authority; (2) State of Missouri I/M Rules and Regulations; (3) Memorandums of Understanding; (4) I/M Contract with ESP Missouri, Inc.; (5) State of Missouri I/M Budget: Fiscal Year 2000; (6) MOBILE6 Input and Output Files; (7) MOBILE6 Sample Calculations; (8) Number of Vehicles in the I/M Program, Number of Exempt Vehicles in the I/M Program and Number of Private and Local Government Fleets in the I/M Program; (9) Procedures and Specifications; (10) ZIP Code Listing Covering the I/M Program; (11) Public Education Plan;

(12) Missouri Department of Revenue's Contract with Fee Offices; (13) State of Missouri Rule 11 CSR 50-2.400 Emissions Test Procedures for Franklin County.

The required public's comments section was submitted to the EPA on August 21, 2003.

On November 5, 2003, MDNR submitted a letter that included the correct material identifying and describing the program that was missing or out-dated from the original submittal. Attachment 2: State of Missouri I/M Rules and Regulations replaced the outdated information with the latest revision of 10 CSR 10-5.375 and 10 CSR 10-5.380. This submittal also included a new title for Attachment 5: State of Missouri I/M Budget: Fiscal Year 2004.

On December 19, 2003, MDNR sent Attachment 7: MOBILE 6 Sample Calculations, to the EPA via email, because the original attachment did not contain any information concerning the calculation.

For clarification, a list of the significant changes between the old and new non-regulatory SIP provisions is provided below.

Section A—Applicability

Updated census population of the counties in I/M area.

Section C—I/M Performance Standard for the Enhanced and Basic Program

The Program now uses MOBILE 6 instead of MOBILE 5b to determine if the performance standard is met.

Section D—Network Type and Program Evaluation

With MOBILE 6 as the new performance standard model, a comparison with the Gateway Clean Air Program (GCAP) and the Basic EPA Performance Standard was done to show that GCAP was meeting the standard. Here are the results:

COMPOSITE EMISSION FACTOR AT 19.6 MILES PER HOUR

Types of program	VOC (gpm)	CO (gpm)	NO _x (gpm)
No I/M Controls	1.45	15.91	2.54
EPA Basic Performance Standard	1.38	15.04	2.53
Missouri I/M Program	1.26	13.42	2.41
EPA Enhanced Performance Standard	1.22	13.24	2.39

This demonstration meets the requirements of 40 CFR 51.372(a)(2). This element was previously approved based on the model applicable at the time of the prior approval in 2000.

Section G—Vehicle Fleet Coverage Using Diagnostic Inspection

Updated number of government agencies and their fleet vehicles in the I/M area.

Section H—Test Procedures and Standards

Phase-in of On-Board Diagnostics II (OBD II) began in January 2003, becoming mandatory in 2005. This replaces the initial OBD system. This revision reflects the revised program approved by EPA.

Section K—Waivers and Compliance Enforcement

Minimum expenditure for repairing a failing vehicle in order to receive a waiver in the enhanced area has been increased from \$75 to \$200 for 1971-1980 vehicles and \$200 to \$450 for 1981 and newer vehicles. The program description is revised to describe this change.

Section M—Quality Assurance

More detail is given on the requirements of conducting an overt audit. This revision describes the previously approved regulatory amendment.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations and including 40 CFR part 51, subpart S, Inspection and Maintenance Program Requirements.

What Action Is EPA Taking?

The EPA is approving the non-regulatory SIP revisions and we are processing this action as a direct final action because the revisions make routine changes to a non-regulatory

portion of the SIP which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves a state submission as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this

rule approves pre-existing provisions under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state submission describing implementation of a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 2004.

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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 16, 2004.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (e) is amended by adding an entry at the end of the table to read as follows:

§ 52.1320 Identification of Plan.

* * * * *
(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Vehicle I/M Program	St. Louis	10/1/03	05/13/04 [FR page citation].	

[FR Doc. 04-10874 Filed 5-12-04; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7660-3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion for the Florence Land Recontouring Landfill

Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II Office announces the deletion of the Florence Land Recontouring Landfill Superfund Site (Site) from the National Priorities List (NPL). Within the NPL, this Site is listed as being located in the Township of Florence. However, portions of the Site are also located in the Townships of Mansfield and Springfield, Burlington County, New Jersey. The NPL constitutes appendix B to the