understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.163 Islais Creek (Channel) is revised to read as follows:

§ 117.163 Islais Creek (Channel)

(a) The draw of the Illinois Street drawbridge, mile 0.3 at San Francisco, shall open on signal if at least 72 hours advance notice is given to the Port of San Francisco.

(b) The draw of the 3rd Street drawbridge, mile 0.4 at San Francisco, shall open on signal if at least 72 hours advance notice is given to the San Francisco Department of Public Works.

Dated: November 17, 2008.

P.F. Zukunft,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. E8–28809 Filed 12–4–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2008–0194; A–1–FRL–8717–9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Enhanced Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted on December 19, 2007 by the State of Connecticut. This SIP revision includes regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Connecticut. The revised program includes a test and repair network and on-board diagnostic (OBD2) testing for 1996 and newer vehicles. The intended effect of this action is to approve the

revised program into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective February 3, 2009, unless EPA receives adverse comments by January 5, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2008–0194 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2008–0194'', Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. 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 legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2008–0194. 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 through *http://www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. 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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, Office of Ecosystem Protection, EPA New England, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023; 617–918–1045 (phone); 617–918–0045 (fax); e-mail at *judge.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this rulemaking.

I. Background and Purpose

On December 19, 2007, the State of Connecticut submitted a formal revision to its State Implementation Plan (SIP). This SIP revision includes regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Connecticut. EPA is approving Connecticut's revised I/M program because it is consistent with the Clean Air Act I/M requirements and EPA's I/M regulations, and will strengthen the SIP. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What Are the Clean Air Act Requirements for I/M Programs?

The Clean Air Act (CAA), 42 U.S.C. 7401, *et seq.*, requires certain states to implement an enhanced inspection and maintenance (I/M) program to detect gasoline-fueled motor vehicles which emit excessive amounts 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. 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. 42 U.S.C. 7411c. Section 184 of the CAA also created an ''Ozone Transport Region'' (OTR) and includes I/M requirements for that region. The OTR geographically includes the 11 states from Maryland to Maine (including all of Connecticut) and the District of Columbia Consolidated Metropolitan Statistical Area. In addition, EPA promulgated I/M regulations at 40 CFR Part 51 Subpart S. Depending on the severity of an area's nonattainment designation and/or geographic location within the OTR, EPA's regulation under 40 CFR 51.350 outlines the appropriate motor vehicle I/M requirements.

As a result of its ozone nonattainment designation (see 40 CFR 81.307), and by virtue of its inclusion in the OTR, Connecticut has implemented an enhanced vehicle emissions testing program throughout the entire State. A vehicle testing program has been operating statewide since 1983 in Connecticut. The Connecticut I/M program was first approved into the SIP on May 21, 1984 (49 FR 10542) and the program has since been revised several times. Most recently the SIP was modified on October 27, 2000 (65 FR 64357). Since that time, the program has been again modified in a number of ways. Most notably it has been changed to a test and repair network, and now also includes on-board diagnostic (ODB2) testing of 1996 and newer vehicles.

III. What Are the OBD2 Requirements and How Does Connecticut's Program Address Them?

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 (OBD2) system on model year 1996 and newer OBD2-equipped motor vehicles be conducted as part of states' motor vehicle I/M programs. OBD2 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. OBD2 requirements are a key part of this rulemaking action.

The OBD2 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 OBD2–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 OBD2 system is also designed to fully evaluate the vehicle emissions control system. If the OBD2 system detects a problem that may cause vehicle emissions to exceed 1.5 times the Federal Test Procedure (FTP) standards, then the Malfunction Indicator Light (MIL) is illuminated. By turning on the MIL, the OBD2 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 OBD2 I/M rule applies to those areas that are required to implement I/M programs under the CAA, which includes Connecticut. The revised I/M program submitted by Connecticut on December 19, 2007 includes OBD2 testing for 1996 and newer vehicles, and continues to require that 1995 and older vehicles (up to 25 years old) continue to receive the previously SIP approved acceleration simulation mode (ASM) test or, if that test can not be implemented, gasoline powered vehicles up to 10,000 pounds GVWR (gross vehicle weight rating) are tested with a preconditioned two-speed idle test.

