ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2011–0686, FRL–9465–8]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a proposed revision to the State Implementation Plan (SIP) submitted by the New Jersey Department of Environmental Protection for New Jersey's enhanced inspection and maintenance (I/M) program. New Jersey has made several amendments to its I/M program to improve performance of the program and has requested that the SIP be revised to include these changes. Chief among the amendments EPA is proposing to approve is New Jersey's amendment to its I/M program to establish a new exhaust emission test for gasoline fueled vehicles and the extension of the new vehicle inspection exemption from 4 years to 5 years. EPA is proposing approval of this SIP 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 ID number EPA–R02–OAR–2011–0686, 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.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2011–0686. 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, 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 II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, 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: Jenna Salomone, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3741, *salomone.jenna@epa.gov.*

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I. What action is EPA proposing?

EPA is proposing to approve a revision, submitted by New Jersey on December 15, 2009, and a supplemental revision, submitted by New Jersey on October 12, 2010, to the New Jersey State Implementation Plan (SIP) pertaining to New Jersey's motor vehicle enhanced inspection and maintenance (I/M) program. New Jersey provided EPA with documentation on the emission impacts that will result from proposed changes to New Jersey's enhanced I/M program including a comparison to the EPA I/M performance standard. The revisions submitted by New Jersey include a new exhaust emission test for gasoline fueled vehicles; the extension of the new vehicle inspection exemption from 4 years to 5 years; the elimination of repair cost waivers; the increase in the inspection frequency (to annual) for certain classes of commercial vehicles such as limousines, taxis and jitneys; and the subjecting of light duty diesel vehicles to emissions testing.

II. Background Information

What are the Clean Air Act requirements for a moderate 8-hr 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 (ppm) 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 Jersey portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT nonattainment area is composed of the following counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren. In addition, the New Jersey portion of the Philadelphia-Wilmington, Atlantic City, PA–DE–MD–NJ nonattainment area is composed of the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem. These counties were classified as moderate or above ozone nonattainment areas under the pre-existing 1-hour ozone standard. These designations triggered the requirements under section 182(b) of the Clean Air Act (CAA) for moderate and above nonattainment areas, including a requirement to submit an enhanced motor vehicle I/M program.

Clean Air Act Requirements for I/M Programs

The CAA requires certain states to implement an enhanced I/M program to detect gasoline-fueled motor vehicles that exhibit excessive emissions of certain air pollutants. The enhanced I/M program is intended to help states meet Federal health-based NAAQS for ozone and carbon monoxide by requiring vehicles with excess emissions to have their emissions control systems repaired. Section 182 of the CAA requires I/M programs in those areas of the nation that are most impacted by carbon monoxide and ozone pollution.

On April 5, 2001, EPA published in the **Federal Register** ''Amendments to Vehicle Inspection and Maintenance Program Requirements Incorporating the On-Board Diagnostics Check'' (66 FR 18156). The revised I/M rule requires that electronic checks of the On-Board Diagnostics (OBD) system on model year 1996 and newer OBD-equipped motor vehicles be conducted as part of states' motor vehicle I/M programs. OBD is part of the sophisticated vehicle powertrain management system and is designed to detect engine and transmission problems that might cause vehicle emissions to exceed allowable limits. OBD is the subject of this proposed rulemaking action.

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 scanned 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 includes the aforementioned counties in New Jersey. 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.

EPA's revised I/M rule also permitted, under certain circumstances, for states to delay implementation of OBD testing. If the state makes a request to show cause to EPA for a delay, an extension of the deadline for states to begin conducting mandatory OBD is permissible. The revised implementation date represents ''the best the state can reasonably do'' (66 FR 18159). EPA's final rule identifies factors that may serve as a possible justification for states considering making a request to the EPA to delay implementation of OBD I/M program checks beyond the January 2002 deadline. Potential factors justifying such a delay include contractual impediments, hardware or software deficiencies, data management software deficiencies, the need for additional training for the testing and repair industries, and the need for public education or outreach.

