

potential strategies for reducing emissions from the shipping channel if needed for attainment.

Locomotives

In Measure M14, CARB assumed locomotive emission reductions from two EPA programs. The first of these programs was the statutorily required EPA national regulation for locomotives and locomotive engines, (national locomotive regulation). EPA expects that the planned national locomotive regulation will provide all of the CARB SIP credits with the exception of the 67% reduction in NO_x emissions in the South Coast by 2010.

To address the South Coast's need for further emission reductions EPA has considered a special locomotive program for the South Coast. This program would require that all locomotives operating in the South Coast achieve on average, an emission level equal to EPA national locomotive regulation tier 2 standards. Since these standards are technology forcing, the practical requirement would be to require an accelerated fleet turnover in the South Coast such that only the newest engines meeting the EPA tier 2 standards would operate in the South Coast. This program would provide a 66% reduction in locomotive NO_x emissions in the South Coast by 2010 and result in a NO_x emission level of 12 tons/day in the South Coast. The railroads that operate in the South Coast voluntarily agreed to this program. EPA is continuing to explore innovative approaches to establish the South Coast clean locomotive fleet program as part of the SIP.

Aircraft

Measure M15 calls for U.S. EPA to adopt standards to effect a 30 percent reduction in reactive organic gases (ROG) and NO_x emissions beginning in 2000. M15 apparently applies to new commercial aircraft engines, but also suggests reconsideration of the exempt status of military aircraft.

The Federal Clean Air Act authorizes EPA to establish emission standards for aircraft engines. In recognition of this preemptive authority, the SIP assigns new nationwide emission standards for commercial aircraft engines to EPA that would reduce ROG and NO_x emissions from this source by 30 percent beginning in 2000. The SIP also correctly acknowledges that military aircraft engines are currently exempt from emission standards, which otherwise apply to commercial aircraft engines. In this regard, the SIP recommends that the exempt status of these aircraft be reconsidered.

The International Civil Aviation Organization (ICAO) is the most appropriate forum for establishing commercial aircraft engine emission standards due to the international nature of the aviation industry. EPA has actively participated in considering more stringent NO_x standards as part of ICAO's Committee on Aviation Environmental Protection (CAEP) in the intervening period since the FIP. In December 1995, CAEP recommended a 16 percent increase in stringency for the NO_x standard that applies to medium and large turbine engines used on commercial aircraft. The revised standard would affect newly certified engines (i.e., engine models produced for the first time) beginning in 2000, and all newly manufactured engines (i.e., engines already being produced) in 2008. The revised standard would not affect engines already in air service. No revision of the hydrocarbon emission standard was considered by CAEP at the time, principally because modern turbine engines are considered very "clean" in this regard.

The CAEP recommendation will now move through the ICAO hierarchy for consideration. Initially, the ICAO Council will act on the recommendation. If the Council finds it acceptable, the revision moves to the full ICAO Assembly for final action. This process may not be complete until the spring of 1998.

The emission benefits of any new NO_x standard will occur worldwide. These benefits, however, will gradually accrue over an extended period of time. More specifically, the full benefits of the revised standard will not occur until well after 2010, because of the 2008 date for full implementation of the standard and the slow fleet turnover to new, cleaner engines (e.g., aircraft last about 25 years in active service.) Therefore, very few of the potential benefits will be realized by the SIP's attainment date. Turning to the exemption for military engines, EPA agrees with the SIP recommendation that such a blanket exemption should be reconsidered. The Agency is preparing a notice of proposed rulemaking to formally adopt the existing ICAO NO_x and CO standards, and will request comment on the need for and feasibility of applying emission standards to military engines. This notice is currently scheduled for publication during fiscal year 1997, due to competing budgetary priorities.

EPA has also continued to explore other ways to reduce the environmental effects of air travel in California and throughout the nation in the intervening period since the FIP. More specifically, the Agency and the Federal Aviation

Administration (FAA) are working cooperatively to encourage continuing progress in reducing emissions from ground service equipment and aircraft auxiliary power units. EPA has sponsored additional work to compile technical data and emission inventory methods. This information will be used by the Federal Aviation Administration to develop an Advisory Circular for use by airlines and airport authorities interested in reducing the emissions from these sources.

Pleasurecraft

Measure M16 assumes that U.S. EPA finalizes proposed national ROG and NO_x standards for various categories of new engines used in watercraft.

