

into these zones is prohibited except as authorized by the Captain of the Port Miami or his designated representative. Other vessels such as pilot boats, cruise ship tenders, tug boats and contracted security vessels may assist the Coast Guard Captain of the Port under the direction of his designated representative by monitoring these zones strictly to advise mariners of the restrictions. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 (156.65 MHz) when the security zones are being enforced.

(3) Persons desiring to enter or transit the area of the security zone may contact the Captain of the Port on VHF Marine Band Radio, Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(4) The Captain of the Port Miami may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length and over 100 gross tons that is authorized to carry more than 12 passengers for hire making voyages lasting more than 24 hours, except for a ferry.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: October 16, 2002.

**J.A. Watson, IV,**

*Captain, U.S. Coast Guard, Captain of the Port Miami.*

[FR Doc. 02-28089 Filed 11-4-02; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA242-0373b; FRL-7395-9]

#### Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Imperial County Air

Pollution Control District's (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from Soil Decontamination Operations, Organic Solvent Degreasing Operations and Organic Solvents. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by December 5, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 1001 "I" Street,  
Sacramento, CA 95814.  
Imperial County APCD, 150 South 9th  
Street, El Centro, CA 92243-2850

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:**  
Terry McCall, EPA Region IX, (415)  
972-3976.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: ICAPCD Rules 412, 413 and 417. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse

comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 30, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02-28078 Filed 11-4-02; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NJ54-246, FRL-7404-1]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by New Jersey, including revisions to the State's enhanced motor vehicle inspection and maintenance (I/M) program. This revision updates New Jersey's enhanced I/M performance standard modeling to reflect the State's plan to extend the current new vehicle inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). This evaluation is necessary for New Jersey to demonstrate that the proposed changes to the enhanced I/M program will not impact the State's ability to continue to meet its enhanced I/M emission reduction goals for current and future years. EPA is proposing approval of New Jersey's plan to extend the new car emission inspection exemption, and the State's supporting revised performance standard modeling, which demonstrates that the enhanced I/M program continues to meet EPA's low enhanced performance standard.

**DATES:** Comments must be received on or before December 5, 2002. Public comments on this action are requested and will be considered before taking final action.

**ADDRESSES:** All comments should be addressed to Raymond Werner, Branch Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency,

Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866, and New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

**FOR FURTHER INFORMATION CONTACT:**

Kenneth M. Champagne, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

**SUPPLEMENTARY INFORMATION:**

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**1. Background**

The Clean Air Act Amendments of 1990 (the Clean Air Act) require certain states to implement an enhanced I/M program to detect gasoline-fueled motor vehicles which exhibit excessive emissions of certain air pollutants. The enhanced I/M program is intended to help states meet federal health-based national ambient air quality standards (NAAQS) for ozone and carbon monoxide by requiring vehicles with excess emissions to have their emissions control systems repaired. New Jersey is required to have an enhanced I/M program pursuant to the Clean Air Act, and consequently has adopted, and is implementing an enhanced I/M program state-wide as of December 13, 1999. On January 22, 2002, EPA fully approved New Jersey's enhanced I/M program, including the State's performance standard modeling, as meeting the applicable requirements of the Clean Air Act. Additional information on EPA's final approval of New Jersey's enhanced I/M program can be found in the January 22, 2002 *Federal Register* (67 FR 2811).

**2. What Is the Purpose and Content of New Jersey's Submittal?**

New Jersey's August 20, 2002 proposed SIP revision submittal (hereinafter referred to as the August 20, 2002 submittal) modifies the State's enhanced I/M program to extend the current new vehicle emission inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). This new vehicle emission inspection

exemption was enacted by New Jersey on July 1, 2002 as Pub. L. 2002, Chapter 34, and supercedes the current emission inspection test frequency set forth in New Jersey's I/M rules. The new legislation requires any new vehicle of model year 2000 and newer to be exempt from the emission inspection for 4 years, and thereafter inspected every 2 years, however implementation of this new legislation is contingent upon approval by EPA. New Jersey's goal is to begin implementation of the new vehicle emission inspection exemption on January 1, 2003.

