ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans; New York;
Motor Vehicle Enhanced Inspection and Maintenance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a proposed State Implementation Plan revision submitted by the New York State Department of Environmental Conservation. This revision consists of changes to New York's motor vehicle enhanced inspection and maintenance program that would eliminate the transient emission short test program as it relates to the New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT 8-hour ozone moderate nonattainment area. EPA is proposing approval of this State Implementation Plan revision because it meets all applicable requirements of the Clean Air Act and EPA's regulations and because the revision will not interfere with attainment or maintenance of the national ambient air quality standards in the affected area. The intended effect of this action is to maintain consistency between the State-adopted rules and the Federally approved SIP.

DATES: Comments must be received on or before October 17, 2011.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R02–OAR–2011–0687, by one of the following methods:

• http://www.regulations.gov. Follow the on-line instructions for submitting comments.
• E-mail: Werner.Raymond@epa.gov.
• Fax: 212–637–3901.
• Mail: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Hand Delivery: Raymond Werner, Chief, Air Programs Branch,

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.


EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through http://www.regulations.gov or e-mail. The http://www.regulations.gov Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through http://www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at http://www.epa.gov/epahome/dockets.htm. Docket: All documents in the docket are listed in the http://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in http://www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, 212–637–3901.

VerDate Mar<15>2010 15:16 Sep 15, 2011 Jkt 223001 PO 00000 Frm 00016 Fmt 4702 Sfmt 4702 E:\FR\Fm\16SEP1.SGM 16SEP1WREIER-aviles on DSK29S0YB1PROD with PROPOSALS
New York 10007–1866. EPA requests, if at all possible, that you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kirk Wieber (wieber.kirk@epa.gov), Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Table of Contents
I. What action is EPA proposing
II. Background Information
   What are the Clean Air Act (CAA) requirements for a moderate 8-hr ozone nonattainment area?
   History of the Ozone Standard and Area Designations CAA Requirements for I/M Programs
III. What was included in New York’s proposed SIP submittal?
IV. What are the I/M performance standard requirements and does New York’s I/M program satisfy them?
V. Does New York demonstrate noninterference with attainment and maintenance under Section 110(l) of the CAA?
VI. What are EPA’s conclusions?
VII. Statutory and Executive Order Reviews
I. What action is EPA proposing?

The EPA is proposing to approve a revision to the New York State Implementation Plan (SIP) pertaining to New York’s motor vehicle enhanced inspection and maintenance (I/M) program that proposes to end tailpipe testing on December 31, 2010. This proposed SIP revision also outlines several changes to New York’s enhanced I/M programs currently operating within the New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT nonattainment area. New York proposes to reduce the percentage of emissions waivers allowed within that area to 2% (from 3%). New York indicates that the enhanced I/M program, which features on-board diagnostics inspections, is as effective as a centralized test-only program for modeling purposes.

II. Background Information

What are the Clean Air Act (CAA) requirements for a moderate 8-hour ozone nonattainment area?

History of the Ozone Standard and Area Designations

In 1997, EPA revised the health-based national ambient air quality standards (NAAQS) for ozone, setting it at 0.08 parts per million averaged over an 8-hour period. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23951), EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 8-hour ozone standard. These actions became effective on June 15, 2004. The New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT nonattainment area is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester and Rockland. This is collectively referred to as the New York City Metropolitan Area or NYMA. The NYMA was classified as a severe ozone nonattainment area under the existing 1-hour ozone standard. These actions became effective on June 15, 2004. The New York portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT nonattainment area is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester and Rockland. This is collectively referred to as the New York City Metropolitan Area or NYMA. The NYMA was classified as a severe ozone nonattainment area under the

III. What was included in New York’s proposed SIP submittal?

On May 7, 2001 (66 FR 22922), EPA fully approved New York’s enhanced I/M program as it applies to NYMA and included the State’s performance standard modeling as meeting the applicable requirements of the CAA. The OBD component of that program was not being implemented at that time.