EPA has not yet finalized the rulemaking on emission standards for spark-ignition marine engines. The court ordered deadline for signature of the final rulemaking is May 31, 1996. EPA has issued guidance to states on the amount of credit that will be allowed due to this rulemaking. These emission standards will apply to new marine engines beginning in model year 1998. There is no second phase rulemaking planned.

EPA has not yet finalized the rulemaking on emission standards for compression-ignition marine engines. The court ordered deadline for signature of the final rulemaking is May 31, 1996. EPA has not yet issued guidance to states on the amount of credit that will be allowed due to this rulemaking. These emission standards will apply to new marine engines beginning in model year 1999. The emission standards will achieve an approximate 30% reduction in new engine emissions. The inventory will be reduced as the fleet turns over.

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40 CFR Part 52

[MO-001-1001(b); FRL-5442-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to disapprove revisions to the air pollution control State Implementation Plan (SIP) submitted by the state of Missouri. The SIP pertains to the St. Louis vehicle inspection and maintenance (I/M) program. These revisions require the implementation of an enhanced motor vehicle I/M program in the St. Louis

metropolitan area, i.e., Jefferson, St. Louis, and St. Charles counties, and St. Louis city. This proposal is being published to meet the EPA's statutory obligation under the Clean Air Act (CAA).

DATES: Comments must be received on or before April 17, 1996.

ADDRESSES: Comments may be mailed to Stanley A. Walker, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Stanley A. Walker at (913) 551-7494.

SUPPLEMENTARY INFORMATION:

I. Introduction

The CAA as amended in 1990 (the Act) requires areas that do not meet the National Ambient Air Quality Standard for ozone pollution to adopt either a "basic" or an "enhanced" I/M program, depending on the severity of the problem and the population of the area. The Act further requires each state, with an area required to have an I/M program, to incorporate the I/M requirements into its SIP. Section 182(b)(4) requires basic I/M programs to be updated and implemented in any 1990 Census-defined urbanized area classified as moderate ozone nonattainment, e.g., the St. Louis nonattainment area. In order to correct deficiencies in its basic program and to obtain greater emission reductions (as explained below), Missouri opted to establish an enhanced program. The state is required to comply with the I/M requirements published in the Federal Register (57 FR 52950) I/M Program Requirements (I/M rule) on November 5, 1992, codified at 40 CFR Part 51, subpart S, as those requirements relate to basic I/M programs.

One reason for Missouri's election to develop an enhanced I/M program is that section 182 (b)(1)(A) of the CAA requires states, with nonattainment areas classified as moderate and above for ozone, to develop a plan to reduce areawide volatile organic compound (VOC) emissions from a 1990 baseline by 15 percent. The reduction must account for growth in emissions between 1990 and 1996. Missouri, like other states, was required to submit the plan by November 15, 1993, and reductions were required to be achieved within six years after enactment or by November 15, 1996.

In addition, for areas such as St. Louis, the Act prohibits credit toward the 15 percent reduction for basic I/M programs. On May 25, 1995, Missouri submitted to the EPA a plan to reduce VOC emissions by 15 percent compared

to 1990 VOC emission levels. The plan included reasonably available control technology corrections, stationary source rules, and an enhanced I/M program. By implementing an enhanced program, Missouri could make the required improvements in its existing program and gain greater emission reduction benefits which are creditable toward the rate-of-progress plan (ROPP).

The enhanced I/M program can reduce mobile source emissions over 40 percent; consequently, it plays a vital role in Missouri's ability to meet the 15% ROPP. Based on Missouri's ROPP submission, the enhanced program accounts for a substantial amount of the necessary 15 percent emission reduction. Failure to implement a full enhanced I/M program limits the state's ability to meet all the requirements under section 182 of the Act and to attain the ozone standards.

Section 182(a)(2)(B) of the Act directed the EPA to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. Based on these requirements, the EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950), codified at 40 CFR 51.350 through 50.373.

The performance standard for enhanced I/M programs is normally based on a high-tech test designed for new technology vehicles (i.e., those with closed-loop control and, especially, fuel injected engines), including a transient loaded exhaust short test incorporating hydrocarbons (HC), carbon monoxide (CO), and nitrogen oxides (NO_x) cutpoints; an evaporative system integrity (pressure) test; and an evaporative system performance (purge) test. The performance standard for basic I/M programs remains the same as it has been since the initial I/M policy was established in 1978, pursuant to the 1977 Clean Air Act Amendments.

