

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 federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

*Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*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 March 18, 1997. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 28, 1996.  
William J. Muszynski,  
*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 FF—New Jersey**

2. Section 52.1570 is amended by adding new paragraph (c)(59) to read as follows:

**§ 52.1570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(59) Revisions to the State Implementation Plan submitted by the New Jersey Department of Environmental Protection on May 26, 1995, November 8, 1995, January 10, 1996 and October 10, 1996.

(i) Incorporation by reference.

(A) Conditions of Approval Documents (COAD):

The following facilities have been issued conditions of approval documents by New Jersey:

(1) Edgeboro Disposal's landfill gas flares, Middlesex County, NJ COAD approval dated April 13, 1995, revised October 19, 1995 (effective November 6, 1995).

(2) E.I. duPont DeNemours and Co.'s carbon regeneration furnace, Salem County, NJ COAD approval dated June 7, 1995.

(3) Hoeganaes Corp.'s electric arc furnace and tunnel kiln, Burlington County, NJ COAD approval dated February 3, 1995.

(4) E.I. duPont DeNemours and Co.'s hazardous waste incinerator, Salem County, NJ COAD approval dated July 7, 1995.

(5) Rollins Environmental Services' hazardous waste incinerator, Gloucester County, NJ COAD approval dated May 25, 1995.

(6) American Ref-Fuel's Municipal Waste Incinerator, Essex County, NJ NO<sub>x</sub> RACT approval dated February 6, 1995.

(7) Union County Utilities Authority's Municipal Waste Incinerator, Union County; NJ NO<sub>x</sub> RACT approval dated May 10, 1994 with an attached permit to construct, operate, and a PSD permit dated December 29, 1989.

(8) PSE&G's Hudson Station Unit No. 2 utility boiler, Hudson County, NJ COAD approval dated May 9, 1995.

(9) Algonquin Gas Transmission Co.'s simple cycle combustion turbines, Morris County, NJ COAD approval dated March 31, 1995.

(10) Hoffmann-La Roche's combined cycle combustion turbines, Essex County, NJ COAD approval dated May 8, 1995.

(11) International Flavors and Fragrances' non-utility boiler Number 5, Monmouth County, NJ COAD approval dated June 9, 1995.

(12) Parsippany-Troy Hills Township Sewer Authority's sewage sludge

incinerators, Morris County, NJ COAD approval dated October 13, 1995.

(13) Johnson Matthey's multi-chamber metals recovery furnace, Gloucester County, NJ COAD approval dated June 13, 1995.

(14) 3M Company's rotary kiln and dryers, Somerset County, NJ COAD approval dated May 4, 1995.

(15) Sandoz Pharmaceuticals Corporation's trash fired boiler, Morris County, NJ COAD approval dated March 23, 1995.

(16) General Motors Corporation's non-utility boiler (No.4), Mercer County, NJ COAD approval dated June 22, 1995.

(17) General Motors Corporation's Topcoat system, Union County, NJ COAD approval dated November 6, 1995.

(18) United States Pipe and Foundry Company's cupolas and annealing ovens (No. 2 and No. 3), Burlington County, NJ COAD approval dated October 16, 1995.

(19) Griffin Pipe Products Company's cupola and annealing furnace, Burlington County, NJ COAD approval dated December 14, 1995.

(20) Texas Eastern Transmission Corporation's internal combustion engines, Hunterdon County, NJ COAD approval dated May 9, 1995.

(21) Texas Eastern Transmission Corporation's internal combustion engines, Union County, NJ COAD approval dated May 9, 1995.

(ii) Additional information—Documentation and information to support NO<sub>x</sub> RACT facility-specific emission limits or alternative emission limits in four letters addressed to Regional Administrator Jeanne M. Fox from New Jersey Commissioner Robert C. Shinn, Jr. dated:

(A) May 26, 1995 for two SIP revisions;

(B) November 8, 1995 for eight SIP revisions;

(C) January 10, 1996 for ten SIP revisions; and

(D) October 10, 1996 for two SIP revisions.

[FR Doc. 97-1073 Filed 1-16-97; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[CO-001-0008(a); FRL-5660-9]

**Approval and Promulgation of Air Quality Implementation Plans; Colorado: Enhanced Vehicle Inspection and Maintenance Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving an enhanced vehicle inspection and maintenance (I/M) State Implementation Plan (SIP) revision submitted by Roy Romer, Governor of Colorado, on September 29, 1995. This revision fulfills the Governor's commitment to adopt final regulations to limit dealership self-testing, allowing EPA to convert Colorado's prior conditional approval to a full approval for the enhanced I/M SIP revisions which established and require the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the Denver and Boulder urbanized area. This action is being taken under Section 110 of the Clean Air Act (CAA).

**DATES:** This action is effective on March 18, 1997 unless adverse or critical comments are received by February 18, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Comments may be mailed to Richard R. Long, Director, Air Programs, USEPA Region VIII (P2-A), 999 18th Street—Suite 500, Denver, Colorado 80202-2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address.

Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Scott P. Lee, at (303) 312-6736 or via e-mail at lee.scott@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region VIII address above.

### I. Background

On November 8, 1994, EPA published a rulemaking (59 FR 55584) conditionally approving an enhanced vehicle I/M program for the Denver and Boulder urbanized areas. The conditional approval was based on the State's commitment to adopt final regulations limiting dealership self-testing as required by EPA's I/M Rule (40 CFR part 51, subpart S). EPA limits self-testing to ensure all vehicles receive a proper independent inspection on a regular interval. The State was required to adopt this regulation revision within one year of final conditional approval. On September 22, 1994, the State adopted a replacement regulation, Colorado Regulation No. 11 (5 CCR 1001-13) satisfying the State's commitment to limit dealership self-testing, and on September 29, 1995, forwarded it to EPA to be acted upon.

### II. EPA'S Analysis of Colorado's Submittal

As detailed in the Governor's September 29, 1995 letter, the State held a properly noticed public hearing regarding the revised enhanced I/M regulation on September 22, 1994. EPA found the Governor's submittal to be administratively complete on November 30, 1995.

The September 29, 1995, submittal included: Colorado Air Quality Control Commission (AQCC) Regulation Number 11, Motor Vehicle Emissions Inspection Program (5 CCR 1001-13), adopted on September 22, 1994, and effective on November 30, 1994. This replacement Regulation No. 11 limits dealer self-testing to non-consecutive test-cycles as required by EPA's I/M Rule (40 CFR Part 51, Subpart S), and fulfills the State's commitment allowing EPA to fully approve Colorado's program.

In addition to the dealer self-testing provisions, the AQCC adopted minor revisions to the inspection equipment technical specifications. These revisions are technical corrections not considered to be substantive changes impacting the approvability of the program.

### III. Action

EPA is fully approving the Colorado enhanced motor vehicle I/M SIP revision as submitted by Governor Romer on September 29, 1995. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 18, 1997 unless, by February 18, 1997, adverse or critical comments are received.

If the EPA receives such comments, EPA will publish a subsequent document withdrawing this final action before its final effective date. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on 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 March 18, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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.

### V. Administrative Requirements

#### A. 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 (OMB) has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, 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, EPA may certify that the rule will not have a significant economic 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 section 110 and subchapter I, part D of the Act 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 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 EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. 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 costs to State, local, or tribal governments in the aggregate; or to the 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 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *E. 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 March 18, 1997. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 20, 1996.

Jack W. McGraw,

*Acting Regional Administrator, Region VIII.*

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.

2. Section 52.320 is amended by adding paragraph (73) to read as follows:

#### **SUBPART G—COLORADO**

##### **§ 52.320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(77) On September 29, 1995, Roy Romer, the Governor of Colorado, submitted a SIP revision to the State Implementation Plan for the Control of Air Pollution. This revision provides a replacement Regulation No. 11, Inspection/Maintenance Program which limits dealer self-testing. This material is being incorporated by reference for the enforcement of Colorado's I/M program.

(i) Incorporation by reference.

(A) Department of Health, Air Quality Control Commission, Regulation No. 11 (Motor Vehicle Emissions Inspection Program) as adopted by the Colorado Air Quality Control Commission (AQCC) on September 22, 1994, effective November 30, 1994.

[FR Doc. 97-1075 Filed 1-16-97; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Part 52**

[FL-68-2-9640a; FRL-5662-1]

#### **Approval and Promulgation of Implementation Plans State: Approval of Revisions to the State of Florida State Implementation Plan (SIP)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Florida State Implementation Plan (SIP) to allow the State air pollution control agency to utilize exclusionary rules via general permits for the purpose of limiting potential to emit (PTE) criteria pollutants for certain source categories to less than the title V permitting major source thresholds. EPA is also approving under section 112(l) of the Clean Air Act (CAA) the same source-categories of the submitted regulations for limiting PTE of

hazardous air pollutants (HAP) to less than title V permitting major source thresholds. These exclusionary rules allow facilities to compute potential emissions based on actual emissions or raw material usage for the following source categories: Asphalt concrete plants, bulk gasoline plants, emergency generators, surface coating operations, heating units and general purpose internal combustion engines, polyester resin plastic products, cast polymer operations; and mercury reclamation and recovery operations. On April 15, 1996, the State of Florida through the Department of Environmental Protection (DEP) submitted a SIP revision fulfilling the requirements necessary to utilize exclusionary rules to limit PTE of air pollutants in a federally enforceable manner. On August 6, 1996, the State of Florida submitted updates to the earlier submittal which also fulfill the requirements necessary to utilize exclusionary rules to limit PTE in a federally enforceable manner.

**DATES:** This final rule is effective March 18, 1997 unless adverse or critical comments are received by February 18, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments on this action should be addressed to Scott Miller at the Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file FL-68-2-9640. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Scott Miller, 404/562-9120.

Florida Department of Environmental Protection, Division of Air Resources Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400.

**FOR FURTHER INFORMATION CONTACT:** Scott Miller at 404/562-9120.