

the Customs Regulations to clarify and update the legal requirements and procedures that apply for purposes of obtaining duty-free treatment on articles imported from insular possessions of the United States other than Puerto Rico. That final rule document provided for an October 3, 1997, effective date for the regulatory amendments contained therein.

The amendments in T.D. 97-75 included an update of the list of information collection approvals under the Paperwork Reduction Act contained in § 178.2 of the Customs Regulations (19 CFR 178.2). Although the discussion of the Paperwork Reduction Act in the **SUPPLEMENTARY INFORMATION** portion of T.D. 97-75 correctly set forth the control number assigned by the Office of Management and Budget (OMB) as 1515-0200, the amendment to § 178.2 incorrectly listed the OMB control number as 1515-0055. This document corrects this error.

#### **Correction to the Final Regulations**

On page 46443, in the table under § 178.2, in the column headed "OMB control number", the entry "1515-0055" is corrected to read "1515-0200".

Dated: September 11, 1997.

**Harold M. Singer,**

*Chief, Regulations Branch.*

[FR Doc. 97-24953 Filed 9-18-97; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[VA-056-5023; FRL-5895-6]

#### **Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Interim Final Determination for the Enhanced Motor Vehicle Inspection and Maintenance Program**

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

**ACTION:** Interim final rule.

**SUMMARY:** Elsewhere in today's **Federal Register**, EPA has published a proposed rule to amend the Inspection/Maintenance (I/M) Program Requirements (the I/M rule). That document proposes, in part, revisions to the Motor Vehicle I/M requirements by replacing the I/M rule requirement that the tailpipe portion of the mandatory program evaluation be performed using only an IM240 or equivalent mass-emission transient test with a requirement that states use a sound

evaluation methodology capable of providing accurate information about the overall effectiveness of an I/M program. In addition, the proposal would amend the conditions relating to the program evaluation testing requirements that were part of the conditional interim approval actions taken on the I/M State Implementation Plans (SIPs) for the Commonwealths of Pennsylvania and Virginia and the State of Delaware, consistent with the proposed rule change. Based on the proposed rule and for the reasons discussed below, EPA is making an interim final determination by this action that the commitment dates concerning the major deficiencies in Virginia's I/M SIP should be extended out to June 16, 1998. The June 16, 1998 date is one year from the effective date of the final conditional interim approval of the I/M program, the outside date allowed under the Clean Air Act (CAA) for conditional approvals. Although this action is effective upon publication, EPA will take comment on whether this interim final determination should remain in place. In addition, this action will amend the commitment dates pertaining to the major deficiencies cited in the rulemaking section of the final conditional interim approval for the Commonwealth of Virginia's I/M program.

**DATES:** Effective Date: September 19, 1997. Comment Date: October 20, 1997.

**ADDRESSES:** Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey M. Boylan, (215) 566-2094, at the EPA Region III office or via e-mail at boylan.jeffrey@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On November 6, 1996, (61 FR 57343) EPA proposed conditional interim approval of the Northern Virginia Enhanced Inspection and Maintenance program. In response to that proposal, the DEQ submitted a letter dated December 4, 1996, to EPA with a

commitment to correct all of the major deficiencies cited in the proposal by September 15, 1997. After receiving this commitment letter, EPA proceeded with final rulemaking on the Virginia I/M program and published an interim final rule on May 15, 1997 (62 FR 2674). The three major deficiencies conditioned in the final rulemaking tasked Virginia to accomplish the following by September 15, 1997: (a) Perform and submit the new modeling demonstration illustrating how its program will meet the enhanced performance standard; (b) submit as a SIP amendment a final Virginia I/M regulation which requires a yearly mass-emission transient test based evaluation on 0.1% of the subject fleet; and (c) adopt and submit a final Virginia I/M regulation which requires and specifies detailed approvable test procedures and equipment specifications for all the evaporative and exhaust tests used in the enhanced I/M program.