Although Missouri has submitted an enhanced I/M program, the EPA is proposing to act on the submittal with regard to compliance with the basic I/M requirements in section 182(b)(4) and 40 CFR Part 51, Subpart S, since those are the I/M requirements applicable to St. Louis. However, in order to assist the state in developing an enhanced program (should it choose to continue pursuit of that program), the EPA's review will also include an analysis of the submission as it relates to requirements for enhanced I/M.

Background on Missouri's Program

On January 1, 1984, the state of Missouri implemented a motor vehicle I/M program in the St. Louis metropolitan area. The St. Louis program is decentralized and jointly administered by the Missouri State Highway Patrol and the Missouri Department of Natural Resources (MDNR). The St. Louis I/M program was implemented to help reduce ozone and CO pollution through testing vehicle emissions and requiring those vehicles that have excessive emissions to be repaired.

The EPA first audited the St. Louis, Missouri, I/M program in 1985. The audit found that the St. Louis I/M program experienced a significant shortfall in achieving the minimum required VOC emission reductions necessary for an acceptable I/M program. As a follow-up to the 1985 audit, the EPA conducted a second audit of the St. Louis I/M program in 1987. The follow-up audit showed that the state had not made sufficient progress toward improving the program. Based on the continued low failure rate, an unrepresentative reporting on the tampering rate, and an excessive waiver rate, the I/M program again failed to achieve a level of emission reductions consistent with the minimum emission reduction requirements (MERR).

Since the St. Louis I/M program did not meet the minimum requirements, the EPA requested the state to submit a corrective action plan (CAP) to correct the St. Louis I/M program deficiencies. As part of the CAP, Missouri implemented computerized BAR-90 type analyzers on December 1, 1990.

The EPA conducted an audit of the revised program in August 1992. Despite improvements following the EPA's two previous audits, the St. Louis I/M program still had not demonstrated a level of VOC emission reductions consistent with the MERR for a basic program. The I/M program is an important strategy toward achieving healthful air quality in St. Louis. To maximize progress toward that goal, the state of Missouri and the EPA believed the most effective approach would be to implement a centralized, test-only program including high-tech testing.

As discussed in the EPA's I/M rule, states such as Missouri were required to submit an SIP by November 15, 1992, including a schedule, analysis, description, legal authority, and adequate evidence of funding and resources for program implementation discussed in section 51.372 (a)(1)-(a)(8).

Missouri, however, failed to submit an SIP revision which would meet the

requirements of applicable guidance and regulations for an I/M program. Therefore, on January 15, 1993, pursuant to section 179(a) of the CAA, the EPA made a finding of failure to submit a plan. As provided by the Act, Missouri had 18 months (until July 15, 1994) to submit a complete SIP revision or be subject to the sanction provisions identified in section 179(b).

Missouri could not adopt corrections to program deficiencies without additional legal authority. Therefore, on May 13, 1994, Missouri received legislative authority not only to correct the deficiencies identified in the current basic I/M program, but to implement a more cost-effective enhanced I/M program (Senate Bill 590). With legislative authority to implement the enhanced I/M program, MDNR and the EPA began working together to develop a complete SIP revision, which was necessary to stop the sanction clock. Although the 18-month clock expired, the EPA could not impose sanctions until the effective date of a final rulemaking prescribing the order in which the section 179(b) sanctions were to be applied. The final rulemaking (59 FR 39832) on the order of CAA sanctions was published on August 4, 1994, and became effective on September 6, 1994.

On September 1, 1994, Missouri submitted to the EPA a revised SIP for an enhanced I/M program. The plan had undergone proper notice and public hearing, and was adopted by the Missouri Air Conservation Commission (MACC) on August 28, 1994. The revision included a copy of the emergency rulemaking filed with the Secretary of State, a letter from the Attorney General's Office describing the legal authority for the emergency rulemaking, a copy of Senate Bill 590, and a Request for Proposal narrative. Through upfront coordination with MDNR, the EPA was able to determine that the SIP was complete on September 1, 1994. Thus, Missouri was able to avoid sanctions. Subsequent amendments were submitted by Missouri on May 25, 1995, in conjunction with the 15% ROPP. On June 29, 1995, Missouri submitted additional documentation for the I/M SIP. The rule was adopted by the MACC on July 27, 1995. However, during the 1995 legislative session, the Missouri legislature voted to delete I/M funding for operation of the centralized I/M program. Lack of I/M funding severely hinders Missouri's ability to implement several key aspects of the program (as explained below). Consequently, the EPA is proposing to disapprove Missouri's I/M SIP submission.

