

rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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. Section 7410(a)(2).

#### F. Unfunded Mandates

Under sections 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 proposed approval action 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

Environmental protection, Air pollution control, Carbon monoxide,

Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: December 9, 1998.

**Robert Perciasepe,**

*Assistant Administrator, OAR.*

[FR Doc. 98-33476 Filed 12-16-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[ME059-7008; A-1-FRL-6203-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Vehicle Inspection and Maintenance Program; Restructuring OTR Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Maine State Implementation Plan (SIP), which was submitted to EPA for approval on November 19, 1998 by the Department of Environmental Protection (DEP). This submittal requested further flexibility from requirements applicable to the Ozone Transport Region (OTR) in light of the current air quality status of the area. The SIP revision includes sections of the "Maine Safety Inspection Manual," and additional supporting material including detailed authorizing legislation (L.D. 2223, "An Act to Reduce Air Pollution from Motor Vehicles and to Meet Requirements of the Federal Clean Air Act"), administrative items, and a description of the program being implemented. This action is being taken under Section 110 of the Clean Air Act.

**DATES:** Written comments must be received on or before January 19, 1999. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114-2023.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment, at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th

floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, State House—Station No. 17, Augusta, ME 04333.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Judge, (617) 918-1045.

**SUPPLEMENTARY INFORMATION:** On November 19, 1998, Maine submitted a revision to its State Implementation Plan (SIP) for vehicle inspection and maintenance (I/M). This submittal requested further flexibility from requirements applicable to the OTR in light of the current air quality status of the area. The SIP revision includes Sections of the "Maine Safety Inspection Manual," and additional supporting material including detailed authorizing legislation (L.D. 2223, "An Act to Reduce Air Pollution from Motor Vehicles and to Meet Requirements of the Federal Clean Air Act"), administrative items, and a description of the program being implemented. This action is being taken under section 110 of the Clean Air Act.

#### I. Clean Air Act Requirements

Section 184(b)(1)(A) of the Act requires certain areas in the Ozone Transport Region (OTR) to adopt and implement an inspection and maintenance program meeting EPA's enhanced I/M performance standard. EPA's I/M rule was established on November 5, 1992 (57 FR 52950). EPA made significant revisions to the I/M rule on September 18, 1995 (60 FR 48035) and on July 25, 1996 (61 FR 39036). Maine is affected by requirements of the Act related to I/M in certain areas of the State. Specifically, under EPA's I/M rule, enhanced I/M programs would be required in the Portland, Maine ozone nonattainment area. This program was initially submitted to fulfill Maine's obligations to implement I/M pursuant to these requirements. The State is only required to submit an I/M program because of its location in the OTR.

By this action, EPA proposes to approve Maine's submittal. EPA has reviewed the State submittal against the requirements of the Act and EPA's final I/M rule. The present version of the SIP submission does not meet all of the requirements of EPA's final rule for enhanced I/M in the OTR. The program does, however, contribute to air quality improvement. Therefore, EPA proposes to approve the program for several reasons. First, Maine has achieved all of its Clean Air Act control plan requirements for overall emission reductions without I/M. That is, the State has submitted an acceptable 15

percent VOC reduction plan, and based on 1996–1998 data in AIRS, has achieved attainment of the 1-hour ozone standard without the implementation of a vehicle I/M program. In addition, Maine and all areas nearby, including New Hampshire, Eastern Massachusetts, and Rhode Island appear to have attained the 1-hour ozone standard based on 1996–1998 data, as discussed elsewhere in the **Federal Register**. Additionally, Maine does not contribute to nonattainment of the 1-hour ozone standard in any areas in the OTR (or elsewhere) where that standard continues to be violated based on evidence submitted by the State separately as part of their overwhelming ozone transport demonstration. Therefore, EPA has concluded that the State should not need to meet all the requirements for enhanced I/M in the OTR. Section 176A of the Clean Air Act states that the “Administrator . . . may remove any State . . . from the [OTR] whenever the Administrator has reason to believe that control of emissions in that State . . . pursuant to [the Act requirements for the OTR] will not significantly contribute to attainment of the standard in the region.” Implicit in EPA’s authority to remove a State from the OTR entirely is the authority to eliminate or “restructure” specific control requirements for States that remain in the OTR, provided the State demonstrates that the control of emissions from such requirement will not significantly contribute to attainment of the 1-hour ozone standard anywhere in the OTR.