EPA is proposing elsewhere in today's **Federal Register**, to further revise the rule related to state air quality implementation plans for Motor Vehicle Inspection and Maintenance (I/M) programs (40 CFR part 51, subpart S) (hereafter referred to as the I/M rule; see 57 FR 52950) to provide greater flexibility to states in conducting program evaluation. That proposed rulemaking proposes to: (1) Amend the I/M program evaluation requirements at 40 CFR 51.353(c) to remove the current requirement that the tailpipe portion of the program evaluation can be performed only by conducting mass emission transient testing (METT), (2) create a new evaluation requirement at 40 CFR 51.353(c) that will instead require states to conduct program evaluation testing using a sound evaluation methodology capable of providing accurate information about I/M program effectiveness, such evaluation to begin no later than November 30, 1998, (3) amend the requirement that the program evaluation tests be conducted "at the time initial test is due" to clarify that states are not barred from using alternative sample gathering methods like roadside pullovers by defining "the time of initial test" as any time prior to repairs during the inspection cycle under consideration, (4) delete the current conditions on Pennsylvania's and Virginia's conditional interim I/M approvals and Delaware's conditional approval (40 CFR part 52, subpart NN, § 52.2026(a)(2), 40 CFR part 52, subpart V, § 52.2450(b)(2), and 40 CFR part 52, subpart I, § 52.424(b), respectively) that require submission of program

evaluation regulations under the existing I/M rule, and (5) impose a new condition on Pennsylvania's, Virginia's, and Delaware's I/M approvals that will require them to submit I/M regulations which include a requirement to perform a program evaluation using a sound evaluation methodology meeting the amended requirements of 40 CFR 51.353(c) by November 30, 1998, if commitments are submitted by October 15, 1997 to submit such regulations within such time frame.

Since today's proposed amendments broaden the program evaluation requirement to include other sound evaluation methodologies, it is also appropriate to propose withdrawing these METT-based program evaluation conditions on the interim approval notice for Virginia. In place of these original conditions, EPA proposes to impose new conditions that will require the commonwealths instead to submit program evaluation regulations that meet the more flexible requirements of the amended 40 CFR 51.353(c). Virginia must submit a commitment by October 15, 1997, to adopt and submit the required evaluation methodology requirements by November 30, 1998 in order to support EPA's imposition of the new proposed conditions under section 110(k)(4) of the Act. However, Virginia's final conditional interim approval requires the Commonwealth to meet its METT-based program evaluation condition before EPA will be able to finalize today's proposed action. The current deadline for Virginia's meeting this condition is September 15, 1997, which is based upon a commitment made by the Commonwealth prior to EPA's decision to revise the program evaluation requirement. The September 15, 1997 date does not reflect the full twelve month period available under section 110(k)(4) of the statute for meeting conditions which, in the case of Virginia, would be June 16, 1998. Virginia has recently committed to submit program evaluation provisions meeting the existing I/M rule by June 16, 1998 should EPA fail to take final action on today's proposal. For these reasons, EPA is taking an interim final action to extend the deadline for Virginia's existing program evaluation condition to June 16, 1998. EPA believes it is appropriate to take such action without prior public notice and comment because it would be contrary to the public interest to require Virginia to comply with a condition based on a requirement that EPA has proposed to amend, and because Virginia's recent commitment is consistent with the statute.

On September 2, 1997, the DEQ submitted a recommitment letter officially requesting that the EPA extend all the commitment dates relevant to the major deficiencies as cited in the December 4, 1996 letter to June 16, 1998. This date represents a time frame one year from the effective date of the final conditional interim approval of Virginia's I/M program published on May 15, 1997. In light of the delay in the program evaluation, occasioned by EPA's proposal, EPA believes that it is appropriate to extend all the commitment dates to June 16, 1998, consistent with section 110(k)(4) of the CAA.

## II. EPA Action

Based on the proposed rule to amend the I/M Program Requirements set forth in today's **Federal Register** and to properly satisfy the conditions in its final interim conditional approval, DEQ submitted a recommitment officially requesting that the September 15, 1997 deadline to remedy the major deficiencies of the I/M program be extended to June 16, 1998. EPA believes that the Commonwealth of Virginia is justified in its request. Furthermore, prior to the time EPA can take final action on today's proposed rule to amend the I/M rule, Virginia would be required to comply with a condition in the final I/M rulemaking, which EPA has proposed to alter. For all the above reasons, EPA is taking this interim final action finding that it is appropriate to allow the Commonwealth of Virginia to remedy all the major deficiencies within 12 months of the effective date of the I/M interim final rule. In addition, this action will amend the commitment dates pertaining to the major deficiencies cited in the rulemaking section of the final conditional interim approval for the Commonwealth of Virginia's I/M program.

