

make these modifications to § 301.7701-2(b)(8). In addition, in accordance with Notice 2004-68, these regulations will be effective for the Estonian, Latvian, Liechtenstein, Lithuanian, and Slovenian entities formed on or after October 7, 2004, and for the European Economic Area entity formed on or after October 8, 2004. See also section 7805(b)(1)(C).

The status of an SE may be relevant to the application of various Federal income tax provisions, such as the subpart F same-country exception under section 954(c)(3). Treasury and the IRS are considering these issues and invite comments on any additional areas in which guidance on the Federal tax treatment of an SE may be warranted.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. As a result of the issuance of Notice 2004-68, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b). For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the notice of proposed rulemaking published in the proposed rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Ronald M. Gootzeit of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** In § 301.7701-2, paragraph (b)(8)(vi) is added to read as follows:

§ 301.7701-2 Business entities; definitions.

* * * * *

(b) * * *

(8) * * *

(vi) *Certain European entities.*

[Reserved]. For further guidance, see § 301.7701-2T.

* * * * *

■ **Par. 3.** Section 301.7701-2T is amended by adding paragraphs (b)(8)(vi) and (e) to read as follows:

§ 301.7701-2T Business entities; definitions (temporary).

(a) through (b)(8)(v) [Reserved]. For further guidance, see § 301.7701-2(a) through (b)(8)(v).

(b)(8)(vi) *Certain European entities.* The following business entities formed in the following jurisdictions:

- Estonia, Aktsiaselts;
- European Economic Area/European Union, Societas Europaea;
- Latvia, Akciju Sabiedriba;
- Liechtenstein, Aktiengesellschaft;
- Lithuania, Akcine Bendroves;
- Slovenia, Delniska Druzba.

(c) and (d) [Reserved]. For further guidance, see § 301.7701-2(c) and (d).

(e) *Effective dates.*

(1) and (2) [Reserved]. For further guidance, see § 301.7701-2(e)(1) and (2).

(3) The reference to the Estonian, Latvian, Liechtenstein, Lithuanian, and Slovenian entities in paragraph (b)(8)(vi) of this section applies to such entities formed on or after October 7, 2004, and to any such entity formed before such date from the date any person or persons, who were not owners of the entity as of October 7, 2004, own in the aggregate a 50 percent or greater interest in the entity. The reference to the European Economic Area/European Union entity in paragraph (b)(8)(vi) of this section applies to such entities formed on or after October 8, 2004.

* * * * *

Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

Approved: March 28, 2005.

Eric Solomon,
Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05-6716 Filed 4-13-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA-121-FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises Virginia's Coal Surface Mining Reclamation Regulations concerning performance bonds furnished pursuant to the Coal Surface Mining Reclamation (Pool Bond) Fund. The amendment is intended to conform the performance bond release procedures that are applied to Virginia's "alternative bonding system" with bond release procedures used for other performance bonds. The amendment is also intended to clarify language regarding minimum bond amounts for phased bond release.

DATES: Effective April 14, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office; Telephone: (540) 523-4303. Internet: rpenn@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Virginia Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the

Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning Virginia's program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

II. Submission of the Amendment

By letter dated July 20, 2004 (Administrative Record Number VA-1036), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. The program amendment revises Virginia's Coal Surface Mining Reclamation Regulations concerning performance bonds furnished pursuant to the Coal Surface Mining Reclamation (Pool Bond) Fund. The amendment also clarifies language regarding minimum bond amounts set for phased bond release.

We announced receipt of the proposed amendment in the September 14, 2004, **Federal Register** (69 FR 55375). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Number VA-1043). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 14, 2004. We received comments from one State agency and three Federal agencies. By letter dated February 16, 2005, DMME sent us a letter that clarifies how the State interprets and would implement the proposed amendment concerning minimum bond amount at 4 VAC 25-130-801.17 (Administrative Record Number VA-1046).

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

The Virginia regulations at 4 VAC 25-130 part 801 concern the Coal Surface Mining Reclamation Fund, penalties, and self-bonding. The proposed amendment revises 4 VAC 25-130-801.17, concerning bond release application, and 4 VAC 25-130-801.18, concerning criteria for release of bond.