New Jersey is required to have an enhanced I/M program pursuant to the CAA, and consequently has adopted, and has been implementing an enhanced I/M program statewide since December 13, 1999. In the January 22, 2002 **Federal Register**, (67 FR 2811), EPA fully approved New Jersey's enhanced I/M program and the State's performance standard modeling as meeting the applicable requirements of the CAA. Additional information on EPA's final approval of New Jersey's enhanced I/M program can be found in EPA's January 22, 2002 final approval notice.

III. What was included in New Jersey's proposed SIP submittal?

On December 15, 2009, New Jersey submitted a revision to the State of New Jersey's I/M program SIP. The submittal consists of new rules and rule amendments to the New Jersey Department of Environmental Protection's rules at N.J.A.C. 7:27–15, 7:27B–5 and the Motor Vehicle Commission rules at N.J.A.C. 13:20–7, 13:20–24, 13:20–26, 13:20–28, 13:20–29, 13:20–32, 13:20–33, 13:20–43, 13:20–44, 13:20–45, and N.J.A.C. 13:21–15.8 and 13:21–15.12.

The proposed changes to New Jersey's I/M program include the establishment of a new exhaust emission test for gasoline fueled vehicles. The Two Speed Idle (TSI) test will replace both the Acceleration Simulation Mode (ASM5015) and 2500 Revolutions per Minute (RPM) tests. The TSI test is a tailpipe test which checks the vehicle's HC, CO, O_2 and CO_2 exhaust emissions concentration levels at two different engine speeds, the regular idle and a fast idle around 2500 RPM. The ASM5015

test measures the concentrations of HC, CO and NO_X, in a vehicle's tailpipe emissions when a vehicle is running under marginal load and at a steady rate or RPM. The 2500 RPM test is a tailpipe test that checks the vehicle's HC, CO, O_2 and CO_2 exhaust emissions concentration levels at 2500 RPM.

The proposed changes to New Jersey's I/M program also include: the elimination of repair cost waivers, the increase in the inspection frequency (to annual) for certain classes of commercial vehicles such as limousines, taxis and jitneys, and the subjecting of light duty diesel vehicles to emissions testing. New Jersey provided documentation on the emission impacts that will result from proposed changes to New Jersey's I/M program including a comparison to the EPA I/M performance standard.

On October 12, 2010, New Jersey submitted a supplemental I/M program SIP revision which consisted of amendments to chapter 8 of Title 39 of the Revised Statutes of the state of New Jersey at R.S. 39:8–1, 39:8–2, and 39:8–3. The submittal includes an extension of the new vehicle inspection exemption from 4 years to 5 years and an acknowledgement with supporting justification that New Jersey's decentralized I/M network (the private inspection facilities, or PIFs) is currently 96 percent as effective as New Jersey's centralized I/M network (the centralized inspection facilities, or CIFs). PIFs were previously assumed to be 80 percent as effective as CIFs, which New Jersey considered to likely be very conservative in light of the program and technology changes that were implemented in the years following the 80 percent effectiveness assumption. In May 2010, New Jersey authorized MACTEC Engineering and Consulting, Inc. to assess improvements in effectiveness of the decentralized program and to determine a reasonable effectiveness fraction that may be supported by data and technical reasoning. MACTEC analyzed the effectiveness of the decentralized PIF network relative to the CIF (centralized) network. The relative effectiveness of PIFs was based on data collected from PIFs and CIFs in 2009. As a result of the analysis, MACTEC determined that New Jersey should increase the effectiveness factor for PIFs and provided the following justifications:

- Fail rates for OBD inspections in PIFs were found to be nearly identical to those in CIFs;
- An analysis of triggers for OBD tests performed in 2009 showed that over 99% of inspections in PIFs have no indications of fraud;
- New Jersey has implemented several additional OBD triggers in the new program, which will further reduce the incidence of fraud.

