

40 CFR citation	OMB control No.
* * *	* *
721.3628 .....	2070-0012
* * *	* *
721.4484 .....	2070-0012
* * *	* *
721.4494 .....	2070-0012
721.4497 .....	2070-0012
* * *	* *
721.4587 .....	2070-0012
* * *	* *
721.4663 .....	2070-0012
721.4668 .....	2070-0012
* * *	* *
721.4685 .....	2070-0012
* * *	* *
721.5276 .....	2070-0012
* * *	* *
721.5545 .....	2070-0012
* * *	* *
721.5930 .....	2070-0012
* * *	* *
721.6097 .....	2070-0012
* * *	* *
721.8673 .....	2070-0012
* * *	* *
721.9495 .....	2070-0012
* * *	* *
721.9507 .....	2070-0012
* * *	* *
721.9680 .....	2070-0012
* * *	* *
721.9970 .....	2070-0012
* * *	* *
<b>Lead-Based Poisoning in Certain Structures</b>	<b>Paint Prevention Residential</b>
* * *	* *
Part 745, subpart L .....	2070-0155
Part 745, subpart Q .....	2070-0155
* * *	* *
<b>Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibition</b>	
* * *	* *
761.93 .....	2070-0149
* * *	* *

b. By removing the following entries:  
 721.979.....2070-0012.  
 721.1907.....2070-0012.  
 721.2980.....2070-0012.  
 721.4525.....2070-0012.  
 721.5867.....2070-0012.

[FR Doc. 97-17030 Filed 6-27-97; 8:45 am]

BILLING CODE 6560-50-F

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NJ28-2-170, FRL-5850-2]

### Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plan and Phase I and II Ozone Implementation Plans

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action on a State Implementation Plan (SIP) revision submitted by New Jersey which is intended to meet several Clean Air Act requirements. EPA is approving revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; and enforceable commitments.

EPA is also giving conditional interim approval to New Jersey's 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard (NAAQS) for ozone.

**EFFECTIVE DATE:** This rule will be effective July 30, 1997.

**ADDRESSES:** Copies of the New Jersey submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
 Region II Office, Air Programs Branch,  
 295 Broadway, 25th Floor, New York,  
 New York 10007-1866  
 New Jersey Department of  
 Environmental Protection, Office of

Air Quality Management, Bureau of  
 Air Quality Planning, 401 East State  
 Street, CN418, Trenton, New Jersey  
 08625

**FOR FURTHER INFORMATION CONTACT:** Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

## SUPPLEMENTARY INFORMATION:

### I. Background

On April 30, 1997 (62 FR 23410), EPA proposed approval of New Jersey's State Implementation Plan (SIP) submittals of December 31, 1996 and February 25, 1997 for the following Clean Air Act (CAA) requirements: revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; and enforceable commitments. EPA also proposed conditional interim approval of New Jersey's 15 Percent Rate of Progress (ROP) Plan and the 9 Percent Reasonable Further Progress (RFP) Plan.

The December and February SIP submittals address the requirements for the two severe ozone nonattainment areas in New Jersey—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For the purposes of this action, these areas will be referred to as, respectively, the Northern New Jersey ozone nonattainment area (NAA) and the Trenton NAA. New Jersey's two SIP submittals revised the previously submitted 15 Percent ROP Plan dated November 15, 1993.

A detailed discussion of the SIP revisions and EPA's rationale for either approving or conditionally approving them is contained in the April 30, 1997 proposal and will not be restated here. The reader is referred to the proposal for more details.

### II. State Commitment

EPA proposed to condition its approval of New Jersey's 15 Percent ROP and 9 Percent RFP Plans because the emission reductions from the enhanced inspection and maintenance (I/M) program were calculated with modeling performed before EPA issued final guidance on how to estimate emissions. In a letter dated May 29, 1997, New Jersey committed to perform the remodeling necessary to estimate the

emissions reductions that will result from the enhanced I/M program as implemented within 12 months from the effective date of today's rulemaking.

As part of the remodeling of the enhanced I/M program, New Jersey must demonstrate that the 15 percent and 9 percent emission reductions are still being achieved in the Northern New Jersey and Trenton nonattainment areas as required by sections 182(b)(1) and 182(c)(2)(B) of the CAA and in accordance with EPA's policies and guidance.