In its submittal of this amendment to OSM, the DMME stated that Virginia is amending its regulations at 4 VAC 25-130-801.17, to conform the performance bond release procedures that are applied to bonds furnished pursuant to the Coal Surface Mining Reclamation (Pool Bond) Fund, Virginia's "alternative bonding system," with bond release

procedures used for other performance bonds. The DMME stated that the amendment will allow use of a phased bond release for all permitted coal mine sites in Virginia.

1. 4 VAC 25-130-801.17

This provision is amended by adding and deleting language at 4 VAC 25-130-801.17(a), by deleting 4 VAC 25-130-801.17(a)(1) through (a)(3), and by deleting 4 VAC 25-130-801.17(b) through (e). As amended, 4 VAC 25-130-801.17 provides as follows:

(a) The permittee participating in the Pool Bond Fund, or any person authorized to act upon his behalf, may file an application with the division [Division of Mined Land Reclamation] for the Phase I, II or III release of the bond furnished in accordance with 4 VAC 25-130-801.12(b) for the permit area or any applicable increment thereof. The bond release application, the procedural requirements and the released percentages shall be consistent with the release criteria of 4 VAC 25-130-800.40. However, in no event shall the total bond of the permit be less than the minimum amounts established pursuant to Section 45.1-241 and 45.1-270.3B of the Virginia Coal Surface Mining Control and Reclamation Act prior to completion of Phase III reclamation of the entire permit area.

We find that the proposed amendments are no less effective than the Federal regulations and can be approved for the following reasons. The State's rules at 4 VAC 25-130-801.17(a) concern bond release application procedures for Pool Bond Fund participants. Virginia has added the following requirement at 4 VAC 25-130-801.17(a):

The bond release application, the procedural requirements and the released percentages shall be consistent with the release criteria of 4 VAC 25-130-800.40.

The Virginia regulations at 4 VAC 25-130-800.40 concern the requirements to release performance bonds and are substantively identical to the Federal performance bond release requirements at 30 CFR 800.40. Under the revised provision quoted directly above, the bond release procedures for Pool Bond Fund participants will be the procedures specified at 4 VAC 25-130-800.40. With this change, all Virginia permittees are subject to the bond release requirements at 4 VAC 25-130-800.40. We find the proposed change is consistent with and no less effective than 30 CFR 800.40 and can be approved.

Virginia has also proposed to delete the existing bond release procedures at 4 VAC 25-130-801.17 that were specific to Pool Bond Fund permits. We find that the addition of the requirement that Pool Bond Fund participants must

comply with the bond release procedures at 4 VAC 25-130-800.40 renders the deleted language at 4 VAC 25-130-801.17 unnecessary. Therefore, we find that the deletion of that language does not render 4 VAC 25-130-801.17 less effective than the Federal bond release requirements at 30 CFR 800.40 and can be approved.

Virginia has added language at 4 VAC 25-130-801.17(a), which provides that a permittee may file an application for the "Phase I, II or III release" of the bond for "the permit area or any applicable" increment "thereof." We find these changes to be consistent with and no less effective than the Federal performance bond requirements at 30 CFR 800.40(c) which allows the release of all or part of a performance bond for the permit/increment area in accordance with a three-phase schedule of reclamation and can be approved.

Virginia also amended 4 VAC 25-130-801.17(a) by revising language that previously stated that in no event shall the total bond of the permit be less than the minimum amounts established pursuant to 4 VAC 25-130-801.12(b) prior to completion of the required reclamation. The provision was revised by deleting the regulatory citation and adding in its place the citations of two Virginia Coal Surface Mining Control and Reclamation Act (VA Code) provisions and additional language. The amended language provides as follows:

However, in no event shall the total bond of the permit be less than the minimum amounts established pursuant to Sections 45.1-241 and 45.1-270.3B of the Virginia Coal Surface Mining Control Act prior to completion of Phase III reclamation of the entire permit area.

During our review of this provision, it was unclear as to what the minimum bond amount is pursuant to Sections 45.1-241 and 45.1-270.3B of the VA Code prior to completion of Phase III reclamation of the entire permit area because VA Code Sections 45.1-241 and 45.1-270.3B contain different minimum bond amounts. Therefore, we asked DMME to explain which minimum bond amount would apply (Administrative Record Number VA-1045).