III. The EPA's Analysis of Missouri's I/M Program Submittal

As discussed above, sections 182(b)(4), 182(c)(3), 184(b)(1)(A), 187(a)(6), and 187(b)(1) of the Act require that states adopt and implement regulations for a basic or an enhanced I/M program in certain areas. The following sections of this notice summarize the requirements of the Federal I/M regulations and address whether the elements of the state's submittal comply with the Federal rule. Although Missouri opted to revise its SIP to implement an enhanced I/M program, the CAA merely required the state to submit a plan to correct deficiencies associated with the current basic I/M program. As such, the EPA's decision regarding the approvability of Missouri's SIP is based solely on the criteria for a basic program. However, because Missouri chose to correct its basic program by submitting an enhanced program, the EPA has also reviewed the submittal for compliance with the requirements of an enhanced program. Nonetheless, the deficiencies necessitating the proposed disapproval, described below, relate to requirements for a basic I/M program. Parties needing more specific information should consult the Technical Support Document.

Applicability—40 CFR Section 51.350

Sections 182(b)(4) of the Act and 40 CFR section 51.350(a) require all states classified as moderate ozone nonattainment, and not required to implement enhanced I/M, to implement an I/M program no less stringent than a basic I/M program. Implementation must occur in the nonattainment area.

The state's submittal contains legal authority and regulations necessary to establish the program boundaries for enhanced I/M. The program area which includes the St. Louis metropolitan nonattainment area, i.e., Jefferson, St. Charles, and St. Louis counties, and St. Louis city meets Federal requirements. Therefore, this portion of the SIP is approvable.

I/M Performance Standard—40 CFR Sections 51.351 and 51.352

Section 51.351 contains the performance standard for enhanced I/M programs, and section 51.352 contains the performance standard for basic programs. As provided in the state submittal, Missouri's program design parameters meet the Federal I/M regulations and are approvable. The emission levels achieved by the state were modeled using MOBILE5a. The modeling demonstration was performed

adequately using local characteristics and demonstrating that the program design meets the minimum enhanced I/M performance standards. Therefore, the SIP meets requirements for enhanced I/M programs under section 51.351. In addition, the SIP meets the basic I/M requirements under section 51.352.

Network Type and Program Evaluation—40 CFR Section 51.353

As required for enhanced programs in the I/M rule, Missouri's submittal provides for a centralized, test-only network. The SIP includes a discussion regarding program evaluation and includes a schedule for the biennial report. As indicated in the SIP, many program evaluation aspects will be accomplished by a contractor. However, the SIP lacks procedures describing the method by which the evaluation will be conducted. Therefore, the SIP does not meet the program evaluation requirements in section 51.353 of the I/M rule. However, the program evaluation criterion is required for enhanced I/M programs only. Therefore, this deficiency is not relevant to the EPA's proposed action with respect to the basic I/M requirements.

Adequate Tools and Resources—40 CFR Section 51.354

In accord with section 51.354 of the I/M rule, the state must provide a description of the resources and personnel to be used in the program. According to section 51.372, the state must demonstrate that adequate funding and resources for the program are available. Section 51.372(a)(8) requires that the SIP contain evidence of adequate funding and resources to implement all aspects of the program.

As required, the SIP includes a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP also includes a description of personnel resources dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions. The description of funding and resources is adequate for purposes of section 51.354. However, the SIP does not meet the Federal requirements for evidence of adequate tools and resources under section 51.372. See the discussion of section 51.372 below for more details.

Test Frequency and Convenience—40 CFR Section 51.355

The enhanced I/M performance standards assume an annual test

frequency; however, other schedules may be approved if the performance standard is achieved. In addition, Missouri must demonstrate that the network of stations providing the test services is sufficient to ensure short waiting times and short driving distances.

Missouri's enhanced I/M regulations provide for a biennial test frequency which meets the performance standard. However, the SIP lacks sufficient evidence that convenient services will be provided to the motorist. The state submittal lacks a signed contract or a completed Request for Proposal (RFP) that demonstrates the convenience requirements, which is required for enhanced I/M programs only, will be met. If Missouri chooses to rely on an enhanced I/M program to meet the I/M SIP element required by section 182(b)(4) and the ROPP requirement of section 182(b)(1), the state must address this requirement. Consequently, this portion of the SIP does not meet the Federal requirements for an enhanced I/M program. However, this deficiency is not relevant to the EPA's proposed action with respect to the basic I/M requirements.

