

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.

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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:

- <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 No. EPA-R02-OAR-2011-0687. 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,

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.

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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 decentralized 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 pre-existing 1-hour ozone standard. These designations triggered the requirements under section 182(b) of the CAA for moderate and above nonattainment areas, including a requirement to submit an enhanced motor vehicle I/M program.

CAA 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.

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 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 1

Vehicle type current NYMA I/M	(NYVIP and NYTEST Programs)	Post-NYTEST
Non-electric and non-diesel light-duty vehicles (<8,501 lbs. GVWR), MYs 1996 to 2 MYs old.	Emissions Test Type: NYVIP OBD II ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: Cap Presence Only	Emissions Test Type: NYVIP OBD II ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: Cap Presence Only.
Non-electric and non-diesel light-duty vehicles (<8,501 lbs. GVWR), 25 MYs old to MY 1995.	Emissions Test Type: NYTEST Transient ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: NYTEST Pressure Test	Emissions Test Type: Low Enhanced: ECD Checks for Weight Code 1: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: Cap Presence only.
Non-electric and non-diesel medium- and heavy-duty vehicles (8,501–<18,001 lbs. GVWR), 25 MYs old to older than 2MYs (DMV Weight Codes 2, 3).	Emissions Test Type: NYTEST Idle ECD Checks for Weight Codes 2 and 3: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement.. Gas Cap: NYTEST Pressure Test	Emissions Test Type: Low Enhanced: ECD Checks for Weight Codes 2 and 3: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: Cap Presence only.
Non-electric and non-diesel medium- and heavy-duty vehicles (>18,000 lbs. GVWR), 25 MYs old to older than 2MYs (DMV Weight Code 4).	Emissions Test Type: NYTEST Idle ECD Checks for Weight Code 4: air pump, fuel inlet restrictor, EGR, PCV, TAC, CAT, EVAP system disablement. Gas Cap: NYTEST Pressure Test	Safety only (NYVIP) (No emissions, ECD, or gas cap checks).

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.¹ The

¹ New York identified four general program enhancements to serve as the basis for claiming 100% test-and-repair credit for NYVIP: Program Manager Network Design, System Integrity/

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

Enhanced Enforcement, Training/Certification, and Inspector and Motorist Information.

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 HEPS (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.

Visual Inspection Tests: air pump, catalyst, fuel inlet restrictor, EGR, evaporative disablement, PCV, and missing gas cap.

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%.

OBD Exemption Ages: LDVs older than model year 1996, 2 newest model years.

Pre-81 Stringency: N/A.

Repair Technician Training: 0% credit.

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 (NO_x) 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

		VMT (1,000's)	VOC (gpm)	CO (gpm)	NO _x (gpm)
2009	EPA's HEPS	212,776.18	0.576	5.149	0.842
	Target NYVIP	"	0.606	5.446	0.857
	Difference		(0.03)	(0.30)	(0.02)
	Is it within the 0.02 gpm margin?		No	No	Yes.
2010	EPA's HEPS	216,180.83	0.520	4.807	0.750
	Target NYVIP	"	0.547	5.072	0.766
	Difference		(0.03)	(0.27)	(0.02)
	Is it within the 0.02 gpm margin?		No	No	Yes.
2011	EPA's HEPS	219,585.48	0.474	4.526	0.670
	Target NYVIP	"	0.495	4.739	0.684
	Difference		(0.02)	(0.21)	(0.01)
	Is it within the 0.02 gpm margin?		Yes	No	Yes.

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 NO_x emissions, may also impact PM_{2.5} 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 PM_{2.5} 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 181(b)(4), 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
[In tons per day (tpd)]

		VMT (1,000's)	VOC (tpd)	NO _x (tpd)
2011	EPA HEPS	219,585.48	114.49	161.83
	Target NYVIP	”	119.56	165.22
	Difference/Shortfall	(5.07)	(3.39)

In its submittal, NYSDEC noted it had or was planning to adopt revisions to its regulations (6 NYCRR Parts 228, 235, 241 and 243) that would more than make up this difference.

As part of the NYMA ozone attainment demonstration SIP, NYSDEC has estimated the emission reductions that will result from each of these control measures. The expected

reductions in 2011 are identified below in Table 4.

TABLE 4

Regulation	Rule name	State effective date	Pollutant	Reduction in 2011 (tpd)
Part 228	Adhesives and Sealants	9/30/10	VOC	6.08
Part 235	Consumer Products	10/15/09	VOC	16.73
Part 241	Asphalt Paving	1/1/11	VOC	2.45
Part 243	Clean Air Intrastate Rule (CAIR)	5/6/10	NO _x	8.7

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 NO_x reductions.² 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,

² On July 6, 2011, EPA issued the Cross-State Air Pollution Rule (CSAPR) to replace the CAIR rule, which was vacated and then remanded to the EPA in 2008, see <http://www.epa.gov/airtransport/>. A December 2008 court decision kept the requirements of CAIR in place temporarily, but directed EPA to issue a new rule to implement the

CAA requirements concerning the transport of air pollution across state boundaries. This CSAPR is designed to implement these CAA requirements and respond to the court's concerns. The CSAPR takes effect January 1, 2012; CAIR will be implemented through the 2011 compliance periods, and then replaced by the CSAPR.

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);
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- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
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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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, 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. 2011–23855 Filed 9–15–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0003; FRL–9465–4]

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 Headquarter's 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 republish 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–HQ–SFUND–2000–0003, accessed 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 77642–5799; 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. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: September 6, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–23871 Filed 9–15–11; 8:45 am]

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