The OBD system monitors the status of up to 11 emission control related subsystems by performing either continuous or periodic functional tests of specific components and vehicle conditions. The first three testing categories—misfire, fuel trim, and comprehensive components—are continuous, while the remaining eight only run after a certain set of conditions has been met. The algorithms for running these eight periodic monitors are unique to each manufacturer and involve such things as ambient temperature as well as driving conditions. Most vehicles will have at least five of the eight remaining monitors (catalyst, evaporative system, oxygen sensor, heated oxygen sensor, and exhaust gas recirculation or EGR system) while the remaining three (air conditioning, secondary air, and heated catalyst) are not necessarily applicable to all vehicles. When a vehicle is submitted at an OBD–I/M test site, these monitors can appear as either “ready” (meaning the monitor in question has been evaluated), “not ready” (meaning the monitor has not yet been evaluated), or “not applicable” (meaning the vehicle is not equipped with the component monitor in question).

The OBD system is also designed to fully evaluate the vehicle emissions control system. If the OBD system detects a problem that may cause vehicle emissions to exceed 1.5 times the Federal Test Procedure standards, then the Malfunction Indicator Light (MIL) is illuminated. By turning on the MIL, the OBD system notifies the vehicle operator that an emission-related fault has been detected, and the vehicle should be repaired as soon as possible thus reducing the harmful emissions contributed by that vehicle.

EPA’s revised OBD I/M rule applies to only those areas that are required to implement I/M programs under the CAA, which include the NYMA and certain counties in Upstate New York. This rule established a deadline of January 1, 2002 for states to begin performing OBD checks on 1996 and newer model OBD-equipped vehicles and to require repairs to be performed on those vehicles with malfunctions identified by the OBD check.

On May 7, 2001 (66 FR 22922), EPA fully approved New York’s enhanced I/M program as it applies to NYMA and included the State’s performance standard modeling as meeting the applicable requirements of the CAA. The OBD component of that program was not being implemented at that time.
and therefore was not approved by EPA as satisfying a fully operational OBD program.

However, on February 21, 2007 (72 FR 7826) EPA fully approved a revision to New York’s SIP that incorporates OBD system requirements in the NYMA and the 53 counties located in upstate New York, therefore making OBD a statewide requirement. The reader is referred to that rulemaking action for a more detailed discussion on New York’s OBD program.

III. What was included in New York’s proposed SIP submittal?

After completing the appropriate public notice and comment procedures, on July 10, 2009, the New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a proposed SIP revision that includes changes to the New York State enhanced I/M program. The changes include a proposal to end tailpipe testing through the New York Transient Emissions Short Test (NYTEST) I/M program on December 31, 2010. The proposed revision also includes a reduction in the percentage of emissions test waivers allowed within NYMA to 2% (from 3%) beginning in calendar year 2008. The SIP revision includes MOBILE6 vehicle emission modeling software (MOBILE6) demonstration for the high enhanced I/M performance standard.

On February 15, 2011, NYSDEC made a supplemental SIP submittal to EPA which included recent revisions to Title 6 of the New York Codes, Rules and Regulations (NYCRR) Part 217, “Motor Vehicle Emissions,” and the New York State Department of Motor Vehicles (NYSDMV) regulation found at Title 15 NYCRR Part 79, “Motor Vehicle Inspection.” New York adopted these rule revisions to end the NYTEST I/M program. This submittal was also subject to public notice and comment.

IV. What are the I/M performance standard requirements and does New York’s I/M program satisfy them?

Table 1 below compares New York’s existing NYMA I/M program requirements, which includes both the New York Vehicle Inspection Program (NYVIP) and NYTEST programs, to a future design after the NYTEST tailpipe testing program ends (“Post-NYTEST”).

