[FR Doc. 95–224 Filed 1–4–95; 8:45 am]

BILLING CODE 5000–04–C

Department of the Army

32 CFR Parts 536 and 537

The Army Claims System

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This document withdraws the amendments to 32 CFR Parts 536 and 537, The Army Claims System; published in the **Federal Register** Monday, December 12, 1994 (59 FR 64016) and reinstates Parts 536 and 537 as published in the Code of Federal Regulations revised as of July 1, 1994.

Reasons for this rescission are changes to legal references and other editorial changes. Publication of the December 12, 1994 document as a Final Rule was premature. This document will not be resubmitted as a Final Rule until such time as all legal reviews have been completed and has been authenticated at the Army Secretariat level.

EFFECTIVE DATE: December 12, 1994.

ADDRESSES: Director, U.S. Army Claims Service, Building 4411, Llewellyn Ave., ATTN: LTC Michael Millard, Fort Meade, Maryland 20755–5360.

FOR FURTHER INFORMATION CONTACT: LTC Michael Millard, (303) 677–7009, Ext. 202 or the undersigned at (703) 325–6277.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

Accordingly, the amendments to 32 CFR parts 536 and 537 published December 12, 1994, at 59 FR 64016, are withdrawn and the text of 32 CFR parts 536 and 537 as published in the Code of Federal Regulations revised as of July 1, 1994, is reinstated.

[FR Doc. 95–183 Filed 1–4–95; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5132–7]

RIN 2060–AE21

Inspection/Maintenance Program Requirements—Provisions for Redesignation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today's action revises the motor vehicle Inspection/Maintenance Program Requirements final rule promulgated on November 5, l992. EPA proposed these revisions on June 28, l994, allowing stakeholders ample opportunity for review and comment, and is taking final action on the revisions to include additions and modifications, regarding State Implementation Plan submissions for states with nonattainment areas that are in a position to redesignate to attainment. The revisions specify SIP requirements only for areas that are subject to the basic Inspection/Maintenance program requirement and that otherwise qualify for redesignation from nonattainment to attainment for the carbon monoxide or ozone national ambient air quality standards. This rule allows such areas to defer adoption and implementation of some of the otherwise applicable requirements established in the original promulgation of the Inspection/Maintenance rule. It is an appropriate time to take this action since the rule applies only to areas that by virtue of their air quality classification are required to implement a basic I/M program and that submit, and otherwise qualify for, a redesignation request.

EFFECTIVE DATE: The effective date of this rule is January 5, 1995.

ADDRESSES: Materials relevant to this rulemaking are contained in Public Docket No. A–93–21. The docket is located at the Air Docket, room M–1500 (LE–131), Waterside Mall SW., Washington, DC 20640. The Docket may be inspected from 8 a.m. to 4:30 p.m. on weekdays. A reasonable fee may be charged for coping docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. (313) 668–4456.

SUPPLEMENTARY INFORMATION: Section l07(d)(3)(E) of the Clean Air Act, as amended in l990 (the Act), states that an area can be redesignated to attainment if the following conditions are met: EPA has determined that the National ambient air quality standards have been attained; EPA has fully approved the applicable implementation plan under section 110(k); EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions due to the implementation plan and other permanent and enforceable reductions; the State has met all applicable requirements of section 110 and part D; and, EPA has fully approved a maintenance plan for the area under section 175A of the Act. Section 175A in turn requires states that submit a redesignation request to submit a plan, and any additional measures if necessary, for maintenance of the air quality standard, for at least a 10 year period following EPA's final approval of the redesignation. It also requires the plan to include contingency provisions to ensure prompt correction of any violation of the standard which occurs after redesignation. The contingency measures must include a provision requiring the state to implement measures which were contained in the State Implementation Plan (SIP) prior to redesignation as an attainment area.

