

(69) The State of Alabama submitted revisions to the ADEM Administrative Code for the Air Pollution Control Program on October 30, 1995, and December 14, 1995. These revisions involve changes to Chapter 335-3-1—General Provisions.

(i) Incorporation by reference. Section 335-3-1-.02 (gggg) of the Alabama regulations adopted on November 28, 1995.

(ii) Other material. None.

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BILLING CODE 6560-50-P

#### 40 CFR Part 52

[IL124-1-6977a; FRL-5435-6]

#### Approval and Promulgation of State Implementation Plan; Illinois; Clean-Fuel Fleet Program

**AGENCY:** 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 September 29, 1995, by the Illinois Environmental Protection Agency (IEPA). IEPA submitted the SIP revision request to satisfy provisions of the Clean Air Act, requiring certain states to establish Clean-Fuel Fleet Programs. The rules submitted by Illinois that are being approved today establish and require the implementation of a Clean-Fuel Fleet Program (CFFP) in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area, which includes Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties, is required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (CAA) by 2007. The implementation of this program is expected to reduce motor vehicle volatile organic compound (VOC) emissions, which contribute to the formation of urban smog in the Chicago area, by nearly 3 tons per day starting in the year 2003. In the proposed rules section of this Federal Register, USEPA is proposing approval of the CFFP and SIP revision and solicits 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 is effective May 20, 1996 unless adverse comments are

received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of Illinois' CFFP 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 (AR-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 (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 15, 1990, Congress enacted amendments to the 1977 CAA, codified at 42 U.S.C. 7401-7671q. The CFFP is contained under Part C, entitled "Clean Fuel Vehicles," of Title II of the Clean Air Act. Part C was added to the CAA to establish two programs, a clean-fuel vehicle pilot program in the state of California (the California Pilot Test Program) and a federal CFFP in certain ozone and carbon monoxide (CO) nonattainment areas.

The CFFP will introduce lower pollution emitting vehicles, "clean-fuel vehicles" (CFVs), into centrally fueled fleets or fleets that are determined to be capable of being centrally fueled by requiring covered fleet operators to include a percentage of CFVs in their new fleet purchases. The goal of the CFFP is to reduce emissions of non-methane organic gasses (NMOG), oxides of nitrogen (NO<sub>x</sub>), and CO through the introduction of CFVs into the covered areas. Both NMOG and NO<sub>x</sub> are precursors of ozone and, in most areas, their reduction will reduce the concentration of ozone in covered ozone nonattainment areas. Reductions of vehicular CO emissions will reduce the concentration of CO in covered CO nonattainment areas.

Congress chose centrally fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control that operators maintain over their fleets simplifies maintenance and

refueling of these vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

Section 182(c)(4) of the CAA allows states to opt-out of the CFFP by submitting, for USEPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emission reductions in ozone producing and toxic air emissions as the CFFP. The USEPA may approve such a revision "only if it consists exclusively of provisions other than those required under the [CAA] for the area."

##### II. Program Requirements

Unless a state chooses to opt-out of the CFFP under section 182(c)(4) of the CAA, section 246 of the CAA directs a state containing covered areas to revise its SIP, within 42 months after enactment of the CAA, to establish a CFFP. The CFFP shall require a specified percentage of all newly acquired vehicles of covered fleets, beginning with model year (MY) 1998 and thereafter, to be CFVs and such vehicles shall use the fuel on which the vehicle was certified to be a CFV, when operating in the covered area.

##### III. State Submittal

The state of Illinois did not choose to opt-out of the CFFP pursuant to section 182(c)(4) of the CAA and, therefore, submitted a SIP revision on September 29, 1995, to implement a CFFP. On October 16, 1995, USEPA determined that the state's SIP submittal for a CFFP was complete.

##### IV. USEPA's Analysis of the State's Clean Fuel Fleet Program

USEPA has reviewed the state's submittal for consistency with the requirements of USEPA regulations. A summary of USEPA's analysis is provided below. More detailed support for approval of the state's submittal is contained in a Technical Support Document (TSD), dated February 12, 1996, which is available from the Region 5 Office, listed above.