Vehicle Coverage—40 CFR Section 51.356

According to Federal regulations, the SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a description of any special exemptions which will be granted by the program.

Missouri's enhanced I/M legislation requires coverage of 1971 and newer light-duty vehicles and light-duty trucks up to 8500 pounds gross vehicle weight rating which are registered or required to be registered in the I/M program area. This level of coverage is approvable because, overall, the program design meets the enhanced I/M performance standard. Also, Missouri is authorized in its enabling legislation to impose fleet testing requirements and requirements for special exemptions in accordance with Federal I/M requirements. This portion of the SIP is approvable.

Test Procedures and Standards—40 CFR Section 51.357

Consistent with Federal regulation, Missouri's submittal includes a description of the test procedures for transient, idle, evaporative system purge, evaporative system pressure testing, and a visual emission control device inspection. These test procedures conform to the EPA approved test procedures detailed in the Federal I/M rule and in the EPA document entitled

"High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications," EPA-AA-EPSPD-I/M-93-1, dated July 1993, and are approvable. The state I/M regulation establishes {HC, CO, CO, and NO_x} pass/fail exhaust standards for all test procedures for each applicable model year and vehicle type. The exhaust standards adopted by the state conform to the EPA established standards and are approvable. The Missouri I/M regulation establishes evaporative purge and pressure test standards which conform to the EPA established standards and are approvable. The state regulation provides for start-up standards during the first two years of program implementation. However, details of how the program start-up will be accomplished are not included, and the SIP submittal indicates they will be provided by a contractor. Without a signed contract or an RFP detailing implementation of the start-up process, the EPA cannot approve this portion of the SIP.

Test Equipment—40 CFR Section 51.358

Computerized test systems are required for performing any emission measurements on subject vehicles. The Federal I/M regulation requires Missouri's submittal to include written technical specifications for all test equipment used in the program. The specifications describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures. Missouri's SIP meets these criteria.

Quality Control—40 CFR Section 51.359

The state submittal contains a procedure manual and regulations which describe and establish quality control measures for the emission measurement equipment, recordkeeping requirements, and measures to maintain the security of all documents used to establish compliance with the inspection requirements. The submittal states that many quality control functions will be carried out by a contractor. However, the submittal does not contain an adequate description of how the contractor will carry out the functions relating to quality control. Without a signed contract or RFP detailing these functions, the EPA cannot evaluate whether these controls are adequate and cannot determine that the state has adequate authority to ensure that these functions will be implemented.

Waivers and Compliance Via Diagnostic Inspection—40 CFR Section 51.360

Missouri's regulation includes provisions which address waiver criteria and procedures. The state regulation includes provisions regarding cost limits, tampering and warranty-related repairs, quality control, and administration. The state regulation requires repairs for 1981 and newer model year vehicles to be performed by a recognized repair technician. The waiver rate has been used in the performance standard modeling demonstration and is approvable. The waiver provisions outlined in the submittal meet Federal I/M regulations and are acceptable. However, the EPA notes that the waiver provision in the current operating basic program allows waivers of emission testing for persons who receive a low-emission tune-up. This is one of the deficiencies the EPA noted in its January 15, 1993, finding that Missouri had failed to submit corrections to its basic I/M program. Without implementation of the program submitted in September 1, 1994, this deficiency has not been corrected.

Motorist Compliance Enforcement—40 CFR Section 51.361

The Federal regulation requires compliance to be ensured through the denial of motor vehicle registration in enhanced I/M programs, unless an exception for use of an existing alternative is approved.

The Missouri SIP commits to a compliance rate of 96 percent which was used in the performance standard modeling demonstration and is approvable. The submittal includes detailed information concerning the registration denial enforcement process which meets Federal I/M regulations and is approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR Section 51.362

According to the Federal I/M regulation, the enforcement program must be audited regularly and must follow effective program management practices, including adjustments to improve operations when necessary. The lack of adequate oversight was cited as a deficiency in the basic program in the January 15, 1993, findings letter described previously.

