

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[UT-001-0038, UT-001-0039, UT-001-0040; FRL-7151-5]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Vehicle Inspection and Maintenance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 14, 2001 and on August 15, 2001, the Governor of Utah submitted revisions to the State Implementation Plan (SIP) affecting the State's motor vehicle Inspection and Maintenance (I/M) programs. The August 14, 2001, submittal revised Utah's Rule R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County to allow Salt Lake County to take 100% credit for their test and repair vehicle I/M network, rather than the previously required EPA default of a 50% emissions reduction credit. The August 15, 2001, submittal revises Utah's Rule R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability to require mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002. In this action, EPA is proposing approval of the revisions to Utah's Rule R307-110-33 and Rule R307-110-31.

DATES: Written comments must be received on or before April 1, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail code 8P-AR, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT:
Kerri Fiedler, EPA, Region VIII, (303) 312-6493.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we," "our," or "us" is used, we mean EPA.

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I. Summary of EPA's Proposed Action

We are proposing to approve revisions to the SIP that were submitted by the Governor of Utah on August 14, 2001 and August 15, 2001. The August 14, 2001, submittal updates Utah's Rule R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County. Specifically, this revision allows Salt Lake County to receive full credit (100%) for its test and repair vehicle Inspection and Maintenance (I/M) network. Salt Lake County has demonstrated that its test and repair I/M network is as effective as a test only I/M network and is eligible to take full emission reduction credit rather than the previously required EPA default of a 50% emissions reduction credit.

The August 15, 2001, submittal updates Utah's Rule R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability. This revision requires the mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002 in all areas implementing an I/M program. Therefore, this requirement is applicable for Davis County, Salt Lake County, Utah County, and Weber County. As a convenience to vehicle owners, Davis, Utah, and Weber Counties are already implementing this program. Salt Lake County will begin implementing the program on January 1, 2002.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the Clean Air Act (CAA) addresses our actions on submissions of revisions to a State Implementation Plan (SIP). The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted by the State, after reasonable notice and public hearing, and prior to the revision being submitted by a State to us.

A. R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County

The Utah Air Quality Board (UAQB) held a public hearing on June 21, 2001, to include in the Salt Lake County SIP element a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network, and allow the County to claim 100% credit instead of 50% credit in emissions reduction. The UAQB adopted the revisions to R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County on August 1, 2001. This SIP revision became State effective on August 2, 2001, and was submitted by the Governor of Utah to us on August 14, 2001.

B. R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability

The UAQB held a public hearing on June 21, 2001, to consider amendments to postpone the Federally required inspection of the OBD systems on newer vehicles, because the Federal implementation date had been postponed until January 1, 2002 (66 FR 18156). The UAQB adopted the revisions to R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability on August 1, 2001. This SIP revision became State effective on August 2, 2001, and was submitted by the Governor of Utah to us on August 15, 2001.

We have evaluated the Governor's submittals and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP revision materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that the Governor's submittals were administratively and technically

complete. Our completeness determination was sent on October 18, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Michael O. Leavitt.

III. Evaluation of the State's Submittal

A. R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County

In this action, we are proposing to approve revisions to Utah's Rule R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County, as adopted by the UAQB on August 1, 2001, and State effective on August 2, 2001. The Salt Lake County vehicle I/M program is in place to reduce vehicle emissions so that the Federal carbon monoxide National Ambient Air Quality Standard (NAAQS) and the Federal 1-hour ozone NAAQS are not exceeded. The changes in Rule R307-110-33 involve a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network.

With respect to the CAA Amendments of 1990, we designated Salt Lake County nonattainment for the 1-hour ozone NAAQS and we also designated Salt Lake City nonattainment for the carbon monoxide NAAQS (see 56 FR 56694, November 6, 1991). Based on the above, section 182(b)(4) of the CAA required Salt Lake County to implement an I/M program at least as effective as EPA's Basic Performance Standard as specified in 40 CFR 51.352. We note that Salt Lake County was redesignated to attainment for the 1-hour ozone NAAQS on July 17, 1997 (see 62 FR 38213) and was redesignated to attainment for the carbon monoxide NAAQS on January 22, 1999 (see 64 FR 3216). The associated EPA-approved maintenance plans for both of the redesignations, however, continue to rely, in part, on the implementation of the I/M program for the necessary emission reductions used in the maintenance demonstrations.

On July 24, 2000, we promulgated, "Additional Flexibility Amendments to Vehicle Inspection Maintenance Program Requirements; Amendment to the Final Rule" (see 65 FR 45526) which removed the mandatory I/M rule provision establishing the decentralized, test and repair I/M network credit discount of 50% from 40 CFR 51.353(b). This new rule (65 FR 45526) requires that the State achieve the same (or better) level of emission reduction as the performance standard as described in 40 CFR 51.352 Basic I/M performance standard. Salt Lake County's Basic I/M

program was last approved by us on July 17, 1997, as published in our final rule redesignating Salt Lake County to attainment for the Federal 1-hour ozone standard (62 FR 38213). Salt Lake County has provided a demonstration that their test and repair I/M network achieves the same level of emission reduction as the Federal performance standard (40 CFR 51.352). Our final rule published in 65 FR 45526 also requires that the adequacy of this demonstration be judged by the Administrator on a case-by-case basis through notice-and-comment rulemaking. We have determined Salt Lake County's demonstration is adequate to claim 100% emission reduction credit and today's notice satisfies the notice-and-comment rulemaking provisions from 65 FR 45526.