We propose that the State has met the test of section 176A and it has requested further flexibility in meeting the Clean Air Act requirements for I/M in the OTR. EPA believes that Maine’s continued participation in the OTR is beneficial, and that EPA’s approval of this I/M program will improve air quality. Therefore, in light of the above, EPA is proposing to approve this I/M program as strengthening the SIP despite the fact that it does not meet all requirements for enhanced I/M in the OTR. Further, EPA did finalize the NO<sub>x</sub> SIP call for 22 States and the District of Columbia by notice dated October 27, 1998 (63 FR 57356). Maine was not included among those States, but EPA intends to conduct modeling to determine whether a SIP revision under section 110(a)(2)(D)(i)(I) should be required from Maine in the future. Currently, EPA does not have evidence that emissions from sources in Maine significantly contribute to 1-hour nonattainment downwind, but if EPA determines that sources in Maine

contribute significantly to downwind nonattainment, today’s action will be revisited.

EPA concludes that an enhanced I/M program is not required in Maine because control of emissions from an I/M program would not contribute significantly to attainment of the 1-hour ozone standard in any area of the OTR. A summary of EPA’s analysis of the State’s I/M program is provided below.

## **II. I/M Regulation General SIP Submittal Requirements**

On November 5, 1992 (57 FR 52950), EPA published a final regulation establishing the I/M requirements, pursuant to sections 182, 184, and 187 of the Act. EPA made significant revisions to the I/M rule on September 18, 1995 (60 FR 48035) and on July 25, 1996 (61 FR 39036). The I/M regulation was codified at 40 CFR part 51, subpart S, and requires States subject to the I/M requirement to submit an I/M SIP revision that includes all necessary legal authority and the items specified in 40 CFR 51.350 through 51.373.

## **III. State Submittal**

On November 19, 1998, the State of Maine submitted an I/M SIP revision for Cumberland County, which includes the Portland area. A public hearing for the November 19, 1998 submittal was held on October 13, 1998.

The I/M SIP submittal provides for the implementation of I/M in Maine’s Cumberland County beginning on January 1, 1999. Maine will be implementing an annual, test and repair I/M program which the State has designed to meet the requirements of EPA’s performance standard and many other requirements contained in the federal I/M rule. Testing will be overseen by the Department of Public Safety (DPS) and implemented by individual garages in the existing safety inspection network. Aspects of the Maine I/M program include: anti-tampering testing for catalytic converters on 1983 and newer light duty vehicles and trucks, gas cap pressure testing on 1974 and newer vehicles, and OBD2 checks (beginning in January 2000), enforcement by the existing windshield safety inspection stickers, requirements for testing convenience, quality assurance, data collection, no cost waivers, reporting, test equipment and test procedure specifications, public information and consumer protection, inspector training and certification, penalties against inspectors which perform faulty inspections, and emission recall enforcement. An analysis of the Maine program, and Maine’s demonstration of how the I/M

program meets many of the federal I/M SIP requirements, is provided below.

### *A. Applicability*

The Maine I/M regulations and authorizing legislation specify that the I/M program be implemented only in Cumberland County, the minimum required area under EPA rules, covering the Portland, Maine area.

### *B. Enhanced I/M Performance Standard*

The I/M program was designed, in part, to meet the enhanced I/M performance standard for ozone precursors causing air quality problems in Maine. Maine’s program was designed to meet the performance standard for volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>), under 40 CFR 51.351(h) of the I/M rule.