The Missouri regulation, procedure manual, and supporting documents describe how the enforcement program oversight is quality controlled and quality assured. The enforcement program oversight activities included in the submittal meet most of the Federal

I/M regulation requirements. However, the state submittal lacks details of how the information management system will be implemented. As indicated in the SIP, requirements of this section depend on participation from the Missouri Department of Revenue (MDOR) and the assigned contractor. The state needs a Memorandum of Understanding with MDOR, and a signed contract or an RFP outlining the duties of the contractor to meet the requirements of this section. The enforcement program oversight activities included in the submittal do not meet the Federal I/M requirements and are not approvable. Therefore, the EPA cannot approve this portion of the SIP.

Quality Assurance—40 CFR Section 51.363

The Federal regulation requires the SIP to describe the quality assurance program and meet the applicable provision of the rule. Missouri's submittal lacks a quality assurance procedural manual and supporting documents which describe details and procedures for implementing inspector records and equipment audits, as well as providing formal training to all state enforcement officials. Performance audits of inspectors will consist of both covert and overt audits. The SIP indicates many functions of this section are to be carried out by a contractor. The SIP states the contractor will be responsible for portions of the oversight and enforcement provisions. For example, the contractor is to be responsible for developing the interactive software that would allow real-time access to all test station information. Without a signed contract or an RFP detailing the quality assurance program and procedures, the EPA cannot adequately evaluate this portion of the SIP. Thus, the EPA cannot approve this portion of the SIP.

Enforcement Against Contractors, Stations, and Inspectors—40 CFR Section 51.364

The Federal regulation requires the state to meet applicable enforcement provisions. The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules.

The Missouri submittal includes the legal authority to establish and impose penalties against stations, contractors, and inspectors. The state I/M regulation gives the state auditor the authority to temporarily suspend station and inspector registrations immediately upon finding a violation. The submittal includes an official opinion from the State Attorney General which explains

the state constitutional impediment to immediate suspension authority, and explains that a system is in place to hold a hearing to suspend or revoke a license within three business days of finding a violation. The submittal includes a description of administrative and judicial procedures relevant to the enforcement process. However, as discussed in the SIP, a penalty schedule for the inspectors and details on how the contractor will impose penalties against the inspectors will be included in the contracts between the state and inspection station contractors. Without a signed contract or RFP detailing this procedure, the EPA is unable to approve this portion of the SIP.

Data Collection—40 CFR Section 51.365

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The narrative in the SIP states that data will be collected on each individual test conducted and describes the type of data to be collected. The submittal also commits to gather and report the results of the quality control checks required pursuant to the Federal I/M regulations. However, the SIP indicates much of this function will be fulfilled by a contractor, and the submittal lacks a description of how the data will be collected. Therefore, without an RFP or a signed contract detailing this procedure, the EPA cannot approve this portion of the SIP.

Data Analysis and Reporting—40 CFR Section 51.366

Data analysis and reporting are required to assist in monitoring and evaluating the program by the state and the EPA. The Federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed.

The narrative provides for the analysis and reporting of data for the testing program, quality assurance program, quality control program, and the enforcement program. Again, the SIP indicates much of this function will be fulfilled by the contractor and lacks an adequate description of how the data will be collected and reported. Therefore, without an RFP or a signed contract, the EPA cannot approve this portion of the SIP.

Inspector Training and Licensing or Certification—40 CFR Section 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or registered to perform inspections.

The narrative in the submittal states that all inspectors will receive formal training, will be registered by MDNR or the operating contractor, and will renew their registration every two years. The narrative includes a description of the items that need to be covered in the training program. However, the SIP lacks a detailed description of the written and hands-on tests and a description of the registration process. The narrative states that a contractor will fulfill most of the requirement of this section. Therefore, without an RFP or a contract specifically detailing how this requirement will be met, the EPA is unable to approve this portion of the SIP.

Public Information and Consumer Protection—40 CFR Section 51.368

The Federal I/M regulation requires the SIP to include public information and consumer protection programs.

Missouri addresses these provisions in the SIP. Missouri must develop a public information program which educates the public on I/M, state and Federal regulations, air quality and the role of motor vehicles in the air pollution problem, and other items as described in the Federal rule. The consumer protection program needs to include provisions for a challenge mechanism, protection of whistle-blowers, and providing assistance to motorists in obtaining warranty-covered repairs. The SIP indicates that the requirement of this section will primarily be the responsibility of a contractor. However, without an RFP or a signed contract between the contractor and MDNR providing an adequate description of these programs, the EPA is unable to approve this portion of the SIP.