Also included as a part of the August 20, 2002 submittal, New Jersey revised its performance standard modeling to demonstrate that the new vehicle emission inspection exemption would not impact the State's ability to continue to meet its enhanced I/M emission reduction goals. To ensure that the performance standard modeling reflects the latest design assumptions for the State's I/M program, this revised performance standard modeling also includes major proposed program changes contained in New Jersey's April 24, 2002 proposed SIP revision (hereinafter referred to as the April 24, 2002 submittal). The major changes included are: (1) Removal of the requirements for implementation of the evaporative pressure and purge tests, (2) removal of the requirements for implementation of the existing final standards for the ASM5015 exhaust test to allow for continued use of the initial standards, (3) implementation of an OBD testing component for 1996 and newer vehicles, and (4) an exemption of gasoline-fueled vehicles registered as school buses from the enhanced I/M program (however, these vehicles will be inspected by the State's school bus inspection unit biannually using a 2500 RPM test). The State appropriately included the proposed I/M program design changes from the April 24, 2002 submittal in the revised modeling since they will, if adopted, impact the overall emission reduction potential of the I/M program. However, EPA is not taking action on the proposed changes included in the April 24, 2002 submittal in this proposed rulemaking. EPA will take formal rulemaking action on the April 24, 2002 submittal in a separate action at a later date.

New Jersey's revised performance standard modeling demonstrates that the State's enhanced I/M program, including the proposed program changes, successfully meets and exceeds EPA's low enhanced I/M program performance standard developed for all three criteria pollutants: (volatile organic compounds (VOC) and oxides of

nitrogen (NO<sub>x</sub>) as modeled for years 2002, 2005, and 2007, and carbon monoxide (CO) as modeled for the year 2002.

**3. Can EPA Approve Exemptions for New Vehicles?**

The Clean Air Act outlines the minimum elements required in the design of I/M programs, however model year coverage is not defined. EPA fulfilled its statutory requirement in this regard by designing performance standards that addressed these minimum elements. If a state designs a program which gets the same or better emission reductions as the performance standard it is considered to have met the I/M requirements in the Clean Air Act. EPA's I/M regulations at 40 CFR 51.356(a)(5) state that "special exemption may be permitted for certain subject vehicles provided a demonstration is made that the performance standard will be met." Accordingly, exemption of model years from emission testing is permissible as long as the state can demonstrate that the program meets the performance standard for I/M programs as contained in 40 CFR 51.351 and 51.352. Generally, the exemption of newer model year vehicles from emission testing results in a relatively small loss in emission benefit since newer vehicles are less likely to have excess emissions due to malfunctions which would be discoverable through an I/M program.

**4. What Is Performance Standard Modeling?**

EPA included provisions for a model program, known as the performance standard, in the requirements established for enhanced I/M programs. The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into EPA's mobile source emission factor model (the MOBILE model), these features produce target emission factors, in grams per mile of vehicle travel, which a state's enhanced I/M program must not exceed to be deemed minimally acceptable for purposes of SIP approval. The performance standard provides 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 performance standard model program. However, the combination of program

features which make up the performance standard does not necessarily constitute a recommended program design. The use of the performance standard approach allows EPA to develop a performance standard based on certain statutory features and that also provides states with maximum flexibility to design I/M programs to meet local needs.

#### 5. How Has New Jersey Modeled and Met the Performance Standard?

To comply with the requirements of the Clean Air Act, New Jersey submitted modeling to EPA on August 20, 2001 which demonstrated that the State's enhanced I/M program met EPA's low enhanced performance standard. On January 22, 2002, EPA fully approved New Jersey's enhanced I/M program, including the State's performance standard modeling, as meeting the applicable requirements of the Clean Air Act. Additional information on EPA's final approval of New Jersey's performance standard modeling can be found in the January 22, 2002 **Federal Register** (67 FR 2811).

Although New Jersey recently submitted performance standard modeling for its enhanced I/M program, and EPA subsequently approved it, the State is required to revise its performance standard modeling to demonstrate that the proposed changes to the approved program, such as the new vehicle emission inspection exemption, will not impact the effectiveness of the overall program. As previously stated, New Jersey also

included in the modeling the proposed changes in the April 24, 2002 submittal to ensure that the modeling reflects the latest design assumptions for the State's I/M program. In the August 20, 2002 submittal, New Jersey's intent was to show through modeling that its enhanced I/M program, including the latest design changes, meets or exceeds the low enhanced performance standard, expressed as emission levels in program area-wide average grams per vehicle mile (gpm). New Jersey is required to demonstrate that its enhanced I/M program is able to maintain the same or better level of emission reductions as EPA's low enhanced performance standard through its attainment deadlines for the applicable NAAQS standards. For the ozone precursors, VOC and NO<sub>x</sub>, the State needs to meet the performance standard through its attainment deadlines of 2005 and 2007. Although New Jersey is in attainment for all of its previously designated CO nonattainment areas (60 FR 62741 and 67 FR 54574 ), the State is still required to include CO in its performance standard modeling because the maintenance plan for the Northeastern New Jersey CO nonattainment area relies upon the benefits from the enhanced I/M program. Thus, the State needs to meet the performance standard for CO in its 2002 attainment year.

