

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FL-72-1-9720a: FRL-5858-2]

Approval and Promulgation of State Implementation Plan, Florida: Approval of Revisions to the Florida SIP**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: On September 25, 1996, the Florida Department of Environmental Protection (FDEP) submitted revisions to the Environmental Protection Agency (EPA) to: revise the gasoline tanker truck leak testing procedures by adopting by reference federal test methods; change the requirements to submit test results to the FDEP rather than the Florida Department of Agriculture and Consumer Services; and update the gasoline tanker truck leak test form. EPA is approving these revisions as part of the State Implementation Plan (SIP).

DATES: This final rule is effective September 19, 1997, unless adverse or critical comments are received by August 20, 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 Mr. Gregory O. Crawford at the EPA Regional Office listed below.

Copies of the 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.

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, 61 Forsyth Street, Atlanta, Georgia 30303.

Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT:

Gregory O. Crawford, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia, 30303. The telephone number is (404) 562-9042.

SUPPLEMENTARY INFORMATION: EPA is approving revisions to the Florida SIP

submitted by the State of Florida through the FDEP on September 25, 1996. These revisions amend the gasoline tanker truck leak testing procedures, change the requirements to submit test results and update the gasoline tanker truck leak test form. The following is a description of the revisions. The regulations are more fully discussed in the official SIP submittal that is available at the Region 4 office listed under the **ADDRESSES** section of this document.

62-252.500 Gasoline Tanker Trucks

This section was revised to delete the reference to EPA document number 450/2 78 051 which describes EPA Test Method 27, and adopt by reference the actual test method. This section was also revised to change the requirements to submit test results to FDEP instead of the Florida Department of Agriculture and Consumer Services.

62-252.900 Forms

Minor word changes were made in this section for grammatical clarity. This section was also revised to update the gasoline tanker truck leak test form.

EPA has evaluated these SIP revisions and find that they meet all applicable requirements. Therefore, the Agency is approving the SIP revisions into the Florida SIP.

Final Action

EPA is approving the above referenced revisions to the SIP submitted by the State of Florida because they meet the Agency's and the Clean Air Act (CAA) requirements. The 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 September 19, 1997, unless, by August 20, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. 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 September 19, 1997.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

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

I. 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 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 CAA 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 any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 1976; 42 U.S.C. 7410(a)(2) and 7410 (k)(3).

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 rules that include 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 September 19, 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 the 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 25, 1997.

A. Stanely Meiburg,
Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 K—Florida

2. Section 52.520, is amended by adding paragraph (c)(98) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(98) Revisions to the Florida SIP to amend the gasoline tanker truck leak testing procedures, change the requirements to submit test results and update the gasoline tanker truck leak test form which were submitted on September 25, 1996.

(i) Incorporation by reference. 62-252.500(3) and 62-252.900, effective September 10, 1996.

(ii) Other material. None.

[FR Doc. 97-19093 Filed 7-18-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN68-3; FRL-5852-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 25, 1994 and April 29, 1997, the Indiana Department of Environmental Management (IDEM) submitted proposed revisions to its State Implementation Plan (SIP). The submission contains revisions to the Indiana SIP's general provisions (326

IAC 1-1; 326 IAC 1-2), the applicability criteria of the rule for malfunctions (326 IAC 1-6), and the applicability criteria for state construction and operating permit requirements (326 IAC 2-1). The submission also revises Indiana's construction permit program (326 IAC 2-1) and its "Permit no defense" regulation (326 IAC 2-1). With this rule, EPA is approving this SIP submission because it is consistent with the Clean Air Act and applicable regulations. EPA has proposed approval and solicited comment on this direct final action through the proposed rule previously published in the **Federal Register** at (62 FR 7193); if adverse comments are received, EPA will withdraw the direct final rule and address the comments received in a new final rule. Unless this direct final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This action will be effective September 19, 1997 unless adverse or critical comments are received by August 20, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Mark J. Palermo at (312) 886-6082, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Alvin Choi, EPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3507.

SUPPLEMENTARY INFORMATION:

I. Background

IDEM submitted its proposed revisions to the Indiana SIP on October 25, 1994. The submission included changes to the State's permit review rules and federally enforceable state operating permits program (326 IAC 2-8), source specific operating agreements (326 IAC 2-9), and enhanced new source review (NSR) rules (326 IAC 2-1-3.2). The October 25, 1994 submission also contained provisions pertaining to Hazardous Air Pollutants (HAPs), pursuant to Section 112(g) of the Clean Air Act. EPA made a finding