EPA's OBD2 program requires scan tool equipment to read the vehicle's built-in computer sensors in model year 1996 and newer vehicles. The OBD2–I/M check consists of two types of examination: A visual check of the dashboard display function and status and an electronic examination of the OBD2 computer itself. The failure criteria for OBD2 testing is any Diagnostic Trouble Code (DTC) or combination of DTCs that results in the Malfunction Indicator Light (MIL) to be commanded on. A DTC is a code that indicates an emission control system or component which may cause emissions to increase to 1.5 times the limit due to malfunction. Connecticut has incorporated this OBD2 component into its program.

If the OBD2 scan reveals DTCs that have not commanded the MIL on, the motorist should be advised of the issue, but the vehicle should not be failed unless other non-DTC-based failure criteria have been met. Vehicles may fail inspection if the vehicle connector is missing, tampered with or otherwise inoperable, if the MIL is commanded on and is not visually illuminated, and if the MIL is commanded on for 1 or more DTCs as defined in Society of Automotive Engineering (SAE) J2012 guidance document, and EPA regulations.

Vehicles are rejected from testing if the scan of the OBD2 system reveals a ''not ready'' code for any OBD2 component. EPA guidance allows states the flexibility to permit model year 1996 to 2000 vehicles with 2 or fewer unset readiness codes, and model year 2001 and newer with 1 unset readiness code to complete OBD2–I/M inspection without being rejected. Vehicles would still fail if the MIL was commanded on or if other failure criteria were met, or be rejected if 3 or more unset readiness codes were encountered. If the MIL is not commanded to be illuminated the vehicle would pass the OBD2 inspection even if DTCs are present. Connecticut's testing program is consistent with the EPA recommended readiness failure criteria. Connecticut's program regulations, at section 22a–174–27(g) require that the program meet all the relevant OBD2 testing ''requirements of 40 CFR 51 and 40 CFR 85 and shall include procedures set forth in 40 CFR 85.2222.''

The EPA believes that for an OBD2–I/M test program to be most effective, it should be designed to allow for: (1) Real-time data link connections to a centralized testing database; (2) quality-controlled input of vehicle and owner identification information; and (3) automated generation of test reports. Connecticut has incorporated these OBD2 program elements into its program.

IV. What Are All the Other I/M Regulatory Requirements and Does Connecticut's I/M Program Satisfy Them?

A. Applicability

The SIP describes in detail the areas subject to the enhanced I/M SIP revision and, consistent with 40 CFR 51.372, includes the legal authority necessary to establish program boundaries. The Connecticut I/M regulations (''Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance'' at section 22a–174–27, and ''Periodic Motor Vehicle Emissions Inspection and Maintenance'' at section 14–164c–1a to Section 14–164c–18a) and authorizing legislation (Connecticut Statutes at Chapter 246 and 246a) ensure that the enhanced I/M program be implemented statewide.

B. Enhanced I/M Performance Standard

Today's rulemaking discusses the I/M program designed, in part, to meet the enhanced I/M performance standard for ozone precursors causing air quality problems in Connecticut. EPA's performance standard establishes an emission reduction target that must be met by a program in order for the SIP to be approvable. The program, as documented in the SIP, must meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

Included in Connecticut's December 19, 2007 submittal is the appropriate MOBILE6 vehicle emission modeling demonstration considering the required performance standards and the actual Connecticut program as it is currently being implemented statewide, as well as a comparison to the centralized program that the State is no longer implementing. The modeling runs considered evaluations with 2005, 2007 and 2009 compliance dates. Connecticut has demonstrated that reductions from its updated program are better than the pre-existing I/M program and the EPA performance standard.

The MOBILE6 modeling performed by Connecticut reflects the fact that Connecticut tests all gasoline powered vehicles that are less than 25 years old. 1996 and newer vehicles are tested with OBD2, and pre-1996 vehicles (i.e., they are not equipped with OBD2 technology) are tested using the acceleration simulation mode (ASM 2525), or, if ASM 2525 is not feasible for that vehicle, those vehicles will receive a preconditioned two-speed idle (PCTSI) test. Vehicles are tested every other year, and vehicles up to 4 years old are not tested. Vehicle testing requirements are included in section 22a–174–27, and details of meeting the performance standard are included in section 2 of the SIP narrative.

C. Network Type and Program Evaluation

Under the CAA and EPA's I/M rule, the SIP must include a description of the network to be employed and the required legal authority. Also, for enhanced I/M areas, the SIP needs to include a description of the evaluation schedule and protocol, the sampling methodology, the data collection and analysis system, the resources and personnel for evaluation and related details of the evaluation program, as well as the legal authority establishing the evaluation program.