<table>
<thead>
<tr>
<th>Vehicle type current NYMA I/M</th>
<th>(NYVIP and NYTEST Programs)</th>
<th>Post-NYTEST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-electric and non-diesel light-duty vehicles (&lt;8,501 lbs. GVWR), MYs 1996 to 2 MYs old</td>
<td>Emissions Test Type: NYVIP OBD II ..............</td>
<td>Emissions Test Type: NYVIP OBD II</td>
</tr>
<tr>
<td>Gas Cap: Cap Presence Only</td>
<td>ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement</td>
<td>ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement</td>
</tr>
<tr>
<td>Gas Cap: NYTEST Pressure Test</td>
<td>ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement.</td>
<td>Emissions Test Type: Low Enhanced:</td>
</tr>
<tr>
<td>Non-electric and non-diesel medium- and heavy-duty vehicles (8,501–&lt;18,001 lbs. GVWR), 25 MYs old to older than 2MYs (DMV Weight Codes 2, 3)</td>
<td>Gas Cap: NYTEST Pressure Test</td>
<td>Gas Cap: Cap Presence only.</td>
</tr>
<tr>
<td>Gas Cap: ECD Checks for Weight Codes 2 and 3: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement</td>
<td>Emissions Test Type: NYTEST Idle</td>
<td>Emissions Test Type: Low Enhanced:</td>
</tr>
<tr>
<td>Gas Cap: NYTEST Pressure Test</td>
<td>ECD Checks for Weight Code 2 and 3: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement.</td>
<td>Gas Cap: Safety only (NYVIP)</td>
</tr>
<tr>
<td>Non-electric and non-diesel medium- and heavy-duty vehicles (&lt;18,000 lbs. GVWR), 25 MYs old to older than 2MYs (DMV Weight Code 4)</td>
<td>Emissions Test Type: NYTEST Idle</td>
<td>Gas Cap: Cap Presence only.</td>
</tr>
<tr>
<td>Gas Cap: ECD Checks for Weight Code 4: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement</td>
<td>ECD Checks for Weight Code 4: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement.</td>
<td>(No emissions, ECD, or gas cap checks).</td>
</tr>
</tbody>
</table>

NOTE: The reader is referred to the following NYSDEC Web site for a list of Acronyms and Abbreviations: http://www.dec.ny.gov/chemical/53288.html.

I/M programs are designed and implemented to meet or exceed an applicable minimum Federal performance standard. EPA’s performance standards were derived from MOBILE6 utilizing “model” inputs and local characteristics (i.e., vehicle mix, fuel controls). Performance standards are expressed as emissions levels, in area-wide average grams per mile (gpm) values, resulting from the I/M program. More conventionally, performance standards are expressed as emission reductions, as compared to a no I/M scenario. The NYSDEC determined EPA’s high enhanced performance standard (HEPS) by utilizing the “model” inputs contained under 40 CFR 51.351(f)(1) through (f)(13). While I/M jurisdictions are allowed to adopt alternate design features other than EPA’s “model” inputs, compliance with the applicable performance standard must be demonstrated for the pollutant(s) that established I/M requirements. NYSDEC proposed changes that differ from the initial 1996 NYMA demonstration. These modifications will affect a revised NYMA HEPS demonstration as follows:

— Emissions test type changes to reflect the end of NYTEST tailpipe testing (see Table above);
— New York estimated, and included a justification that the NYVIP OBD-based I/M program is as effective as a centralized test-only network. The previously approved NYTEST network effectiveness of 88%, 84%, and 86% for hydrocarbons, carbon monoxide and oxides of nitrogen, respectively, are no longer applicable to the NYVIP program;
— New York evaluated, and included a justification for using MOBILE6 national default values for annual vehicle mileage accumulations rather than using local inputs derived from the outdated Nationwide Personal Transportation Survey (NPTS, 1995), as was previously used in the 1996 and 2006 I/M SIPs;
— A commitment to increase the stringency of the NYMA waiver rate to 2% beginning in 2008, as opposed.
to a 3% waiver rate claimed within the 1996 SIP. — Of note, MOBILE5 previously allowed for partial repair technician training credit. New York previously claimed 50% repair technician credit within the 1996 SIP revision for the NYSDMV sponsored automotive technician training program. MOBILE6 does not allow for partial repair technician training, therefore no additional credit is assumed within this modeling effort. With each new calendar year (beginning January 1), a greater percentage of NYMA vehicles will receive OBD II inspections through NYVIP I/M while the percentage of NYTEST inspections will decrease due to the 25 model year extension and escalated vehicle turnover (compared to newer NYVIP vehicles). To determine the date that a NYVIP only based I/M program complies with EPA’s EPSS (i.e., following the end of the NYTEST tailpipe emissions testing), NYSDEC completed a multi-year modeling analysis employing the following general inputs: 

Network Type: decentralized test-and-repair. 
NYVIP NYMA Start Date: 2006. 
Test Frequency: annual. 
Test-and-Repair Effectiveness: 100%. 
Vehicle Types: LDV, LDT1, LDT2, LDT3, LDT4. 

Applicable model years: model years 25 and newer. 
Emissions Test Types: OBD: I/M & Evap. 
Waiver Rate: 2% (beginning in CY 2008). 
Compliance Rate: 98%. 
EPA’s HEPS: 2010 ozone season for EVAP, 2011 ozone season for OBD.