New Jersey submitted to EPA the final report prepared by MACTEC dated June 23, 2010 entitled ''New Jersey Motor Vehicle Inspection Program PIF Effectiveness Study.''

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

As part of its final rule for I/M requirements, EPA established a ''model'' program for areas that were required to implement enhanced I/M programs. This model program is termed by EPA as the ''I/M performance standard'' and is defined by a specific set of program elements. The purpose of the performance standard is to provide a gauge by which EPA can evaluate the adequacy and effectiveness of each state's enhanced I/M program. As such, states are required to demonstrate that their enhanced I/M programs achieve applicable area-wide emission levels for the pollutants of interest that are equal to, or lower than, those which would be realized by the implementation of the model program. EPA allows for a margin of error of +/− 0.02 grams per mile (gpm) in determining compliance with the performance standard.

Originally, EPA only designed one enhanced performance standard, as specified at 40 CFR 51.351, and required all enhanced I/M program areas to meet or exceed that standard. However, on September 18, 1995, EPA promulgated the ''low'' enhanced performance standard. The low enhanced performance standard is a less stringent enhanced I/M performance standard established for those areas that have an approved SIP for Rate of Progress (ROP) for 1996, and do not have a disapproved plan for ROP for the period after 1996 or a disapproved plan for attainment of the air quality standards for ozone or carbon monoxide.

New Jersey is currently demonstrating compliance with the CAA requirements for ROP and attainment and is therefore now only required to meet the ''low'' enhanced performance standard. The revised performance standard modeling included as part of this submittal is designed to show attainment of the low enhanced performance standard.

In accordance with the EPA's final rule for I/M requirements, a state must design and implement its enhanced I/M program such that it meets or exceeds, within +/− 0.02 gpm, a minimum performance standard. The performance standard is expressed as average gpm emission levels from area-wide highway mobile sources as a result of the enhanced I/M program. Areas must meet the performance standard for the pollutants that cause them to be subject to the enhanced I/M requirements. New Jersey was required to implement its enhanced I/M program because of its non-attainment status for two criteria air pollutants, ozone (of which volatile organic compounds (VOCs) and oxides of nitrogen (NOx) are precursors) and carbon monoxide.

EPA's final rule on I/M requirements also requires that the equivalency of the emission levels achieved by the state's enhanced I/M program design compared to those of the performance standard must be demonstrated using the most current version of EPA's mobile source emission model. New Jersey utilized MOBILE 6.2.03 (dated September 24, 2003) in its analysis, which was the most current version at the time the SIP revisions were submitted.

Table 1 below compares the Low Enhanced I/M Performance Standards with both New Jersey's existing and proposed enhanced I/M programs.

TABLE 1—PERFORMANCE STANDARD AND NEW JERSEY'S ENHANCED PROGRAM DESIGNS

Program element	Low enhanced performance standard	New Jersey's existing enhanced I/M program	New Jersey's proposed enhanced I/M program
Network Type	100% centralized	hybrid—70% centralized/30% decentralized.	hybrid—70% centralized/30% decentralized.
Credit Assumed for Decentralized Program.	NA	80%	96%.[1]
Program Start Date	1983[2]	1974	1974.
Test Frequency	Annual	Biennial	Biennial.
New Vehicle Exemption	None	4 Years	5 Years.