The State submitted a modeling demonstration using the EPA computer model, MOBILE5b, showing that the enhanced performance standard will be met. The State’s demonstration shows that it expects to achieve the reductions required by that section of the rule, and explains that they intend to utilize additional benefits from reformulated gasoline to ensure that the total emission reductions attributed to I/M meets federal I/M requirements. On October 30, 1998, at the Governor of Maine’s request, EPA allowed the State to opt-out of the reformulated gasoline program, contingent upon certain conditions being met. We expect the State to meet those conditions, which include demonstrating that they have adopted measures which achieve equivalent reductions. At this point in time, however, the State cannot demonstrate that it meets this requirement of the I/M rule.

### *C. Network Type and Program Evaluation*

Maine has chosen to implement a test and repair I/M network program design. The State has assumed conservative assumptions for credit claims relative to its network design in its demonstration that it meets the performance standard. EPA believes that a further demonstration is not necessary. Furthermore, EPA’s OTR low enhanced rule does not require that the State perform additional program evaluations beyond the data reporting requirements of the I/M rule in the future.

### *D. Adequate Tools and Resources*

The State’s SIP outlines the level of resources dedicated to the I/M program, and includes descriptions of the funding expended and the personnel utilized within DEP and DPS to implement the program. The SIP also describes the role

of DPS State Police enforcement personnel to be utilized in enforcing the program. DEP will also play a role in implementing and analyzing the program. Finally, the "per test fee" collected for each inspection has been raised, with the additional funds going to the State Highway fund, which the Transportation Committee of the legislature can authorize to be spent on I/M program implementation.

The State has described both current and future plans to ensure that adequate funding is provided to implement the program. While the State has described in significant detail the plans it has to ensure an effective program, the State has not dedicated funding to this effort.

#### *E. Test Frequency and Convenience*

The Maine SIP revision requires annual inspections for all subject motor vehicles in Cumberland County. The inspections will be conducted in concert with the existing schedule for the annual safety inspection program. Short waiting times and short driving distances are not an issue since this will be part of the State's existing safety inspection network, with longstanding stations scattered throughout Cumberland County prepared to test all subject vehicles.

#### *F. Vehicle Coverage*

Maine's I/M program covers all model year gasoline powered light-duty vehicles and light-duty trucks, registered, or required to be registered, within Cumberland County, with very limited exceptions. Based on discussions with the State, EPA evaluated the effect of the fact that antique vehicles and other similar vehicles are exempt from testing and determined that such exemptions would not be the cause of the program not achieving the performance standard. Model year 1974 and newer vehicles are required to undergo the gas cap pressure test, and 1983 and newer vehicles are required to undergo the catalytic converter check. Legal authority for the vehicle coverage requirement is contained in the Maine Safety Inspection rules and the April 1998 authorizing legislation. EPA proposes to approve the submission as a strengthening of the SIP based on the DEP's submittal, although it has not met all EPA rule requirements.

#### *G. Test Procedures and Standards*

The Maine I/M SIP revision obligates the State to perform anti-tampering checks of the nature described in the plan submission. The State will be requiring these checks for 1983 and newer model year vehicles in the area

for the presence of the catalytic converter, and checks for 1974 and newer vehicles for the presence, proper fit and function of a gas cap. In addition, the State of Maine will be requiring OBD2 system checks in accordance with EPA rules, beginning in 2001, with checks of the systems, but no repairs, starting in 2000.

#### *H. Test Equipment*

In its November 19, 1998 submittal, Maine's I/M SIP revision describes procedures to follow to test vehicles. These procedures are articulated in more detail in the Maine Safety Inspection Manual, and the State's I/M authorizing legislation.

The SIP does not include a "real time" data link, but instead every vehicle which leaves a station without a passing sticker is reported to the Department of Public Safety with a "safety refusal card." The State feels that the fact that these vehicles are reported to the Department of Public Safety will ensure that vehicle owners comply, and do not shop around for a "passing test." EPA believes that the relatively unobtrusive program that the State is implementing will help ensure that vehicle owners do not "shop" for passing stickers any more than is done under the present safety inspection program. For reasons described elsewhere in this notice, EPA is proposing approval of this as a SIP strengthening measure, but it does not meet EPA I/M requirements. The State does not require a "real time" data link to prevent this sticker shopping, nor to collect the requisite data required under the I/M rule.