##### A. Covered Areas

The SIP revision needs to list those areas where the CFFP will be implemented, as required by section 246(a)(2) of the CAA. In Illinois, the applicable areas defined by section 246(a)(2) include Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties.

Section 241.102 of 35 Illinois Administrative Code 241 defines the covered area to include Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties. These are the same counties as required by the CAA.

#### B. Definitions

Sections 241(1) to (7) of the CAA, and 40 CFR 88.302–94, define specific terms that are to be used in the state regulations.

Section 241.102 contains definitions of the terms used by Illinois in the CFFP rule. The revision's definitions are consistent with section 241 (1) to (7) of the CAA as well as 40 CFR Part 88.302–94.

#### C. Covered Fleets

Section 241(5) of the CAA defines a "covered fleet" as 10 or more motor vehicles that are owned or operated by a single person.

Section 241.102 of the Illinois rule identifies vehicles/fleets that are included in Illinois' CFFP, and are consistent with section 241(5) of the CAA.

#### D. Vehicle Classes Covered

Sections 242 and 243 of the CAA and 40 CFR 88, define the vehicle classes covered by the CFFP. Additionally, section 245(a) of the CAA exempts from the CFV standards vehicles having a Gross Vehicle Weight Rating (GVWR) of more than 26,000 pounds.

Section 241.102 defines the vehicle classes covered by the Illinois CFFP. The classes of vehicles included in the Revision are identical to those set forth in sections 242 and 243 of the CAA and 40 CFR 88, including the 26,000 pound GVWR exemption.

#### E. Clean-Fuel Vehicles (CFVs)

Section 241(7) of the CAA defines a CFV to mean a vehicle in a class or category of vehicles that has been certified to meet for any model year the applicable CFV standards. 40 CFR 88 establishes three categories of increasingly stringent CFV standards, which are referred to as low-emission vehicle (LEV) standards, ultra low-emission vehicle (ULEV) standards, and zero-emission vehicle (ZEV) standards. In addition, a vehicle certified by the USEPA to meet the inherently low-emission vehicle (ILEV) standard, found in 40 CFR 88.311–93, is also considered a CFV.

Section 241.102 of the Illinois rule defines a CFV as a motor vehicle in a class or category of motor vehicles (e.g.,

LDVs, LDTs, or HDVs) which have been certified by USEPA to meet the clean fuel vehicle standards applicable under the Illinois rule. The standards specified in the rule are the same as those established in 40 CFR 88.

#### F. Percentage Requirements

Section 246(b) of the CAA establishes phase-in requirements for covered fleets applicable to new vehicle acquisitions. Section 241.113 of the Illinois rule contains the CFV purchase requirements for the Illinois' CFFP. The phase-in schedule in Illinois' rule is identical to the schedule in the CAA.

#### G. Credit Program

Section 246(f) of the CAA and 40 CFR 88.304–94 require the state to implement a credit program as part of the CFFP. Briefly, the Clean-Fuel Fleet (CFF) credit program establishes a market-based mechanism that allows fleet owners some flexibility in complying with the CFF purchase requirement. Under these provisions, a credit program must provide that fleet owners may meet the purchase requirements in any of several ways: (1) by the purchase of more CFVs than the minimum required by a CFFP; (2) by the purchase of CFVs which meet more stringent emission standards than the minimum required by the CFFP; (3) by the purchase of CFVs otherwise exempt from the CFFP; and (4) by the purchase of CFVs before MY 1998.

The credits generated may be used by a covered fleet operator to satisfy the purchase requirements of a CFFP or may be traded by one covered fleet operator to another, provided the credits were generated and used in, and both operators are located in, the same nonattainment area. Certain restrictions on the trading of the credits between classes must be observed. The credits do not depreciate with time and are to be freely traded without interference by the state.

Section 241.130 establishes a credit program that provides credits for operators who: (1) acquire more CFVs than the Illinois CFFP requires in any year; (2) acquire CFVs which meet more stringent emission standards than the minimum requirements; (3) acquire CFVs in exempted vehicle categories; or (4) acquire CFVs prior to September 1, 1997. These eligibility requirements are consistent with section 246(f) of the CAA, and 40 CFR 88.304–94.