Today EPA is also providing the public with an opportunity to comment on this interim final action. If based on any comments on this action EPA determines that this final action was inappropriate EPA will take further action to withdraw this interim final action, thereby reimposing the September 15, 1997 deadline for meeting the commitments. The final conditional interim approval would then convert to a disapproval based on the State's failure to timely comply with the conditions.

## III. Administrative Requirements

In order to remedy conditions of their I/M program for the reasons described above, EPA has determined that the Commonwealth of Virginia is justified

in its extension request and that the State is being afforded a time frame which is no longer than other States with pending final conditional approvals. Therefore, EPA is invoking the good clause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.<sup>1</sup> The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest as EPA would be requiring Virginia to comply with the condition in question based on a requirement that EPA has proposed to amend. Moreover the section 110(k)(4) of the CAA allows states up to one year after the date of approval of a SIP revision to adopt specific enforceable measures to meet its commitments. Therefore, EPA believes it is necessary to use the interim final rulemaking process to extend the commitment dates from September 15, 1997 to June 16, 1998 while EPA completes its rulemaking processes on Virginia's I/M program and on the proposed I/M rule change.

### *Executive Order 12866*

This action has been delegated to the Regional Administrator for decision-making and signature. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

### *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 subject to notice and comment procedure 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.

Because this action is not subject to prior notice and comment requirements (see above), it is not subject to RFA. In any event, today's action merely extends the commitment dates to June 16, 1998 for the Commonwealth of Virginia to satisfy the major deficiency conditions already cited in I/M final conditional interim rule. Therefore, this action will not have a significant impact on a substantial number of small entities.

<sup>1</sup> As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

*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 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.

*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 interim final determination regarding the Commonwealth of Virginia I/M SIP 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 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 November 18, 1997.

Filing a petition for reconsideration by the Administrator of this interim final determination of Virginia's enhanced I/M SIP 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) of the Administrative Procedures Act).

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 12, 1997.

**W. Michael McCabe,**  
*Regional Administrator, Region III.*

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 VV—Virginia**

2. Section 52.2450 is amended by revising the first sentence of paragraphs (b)(1), paragraph (b)(2), and the first sentence of paragraph (b)(3) to read as follows:

**§ 52.2450 Conditional Approval.**

\* \* \* \* \*

(b) \* \* \*

(1) The Commonwealth must perform and submit the new modeling demonstration that illustrates how its program will meet the relevant enhanced performance standard by June 16, 1998. \* \* \*

(2) The Commonwealth must submit to EPA as a SIP amendment, by June 16, 1998, the final Virginia I/M regulation which requires a METT-based evaluation be performed on 0.1% of the subject fleet each year as per 40 CFR 51.353(c)(3) and which meets all other program evaluation elements specified in 40 CFR 51.353(c), including a program evaluation schedule, a protocol for the testing, and a system for collection and analysis of program evaluation data.

(3) By June 16, 1998, Virginia must adopt and submit a final Virginia I/M regulation which requires and which specifies detailed, approvable test procedures and equipment specifications for all of the evaporative and exhaust tests to be used in the enhanced I/M program. \* \* \*

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[TX-21-1-7345a; FRL-5894-4]

**Approval and Promulgation of State Implementation Plan: Employee Commute Options (Employer Trip Reduction) Program for Texas**

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

**ACTION:** Direct final rule.

**SUMMARY:** In this action, EPA is removing the Texas Employee Commute Options (ECO) rule from the State Implementation Plan (SIP) revision submitted by the State of Texas for the purpose of establishing an ECO program (also known as the Employer Trip Reduction (ETR) program). This action relieves the State from mandatory implementation of the ECO program in the Houston-Galveston ozone nonattainment area. The authority for this removal action is based on Public Law 104-70 and the subsequent EPA policy issued on April 23, 1996. This legislation allows the states to remove such provisions from the SIP, or withdraw their submission, if the state notifies the Administrator, in writing, that the state has undertaken, or will undertake, one or more alternative methods that will achieve emission reductions equivalent to those to be achieved by the removed or withdrawn provisions.

**DATES:** This action is effective on November 18, 1997, unless adverse or critical comments concerning this action are submitted and postmarked by October 20, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments must be submitted to Mr. J. Behnam, P.E., Air Planning Section (6PDL), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

Copies of the State ECO withdrawal request are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone: (214) 665-7214.

Air and Radiation Docket and Information Center, Environmental