Connecticut has revised its program to be a test and repair I/M network program design utilizing contractors to manage and oversee the inspection portion of the program. In its December 19, 2007 submittal, Connecticut states, in its SIP revision narrative, that it will institute a continuous ongoing evaluation program consistent with the federal I/M rule. The results of the evaluation program will be reported to EPA on a biennial basis (40 CFR 51.353). In addition, Connecticut commits to developing and submitting the annual reports described by 40 CFR 51.366. The State has sufficient legal authority to implement this contractor managed program in concert with local inspection stations and conduct the program evaluation, as necessary to implement I/M consistent with federal requirements. (Connecticut laws at Chapter 246a—Motor Vehicle Emissions, section 14–164c(e)) Details of the network type and program evaluation are included in Section 3 of the SIP narrative.

D. Adequate Tools and Resources

Under the CAA and EPA's I/M rule, the SIP must include a description of the resources that will be used for program operation and must discuss how the performance standard will be met, including: (1) A detailed budget plan describing the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment (such as vehicles for undercover audits), and for other requirements discussed throughout the I/M rule, for the period prior to the next biennial self evaluation required by the federal I/M rule, and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions, and the training attendant to each function.

Connecticut legislation authorizes the State to collect a fee at registration to cover the costs of administrating, overseeing, and enforcing the I/M program. The December 19, 2007 submittal includes additional detail on the funding and description of resources to be used for implementation of the enhanced I/M program. This narrative at Section 4, and its attachments describe the budget, staffing support, and equipment needed to implement the program.

E. Test Frequency and Convenience

Under EPA's I/M rule, the SIP must include a detailed test schedule, including the test year selection scheme if testing is other than annual. The SIP must also include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process. In addition, in enhanced I/M programs, the SIP needs to demonstrate that the network of stations providing testing services is sufficient to ensure consumer convenience by providing short waiting times to get a test, and short driving distances to get to the test center.

The Connecticut SIP revision requires biennial inspections for all subject motor vehicles that are at least four years old. The inspections will be conducted based on when the vehicle is initially registered. This is described in more detail in the December submittal. The authority for enforcing the testing frequency is contained in the revised Connecticut Department of Motor Vehicles' portion of the I/M rule. Short waiting times and short driving distances relating to network design are addressed by ensuring that local gas stations can provide the inspection, and are described in section 5 of the SIP narrative.

F. Vehicle Coverage

Under EPA's I/M rule, the SIP must include a detailed description of the number and types of vehicles to be covered by the program, and a plan for identifying subject vehicles, including vehicles that are routinely operated in the area but may not be registered in the area. Also, the SIP must include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of vehicles granted such exemptions. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority necessary to implement and enforce the vehicle coverage requirement.

Connecticut's I/M program covers all gasoline and diesel vehicles, light duty trucks, and heavy duty vehicles that are 25 years old and newer and registered in the State. In addition, United States Postal Service and United States GSA vehicles are also covered. Special classes, which are exempt from the emission testing program, include vehicles weighing more than 10,000 pounds (GVWR), electric vehicles, farm vehicles, motorcycles, and vehicles which are less than 4 years old. Based on information provided by the State, Connecticut has shown that such exemptions will not prevent the program from achieving the performance standard. Additional detail supporting this conclusion was included in Section 6 of the December 19, 2007 submittal. Legal authority for the vehicle coverage requirement is contained in the Connecticut Department of Environmental Protection (DEP) and Department of Motor Vehicles (DMV) I/M rules and the State's authorizing legislation. (Connecticut laws at Chapter 246a—Motor Vehicle Emissions, Section 14–164c)

G. Test Procedures and Standards

Under EPA's I/M rule, the SIP must include a description of each test procedure used. The SIP also must include the rule, ordinance or law describing and establishing the test procedures. The Connecticut I/M SIP revision and associated regulations obligate the State to perform OBD2 testing on all 1996 and newer vehicles, in accordance with EPA procedures. All 1995 and older covered vehicles up to 8,500 pounds GVWR (excluding full time four wheel drive) will be tested in accordance with EPA procedures for the acceleration simulation mode, or ASM 2525. A vehicle which can not be tested using either OBD2 or ASM 2525, or has a GVWR greater than 8500 GVWR and less than 10,000 GVWR will be given a pre-conditioned two-speed idle (PCTSI) test. Details of the test procedures and standard are included in Section 7 of the SIP narrative, and in the DEP rules at section 22a–174–27.