Is it within the 0.02 gpm margin? 

NYMA I/M benefits were estimated using the MOBILE6 emission model and individual inputs for each county in the NYMA nonattainment area. Daily Vehicle Miles Traveled (DVMT) inventory was constructed by the New York state Department of Transportation (NYSDOT) to provide DVMT estimates by county, geographic component (urban, small urban, and rural) and functional class. This resulting vehicle miles traveled (VMT) by county and by functional class is then multiplied by a seasonal adjustment factor to account for seasonal differences. This seasonal adjustment factor, which appropriately takes into account hourly temperature, relative humidity data and other factors, is also supplied by the NYSDOT. The vehicle mix for each of the 11 NYSDOT regions in New York State are used to produce VMT by vehicle type. There are 28 fuel and weight based categories employed by MOBILE6. The main objective was to create a separate, distinct (where justified) vehicle mix for each of the twelve roadway types in the Federal Highway Administration (FHWA) classification scheme. However, an hourly VMT was input to the model using the VMT BY HOUR command and was used in the computation of the composite daily emission factor. The local data were obtained through analyses conducted by NYSDOT.

The vehicle distributions used in MOBILE6 were obtained from the New York State Department of Motor Vehicles (NYSDMV) registration database for the current year at the beginning of July. Each record was sorted into the 28 vehicle types by county.

NYSDEC’s MOBILE6 modeling demonstration estimated volatile organic compound (VOC) and oxides of nitrogen (NOx) reductions for a NYVIP-only program in NYMA against EPA’s HEPS. Modeling comparisons were completed for the 2009, 2010, and 2011 ozone seasons. The HEPS evaluation included the ±0.02 gpm emission level margin provided by 40 CFR 51.351(f)(13). While MOBILE6 reports gpm emission levels to the thousandths place, the calculated differences between the future NYVIP program and HEPS were rounded to the hundredths place to reflect the ±0.02 gpm margin. Carbon Monoxide (CO) reductions are included for demonstration purposes. The summary of New York’s multi-year modeling evaluation is provided below in Table 2.

Table 2—NYVIP—Only High Enhanced I/M Performance Standard Comparison Future Ozone Seasons

<table>
<thead>
<tr>
<th>Year</th>
<th>IA EPS</th>
<th>Target NYVIP</th>
<th>Difference</th>
<th>Is it within the 0.02 gpm margin?</th>
<th>IA EPS</th>
<th>Target NYVIP</th>
<th>Difference</th>
<th>Is it within the 0.02 gpm margin?</th>
<th>IA EPS</th>
<th>Target NYVIP</th>
<th>Difference</th>
<th>Is it within the 0.02 gpm margin?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>EPA’s HEPS</td>
<td>212,776.18</td>
<td>0.576</td>
<td>5.149</td>
<td>0.842</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Target NYVIP</td>
<td>212,776.18</td>
<td>0.576</td>
<td>5.149</td>
<td>0.842</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Difference</td>
<td>0.576</td>
<td>5.149</td>
<td>0.842</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Is it within the 0.02 gpm margin?</td>
<td>No</td>
<td>Yes.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>EPA’s HEPS</td>
<td>216,180.83</td>
<td>0.520</td>
<td>4.807</td>
<td>0.750</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Target NYVIP</td>
<td>216,180.83</td>
<td>0.520</td>
<td>4.807</td>
<td>0.750</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Difference</td>
<td>0.520</td>
<td>4.807</td>
<td>0.750</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Is it within the 0.02 gpm margin?</td>
<td>No</td>
<td>Yes.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>EPA’s HEPS</td>
<td>219,585.48</td>
<td>0.474</td>
<td>4.526</td>
<td>0.670</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Target NYVIP</td>
<td>219,585.48</td>
<td>0.474</td>
<td>4.526</td>
<td>0.670</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Difference</td>
<td>0.474</td>
<td>4.526</td>
<td>0.670</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Is it within the 0.02 gpm margin?</td>
<td>Yes</td>
<td>Yes.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As Table 2 indicates, the NYVIP I/M program alone cannot meet EPA’s HEPS in either the 2009 or 2010 ozone seasons (June 1—September 30), but does meet EPA’s HEPS for the 2011 ozone season (i.e., prior to June 1). NYSDEC proposed that tailpipe testing be discontinued on December 31, 2010. NYSDEC believed this was the best date between the 2010 and 2011 ozone seasons to implement regulatory and inspection software based changes.