TABLE 1—PERFORMANCE STANDARD AND NEW JERSEY'S ENHANCED PROGRAM DESIGNS—Continued

Program element	Low enhanced performance standard	New Jersey's existing enhanced I/M program	New Jersey's proposed enhanced I/M program
Emission Standards	Those specified at 40 CFR Part 85, Subpart W.	Initial ASM5015 exhaust emission standards.	Two-Speed Idle Standards of 1.2% for carbon monoxide and 220ppm for HC.
Model Year (MY) Coverage	1968 and later MY	All vehicles not specifically exempt.	All vehicles not specifically exempt.
Vehicle Type Coverage	All light-duty gasoline-fueled vehicles and trucks (up to 8,500 lbs. GVWR).	All gasoline-fueled vehicles and trucks (both light and heavy duty vehicles).	All gasoline-fueled vehicles and trucks (both light and heavy duty vehicles).
Exhaust Emission Test	*Idle*—1968–2050 MY	*OBD*—1996 and later MY beginning 6/1/03. *ASM5015*—1981–1995 MY amenable to dyno. testing. *2500 RPM test*—certain exempt vehicles and those 1981 and newer MY not amenable to dyno. testing. *Idle*—pre-1981 and HDGVs	*OBD*—1996 and later MY beginning 6/1/03. *Two-Speed Idle*—1981–1995 MY. *Idle*—pre-1981 and HDGVs.
Visual Inspections	*Positive Crankcase Ventilation (PCV) valve*—1968–1971 MY inclusive *Exhaust Gas Recirculation (EGR) valve*—1972 and newer	Visual inspection of the catalytic converter, presence of a gas cap, and fuel inlet restrictor—1975 and newer (beginning calendar 1985).	Visual inspection of the catalytic converter, presence of a gas cap, and fuel inlet restrictor—1975 and newer (beginning calendar 1985).
Evaporative System Function Checks.	N/A	*Gas Cap Testing*—1971 and later vehicles[3] (beginning calendar year 1998).	*Gas Cap Testing*—1971–2000 MY inclusive[3] (beginning calendar year 1998).
Pre- 1981 MY Stringency	20%	30%	30%.
Waiver Rate	3%	3%[4]	0%.
Compliance Rate	96%	98%	98%.
Evaluation Date[5]	January 1, 2002	January 1, 2012	January 1, 2012.
On-Road Testing	0.5% of the subject vehicle population or 20,000 vehicles (whichever is less).	0.5% of the subject vehicle population or 20,000 vehicles (whichever is less).	0.5% of the subject vehicle population or 20,000 vehicles (whichever is less).

[1] New Jersey conducted a study to assess the current effectiveness of its PIF network. The study concluded that the PIF network is currently 96 percent as effective as the CIF network.
[2] For programs with existing I/M programs, like New Jersey's basic I/M program.
[3] Only those pre-1981 vehicles that were equipped with sealed gas caps will be subject to the gas cap check. The State presumes that model year vehicles prior to 1970 were not equipped with a sealed gas cap.
[4] The State assumed a zero percent waiver rate for pre-1981 vehicles as these vehicles are not eligible for a waiver based on the NJMVC inspection rules.
[5] For all scenarios, summer season and temperatures were used for VOC/NO_X evaluations, while winter season and temperatures were used for carbon monoxide evaluations.

I/M programs are designed and implemented to meet or exceed an applicable minimum Federal performance standard. EPA's performance standards are 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 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. Although each enhanced I/M program must meet the enhanced performance standard as specified in 40 CFR 51.351, the performance standard emission factor results will vary for each state. This variation is the result of the use of state-specific inputs such as registration distribution and vehicle miles traveled (VMT) mix. Other local parameters, such as fuel type, add to state variations in determining the emission factors for EPA's performance standard program. 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.

In addition to the parameters and assumptions shown previously in Table 1, New Jersey made other assumptions in order to complete its performance standard and program evaluation modeling. Table 2 shows what those assumptions were and what values where used to complete the modeling:

TABLE 2—LOW ENHANCED PERFORMANCE STANDARD MODELING ASSUMPTIONS

Modeling parameters	Value used for average summer runs (VOC and NO_X)	Value used for average winter runs (carbon monoxide)
Maximum Temperature (F)	82.9	41.2.
Minimum Temperature (F)	66.3	26.7.
Absolute Humidity (grains/pound)	85.59	20.00.
Speed	MOBILE6 Defaults	MOBILE6 Defaults.
Mechanic Training and Certification	yes—100%	yes—100%.