In its February 16, 2005, letter, the DMME clarified the meaning of the proposed minimum bond amount language at 4 VAC 25-130-801.17(a), and how the State will implement that provision. Specifically, the DMME stated that VA Code Section 45.1-270 applies to bond amounts for new permits or new acreage in the Pool Bond, while VA Code 45.1-241 authorizes the Division of Mined Land Reclamation (DMLR) to determine the

required bond amount, with a \$10,000 minimum to be retained after completion of Phase II reclamation. However, the actual bond amount to be retained will be determined on a case-by-case basis, based on the amount needed to assure the completion of reclamation work if the work must be performed by DMLR in the event of bond forfeiture. The amount of bond to be released on completion of Phase II reclamation will be determined based upon any remaining reclamation and revegetation costs to be expected.

The DMME also stated that implementation of this procedure (minimum bond amount of \$10,000 as described above) would not cause a negative impact on the reclamation fund. Phase II bond release will only be approved, the DMME stated, upon meeting the success standards required for a Phase II bond release.

Section 509(a) of SMCRA provides that the amount of bond shall be sufficient to assure the completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of forfeiture, and in no case shall the total bond initially posted for the entire area under one permit be less than \$10,000. Virginia's approved statutory counterpart to 509(a) of SMCRA is VA Code Section 45.1-241.A. All Pool Bond Fund participants must comply with the applicable parts of Section 45.1-241. See 4 VAC 25-130-801.11(b)(2). The Federal regulations at 30 CFR 800.40(c) do not specify a dollar amount that the regulatory authority must retain after completion of Phase II reclamation, but, instead, require an amount that "would be sufficient to cover the cost of reestablishing revegetation."

For the reasons discussed above, we find that the proposed revision to the State's minimum bond amount language at 4 VAC 25-130-801.17(a) is not inconsistent with the Federal bond release provisions at 30 CFR 800.40 and can be approved.

2. 4 VAC 25-130-801.18

This provision is amended by adding and deleting language at 4 VAC 25-130-801.18(a) and (b), by deleting 4 VAC 25-130-801.18(c), and by amending and renumbering existing 4 VAC 25-130-801.18(d) as 4 VAC 25-130-801.18(c). As amended, 4 VAC 25-130-801.18 provides as follows:

(a) The division shall release bond furnished in accordance with Section 45.1-241 and 45.1-270.3 of the Virginia Coal Surface Mining Control and Reclamation Act through the standards specified at 4 VAC 25-130-800.40 upon receipt of an application for Phase I, II or III release.

(b) The division shall terminate jurisdiction for the permit area, or any increment thereof upon approval of the Phase III bond release for that area.

(c) In the event a forfeiture occurs the division may, after utilizing the available bond monies, utilize the Fund [Pool Bond Fund] as necessary to complete reclamation liabilities for the permit area.

Virginia has amended 4 VAC 25-130-801.18, concerning criteria for the release of bond, by deleting most of the existing language concerning bond release procedures specific only to Pool Bond Fund permits. In place of the deleted language, Virginia added language that specifies that release must be in accordance with the bond release standards at 4 VAC 25-130-800.40. We find that the proposed changes at 4 VAC 25-130-801.18(a) are consistent with and no less effective than the Federal performance bond requirements at 30 CFR 800.40(c) (which allows for phased bond release) and can be approved.

Virginia added language at 4 VAC 25-130-801.18(b) which provides that the Division of Mined Land Reclamation "shall terminate jurisdiction for the permit area, or any increment thereof upon approval of the Phase III bond release for that area." The Federal regulations at 30 CFR 700.11(d)(1)(ii) provide that the regulatory authority may terminate its jurisdiction over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, when the regulatory authority has made a final decision in accordance with the State program counterpart to 30 CFR part 800, concerning performance bonds, to release the performance bond fully. If a regulatory authority chooses to terminate jurisdiction, then the Federal regulations require that the regulatory authority must have the ability to reassert its jurisdiction in certain circumstances. Virginia, at 4 VAC 25-130-700.11(c)(2), as part of its approved program, already provides for reassertion of its jurisdiction in certain circumstances. Thus, when 4 VAC 25-130-801.18(b) and 4 VAC 25-130-700.11(c)(2) are read in conjunction with each other, we find that this requirement is no less effective than 30 CFR 700.11(d)(1)(ii) of the Federal regulations. Therefore, this provision can be approved.

