

October 2, 1990, effective May 11, 1991 and submitted by the Governor on May 16, 1994.

(i) Incorporation by reference.

(A) Revisions to Oklahoma Air Pollution Control Regulations 3.7, Sections 3.7.5-4(g)(7)(A)(i)(b), 3.7.5-4(g)(9)(A), 3.7.5-4(i)(3)(B)(1), and 3.7.5-4(i)(3)(B)(3) effective May 11, 1991.

(ii) Additional material.

(A) State SIP revision entitled, "Oklahoma Alternative Standards SIP Revision," which includes a completeness determination, SIP narrative, hearing records and other documentation relevant to the development of this SIP.

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40 CFR Part 52

[IL133-1-7125a; FRL-5434-9]

Approval and Promulgation of Air Quality Implementation Plans; Illinois: Motor Vehicle Inspection and Maintenance

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is giving full approval through a direct final action to a state implementation plan (SIP) revision submitted on June 26, 1995, by the Illinois Environmental Protection Agency (IEPA). This revision is a formal submittal of the 1992 motor vehicle emission inspection and maintenance (I/M) program enhancements developed and implemented, in part, as a response to the 1989 Federal Implementation Plan (FIP) agreement between Illinois and Wisconsin, and USEPA. The volatile organic compound (VOC) emission reduction from these improvements are creditable reduction toward achieving the 15 percent Reasonable Further Progress requirements toward attainment of the public health based ozone air quality standard. Illinois estimates that these program improvements achieve 8.4 tons per day (TPD) VOC reduction in the Chicago area and 0.2 TPD reduction in the East St. Louis area.

The Chicago and East St. Louis ozone nonattainment areas are required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (Act) by 2007 and 1996 respectively. The implementation of these program enhancements in the areas stated above, have contributed to the further reduction of vehicle emissions which contribute to the

formation of urban smog in Illinois. In the proposed rules section of this Federal Register, USEPA is proposing approval of this I/M program and SIP revision and solicits public comments on the action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

DATES: This final rule will be effective on June 10, 1996 unless adverse or critical comments are received by May 9, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of Illinois' I/M SIP submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (5AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (5AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061. Anyone wishing to come to Region 5 offices should first contact Francisco J. Acevedo.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the requirements of the 1977 Clean Air Act, the Illinois General Assembly adopted legislation and signed into law in September 1984 the legal authority and funding mechanism for an I/M program in the State of Illinois. The State of Illinois contracted with Systems Control, Inc., to develop and operate a centralized network of testing facilities in both the Chicago and East St. Louis ozone nonattainment areas. The Illinois vehicle I/M program officially began testing vehicles on May 1, 1986.

In 1989, Illinois, Wisconsin, and USEPA entered into a settlement agreement concerning various matters relating to compliance with certain provisions of the Clean Air Act (*Wisconsin v. Reilly*, Case No. 87-C-0395, E.D. Wis.). Among other things, the agreement required that Illinois develop and implement enhancements

to its I/M program which would make it equivalent in performance to the enhanced I/M-anti-tampering program described in USEPA's November 24, 1987 proposal on its post-1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards, (52 FR 45044, November 24, 1987). On October 30, 1989, Illinois submitted to USEPA a preliminary design and implementation schedule of program enhancements which would enable Illinois to meet the applicable standard. On October 4, 1990, USEPA gave final approval to Illinois' I/M program as part of the State's 1982 ozone/CO SIP (55 FR 40658); however, USEPA noted at 55 FR 40660 that Illinois was continuing to work on necessary enhancements to the I/M program and that USEPA would take action on these enhancements at a future date.

On June 29, 1990, the General Assembly of the State of Illinois adopted Public Act 86-1433, which consists of amendments to the Illinois Vehicle Code, and the Illinois Motor Fuel Tax Law. These amendments became law on September 12, 1990 when it was signed without change by the Governor of the State. The legislation amended five sections of the Illinois Vehicle Code (625 ILCS 5/13A-102, 13A-103, 14A-104, 15A-105, and 12A-106).

Based on the authority of the Illinois legislation, IEPA prepared implementing procedural rules and published them for First Notice at Volume 15, Issue #38, p. 13607 of the Illinois Register (September 20, 1991). The proposed rules subsequently became effective on June 15, 1992, and were published in the Illinois Register on June 26, 1992 at Volume 16, Issue #26. These rules amended previous regulations on fleet testing requirements, inspection procedures, sticker issuance requirements, and requirements for low emission tuneups, and added a new section for tamper check procedures.

II. Background

On June 26, 1995, IEPA submitted to USEPA a SIP revision containing I/M enhancements implemented in the Illinois program between January 1, 1991 through December 31, 1992. The Illinois submittal seeks USEPA approval of the 1992 program enhancements. The State is taking emission reduction credits acquired from these enhancements for purposes of meeting requirements related to the 15% Reasonable Further Progress Plan for the Chicago and East St. Louis ozone nonattainment areas. In addition, IEPA believes that all material submitted in

the Illinois SIP has undergone an appropriate level of public review during the legislative and rulemaking processes and that all applicable state and federal public hearing requirements for this SIP submittal have been met.

III. EPA's Analysis of the Illinois 1992 Enhancements

The Illinois ozone SIP revision submitted to USEPA on June 26, 1995, contains the legal authority to implement the 1992 enhancements to the Illinois I/M program. The legal authority to implement such enhancements was submitted in the form of State legislative authority approved on September 12, 1990 by Illinois Governor Edgar. In addition, the state also prepared implementing procedural rules based on the legislative authority and submitted such rules as part of this SIP. Such rules were published in the Illinois Register on June 26, 1992 at Volume 16, Issue #26.

The Illinois legislation established a "hybrid" test frequency schedule which incorporated a three-year new vehicle exemption period, a biennial frequency for three to seven year old vehicles, and annual testing for eight year and older vehicles. In addition, the legislation contained the authority to incorporate a three element anti-tampering inspection into the inspection requirement for 1975 and later model year vehicles beginning on July 1, 1991. Finally, the legislation established the geographic expansion of the inspection area into previously exempt portions of DuPage County; most of the previously exempt portions of Lake county; and into portions of Kane and Will Counties starting on January 1, 1992. In addition to the above requirements, the legislation also included other minor provisions affecting the I/M program including the ability for fleets of 15 or more vehicles, which are subject to the inspection, to establish and operate a Private Official Inspection Station. After review of the Illinois I/M legislation and submittal USEPA finds the above provisions acceptable.

The procedural rules submitted along with the legislation in the Illinois SIP includes two new sections and fifteen amended sections to Part 276 of the Illinois Administrative Code Title 35. The procedural rules include the tamper check procedures to be followed when performing the tamper check as part of the emission inspection. The rules prohibit the testing of any vehicle with apparent fuel or oil leaks, as well as any vehicle missing tail pipe sections which prevent the ability to test the vehicle properly. The tamper check consists of the visual inspection of the catalytic

converter in addition to a fuel cap inspection and the fuel inlet restrictor inspection. In addition, the rules prohibit vehicles from receiving a waiver or passing the emission test unless the vehicle successfully passes the tamper check. Other provisions in the rule includes a revision to the program's procedures with regard to initial and corrected emission inspection stickers; a revision to the program's fleet inspection station operation requirements. The provision submitted in the Illinois SIP were fully implemented by January 1, 1992 and are acceptable to USEPA.

IV. Comments and Approval Procedure

The USEPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse public comments. However, in a separate document in this Federal Register publication, the USEPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on June 10, 1996 unless, by May 9, 1996, adverse or critical comments are received. If USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be discussed in a subsequent final rule based on the separate proposed rule. The USEPA will not institute a second comment period for this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 10, 1996.

Final Action

USEPA is approving this revision to the Illinois SIP for the 1992 enhancements to Illinois' vehicle I/M program. The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements. Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 1, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607 (b)(2).) The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Precedential Effect

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

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA 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, USEPA 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. SIP approvals under 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3). [Page 28726]

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, USEPA 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, or tribal governments in the aggregate. To the extent that the

rules being approved by this action will impose any enforceable duty upon the State, local, or tribal governments, or upon the private sector, USEPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. For these reasons, USEPA has determined that this final action does not include a Federal mandate.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: February 15, 1996.

David A. Ullrich,

Acting Regional Administrator.

Part 52, 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. 7401-7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(122) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(122) On June 26, 1995, the Illinois Environmental Protection Agency (IEPA) submitted a State Implementation Plan (SIP) revision containing the 1992 enhancements to the Illinois vehicle inspection and maintenance (I/M) program. Such enhancements were originally developed to meet the I/M performance standard as called for in the United States Environmental Protection Agency's (USEPA's) proposed 'post-1987' I/M SIP policy and specified in the settlement agreement entered into by the parties in *Wisconsin v. Reilly*, Case No. 87-C-0395, E.D. Wis. The submittal includes authorizing legislation P.A. 86-1433, signed into law on September 12, 1990 and procedural rules published in the Illinois Register on June 26, 1992 at Volume 16, Issue #16.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 276; Sections 276.101, 276.102, 276.204, 276.206, 276.301, 276.303, 276.304, 276.307, 276.308, 276.309, 276.310,

276.311, 276.401, 276.402, 276.701, 276.702, and 276.703 amended or added at 16 Ill. Reg. 10230, effective June 15, 1992.

(ii) Other material.

(A) Public Act 86-1433 adopted by the Illinois General Assembly on June 29, 1990, signed into law by Governor Edgar on September 12, 1990 effective September 12, 1990 (Sections 2.3, and 4) and January 1, 1991 (Section 1). (B) June 26, 1995 letter and attachments from the IEPA's Bureau of Air Chief to the USEPA's Regional Air and Radiation Division Director submitting Illinois' revision to the ozone SIP.

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40 CFR Part 52

[AZ 063-0001a; FRL-5443-7]

Clean Air Act Approval and Promulgation of Prevention of Significant Deterioration (PSD) and General Permitting Provisions Implementation Plan for Arizona State Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating direct final approval of portions of a requested State Implementation Plan (SIP) revision submitted by the State of Arizona on behalf of Pinal County for the purpose of meeting requirements of the Clean Air Act, as amended in 1990 (CAA or the Act) with regard to general permitting and prevention of significant deterioration (PSD) programs in areas of Pinal County that are in attainment of the national ambient air quality standards (NAAQS). The requested revision was submitted by the State to satisfy certain Federal requirements for an approvable SIP.

EPA is taking this action to approve the portions of Pinal's rules identified below into the SIP for the purpose of meeting the PSD and preconstruction permitting requirements of 40 CFR 51.160 through 51.164 and 51.166, under the authority granted by 40 CFR 51.105. Approval of Pinal's rules for the purposes of meeting the nonattainment preconstruction permitting requirements of 40 CFR 51.165 will take place under a separate action. This action does *not* in any way imply that Pinal's nonattainment permitting provisions meet the requirements of §§ 171, 172, 173, 181, 182, 187, or 189 of the CAA. Failure on Pinal's part to

submit rules which meet the requirements of 40 CFR 51.165 may trigger sanctions as provided for under § 179 of the Clean Air Act.

DATES: This direct final rule is effective on June 10, 1996 unless adverse or critical comments are received by May 9, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: (1) EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105; (2) State of Arizona Department of Environmental Quality 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT:

Jessica Gaylord (telephone: 415-744-1290), or Steve Ringer (telephone: 415-744-1260), New Source Section, Air & Toxics Division (A-5-1), EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION: The air quality planning requirements for attainment areas are set out in 40 CFR 51.166. The general air quality permitting requirements are set out in 40 CFR 51.160-51.164.

Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act provide that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing.

ADEQ held a public hearing on August 9, 1994, to entertain public comment on the proposal to submit portions of Pinal County's Code of Regulations as a revision to the SIP. On August 16, 1994 the rules were submitted to EPA as a proposed revision to the Arizona SIP. On May 31, 1995 and November 27, 1995, ADEQ submitted applicable portions of the original submittal which had subsequently been revised by Pinal County (the Pinal County portion of the August 16, 1994 submittal and its subsequent revisions will hereafter be referred to as "the submitted rules").

The November 27, 1995 SIP revision was reviewed by EPA and determined to be complete on February 2, 1996. The submitted rules contain all of the general permitting and PSD requirements but lack certain nonattainment new source review (NSR) requirements that would make them