TABLE 2—LOW ENHANCED PERFORMANCE STANDARD MODELING ASSUMPTIONS—Continued

Modeling parameters	Value used for average summer runs (VOC and NO_X)	Value used for average winter runs (carbon monoxide)
NJ Low Emission Vehicle Program w/o ZEV Mandate	Yes	Yes.
Gasoline RVP (psi)	6.8	15.
Oxygenated Reformulated Gasoline	10% Ethanol	10% Ethanol.

Modeling performed by New Jersey and verified by EPA indicates that there is no significant difference between emission factors for New Jersey's existing and proposed enhanced I/M programs for ozone precursors (VOCs and NO_X). The new enhanced I/M program results in a small decrease in the predicted carbon monoxide emission factor relative to the existing enhanced I/M program. This demonstrates that the proposed changes to the enhanced I/M program do not compromise New Jersey's efforts to meet and/or maintain NAAQS for ozone or carbon monoxide. The results of New Jersey's performance standard modeling show that the proposed enhanced I/M program meets the USEPA low enhanced performance standard. A summary of the modeling results is found in Table 3. The values seen in Table 3 are expressed as total mobile source emission factors.

TABLE 3—LOW ENHANCED PERFORMANCE STANDARD MODELING RESULTS

Program type	VOC (gpm)	NO_X (gpm)	Carbon monoxide (gpm)
USEPA Low Enhanced Performance Standard (2002)	*0.923	*2.396	*21.854
New Jersey Existing Enhanced I/M Program (2013)	0.349	0.687	10.045
New Jersey New Enhanced I/M Program (2013)	0.348	0.688	10.028

*EPA allows for a +/− 0.02 gpm margin of error in meeting the performance standard values.

EPA's Evaluation

EPA has reviewed New Jersey'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 low enhanced performance standard and are therefore approvable into the SIP. EPA will continue to evaluate New Jersey's enhanced I/M program effectiveness through the annual and biennial reports submitted by New Jersey in accordance with 40 CFR 51.366, ''Data Analysis and Reporting.''

V. Does New Jersey demonstrate noninterference with attainment and maintenance under Section 110(l) of the Clean Air Act?

Revisions to SIP-approved control measures must meet the requirements of Clean Air Act 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 NO_X emissions, which may impact $PM_{2.5}$ emissions. 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.

New Jersey's modeling results indicate that there is no significant difference between emission factors for New Jersey's existing and proposed enhanced I/M programs for ozone precursors (VOCs and NO_X). The new enhanced I/M program results in an insignificantly small increase in the predicted carbon monoxide emission factor relative to the existing enhanced I/M program.

The increase is well below the EPA margin of error of +/− 0.02 gpm. This demonstrates that the proposed changes to the enhanced I/M program do not compromise New Jersey's efforts to meet and/or maintain NAAQS for ozone or carbon monoxide.

New Jersey has demonstrated that the changes to their 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 Jersey 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 Jersey 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 rules and rule amendments to the New Jersey Department of Environmental Protection's rules at N.J.A.C 7:27–15, 7:27B–5, the Motor Vehicle Commission rules at N.J.A.C. 13:20–7, 13:20–24, 13:20–26, 13:20–28, 13:20–29, 13:20–32, 13:20–33, 13:20–43, 13:20–44, 13:20–45, and N.J.A.C. 13:21–15.8, 13:21–15.12 and the amendments to chapter 8 of Title 39 of the Revised Statutes of the state of New Jersey at R.S. 39:8–1, 39:8–2, and 39:8–3 which incorporate New Jersey's motor vehicle inspection 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.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. 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 Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 6, 2011.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2011–23862 Filed 9–15–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2011–0687, FRL–9465–9]

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:

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- *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.
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