EPA's enhanced I/M final rule requires that equivalency to the performance standard be demonstrated using the most current version of EPA's mobile source emission model. New

Jersey has completed its performance standard modeling using the most current model MOBILE6, which was released on January 29, 2002 ( 67 FR 4254). During technical review of the August 20, 2002 submittal, EPA identified several minor issues with the State's modeling. EPA worked closely with New Jersey on these issues, and concluded that the minor changes to the modeling will not negatively impact the State's modeling demonstration. New Jersey subsequently sent a letter to EPA September 20, 2002 addressing the issues in question. However, EPA identified an additional issue with the modeling after this letter had been sent. EPA re-ran the State's modeling with the modified MOBILE6 data inputs, and the results show that this minor change will not affect New Jersey's performance modeling demonstration. While these changes will not impact the outcome of the modeling exercise, that is the State still passes the performance standard test, EPA has requested that all minor issues be addressed in the State's final SIP revision submittal.

The following table shows the results of New Jersey's revised performance standard modeling, including the re-modeled results contained in New Jersey's September 20, 2002 letter and EPA's re-run of the State's modeling with the modified MOBILE6 data inputs. Further details on New Jersey's revised performance standard modeling can be found in the Technical Support Document prepared for this rulemaking action.

TABLE 1.—MODELING RESULTS

| Program type                                                     | VOC (gpm) | NO <sub>x</sub> (gpm) | CO (gpm) |
|------------------------------------------------------------------|-----------|-----------------------|----------|
| EPA Low Enhanced Performance Standard 2002 Evaluation Year ..... | 1.178     | 1.810                 | 22.572   |
| New Jersey Program 2002 Evaluation Year .....                    | 1.152     | 1.745                 | 22.398   |
| New Jersey Program 2005 Evaluation Year .....                    | 0.964     | 1.416                 | N/A*     |
| New Jersey Program 2007 Evaluation Year .....                    | 0.817     | 1.114                 | N/A*     |

The 2005 and 2007 modeling runs were not required to include CO since the attainment date (2002) has passed.

Based on New Jersey's modeling analysis, EPA agrees that the State's enhanced I/M program, including the proposed program changes, successfully meets and exceeds EPA's low enhanced I/M program performance standard for all three criteria pollutants, VOC and NO<sub>x</sub> as modeled for years 2002, 2005, and 2007, and CO as modeled for the year 2002.

#### 6. Summary of Conclusions and Proposed Action

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking

action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

EPA is proposing to approve New Jersey's I/M SIP revision submitted on August 20, 2002. This revision updates New Jersey's enhanced I/M performance standard modeling to reflect the State's plan to extend the current new vehicle inspection exemption from one inspection cycle ( 2 years) to two inspection cycles (4 years). New Jersey has demonstrated that its enhanced I/M program with the new vehicle emission inspection exemption, including other proposed program design changes, continues to meet EPA's low enhanced performance standard.

## 7. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### 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: October 28, 2002.

**William J. Muszynski,**

*Deputy Regional Administrator, Region 2.*

[FR Doc. 02-28076 Filed 11-4-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[MS-200301(b); FRL-7404-3]

### Approval and Promulgation of State Plan for Designated Facilities and Pollutants; State of Mississippi

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the small Municipal Waste Combustion (MWC) units section 111(d) negative declaration submitted by the State of Mississippi. This negative declaration certifies that small MWC units subject to the requirements of section 111(d) and 129 of the Clean Air Act (CAA) do not exist in Mississippi.

In the Final Rules Section of this **Federal Register**, the EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the

approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before December 5, 2002.

**ADDRESSES:** Written comments should be addressed to Joydeb Majumder, at the EPA Regional Office listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations: EPA Region 4, Air Toxics and Monitoring Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

**FOR FURTHER INFORMATION CONTACT:** Joydeb Majumder at (404) 562-9121 or Michele Notarianni at (404) 562-9031.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Final Rules Section of this **Federal Register**.

Dated: October 24, 2002.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 02-28080 Filed 11-4-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

[WT Docket No. 02-285; FCC 02-255; RM-10077]

### Frequency Coordination of Public Safety Frequencies in the Private Land Mobile Radio Below 470 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document the Federal Communications Commission (Commission) seeks comment on whether to modify the frequency coordination procedures for Public Safety Pool frequencies in the Private Land Mobile Radio (PLMR) Services