#### *I. Quality Control*

The Maine I/M SIP narrative outlines quality control procedures. However, since no significant test equipment is utilized, it is minimal. Efforts to ensure that documents related to the inspection remain secure are already in place and enforced by the DPS as part of the existing safety inspection program.

#### *J. Waivers and Compliance via Diagnostic Inspection*

Since Maine is implementing largely an anti-tampering program, it will not be issuing any waivers whatsoever, and this is approvable.

Maine will require the replacement of gas caps which fail the pressure test.

#### *K. Motorist Compliance Enforcement*

The State of Maine has chosen to use a program of windshield sticker based enforcement, based on its current safety inspection program. Any vehicle driven without a valid sticker will ultimately

be caught by law enforcement officials. The motorist compliance enforcement program will be implemented primarily by the Maine Department of Public Safety (DPS). The enforcement strategy is described in Maine's November 19, 1998 submittal. The enforcement strategy is designed to ensure a high rate of compliance rate for all vehicles within a short time of the compliance deadline. As described in the November 19, 1998 submittal, this will be accomplished by surveillance by law enforcement officials to identify uninspected and unregistered vehicles. Vehicle owners of those vehicles operated without a valid safety inspection sticker are fined, just as those that are driven unregistered. Maine feels that the fact that windshield safety inspection stickers are more easily identified helps ensure a higher rate of compliance than with the less visible registration stickers required to be on license plates. Maine does have a penalty system whose purpose is to deter noncompliance, but the penalties imposed may not be a sufficient incentive to deter noncompliance if a vehicle owner expects that significant repairs will be required upon inspection.

This program is not viewed as intrusive to the general public, and it is not likely that citizens of Maine's Cumberland County will take additional steps to avoid this I/M program. EPA is comfortable that, in light of the type of vehicle "testing" being proposed, Maine's program will be enforced in a manner commensurate with the type of program implemented, and emission reductions expected. However, this section of the State's program does not meet Clean Air Act requirements to have the program based on vehicle registration. Further, while the State did make a demonstration that this mechanism was both a "pre-existing" enforcement mechanism and that it would be more effective than registration denial would be, EPA has not concurred with those assertions. Further, the State has not committed to ensuring the continued effectiveness of its sticker based enforcement mechanism. In general, EPA believes that a registration based program would be more effective than sticker based enforcement since a vehicle can be registered without being inspected, but cannot be inspected without being registered. Further discussion on the State's enforcement demonstration is included in the TSD prepared for this notice. Nevertheless, for reasons outlined elsewhere in this notice, EPA believes that this program should be

approved because it will strengthen the SIP, despite the fact that it does not meet the requirements for enhanced I/M under the Clean Air Act. The legal authority to implement and enforce the program is included in the Maine State law and in DPS rules.

#### *L. Motorist Compliance Enforcement Program Oversight*

The Maine I/M SIP revision provides that EPA may perform regular auditing of its enforcement program. The State does not describe its own methods for ensuring that the program is enforced and overseen sufficiently. The State's efforts for the motorist compliance enforcement program do not meet federal I/M rule requirements.

#### *M. Quality Assurance*

The November 19, 1998 submittal from Maine states that the quality assurance program will be developed. Since that program has not been developed, what was submitted does not meet EPA requirements.

#### *N. Enforcement Against Contractors, Stations and Inspectors*

The Maine I/M SIP revision describes specific sanctions available in its enforcement against stations and inspectors which fail to give proper inspections. An inspector or station can have its authority to inspect suspended if improper inspections are performed. Other penalties include fines, warnings, and revocations. This section of the State's program is appropriate for the type of program the State is implementing for the purpose of strengthening the SIP.

#### *O. Data Collection, Analysis, and Reporting*

The Maine I/M SIP provides for collecting test data to link specific test results to specific vehicles, I/M program registrants, test sites, and inspectors. The SIP lists the specific types of test data and quality control data which will be collected, which include all the relevant data points of 40 CFR 51.365. We expect that the data collected would therefore include, at a minimum: station identification number, technician name, customer name, vehicle ID and license plate number, vehicle make, model, model year and mileage, pass/fail determination, reason for failure, inspection sticker number, and repairs performed.

#### *P. Inspector Training and Licensing or Certification*

The November 19, 1998 submittal describes the training and the testing

that is required of each inspector, prior to being certified to perform these tests.

#### *Q. Improving Repair Effectiveness*

In the November 19, 1998 submittal, the State committed to providing technical assistance and training opportunities for the repair industry. The DEP does intend to work with the repair industry to provide additional OBD2 training in the future.

#### *R. Compliance With Recall Notices*

The Maine I/M SIP will ensure that vehicles subject to its I/M program, that are included in either a voluntary emission recall or a remedial plan determination pursuant to the CAA, have had the appropriate repairs made prior to the inspection. Lists of vehicles that have received recall notices will be provided to the inspection stations, by coordination between the DEP and DPS.

#### *S. On-Road Testing*

Maine has stated that it has the legislative authority to move forward with an on-road testing program. It intends to design a program which meets EPA requirements in the future, and the program will be conducted either by remote sensing or by "on-road" inspections.

#### *T. Concluding Statement*

A more detailed analysis of the State's submittal is contained in the EPA's technical support document prepared for this action. The TSD is available from the EPA New England Regional office listed above. The Maine regulations and accompanying materials contained in the SIP represent an acceptable I/M plan for the purpose of strengthening the Maine SIP.

### **IV. Proposed Action**

EPA is proposing to approve the SIP revision submitted by Maine on November 19, 1998 as a revision to the SIP. The SIP revision proposes approval of the State's I/M program. While the I/M program does not meet all of the requirements of the enhanced I/M rule, EPA has determined, based on the State's showing that additional reductions from a fully enhanced I/M program will not significantly contribute to attainment of the 1-hour ozone standard anywhere in the OTR, that the requirements for an enhanced I/M program are not required in Maine. Therefore, EPA is approving the Maine I/M program as strengthening the SIP.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes 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 action.

### **V. Administrative Requirements**

#### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

#### *B. Executive Order 12875*

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget, a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments that does not already exist as a matter of State law. EPA is simply approving a state regulation under the Clean Air Act. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### *C. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective

and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not "economically significant" as defined under E.O. 12866, and does not involve an action that addresses environmental or safety risks.

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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 sections 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 proposed approval action 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: December 9, 1998.

**Robert Perciasepe,**

*Assistant Administrator, OAR.*

[FR Doc. 98-33475 Filed 12-16-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[FRL-6202-3]

#### Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to identify ten additional ozone areas where the 1-hour standard is no longer applicable. Thus, upon finalization of this proposed action, the Code of Federal Regulations for ozone will be amended to reflect such changes. On July 18, 1997, EPA provided by rule that the 1-hour ozone standard would no longer apply to an area based on a determination by EPA that the area has attained that standard according to 40 CFR 50.9(b). The 1-hour standard will continue to apply to areas for which EPA has not made a determination through rulemaking. The EPA has previously taken final action regarding the applicability of the 1-hour standard for other areas on June 5, 1998 and July 22, 1998. The ten additional proposed areas are: Boston-Lawrence-Worcester (E.MA), Massachusetts-New Hampshire; Memphis, Tennessee; Muskegon, Michigan; Portland, Maine; Portsmouth-Dover-Rochester, New Hampshire; Providence (All RI), Rhode Island; Allegan County, Michigan; Oceana County, Michigan; Mason County, Michigan; Door County, Wisconsin.

**DATES:** To be considered, comments must be received on or before January 19, 1999.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to Air and Radiation Docket and Information Center (6101), Attention: Docket No. A-98-48, U.S. Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this notice should be addressed to Annie Nikbakht (policy)