Therefore, EPA is accepting New Jersey's commitment and EPA's approval is conditioned upon the State completing the remodeling. Once the State satisfactorily fulfills this condition, EPA will take rulemaking action to convert the conditional interim approval to an interim approval. Should the State fail to fulfill the remodeling condition by July 30, 1998, this conditional interim approval will convert to a disapproval pursuant to section 110(k)(4) of the CAA. In that event, EPA would issue a letter notifying the State that the condition has not been met, and that the approval has converted to a disapproval.

### III. Public Comments

In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

### IV. Conditional Interim Approval

New Jersey's 15 Percent ROP and 9 Percent RFP Plans contain adopted control measures with the exception of the enhanced I/M program which had been given a conditional interim approval by EPA on May 14, 1997 (62 FR 26401) pursuant to the National Highway System Designation Act (NHSDA) and section 110 of the CAA. The enhanced I/M program approval was granted on an interim basis for a period of 18 months, in order for New Jersey to perform an evaluation of emission reduction credits, under the authority of section 348 of the NHSDA. A full approval of New Jersey's final enhanced I/M SIP revision, which will include the State's program evaluation and final adopted State regulations, is still necessary under sections 110, 182, 184 and 187 of the CAA. After EPA's review of the State's enhanced I/M program evaluation and final regulations, EPA will take appropriate rulemaking action. If the State's program evaluation demonstrates a shortfall, the State must find additional emission reductions.

Since New Jersey's 15 Percent ROP and 9 Percent RFP Plans are dependent on the emission reductions from the

enhanced I/M program, EPA can only grant an interim approval to the 15 Percent ROP and 9 Percent RFP Plans until the State evaluates the effectiveness of the enhanced I/M program and EPA takes action on the results of this evaluation. Therefore, this approval is being granted on an interim basis for a period of 18 months following the effective date of the May 14, 1997 conditional interim approval of the enhanced I/M rulemaking. At the end of this period, the interim approval of the emission credits will expire and the credits will be adjusted according to the results of the evaluation. At that time, EPA will take action regarding the efficacy of the State's SIP under the authority of sections 110 and 182 of the CAA.

### V. Conclusion

EPA has evaluated these submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New Jersey's: revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budget; and enforceable commitments.

EPA is granting conditional interim approval of New Jersey's 15 Percent ROP Plan and 9 Percent RFP Plan as a revision to the New Jersey SIP. EPA is approving the credits on an interim basis, pending verification of New Jersey's enhanced I/M program's performance, pursuant to section 348 of the NHSDA. The interim approval of the 15 Percent ROP and 9 Percent RFP plans will expire on December 14, 1998, 18 months from the effective date of EPA's final conditional interim rulemaking of New Jersey's I/M program which was published in the **Federal Register** on May 14, 1997 (62 FR 26401). The interim approval will be replaced by appropriate EPA action based on the evaluation EPA receives from New Jersey concerning the enhanced I/M program's performance.

This rulemaking action is a conditional interim approval that will convert to interim approval when New Jersey has completed the remodeling condition of this rulemaking. If the condition is not met within 12 months from the effective date of today's rulemaking, this rulemaking will convert to a disapproval. EPA would notify New Jersey by letter that the

condition has not been met and that the conditional interim approval of the 15 Percent ROP and 9 Percent RFP Plans has converted to a disapproval. In addition, the reader should note that there is a condition on the conditional interim approval of New Jersey's enhanced I/M program which if not met, will affect EPA's action on the 15 Percent ROP and 9 Percent RFP Plans conditional interim approval. If EPA disapproves the New Jersey's enhanced I/M program, EPA's conditional interim approval of the 15 Percent ROP and 9 Percent RFP Plans will also convert to a disapproval.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

### VI. Administrative Requirements

#### A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal

inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 5 U.S.C. 804(2).

### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 1997. Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the New Jersey 15 Percent ROP and 9 Percent RFP Plans of the SIP, on an interim basis, does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Administrative Procedure Act).

### List of Subjects in 40 CFR Part 52

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

Dated: June 18, 1997.

**William J. Muszynski**,  
Deputy Regional Administrator, Region II.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7671q.