Today's action revises subpart S of part 51 of title 40 of the Code of Federal Regulations (subpart S) to address Inspection/Maintenance (I/M) program requirements for areas subject to the Act's basic I/M requirements and that otherwise would qualify for and ultimately obtain approval by EPA of redesignation requests to attainment. This final rule adds a new paragraph to the regulation pertaining to State Implementation Plan (SIP) submissions for areas required to implement a basic I/M program that are submitting and otherwise qualify for approval of a redesignation request. Areas subject to basic I/M fall into several categories. There are basic areas that will be submitting redesignation requests that do not currently have I/M programs, or have either a basic program implemented pursuant to the l977 amendments to the Act or a basic program required to be upgraded to meet the requirements of EPA's I/M regulations. For purposes of today's final rulemaking, EPA is using the word ''upgraded'' to refer to a basic I/M program that meets all the basic I/M program requirements of the I/M rule, subpart S, part 5l, title 40 of the Code of Federal Regulations in addition to pre-l990 Clean Air Act I/M program policy. This rule applies only to areas that by virtue of their air quality classification are required to implement a basic I/M program, and that submit, and otherwise qualify for a redesignation request.Pursuant to sections 182(a)(2)(B)(i) and 182(b)(4) of the Act, basic I/M areas must submit a SIP revision that includes any ''provisions necessary to provide for a vehicle inspection and maintenance program'' of no less stringency than either the program that was in the SIP at the time of passage of the Act or the minimum basic program requirements, whichever is more stringent. For purposes of this final rule EPA interprets the statutory language of

section 182(a)(2)(B)(i) and section l82(b)(4) as providing a degree of flexibility compared with the statutory language in section l82(c)(3), which requires enhanced I/M areas to submit a SIP revision ''to provide for an enhanced program''. For areas that otherwise qualify for redesignation to attainment and ultimately obtain EPA approval to be redesignated, EPA is today amending Subpart S to allow such areas to be redesignated if they submit a SIP that contains the following four elements: (1) Legal authority for a basic I/M program (or an enhanced program, as defined in this final rule, if the state chooses to opt up), meeting all of the requirements of Subpart S such that implementing regulations can be adopted without further legislation; (2) a request to place the I/M plan or upgrades, as defined in this rule, (as applicable) in the contingency measures portion of the maintenance plan upon redesignation as described in the fourth element below; (3) a contingency measure to go into effect as soon as a triggering event occurs, consisting of a commitment by the Governor or the Governor's designee to adopt regulations to implement the I/M program in response to the specified triggering event; and (4) a commitment that includes an enforceable schedule for adopting and implementing the I/M program, including appropriate milestones, in the event the contingency measure is triggered (milestones shall be defined by states in terms of months since the triggering event). EPA believes that for areas that otherwise qualify for redesignation a SIP meeting these four requirements would satisfy the obligation to submit ''provisions to provide'' for a satisfactory I/M program, as required by the statute.

With these amendments the determination of whether a state fulfills the basic I/M SIP requirements will depend, for the purposes of redesignation approval only, on whether the state meets the four requirements listed above. EPA believes that it is permissible to interpret the basic I/M requirement to provide this flexibility and that it should apply only for the limited purpose of considering a redesignation request to attainment.

Summary of Comments

EPA received comments from the Natural Resources Defense Council (NRDC) opposing the proposal to redesignate an area as in attainment when such an area has not yet submitted regulations for a basic I/M program. NRDC argues that the phrase ''any provisions necessary'' plainly encompasses any adopted regulations needed to implement the program. NRDC argues that EPA ignores the impact of the word ''any'' and claims that Congress used this term to require that the State submit ''all'' that is necessary to put a basic I/M program in place. NRDC further argues that without adopted regulations a SIP is incomplete and cannot be approved.

EPA disagrees with NRDC's comments. The plain language of the statute requires that each SIP include ''any provisions necessary to provide for'' the required I/M program. It is EPA's view that what is ''necessary'' to provide for the required I/M program depends on the area in question. For areas which have attained the ambient standard with the benefit of only the current program, or no program at all, EPA does not believe it is ''necessary'' to revise or adopt new regulations and undertake other significant planning efforts which are not essential for clean air, and which would not be implemented after redesignation occurred because they are not ''necessary'' for maintenance. For such areas that would otherwise be eligible for redesignation to attainment, EPA believes that a contingency plan that includes already enacted legislative authority and provides for adoption of an I/M program on an expeditious schedule if the area develops a problem is the only set of provisions necessary to provide for an I/M program.

Although for most purposes EPA will continue to interpret ''provisions necessary to provide for'' a basic I/M program to require full adoption and expeditious implementation of such a program it is appropriate, based on the flexible language provided in section 182(a)(2)(B)(i) and 182(b)(4) as compared with section l82(c)(3), to revise the SIP revision requirements applicable to basic I/M areas that otherwise qualify for, and ultimately receive, redesignation.