Section 241. Appendix B of the Illinois rule includes Tables A, B, C, D, E, and F, which set forth the amount of credit granted for the various ways of meeting the purchasing requirements explained above. These tables are

identical to Tables C94–1, C94–1.2, C94–1.3, C94–4, C94–4.2, C94–4.3 of 40 CFR Part 88, Subpart C.

The credit program established in this revision requires credits for LDV and HDV to be kept separate. Trading of credits between LDV and LDT is permitted. These limitations and restrictions are consistent with those specified in section 246(f)(2) of the CAA.

#### H. Fuel Use

40 CFR 88.304–94(b)(3) requires that the fuel on which a dual fuel/flexible fuel CFV was certified to be used at all times when the vehicle is in the covered area.

Section 241.115(a) requires that any CFV acquired to meet the acquisition requirements of the CFFP or to generate credits must be operated, while in the covered area, on the fuel or power source, for which it was certified by USEPA to meet applicable emission standards.

#### I. Fuel Availability

Section 246(e) of the CAA requires the SIP revision to require fuel providers to make clean alternative fuel available to the covered fleets at central locations.

Because of the wide availability of reformulated gasoline in the Chicago nonattainment area, requirements on fuel providers to make clean alternative fuels available to covered fleet operators at central locations where technically and economically feasible is not considered to be a critical component of the program.

#### J. Consultation

Section 246(a)(4) of the CAA requires that the SIP revision must be developed in consultation with fleet operators, vehicle manufacturers, fuel producers, distributors of motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values, and other relevant factors.

The Illinois Environmental Protection Agency (IEPA) organized a consultation workgroup, called the Clean-Fuel Fleet Workgroup. The Workgroup met several times and included representatives from the National Association of Fleet Administrators, Illinois Natural Gas Vehicle Coalition, Ethanol Work Group, Sierra Club, American Lung Association, Illinois Petroleum Council, American Automobile Manufacturer's Association, USEPA, Illinois Department of Energy and Natural Resources, and the Office of the Secretary of State. The group took into

consideration the factors specified in section 246(a)(4) of the CAA.

#### K. Recordkeeping and Monitoring

No specific recordkeeping and monitoring requirements are found in section 246 of the CAA or 40 CFR 88.304-94. However, there are a number of questions which should be answered in order to determine the adequacy of a CFFP. 60 Fed. Reg. 54305 (Oct. 23, 1995).

(1) Does the SIP revision provide a reasonable process for the state to determine which fleets should report data to the state, consistent with the state's approach to "operated in the covered area"?

(2) Is there a process for updating this list of potentially covered fleet operators?

(3) Does the SIP revision include a process for the state agency to receive at least the following data from fleet operators:

(a) Numbers, categories, and fueling patterns of vehicles in the fleet?

(b) Numbers, engine family names, categories, and fueling patterns of new acquisitions?

(c) Numbers, engine family names, categories, and fueling patterns of CFV acquisitions?

(d) For dual-fuel/flexible-fuel vehicles, data on fuel usage sufficient to demonstrate that the proper fuel was used when the vehicle was operated in the covered area?

(4) Does the SIP revision describe how the data will be processed, maintained, updated, and used to confirm compliance by fleets?

(5) Does the SIP revision provide for oversight of the data acquisition process?

Section 241.112 requires the owner or operator of a fleet of 10 or more covered fleet vehicles to register with the IEPA.

Section 241.112 also requires the registration to include certain information. In addition, Section 241.140 requires covered fleet operators to submit annual compliance plans to IEPA. General information required in 3(a) to 3(d) above, as well as other information, is included in these requirements. Section 241.141 establishes recordkeeping requirements for covered fleet owners or operators to maintain a number of additional records and information. The records required under this section shall be retained by the owner or operator for at least three years and shall be made available immediately to IEPA upon request. The information reported by the covered fleet owners or operators, allows IEPA to monitor the performance of the operators. IEPA will review the annual

compliance plans for approval or disapproval in keeping with the regulatory requirements of the Illinois CFFP.

#### L. Enforcement

The state must be able to adequately enforce the requirements of the regulations adopted for implementation of the CFFP. 60 Fed. Reg. 54305 (Oct. 23, 1995).