Based on the above EPA July 24, 2000, action, Salt Lake County used EPA's mobile source emissions model, MOBILE5, to model the performance standard of their I/M program. This demonstration used the current, EPA-approved MOBILE5 model and not the new MOBILE6 emissions model since the latter has not been officially released. The MOBILE5 model uses emission factors, given information about the fleet, climate, fuel characteristics, and I/M programs in a local area to calculate grams of a particular pollutant per vehicle mile traveled across the vehicle fleet in an area. Salt Lake County's modeling demonstrates compliance with both the Federal Basic I/M performance standard (40 CFR 51.352) and the Salt Lake/Davis Counties' Ozone Maintenance Plan Basic I/M performance standard (62 FR 38213).

Salt Lake County also evaluated the effectiveness of their test and repair I/M program to two other comparable programs. These other programs were the State of Minnesota's test only I/M program and Utah County's test and repair I/M program, the latter of which we have granted interim approval of full credit for their I/M program (see 62 FR 31349, June 9, 1997). Taking into consideration that:

- (a) Approximately 45% of the initial Salt Lake County I/M tests are performed at test only facilities,
- (b) Salt Lake County's Vehicle Emissions Certification process for technicians,
- (c) Salt Lake County's I/M network utilizes a real time data base,
- (d) the performance results of covert and overt audits and fail rate comparisons, and
- (e) the results of the comparisons to the State of Minnesota and Utah County I/M programs conclude that Salt Lake

County's test and repair I/M program is as effective as a test only I/M program.

Therefore, based on our review of the above analyses, we have determined that Salt Lake County is eligible to take full (100%) emission reduction credit for their test and repair I/M program rather than the previously required 50% reduction in emission credit.

We are proposing to approve Utah's SIP revision to Rule R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County. Our proposed approval is based on the demonstration that Salt Lake County's test and repair network is as effective as a test only network and our above-referenced July 24, 2000, rulemaking (see 65 FR 45526) that deleted our prior requirement of an automatic 50% credit discount for decentralized test and repair I/M programs.

B. R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability

In this action, we are also proposing to approve SIP revisions to Utah's Rule R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as adopted by the Utah Air Quality Board on August 1, 2001, and State effective on August 2, 2001.

The Governor had previously submitted a revision to Rule R307-110-31 on February 22, 1999, that we did not take any action on. The February 22, 1999 submittal committed the State of Utah to implement testing of vehicle OBD systems by January 1, 2001, as was required by 40 CFR part 51, subpart S Inspection/Maintenance Program Requirements. On April 5, 2001, we extended the Federal date for mandatory implementation of the inspection of vehicle OBD systems, in 40 CFR part 51, subpart S, to January 1, 2002 (see 66 FR 18156). The Governor's August 15, 2001 submittal meets the requirements of our April 5, 2001 rulemaking (see 66 FR 18156) and supersedes and replaces the previous SIP revision to Rule R307-110-31 submitted by the Governor on February 22, 1999. The Governor's August 15, 2001, SIP revision simply incorporates the Federal OBD rule change.

Motor vehicle I/M programs are in place to reduce vehicle emissions so that the Federal carbon monoxide NAAQS and the 1-hour ozone NAAQS are not exceeded. Vehicle OBD systems monitor emission related components for malfunction, assuring proper emission control system operations. Our regulations require OBD inspections of

all 1996 model year and later light-duty vehicles and light-duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating.

Today's vehicles use computers to direct engine control systems such as fuel and ignition. Sensors and actuators sense the operation of specific components (oxygen sensor) and actuate others (fuel injector) to maintain optimal engine performance. An on-board computer, known as a "powertrain control module" or an "engine control unit," controls these systems. Using proper diagnostic software, the on-board computer can also monitor the operation of the sensors and actuators. The sensors, actuators, and diagnostic software comprise the OBD system. With the above equipment, the on-board computer can detect an engine malfunction or deterioration of the various sensors and actuators well before the driver notices poor vehicle performance.

OBD systems can detect problems which may not be noticeable by a visual inspection, because many component failures impacting a vehicle's emissions may be electrical. By detecting these emission equipment related failures and alerting the driver, vehicles can be repaired and returned to their proper emissions performance.

When the OBD system detects a problem, it stores a "Diagnostic Trouble Code" in the computer's memory. The computer then illuminates a dashboard light indicating "Check Engine." Once alerted, the vehicle owner should take the vehicle to a repair shop. A service technician can quickly retrieve the stored diagnostic trouble code from the vehicle's computer memory. The diagnostic trouble code specifically identifies the problem, allowing the technician to quickly perform repairs. Vehicle OBD systems allow for early diagnosis of emission control malfunction.

In this action, we are proposing to approve Utah's SIP revision to Rule R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, which commits the State of Utah to implement testing of vehicle OBD systems by January 1, 2002. Utah's SIP revision merely incorporates our Federal rule change of April 5, 2001, that postponed implementation of OBD inspections until January 1, 2002 (see 66 FR 18156). As a convenience to vehicle owners, Davis, Utah, and Weber Counties are already implementing this program. Salt Lake County will begin implementing the program on January 1, 2002.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposed SIP rulemaking action. Please send your comments in duplicate to the address listed above in the front of this proposed action. We'll consider your comments in deciding our final action if your letter is received before April 1, 2002.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely proposes to approve 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. This proposed rule also is not subject to Executive Order 13045

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: February 20, 2002.

Jack W. McGraw,

*Acting Regional Administrator, Region VIII.
[FR Doc. 02-4940 Filed 2-28-02; 8:45 am]*

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7151-1]

Wisconsin: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Wisconsin has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Wisconsin. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it.