EPA’s Evaluation

EPA has reviewed NYSDEC’s proposed changes to its enhanced I/M program that differ from the previous Federally approved program and has determined that those changes satisfy the high enhanced performance standard, by utilizing the “model” inputs contained under 40 CFR 51.351(f)(1) through (f)(13), and are therefore approvable into the SIP. EPA will continue to evaluate the New York enhanced I/M program effectiveness through the annual and biennial reports submitted by the NYSDEC in accordance with 40 CFR 51.366, “Data Analysis and Reporting.”
V. Does New York demonstrate noninterference with attainment and maintenance under Section 110(l) of the CAA?

Revisions to SIP-approved control measures must meet the requirements of CAA section 110(l) to be approved by EPA. Section 110(l) states: "* * * The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act."

EPA interprets section 110(l) to apply to all requirements of the CAA and to all areas of the country, whether attainment, nonattainment, unclassifiable, or maintenance for one or more of the six criteria pollutants. EPA also interprets section 110(l) to require a demonstration addressing all pollutants whose emissions and/or ambient concentrations may change as a result of the SIP revision. Thus, for example, modification of a SIP-approved measure may impact NOx emissions, may also impact PM2.5 emissions, and this would have to be evaluated. The scope and rigor of an adequate section 110(l) demonstration of noninterference depends on the air quality status of the area, the potential impact of the revision on air quality, the pollutant(s) affected, and the nature of the applicable CAA requirements.

It is important to note, aside from ozone, the NYMA is attaining the NAAQS for all of the other criteria pollutants, including PM2.5 and carbon monoxide. There are two SIPs where I/M has been included as an emission reduction control measure, the 1-hour and 8-hour ozone SIPs. For the 8-hour ozone SIP, New York included in the attainment demonstration the proposed I/M program as discussed in this action, so no further evaluation is needed.

For the 1-hour ozone SIP, NYSDEC discusses the "anti-backsliding" provisions within the Rate of Progress/Reasonable Further Progress Demonstration discussion of its I/M SIP submittal. Since the NYTEST program is part of the 1-hour ozone SIP for the NYMA, NYSDEC must, in accordance with CAA section 182(b)(1), continue to meet the reasonable further progress requirements of CAA section 182(b)(1). In other words, NYSDEC needs to "make up" for any decrease in projected emission reductions, as indicated in Table 3, that will occur as a result of the changes being made to the I/M program through the application of programs not already included in the 1-hour ozone SIP.

### Table 3—NYVIP—ONLY HIGH ENHANCED I/M PERFORMANCE STANDARD COMPARISON 2011 OZONE SEASON

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Rule Name</th>
<th>State Effective Date</th>
<th>Pollutant</th>
<th>Reduction in 2011 (tpd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 228</td>
<td>Adhesives and Sealants</td>
<td>9/30/10</td>
<td>VOC</td>
<td>6.08</td>
</tr>
<tr>
<td>Part 235</td>
<td>Consumer Products</td>
<td>10/15/09</td>
<td>VOC</td>
<td>16.73</td>
</tr>
<tr>
<td>Part 241</td>
<td>Asphalt Paving</td>
<td>1/1/11</td>
<td>VOC</td>
<td>2.45</td>
</tr>
<tr>
<td>Part 243</td>
<td>Clean Air Intrastate Rule (CAIR)</td>
<td>5/6/10</td>
<td>NOx</td>
<td>8.7</td>
</tr>
</tbody>
</table>

As a result of this analysis, it can be concluded that the adoption of either the Consumer Products or Adhesives and Sealants provisions (when compared to the Table 3 shortfall emission reductions) are all that is needed in VOC reductions to prevent "backsliding" under the 1-hour ozone SIP, and the adopted CAIR provisions alone make up the necessary NOx reductions. New York has adopted all of these rules with the respective State effective dates identified.

New York has demonstrated that the changes to its enhanced I/M program will meet the performance standard requirements and will therefore continue to achieve emission reductions necessary to attain and maintain the NAAQS for all criteria pollutants. EPA proposes to find that New York has satisfied the section 110(l) of the CAA demonstration of noninterference.