The Illinois Environmental Protection Act, Section 42(a), states that any person that violates any provision of this Illinois Environmental Protection Act or any regulation adopted by the IPCB, or any permit or term or condition thereof, or that violates any determination or order of the IPCB pursuant to this Act, shall be liable to a civil penalty not to exceed \$50,000 for the violation and an additional \$10,000 for each day for which the violation continues. In that this submittal is a regulation adopted by the IPCB, a violation of which subjects the violator to penalties under section 42(a), the submittal is then enforceable and thus satisfies the Federal requirement.

#### M. Transportation Control Measure Exemptions

40 CFR 88.307-94(a) requires states to exempt any CFV, required by law to participate in a CFFP, from temporal-based (e.g., time-of-day or day-of-week) transportation control measures (TCM) existing for air quality reasons as long as the exemption does not create a clear and direct safety hazard. In the case of high occupancy vehicle (HOV) lanes, this exemption only applies to CFVs that are certified to be ILEV's pursuant to 40 CFR 88.313-93.

The Chicago ozone nonattainment area does not currently have any temporal based TCM requirements.

#### N. Concluding Statement

The USEPA has reviewed the Illinois CFFP SIP revision submitted to the USEPA as described above. The materials contained in the SIP revision represent an acceptable approach to the CFFP requirements and meet the criteria required for approvability.

#### V. Action

The USEPA approves Illinois' CFFP SIP submittal. With this action, USEPA incorporates Illinois' CFFP SIP revision into the SIP, making it federally enforceable.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on May 20, 1996. However, if we receive significant adverse comments by April

18, 1996, USEPA will publish a document that modifies or withdraws this action.

#### VI. Miscellaneous

##### A. Applicability to Future SIP Decisions

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

##### B. Executive Order 12866

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 Executive Order 12866 review.

##### C. 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.

This approval does not create any new requirements. Therefore, I certify that this action 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 the regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of the 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 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the

private sector, of \$100 million or more. Under Section 205, the USEPA 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 the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a federal mandate. The mandate does not arise from this approval action, but from the language of section 246 of the CAA.

This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

#### D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Motor vehicle pollution, 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)(124) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(124) The state of Illinois requested a revision to the Illinois State Implementation Plan (SIP). This revision is for the purpose of establishing and implementing a Clean-Fuel Fleet Program in the Chicago ozone nonattainment area, which includes Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties, to satisfy the federal requirements for a Clean Fuel Fleet Program to be part of the SIP for Illinois.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 241; Sections 241.101, 241.102, 241.103, 241.104, 241.110, 241.111, 241.112, 241.113, 241.114, 241.115, 241.130, 241.131, 241.140, 241.141, 241.142, 241. Appendix A, 241. Appendix B adopted in R95–12 at 19 Ill. Reg. 13265, effective September 11, 1995.

(ii) Other material.

(A) September 29, 1995 letter and attachments from the Illinois Environmental Protection Agency's Bureau of Air Chief to the USEPA's Regional Air and Radiation Division Director submitting Illinois' revision to the ozone SIP.

[FR Doc. 96–6007 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

#### 40 CFR Part 52

[IN56–1–7077a; FRL–5426–4]

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

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (USEPA) is giving full approval through a direct final action to a state implementation plan (SIP) revision submitted on June 6, 1995 and September 28, 1995, by the Indiana Department of Environmental Management (IDEM). This revision provides for the adoption and implementation of an enhanced motor vehicle emission inspection and maintenance (I/M) program in the areas of Lake, Porter, Clark, and Floyd Counties. The Lake and Porter County area is designated severe nonattainment for ozone and is required to implement an enhanced I/M program. The Clark and Floyd County area is designated

moderate nonattainment for ozone and has opted to implement enhanced I/M. These 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 this important program in the areas stated above will reduce vehicle emissions which contribute to the formation of urban smog in Indiana by more than 4.5 tons per day. 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 is effective on May 20, 1996 unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of Indiana's 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, Regulation Development 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 (AR–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 (AR–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

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO), and nitrogen oxide (NO<sub>x</sub>) emissions. The motor vehicle inspection and maintenance program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of