List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 10, 1999.

David P. Howekamp,

Acting Regional Administrator, Region IX.

[FR Doc. 99–32762 Filed 12–16–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ41–206, FRL–6509–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to find that the State of New Jersey will have implemented the enhanced inspection and maintenance (I/M) program when mandatory testing begins on December 13, 1999 and to reinstate the interim approval granted under section 348 of the National Highway Systems Designation Act (NHSDA). 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. 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. This action is proposing to reinstate the interim approval and to stop the sanctions clock and lift any sanctions applied in New Jersey.

DATES: Comments must be received on or before January 18, 2000, and will be considered before taking final action.

ADDRESSES: 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.

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.

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 which began the 18-month interim period under section 348 of the NHSDA.

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.

Additionally, on November 4, 1998, EPA informed New Jersey that the December 12, 1997 letter tolled the interim approval period for the State. Since approximately six months of the interim period had passed, the State will have the remaining 12 months of the interim approval period to demonstrate their I/M program's effectiveness.

II. Proposed Action

EPA is proposing to find that the State of New Jersey implemented the enhanced I/M program when mandatory testing begins on December 13, 1999 and to reinstate the interim approval granted under section 348 of the NHSDA. Elsewhere in this **Federal Register**, EPA is announcing an interim final determination that the sanctions have been stayed and deferred because the State will have more likely than not started up the approved I/M program. Implementing the program on a mandatory basis cures the deficiency cited in the December 12, 1997 letter. EPA is now proposing to find that the deficiency was corrected and proposing to make a finding that the State is implementing the I/M SIP and EPA is reinstating the interim approval granted under section 348 of the NHSDA. This will result in stopping the sanctions that were announced on December 12, 1997.

On November 19, 1999, New Jersey notified EPA by letter that the mandatory enhanced I/M program will be implemented on December 13, 1999. EPA has been working closely with the State during the phase-in period of the enhanced I/M program and agrees that the State will have the program implemented 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 will withdraw the interim final rule finding that the state has more likely than not implemented the program. In such event, the sanctions will be immediately reinstated via a letter and a **Federal Register** notice.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism

implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Thus, the requirements of section 6 of the Executive Order 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or 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. If the mandate is unfunded, EPA must 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 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. Accordingly, the requirements of section 3(b) of Executive Order 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 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 proposed 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. 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone, Volatile organic compounds.

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

Dated: December 7, 1999.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 99–32516 Filed 12–16–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AZ 072–0085; FRL–6511–2]

Approval and Promulgation of Maintenance Plan and Designation of Area For Air Quality Planning Purposes for Carbon Monoxide; State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.