VI. What are EPA’s conclusions?

EPA’s review of the materials submitted indicates that New York has revised its I/M program in accordance with the requirements of the CAA, 40 CFR part 51 and all of EPA’s technical requirements for an approvable enhanced I/M program. EPA is proposing to approve the revisions to the Title 6, New York Codes, Rules and Regulations (NYCRR), Part 217, "Motor Vehicle Emissions," Subparts 217–1, 217–4 and the adoption of new Subpart 217–6, as effective on December 5, 2010,
and the New York State Department of
Motor Vehicles (NYSDMV) regulation
Title 15 NYCRR Part 79 ‘Motor Vehicle
Inspection.’” Sections 79.1–79.15, 79.17,
79.20, 79.21, 79.24, 79.25, as effective
on December 29, 2010, which
incorporate the State’s motor vehicle I/
M program requirements. The CAA
gives states the discretion in program
planning to implement programs of the
state’s choosing as long as necessary
emission reductions are met. EPA is also
proposing to approve New York’s
performance standard modeling
demonstration, which reflects the
State’s I/M program as it is currently
implemented in the NYMA as well as
throughout New York State.

VII. Statutory and Executive Order
Reviews

Under the CAA, the Administrator is
required to approve a SIP submission
that complies with the provisions of the
Act 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 (Pub. L. 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
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.

Electronic Protection
AGENCY
40 CFR Part 300
National Oil and Hazardous
Substances Pollution Contingency
Plan; National Priorities List
AGENCY: Environmental Protection
Agency.
ACTION: Withdrawal of proposed rule.

SUMMARY: On July 29, 2011, the
Environmental Protection Agency (EPA)
published a Notice of Intent to Delete and
a Direct Notice of Deletion for the
Palmer Barge Line (PBL) Superfund Site
from the National Priorities List. The
EPA is withdrawing the Notice of Intent
to Delete because the deletion notices
were published in the Federal Register
without Headquarters’ concurrence as
required under the Comprehensive
Environmental Response, Compensation,
and Liability Act Delegation of Authority.
After appropriate Headquarters concurrence
is received on the Notice of Intent to
Delete the PBL Superfund Site from the
National Priorities List, the EPA will re-
publish a Notice of Intent to Delete in the
Federal Register.

DATES: The proposed rule published on
July 29, 2011, (76 FR 45484) is
withdrawn as of September 16, 2011.

ADDRESSES:
Information Repositories:
Comprehensive information on the PBL
Superfund Site, as well as the comments
that we received during the comment
period, are available in Docket EPA–
through the http://www.regulations.gov
Web site. Although listed in the docket
index, some information is not publicly
available (e.g., CBI or other information
whose disclosure is restricted by
statute). Certain other material, such as
copyrighted material, will be publicly
available only in hard copy. Publicly
available docket materials are available
either electronically in http://
www.regulations.gov or in hard copy at:
1. U.S. Environmental Protection Agency,
Region 6, 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202–2733; Hours of
operation: Monday thru Friday, 9 a.m. to 12
p.m. and 1 p.m. to 4 p.m. Contact: Rafael A.
Casanova (214) 665–7437.
2. Port Arthur Public Library, 4615 9th
Avenue, Port Arthur, Texas 77642–5790;
Hours of operation: Monday thru Thursday,
9 a.m. to 9 p.m.; Friday, 9 a.m. to 6 p.m.;
Saturday, 9 a.m. to 5 p.m.; and Sunday, 2
p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:
Rafael A. Casanova, Remedial Project
Manager; U.S. Environmental Protection
Agency, Region 6, Superfund Division
(6SF–RA), 1445 Ross Avenue, Suite
1200, Dallas, Texas 75202–2733;
telephone number: (214) 665–7437;
e-mail: casanova.rafael@epa.gov.

SUPPLEMENTARY INFORMATION:
List of Subjects in 40 CFR Part 300
Environmental protection, Air
pollution control, Chemicals, Hazardous
waste, Hazardous substances,
Intergovernmental relations, Penalties,
Reporting and recordkeeping
requirements, Superfund, Water
pollution control, Water supply.

Authority: 33 U.S.C. 12216(c); 42 U.S.C.
9601–9657; E.O. 12777, 56 FR 54757, 3 CFR,
1991 Comp., p. 351; E.O. 12580, 52 FR 2923;
Dated: September 6, 2011.
Al Armendariz,
Regional Administrator, Region 6.
[FR Doc. 2011–23871 Filed 9–15–11; 8:45 am]
BILLING CODE 6560–50–P