Contrary to NRDC's assertions, a SIP revision applicable to basic I/M areas that otherwise qualify for, and ultimately receive, redesignation would meet the minimum completeness criteria without adopted regulations. EPA promulgated criteria setting forth the minimum criteria necessary for any submittal to be considered complete. 40 CFR part 51, appendix V. However, EPA recognizes that not all of the listed criteria are necessarily applicable to all of the various types of submissions which require a completeness determination. Accordingly, EPA interprets the completeness criteria to apply only those criteria that are relevant to the particular types of submissions. [1]

To be complete, a plan submission typically must supply the elements necessary to comply with the provisions of the CAA, including, among other things, specific enforceable measures. 40 CFR part 51, appendix V. section 2.l(d). As discussed earlier, however, EPA believes that it may provide that adopted regulations are not necessary to meet the statutory requirements of sections 182(a)(2)(B)(i) and 182(b)(4) of the CAA. EPA interprets these sections to provide that in some circumstances areas should be allowed to submit plans which lack specific enforceable measures, as long as the SIP includes provisions necessary to provide for the required program. It makes little sense for Congress to provide such flexibility under these sections, only to require that such submissions be summarily rejected on the grounds of incompleteness. A reasonable reading of the statute would give effect to both provisions by permitting areas that otherwise qualify for, and ultimately receive, redesignation to have their redesignation requests determined ''complete'' if the submission contains ''provisions necessary to provide for'' the I/M program. Thus, as long as such an area submits a SIP that contains the four elements discussed in this rule, EPA will deem that submission ''complete'' only for the purposes of determining whether an area seeking redesignation has met the basic I/M requirements.

NRDC also commented that Congress did not intend the phrase 'any provisions necessary' to justify a mere commitment to adopt I/M regulations at some later date. NRDC cites *Natural Resources Defense Council* v. *Environmental Protection Agency,* 22 F.3d 1125 (D.C. Cir. 1994) (''*NRDC* v. *EPA*'') for further support of their argument.

As discussed in the proposal, in *NRDC* v. *EPA*, 22 F.3d 1125 (D. C. Cir. l994) the D. C. Court of Appeals held that EPA did not have authority to construe section ll0(k)(4) to authorize conditional approval of an I/M committal SIP that contains no specific substantive measures. A premise of the case is that I/M SIP submissions are required to have fully adopted rules. In

[1] Emission inventories required pursuant to 42 U.S.C. 7511a(a)(1) for ozone nonattainment areas are also an example of a required submittal that by definition could never satisfy all of the completeness criteria. As with committal SIPs, emission inventories are not in the form of regulations and do not include other technical items identified in the completeness criteria such as emission limits or test methods. 40 CFR part 51, appendix V, section 2.1(d), (g).

today's rule, EPA continues to interpret section 182 as generally requiring I/M programs to have fully adopted rules. However, EPA here is reinterpreting the relevant statutory sections to permit an exception to this general requirement for areas otherwise qualifying for redesignation to attainment. Based on this interpretation, the SIPs for states that otherwise qualify for redesignation may receive full approval, not conditional approval under section ll0(K)(4),if they contain legislative authority for, and a commitment to adopt, an I/M program in their contingency plan. Thus, the court's holding in *NRDC* v. *EPA* is not implicated here.

Without these amendments, states that are being redesignated to attainment would have to adopt a full I/M program for the purpose of obtaining full approval of their SIPs as meeting all applicable SIP requirements, which is a prerequisite for approval of a redesignation request. Once redesignated, these areas could discontinue implementation of this program (assuming it was not needed for maintenance of the ozone or CO standard) as long as it was converted to a contingency measure meeting all the requirements of EPA redesignation policy. Section 175A(d) provides that each plan revision contain contingency provisions necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area to attainment. These provisions must include a requirement that the state will implement all measures which were contained in the SIP for the area before redesignation. There are four possible scenarios under which an area can submit a redesignation request: (1) Areas without operating I/M programs; (2) areas with operating I/M programs that continue operation without upgrades; (3) areas with operating I/M programs; and (4) areas with operating I/M programs that are discontinued. A detailed explanation of each scenario is in the proposal.

NRDC commented that the CAA does not authorize conversion of I/M programs to contingency measures and that section 175A imposes a mandatory duty on an area that is redesignated to continue the emission control programs the area adopted prior to redesignation. NRDC further argued that failure to adopt regulations will result in more air pollution.

EPA disagrees. Section 175A requires that the state ''promptly'' correct any violation of the standard, but does not mandate that the contingency measures be fully adopted programs. In contrast, section l72(c)(9) requires that contingency measures for nonattainment plans ''take effect in any such case without further action by the State or the Administrator.'' Since 175A contains no such requirement that the contingency measures take effect without further action, it is clear that Congress did not intend to require contingency measures under section 175A to contain fully adopted programs. If an area did not require adoption or implementation of an I/M program in order to otherwise qualify to be redesignated to attainment, EPA believes it would be a wasteful exercise and impose needless costs to force states to go through full adoption of regulations only to have these regulations used as a contingency measure once the redesignation is approved.