Improving Repair Effectiveness—40 CFR Section 51.369

As required by Federal regulation, the Missouri submittal needs to require the implementation of a technical assistance program which includes a hotline service to assist repair technicians, and a method of regularly informing the repair facilities of changes in the program, training courses, and common repair problems. Missouri lacks a repair facility performance monitoring program which is expected to be included in the RFP and I/M contract. Also, the monitoring program would provide the motorist whose vehicle fails the test a summary of local repair facilities performance, would provide regular feedback to each facility on its repair performance, and would require the submittal of a completed repair form at the time of retest. The submittal lacks

an adequate description of the performance monitoring program design and technician training program, and does not meet the criteria described in the Federal regulation and is not approvable.

Compliance With Recall Notices—40 CFR Section 51.370

The Federal regulation requires the states to establish methods to ensure that vehicles that are subject to the testing requirements and are included in an emission-related recall receive the required repairs before completing the emission test or renewing the vehicle registration.

The Missouri regulation provides the legal authority to require owners to comply with emission-related recalls before completing the emission test or renewing the vehicle registration. The submittal includes a commitment to submit an annual report to the EPA which includes the information as required by Federal regulation. However, the SIP does not include an adequate description of procedures to be used to incorporate national database recall information into the state inspection database, and does not include quality control methods to ensure recall repairs are properly documented and tracked. Therefore, the recall compliance program contained in the SIP submittal does not meet the Federal requirements and is not approvable.

On-Road Testing—40 CFR Section 51.371

On-road testing is required in enhanced I/M areas. Although Missouri is not required to implement these on-road requirements, the use of either remote sensing devices or roadside pullover (including tailpipe emission testing) can increase the program's efficiency. Any additional emission reductions achieved would be creditable towards Missouri's 15% ROPP. Missouri does have enabling authority to implement the on-road testing requirements. This requirement is optional for basic I/M areas. Therefore, if Missouri chooses not to include all of the on-road testing requirements in the program, it will not affect the EPA's proposed action with respect to the basic requirements.

SIP Submissions/Implementation Deadlines—40 CFR Section 51.372–373

The Federal regulation requires enhanced I/M programs to meet the submission deadline and to be implemented in accord with 40 CFR section 51.372–373.

The Missouri submittal included the final state I/M regulations and legislative authority to implement the program. The SIP lacks final specifications, a final RFP, the contractor's proposal, the signed contract between the state and the contractor, procedural documents, interagency agreements, memoranda of understanding for program implementation, and evidence of adequate funding and resources to implement the program.

Regarding adequate tools and resources, the state must demonstrate that adequate funding and resources for the program are available. Section 51.372(a)(8) requires that the SIP contain evidence of adequate funding and resources to implement all aspects of the program. In attempting to meet the aforementioned requirements, some of Missouri's test fee or separately assessed per vehicle fee is to be collected, placed in a dedicated fund, and used to help finance the program. However, legislative action would be required to enable MDNR to use the funds for operation of the program. In addition, the Missouri General Assembly has specifically deleted funding for operation of the program from Missouri's fiscal year 1996 budget. Consequently, the state has not demonstrated that adequate funding is available to meet the budget plan and carry out other program functions.

The state submittal does not meet the adequate tools and resources requirements set forth in 40 CFR section 51.372.

Conclusion

As discussed previously in this rulemaking, Missouri does not meet the CAA requirements because its SIP submittal does not correct deficiencies with respect to the basic I/M program. Currently, the program is still operating under the system for which the EPA issued a January 15, 1993, findings letter for failure to submit a plan to meet MERR. Although the state has submitted a plan in an attempt to correct I/M program deficiencies, the state has not demonstrated the I/M program includes adequate resources to implement the program. Without other supporting documents, such as a signed contract or an RFP detailing how other requirement of the EPA's I/M rule will be met, the EPA is unable to evaluate and approve the state's submittal.

EPA Action: The EPA's review of the material indicates that the state has not adopted an adequate I/M program in accordance with the requirements of the Act. The EPA is proposing to disapprove the Missouri SIP revision for

an I/M program, which was submitted on September 1, 1994. The EPA is soliciting public comments on the issues discussed in this notice and on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The EPA's disapproval of the state request under section 110 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any preexisting Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, the EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, the EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements or impose any new Federal requirement.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"),

signed into law on March 22, 1995, the EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

The proposed disapproval would have no impact on tribal governments as regulators. The EPA has also determined that the proposed disapproval would not impose any mandate on the private sector. Existing rules previously approved by the EPA remain in effect and would not be impacted by the disapproval. With respect to the impact on state and local governments, the state may choose, but is not required, to respond to a disapproval by revising and resubmitting the plan. In any event, the EPA estimates that the cost to state and local government of revising the plan would be less than \$100 million in the aggregate.

Therefore, the EPA has determined that this proposed action does not include a mandate that may result in estimated costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401-7671q.

Dated: March 7, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96-6235 Filed 3-15-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MO 002-1002(b); FRL-5442-4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes a limited approval and limited disapproval of the State Implementation Plan (SIP) submitted by the state of Missouri to meet the 15% Rate-of-Progress Plan (15% Plan) (ROPP) requirements of section 182(b)(1)(A) of the Clean Air Act (CAA), as amended (the Act). The EPA

is proposing a limited approval because the 15% Plan, submitted by Missouri, will result in significant emission reductions from the 1990 baseline and, thus, will improve air quality. Simultaneously, the EPA is proposing a limited disapproval of the 15% Plan because it fails to demonstrate sufficient reductions of volatile organic compounds (VOC) to meet the 15% ROPP requirements. The EPA is proposing a limited disapproval of the 15% Plan to the extent that the emission reductions associated with Missouri's enhanced I/M program cannot be achieved.

The EPA is also proposing approval of specific control measures in the 15% Plan because these rules will strengthen the SIP. However, the EPA is proposing conditional approval of the control measure for the control of emissions from municipal solid waste landfills and for the control of emissions from solvent cleanup operations. A final action on these control measures will incorporate these rules into the Federally approved SIP.

The EPA is proposing full approval of Missouri's 1990 Base Year Inventory. The inventory was submitted by the state to fulfill the requirements of section 182(b) of the Act.

DATES: Comments must be received on or before April 17, 1996.

ADDRESSES: Comments may be mailed to Royan W. Teter, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Royan Teter at (913) 551-7609 or Wayne Leidwanger at (913) 551-7607.

SUPPLEMENTARY INFORMATION:

I. Background

The St. Louis area was designated nonattainment for ozone in 1978. On November 6, 1991, the EPA promulgated a rule which classified the St. Louis area as a moderate ozone nonattainment area based on its design value of 0.138 ppm. The nonattainment area consists of Madison, Monroe, and St. Claire counties in Illinois; and Franklin, Jefferson, St. Charles, and St. Louis counties and St. Louis City in Missouri.

Section 182(b) of the Act requires that each state in which all or part of a moderate nonattainment area is located, submit, by November 15, 1992, a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. This inventory is for

calendar year 1990 and is designated the base year inventory. The inventory should include both anthropogenic and biogenic sources of VOCs, nitrogen oxides (NO_x), and carbon monoxide (CO), and must address actual emissions of these pollutants in the nonattainment area during peak ozone season. The inventory should include all point and area sources, as well as all highway and nonhighway mobile sources.

In addition, section 182(b)(1)(A) of the Act requires ozone nonattainment area classifications of moderate and above to develop plans to reduce VOC emissions by 15 percent from the 1990 baseline. The plans were to be submitted by November 15, 1993, and the reductions are required to be achieved within six years of enactment or November 15, 1996. The Act also set limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emission standards) promulgated prior to 1990, or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990 or required under section 211(h) of the Act, which restricts gasoline RVP. Furthermore, the Act does not allow credit for corrections to vehicle I/M Programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

In today's action, the EPA proposes to fully approve the plan element relating to the emission inventory. With regard to the 15% Plan, the EPA proposes a limited approval and limited disapproval. The EPA also proposes to conditionally approve the 15% Plan as it relates to the reduction credit claimed for the state's municipal solid waste landfill rule.

II. Review of State Submittal

A. 1990 Base Year Emissions Inventory (EI)

As noted above, the CAA requires the submission of a comprehensive EI for areas classified as nonattainment for ozone. The regulatory significance of these inventories is established in section 182(b)(1) of the Act. These inventories, termed "base year" inventories, provide a baseline from which reasonable further progress towards meeting necessary emissions reductions is measured, and provide the foundation for the development of control strategies for attainment of the National Ambient Air Quality Standards (NAAQS).