



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0465; FRL-9827-9]

**Approval and Promulgation of Air Quality Implementation Plans;
Wisconsin; Amendments to Vehicle Inspection and Maintenance
Program for Wisconsin**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted by the Wisconsin Department of Natural Resources on June 7, 2012, concerning the state's vehicle inspection and maintenance (I/M) program in southeast Wisconsin. The revision amends I/M program requirements in the active control measures portion of the ozone SIP to reflect changes that have been implemented at the state level since EPA fully approved the I/M program on August 16, 2001. The submittal also includes a demonstration under section 110(1) of the Clean Air Act (CAA) addressing lost emission reductions associated with the program changes.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0465. All documents in the docket are listed in the www.regulations.gov web site. Although

listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo, Mobile Source Program Manager, at (312) 886-6061, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed rule?
- III. What action is EPA taking?

IV. Statutory and Executive Order Reviews.

I. What is being addressed by this document?

On April 25, 2013, at 78 FR 24373, EPA proposed to approve into the state's Federally-approved SIP several regulatory changes to the previously approved I/M program operating in southeast Wisconsin. The most significant changes to the Wisconsin I/M program took effect beginning on July 2008 and include:

- The elimination of I/M program testing requirements for vehicles not equipped with computerized second generation on-board diagnostic systems. This change impacted model year (MY) 1968 through 1995 vehicles. These vehicles were previously subject to tailpipe testing.
- The elimination of I/M program testing requirements for gasoline vehicles with gross vehicle weight rating (GVWR) between 8,500 to 10,000 pounds (lbs). This change impacted MY 1996 through 2006 vehicles. Previously, all vehicles up to 10,000 lbs were subject to testing.
- The addition of I/M program testing requirements for gasoline vehicles with a GVWR of 10,000 to 14,000 lbs. This change impacted MY 2007 and later vehicles.
- The addition of I/M program testing requirements for diesel vehicles with a GVWR up to 14,000 lbs. This change

impacted MY 2007 and later vehicles.

In addition to the changes discussed above, EPA is approving a number of minor revisions to the program that do not have a significant impact on overall program operations or the emissions reductions associated with it. A full list of the changes submitted by Wisconsin for EPA approval include:

- revisions to Section 100.20, Wisconsin Statutes (2001 Wisconsin Act 16, published August 31, 2001; 2003 Wisconsin Act 220, published April 22, 2003; 2005 Wisconsin Act 49, published October 27, 2005; 2007 Wisconsin Act 20, published October 26, 2007; 2009 Wisconsin Act 228, published May 19, 2010);
- revisions to Section 285.30, Wisconsin Statutes (2003 Wisconsin Act 192, published April 21, 2004; 2007 Wisconsin Act 20, published October 26, 2007; 2007 Wisconsin Act 33, published December 3, 2007; 2009 Wisconsin Act 157, published March 24, 2010; 2009 Wisconsin Act 311, published May 26, 2010);
- revisions to Wisconsin Administrative Code, Chapter NR 485 (Clearinghouse Rule CR 05-072 effective April 1, 2006; Clearinghouse Rule CR 10-049 effective December 1, 2010);
- revisions to Wisconsin Administrative Code, Chapter Trans 131 (Clearinghouse Rule CR 01-121 effective April 1, 2002;

Clearinghouse Rule CR 07-114 effective July 1, 2008;
Clearinghouse Rule CR 10-088 effective January 1, 2011).

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period. The comment period closed on May 28, 2013. EPA received no adverse comments.

III. What action is EPA taking?

EPA is approving the revisions to the Wisconsin ozone SIP submitted on June 7, 2012, concerning the I/M program in southeast Wisconsin. EPA finds that the revisions meet all applicable requirements and will not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: June 12, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

2. Section 52.2570 is amended by adding paragraph (c) (128) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(128) On June 7, 2012, the Wisconsin Department of Natural Resources submitted a request to revise Wisconsin's vehicle inspection and maintenance (I/M) program to reflect changes that have been made to the program since EPA fully approved the I/M program on August 16, 2001.

(i) Incorporation by reference.

(A) Wisconsin Administrative Code, NR 485.01 Applicability; purpose, as published in the Wisconsin Administrative Register May 1992, No. 437, effective June 1, 1992.

(B) Wisconsin Administrative Code, NR 485.02 Definitions, NR 485.04 Motor vehicle emission limitations; exemptions, and NR 485.045 Repair cost limit for vehicle inspection program, as published in the Wisconsin Administrative Register November

2010, No. 659, effective December 1, 2010.

(C) Wisconsin Administrative Code, NR 485.06 Tampering with air pollution control equipment, as published in the Wisconsin Administrative Register March 2006, No. 603, effective April 1, 2006.

(D) Wisconsin Administrative Code, NR 485.07 Inspection requirement for motor vehicle tampering, as published in the Wisconsin Administrative Register January 1997, No. 493, effective February 1, 1997.

(E) Wisconsin Administrative Code, Trans 131.01 Purpose and scope, Trans 131.02 Definitions, Trans 131.03 Emission inspection and reinspection, Trans 131.04 Waiver of compliance, Trans 131.05 Waiver emission equipment inspection, Trans 131.06 Inspection compliance, Trans 131.07 Voluntary inspections, Trans 131.11 Audits of inspection facilities, Trans 131.12 Equipment specifications and quality control, Trans 131.13 Licensing of inspectors, Trans 131.14 Remote sensing, Trans 131.15 Performance monitoring of repair facilities, as published in the Wisconsin Administrative Register December 2010, No. 660, effective January 01, 2011.

(F) Wisconsin Administrative Code, Trans 131.08 Letter of temporary exemption from emission inspection requirements, and Trans 131.10 Reciprocity, as published in the Wisconsin Administrative Register March 2002, No. 555, effective April 01,

2002.

(G) Wisconsin Administrative Code, Trans 131.09 Temporary operating permits, and Trans 131.16 Automotive emission repair technician training, as published in the Wisconsin Administrative Register June 2008, No. 630, effective July 01, 2008.

(H) Wisconsin Administrative Code, Trans 131.17 Notification of inspection requirements, as published in the Wisconsin Administrative Register April 1996, No. 484, effective May 01, 1996.

(I) Wisconsin Statutes, section 110.20 Motor vehicle emission inspection and maintenance program, as revised by 2009 Wisconsin Act 228, enacted on May 5, 2010. (A copy of 2009 Wisconsin Act 228 is attached to section 110.20 to verify the enactment date.)

(J) Wisconsin Statutes, section 285.30 Motor vehicle emissions limitations; inspections, as revised by 2009 Wisconsin Act 311, enacted on May 12, 2010. (A copy of 2009 Wisconsin Act 311 is attached to section 285.30 to verify the enactment date.)