### Subpart FF—New Jersey

2. Section 52.1580 is amended by redesignating paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3); by adding a paragraph heading before newly designated paragraph (a)(1); and adding new paragraph (b) to read as follows:

#### § 52.1580 Conditional approval.

(a) *Enhanced Inspection and Maintenance.* (1) \* \* \*

\* \* \* \* \*

(b) *15 Percent and 9 Percent Ozone Plans.* New Jersey's December 31, 1996 and February 25, 1997 submittals for the 15 Percent Rate of Progress Plan (15 Percent Plan) and 9 Percent Reasonable Further Progress Plan (9 Percent Plan) for the Northern New Jersey (New York, Northern New Jersey, Long Island Area) nonattainment area and the Trenton (Philadelphia, Wilmington, Trenton Area) nonattainment area, is conditionally approved for an interim period as referenced in paragraph (a) of this section. The conditions for approvability are as follows:

(1) New Jersey must remodel by July 30, 1998 to determine affirmatively the creditable reductions from the enhanced inspection and maintenance (I/M) program as used in the 15 Percent and 9 Percent Plans. This remodeling must be in accordance with EPA guidance documents: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance", memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996. Should the State fail to fulfill the remodeling condition by July 30, 1998, this conditional interim approval will convert to a disapproval pursuant to section 110(k)(4) of the Clean Air Act.

(2) New Jersey must demonstrate by December 14, 1998 that 15 percent and 9 percent emission reductions are still achievable in the Northern New Jersey and Trenton nonattainment areas as required by sections 182(b)(1) and 182(c)(2)(B) of the Clean Air Act and in accordance with EPA's policies and guidance.

3. Section 52.1582 is amended by adding a sentence to the end of paragraph (d)(1), and adding new

paragraphs (d)(3) through (d)(7) to read as follows:

**§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.**

\* \* \* \* \*

(d)(1) \* \* \* Revisions to the 1990 base year emission inventory dated December 31, 1996 for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas of New Jersey have been approved.

\* \* \* \* \*

(3) The 1996 and 1999 ozone projection year emission inventories included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

(4) The conformity emission budgets for the three metropolitan planning organizations and McGuire Air Force Base included in New Jersey's December 31, 1996 State Implementation Plan revision have been approved.

(5) The photochemical assessment monitoring stations network included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas has been approved.

(6) The demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary which was included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas has been approved.

(7) The enforceable commitments to: participate in the consultative process to address regional transport; adopt additional control measures as

necessary to attain the ozone standard, meet rate of progress requirements, and eliminate significant contribution to nonattainment downwind; identify any reductions that are needed from upwind areas for the area to meet the ozone standard; and implement the Ozone Transport Commission NOx Memorandum of Understanding included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

[FR Doc. 97-17058 Filed 6-28-97; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 766 and 799**

[OPPTS-40030; FRL-5728-5]

**Technical Amendments to Test Rules and Enforceable Testing Consent Agreements/Testing Consent Orders**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA has approved by letter certain modifications to test standards and schedules for chemical testing programs under section 4 of the Toxic Substances Control Act (TSCA). These modifications, requested by test sponsors, will be incorporated in the respective test rules or enforceable testing consent agreements/testing consent orders. Because these modifications do not significantly alter the scope of a test or significantly change the schedule for its completion, EPA approved these requests without seeking public notice and comment. EPA annually publishes a rule describing all of the modifications granted by letter for the previous year.

**DATES:** This rule is effective June 30, 1997.

**FOR FURTHER INFORMATION**

**CONTACT:** Susan B. Hazen, Director, Environmental Assistance Office (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460. Telephone: (202) 554-1404, TDD: (202) 554-0551, Internet address: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA published a rule in the **Federal Register** of September 1, 1989 (54 FR 36311) amending procedures in 40 CFR part 790 for modifying test standards and schedules for test rules and enforceable testing consent agreements/testing consent orders under section 4 of TSCA.

The amended procedures allow EPA to approve requested modifications which do not alter the scope of a test or significantly change the schedule for its completion. These modifications are approved by letter without public notice and comment. The rule also requires immediate placement of these letters in the public record and publication of these modifications in the **Federal Register**. This rule includes modifications approved from January 1, 1996, through December 31, 1996. For a detailed description of the rationale for these modifications and for the correspondence relating to specific chemical test modifications, refer to the public record for the appropriate chemical substance or to the public record for this rulemaking (OPPTS-40030).

**I. Discussion of Modifications**

Each chemical substance discussed in this rule is identified by a specific CAS number and docket control number. The following table lists all chemical-specific modifications approved from January 1, 1996, through December 31, 1996.