In today's action, it should be understood that, pursuant to section 175A(c), while EPA considers the redesignation request, the state shall be required to continue to meet all the requirements of this subpart. This includes the submission of another SIP revision meeting the existing requirements for fully adopted rules and the specific implementation deadline applicable to the area as required under 40 CFR 51.372 of the I/M rule. If the state does not comply with these requirements it shall be subject to sanctions pursuant to section l79. Because the possibility for sanctions exists, states which do not have a solid basis for approval of the redesignation request and maintenance plan shall proceed to fully prepare and plan to implement a basic I/M program that meets all the requirements of subpart S.

The SIP revision must demonstrate that the performance standard in either 40 CFR 53.351 or 40 CFR 51.352 will be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the trigger date. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the five year period. All other requirements shall take effect within 24 months of the trigger date. Furthermore, a state may not discontinue implementation of an I/M program until the redesignation request and maintenance plan (that does not rely on reductions from I/M) are finally approved. If the redesignation request is approved, any sanctions already imposed, or any sanctions clock already triggered, would be terminated.

Paperwork Reduction Act

Today's rule places no information collection or record-keeping burden on respondents. Therefore, an information collection request has not been prepared and submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act U.S.C. 3501 *et seq.*

Judicial Review

Under section 307(b)(1) of the Act, EPA finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia within sixty days of publication of this action in the **Federal Register**.

Administrative Designation and Regulatory Analysis

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a significant regulatory action under the terms of Executive Order l2866 and is, therefore exempt from OMB review. This rule would only relieve states of some regulatory requirements, not add costs or otherwise adversely affect the economy.

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government

entity or jurisdiction. A small government jurisdiction is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' This certification is based on the fact that the I/M areas impacted by the rule do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.''

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Motor vehicle pollution, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: December 23, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble part 51 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

l. The authority citation for part 51 is revised as follows:

Authority: 42 U.S. C. 740l(a)(2), 7475(e), 7502(a) and (b). 7503. 9601(a)(1) and 7602.

2. Section 51.372 is amended by adding new paragraphs (c), (d) and (e) to read as follows:

§ 51.372 State implementation plan submissions.

* * * * *

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under sections 182(a)(2)(B) or l82(b)(4) if the submittal contains the following elements:

(1) Legal authority to implement a basic I/M program (or enhanced if the state chooses to opt up) as required by this subpart. The legislative authority for an I/M program shall allow the adoption of implementing regulations without requiring further legislation.

(2) A request to place the I/M plan (if no I/M program is currently in place or if an I/M program has been terminated,) or the I/M upgrade (if the existing I/M program is to continue without being upgraded) into the contingency measures portion of the maintenance plan upon redesignation.

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt regulations to implement the required I/M program in response to a specified triggering event. Such contingency measures must be implemented on the trigger date, which is a date determined by the State to be no later than the date EPA notifies the state that it is in violation of the ozone or carbon monoxide standard.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones, including the items in paragraphs (a)(l)(ii) through (a)(l)(vii) of this section. In addition, the schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart, excluding schedule requirements. Schedule milestones shall be listed in months from the trigger date, and shall comply with the requirements of paragraph (e) of this section. SIP submission shall occur no more than l2 months after the trigger date as specified by the State.

(d) Basic areas continuing operation of I/M programs as part of their maintenance plan without implemented upgrades shall be assumed to be 80% as effective as an implemented, upgraded version of the same I/M program design, unless a state can demonstrate using operating information that the I/M program is more effective than the 80% level.

(e) *SIP submittals to correct violations.* SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in § 51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the trigger date. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect within 24 months of the trigger date. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

[FR Doc. 95–254 Filed 1–4–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[PA32–1–5966; FRL–5126–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania Small Business Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP revision was submitted by the State to satisfy the Federal mandate of the Clean Air Act (''the CAA'' or ''the Act'') which lists specific program criteria to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The intended effect of this action is to approve this SIP revision. This action is being taken under section 110 of the CAA.

DATES: This action will become effective March 6, 1995, unless adverse comments received on or before February 6, 1995, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), 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; Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Makeba Morris, (215) 597–2923.

SUPPLEMENTARY INFORMATION:

Background

Implementation of the provisions of the CAA, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics.