

preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act

(NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Pennsylvania’s oxygenated gasoline regulation may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference.

Dated: November 18, 1999.

A.R. Morris,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraphs (c)(142) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(142) Revisions to the Pennsylvania Regulations for an oxygenated gasoline program submitted on September 13, 1995 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 13, 1995 from the Pennsylvania Department of Environmental Protection transmitting the oxygenated gasoline regulation as a SIP revision.

(B) Revisions to 25 PA Code Chapter 121, General Provisions, section 121.1 Definitions, the additions of section 126.101 General, section 126.102 Sampling and testing, section 126.103 Recordkeeping and reporting and section 126.104 Labeling requirements to 25 PA Code Chapter 126 and the removal of section 126.1 Oxygenate content of gasoline from 25 PA Code Chapter 126. These revisions became effective August 19, 1995.

(ii) Additional Material.—Remainder of September 13, 1995 submittal.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–79–1–7439, FRL–6510–5]

Approval and Promulgation of Implementation Plans; Texas; Repeal of Board Seal Rule and Revisions to Particulate Matter Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On October 28, 1999 (64 FR 57983), EPA published a direct final approval of a revision to the Texas State Implementation Plan which removed the old Texas Air Control Board Board Seal rule in the Texas Natural Resource Conservation Commission (TNRCC) Chapter 101, General Rules, and revised and recodified the TNRCC Particulate Matter regulations in TNRCC Chapter 111, Control of Air Pollution from Particulate Matter. The direct final action was published without prior proposal because EPA anticipated no adverse comment. The EPA stated in the direct final rule that if EPA received adverse comment by November 29, 1999, EPA would publish a timely notice of withdrawal in the **Federal Register**. The EPA subsequently received an adverse comment on the direct final rule. Therefore, EPA is withdrawing the direct final approval action. The EPA will address the comment in a subsequent final action based on the parallel proposal also published on October 28, 1999 (64 FR 58006). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

DATES: The direct final rule published October 28, 1999 is withdrawn on December 17, 1999.

ADDRESSES: Copies of documents relevant to this action are available for

public inspection during normal business hours at the following location. Anyone wanting to examine these documents should make an appointment by calling the person listed below at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Planning Section at (214) 665-7253.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the Rules and Regulations section and the short informational proposed rule located in the Proposed Rules section of the October 28, 1999, **Federal Register**.

Dated: December 8, 1999.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

Therefore the amendment to 40 CFR 52.2270, published in the **Federal Register** October 28, 1999 (64 FR 57983), which was to become effective December 27, 1999, is withdrawn.

[FR Doc. 99-32647 Filed 12-16-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ41-207, FRL-6509-4]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's **Federal Register**, the Environmental Protection Agency (EPA) has published a rulemaking action proposing to find that the State of New Jersey will have implemented its enhanced inspection and maintenance (I/M) program when mandatory testing begins on December 13, 1999 and that EPA is reinstating the interim approval under section 348 of the National Highway Systems Designation Act (NHSDA). EPA is making an interim final determination that on December 13, 1999, it is more likely than not that the program will be implemented curing the deficiencies which caused sanctions to be imposed. Therefore, the application of the offset sanction that began on June 14, 1999 is

stayed and the application of the highway sanction is deferred as of December 13, 1999.

DATES: Effective December 13, 1999. Although this interim final rule will be effective on December 13, 1999, EPA is accepting comments as to whether the stay and deferral announced in this document should remain in effect. Comments must be received on or before January 18, 2000.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866 and New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

All comments should be addressed to Raymond Werner, Acting Branch Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT:

Judy-Ann Mitchell, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

I. Background

New Jersey submitted changes to the existing I/M program on March 27, 1996 to satisfy the applicable requirements of both the Clean Air Act (CAA) and the National Highway System Designation Act (NHSDA). On October 31, 1996 (61 FR 56172), EPA published a notice of proposed conditional interim approval of New Jersey's enhanced I/M program. On May 14, 1997 (62 FR 26401), EPA published a final conditional interim approval of New Jersey's enhanced I/M program.

Due to New Jersey's delays in starting the enhanced I/M program, EPA notified New Jersey by a December 12, 1997 letter that the sanctions clock was started for failure to implement the enhanced I/M program, in accordance with section 179(a)(4) of the Act. The offset sanction began in New Jersey on June 14, 1999. The highway sanction would begin six months thereafter if New Jersey did not implement the program. On November 19, 1999, New Jersey notified EPA by letter that the mandatory enhanced I/M program will be implemented on December 13, 1999.

II. Interim Final Action

Based on New Jersey's commitment to the start of the program on December 13, 1999, EPA believes that it is more likely than not that the State will have taken the steps necessary to start an approvable enhanced I/M program. Initiation of sanctions clocks on December 12, 1997 was based on the fact that New Jersey did not start-up a mandatory approved enhanced I/M program. EPA is now able to conclude that since New Jersey is operating an I/M program that will be fully enforceable on December 13, 1999, the State will have met the obligation to implement the enhanced I/M program and sanctions should be stayed and deferred on December 13, 1999.

In the event that the implementation is found to be inadequate, the stay and deferral may be removed and the sanctions imposed immediately upon such a finding in either a proposed or final rulemaking regarding implementation. A proposal to reinstate the interim approval under section 348 of the NHSDA and to stop the sanctions clock and lift any sanctions applied is published elsewhere in this **Federal Register**. Pursuant to 40 CFR 52.31(d)(4)(ii), the stay and deferral may be reinstated if EPA proposes to take action to find that the deficiency of having failed to implement the enhanced I/M program has not been corrected.

EPA is publishing a separate document that will serve as the proposed reinstatement of the interim approval and finding that the State of New Jersey implemented the enhanced I/M program on December 13, 1999. If comments are received which cause EPA to conclude that the enhanced I/M program has not been implemented, EPA will not proceed with the final rulemaking and both the offset and highway sanctions will be applied immediately via a letter and a **Federal Register** notice. Therefore, any comments which could affect this interim final determination must be submitted in response to the proposal to reinstate the interim approval and to stop the sanctions clock and lift the stay and deferral of the sanction. All public comments received will then be addressed in a subsequent final notice either reinstituting the sanctions or stopping this sanctions process pursuant to 40 CFR 51.31(d)(5). Parties interested in commenting should do so at this time.

III. Administrative Requirements

Because New Jersey will have met the start-up requirements as defined by