Virginia deleted the words "after partial bond release" at former 4 VAC 25-130-801.18(d) (now 801.18(c)). The deletion is intended to clarify that a bond may be for the entire permit area or an increment thereof. This revision renders the provision consistent with revisions to 4 VAC 25-130-801.17, which clarify that bond furnished under

4 VAC 25-130-801.12 may be for an entire permit area or for an increment thereof. We find that this revision is consistent with and no less effective than the Federal regulations at 30 CFR 800.50(c), concerning forfeiture of bonds, and with 30 CFR 800.11(e), concerning alternate bonding systems. The Federal regulations at 30 CFR 800.50(c) provide that upon default, the regulatory authority may cause the forfeiture of any and all bonds deposited to complete reclamation for which the bonds were posted. The Federal regulations at 30 CFR 800.11(e) provide that alternative bonding systems must assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time. Therefore, the amendments at 4 VAC 25-130-801.18(b) can be approved.

IV. Summary and Disposition of Comments

Public Comments

The Commonwealth of Virginia, Department of Historic Resources responded and stated that it had reviewed the materials submitted and has no objection to the proposed amendment (Administrative Record Number VA-1040).

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on August 2, 2004, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Virginia program (Administrative Record Number VA-1038). The United States Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that it has no comments on the proposed amendment (Administrative Record Number VA-1042). The United States Bureau of Land Management (BLM) reviewed the proposed amendments but provided no comments on the proposed amendments (Administrative Record Number VA-1039).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Virginia proposed to make in this amendment pertain to air or

water quality standards. Therefore, we did not ask EPA to concur on the amendment. Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Number WV-1038).

The EPA responded by letter dated August 27, 2004 (Administrative Record Number VA-1041), and stated that there are no apparent inconsistencies with the Clean Water Act or other statutes or regulations under EPA's jurisdiction. EPA also stated that, regarding bond release, its main concern is that there must be available funds—whether in individual performance bonds, a bond pool, other types of financial assurance, or a combination of these—to guarantee remediation of any land disturbed or water impaired in case the responsible party goes out of business. EPA offered no other comments. We agree with EPA's comment that there must be sufficient bond to guarantee reclamation of any land disturbed or water impaired in case the permittee is unable to complete the reclamation. The proposed amendment to 4 VAC 25-130-801.18 specifically requires that in the event of a bond forfeiture, Virginia shall first use available bonds and then money from the Pool Bond Fund to complete reclamation of the permit area.

V. OSM's Decision

Based on the above findings, we approve the amendment sent to us by Virginia on July 20, 2004.

To implement this decision, we are amending the Federal regulations at 30 CFR part 946, which codify decisions concerning the Virginia program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society 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. This final rule applies only to the Virginia program and therefore does not affect tribal programs.

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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

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. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 14, 2005.

Brent Wahlquist,

Regional Director, Appalachian Region.

■ For the reasons set out in the preamble, 30 CFR part 946 is amended as set forth below:

PART 946—VIRGINIA

■ 1. The authority citation for part 946 continues to read as follows:

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

■ 2. Section 946.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 946.15 Approval of Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
July 20, 2004	April 14, 2005 ...	4 VAC 25-130-801.17 and 801.18.

[FR Doc. 05-7495 Filed 4-13-05; 8:45 am]
BILLING CODE 4310-05-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06-OAR-2005-NM-0001; FRL-7897-6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving State Implementation Plan (SIP) revisions submitted by the Governor of New Mexico on September 7, 2004. The submittal revises the second ten-year carbon monoxide (CO) maintenance plan for the Albuquerque/Bernalillo County, New Mexico area. The submittal also revises the relevant parts of the New Mexico Administrative Code (NMAC) including revisions to the General Provisions, Inspection and Maintenance (I&M) Program, and the contingency measures. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (the Act).

DATES: This rule is effective on June 13, 2005 without further notice, unless EPA receives relevant adverse comment by May 16, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-NM-0001, by one of the following methods:

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

Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (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.

U.S. EPA Region 6 “Contact Us” Web site: <http://epa.gov/region6/r6coment.htm>. Please click on “6PD” (Multimedia) and select “Air” before submitting comments.

E-mail: Mr. Thomas Diggs at diggs.thomas@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special

arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-NM-0001. The EPA’s policy is that all comments received will be included in the public file 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 the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov 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 file 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