H. Test Equipment

Under EPA's I/M rule, the SIP must include written technical specifications for all test equipment used in the program and address each of the requirements set forth at 40 CFR 51.358. The specifications must describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

In its December 19, 2007 submission, Connecticut provided written equipment specifications as contained in EPA's guidance and the appendices of EPA's I/M rule. The Connecticut SIP submission and its appendices address the requirements in 40 CFR 51.358 and include descriptions of performance features and functional characteristics of the computerized test systems. It references 40 CFR Part 51 and 85, and includes the procedures outlined in 40 CFR 85.2222 and associated guidance. For the ASM test, EPA's Acceleration Simulation Mode Test Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specification Final Technical Guidance (EPA420–B–04–011, July 2004) will be used. The necessary test equipment, required features, and acceptance testing criteria are mandated by the testing contract specifications, and section 8 of the SIP narrative.

I. Quality Control

Under EPA's I/M rule, the SIP must include a description of quality control and recordkeeping procedures. The SIP also must include the procedures manual, rule, and ordinance or law describing and establishing quality control procedures and requirements.

The Connecticut I/M SIP narrative and contract contain descriptions and requirements establishing the quality control procedures in accordance with the federal I/M rule and EPA guidance. These requirements will help ensure that equipment calibrations are properly performed and recorded and that the necessary compliance document security is maintained. As described in section 9 of the SIP narrative, the Connecticut SIP complies with all specifications for quality control set forth in Section 51.359 and Appendix A of the federal I/M rule, and EPA's technical guidance.

J. Waivers and Compliance via Diagnostic Inspection

Under EPA's I/M rule the SIP must include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate is used for estimating emission reduction benefits in the modeling analysis. Corrective action must be taken if the waiver rate exceeds that estimated in the SIP, or the state must revise the SIP and claim emission reductions accordingly. The SIP also must describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP must include the necessary legal authority, ordinance(s), or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

Cost limits for the minimum expenditure waivers must be in accordance with the CAA and federal I/M rule. Expenditures of at least $660 for actual, non-tampering related repairs, must be spent in order to qualify for a waiver in the enhanced I/M program. The State intends to annually update the cost to receive a waiver from the emissions testing program. In addition, a time extension, as allowed under EPA's rule, is also allowed in Connecticut's program. Connecticut has demonstrated that it can meet the enhanced I/M performance standard testing with its current program design.

The Connecticut program includes a waiver rate of 1% of initially failed vehicles in the area. These waiver rates are used in the modeling demonstration. The DEP has committed in the December 2007 submittal that, if the waiver rates are higher than estimated as determined by its program reports, the State will take corrective action to address the deficiency. The SIP describes the three types of waivers the State will allow, including: a minimum expenditure, a time extension, and a one-time hardship waiver provision. These issues are dealt with in a manner consistent with the federal I/M rule. The proper criteria, procedures, quality assurance and administration regarding the issuance of waivers, consistent with EPA's I/M rule, will be ensured by the DEP and its contractor and are detailed in the SIP submission in section 10 of the SIP narrative and DMV rules at section 14–164c–11a.

K. Motorist Compliance Enforcement

Under EPA's I/M rule, the SIP must provide information concerning motorist enforcement, including: (1) A description of the existing compliance mechanism if it will continue to be used for this program, and the demonstration that it is as effective or more effective than registration denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of, and accounting for, all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, such as those operated (but not necessarily registered) in the program area. Also, the SIP must include a determination of the current compliance rate based on a study of the system including an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism must be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP must include a commitment to an enforcement level and minimum compliance level used for modeling purposes and to be maintained, at a minimum, in practice.

The State of Connecticut has chosen to use a program of denying registration to anyone who fails to meet emission testing requirements. The motorist compliance enforcement program will be implemented primarily by the Connecticut Department of Motor Vehicles. The enforcement strategy is described in the December 19, 2007 submittal. The enforcement strategy is designed to ensure a high rate of compliance. Those not receiving the emissions test as scheduled will be subject to fines and late penalties, and also be denied registration when their registration expires. Connecticut presently has a 99 percent compliance rate with the inspection program. The legal authority to implement and enforce the program is included in the Connecticut State law and in DEP and DMV rules as submitted on December 19, 2007. (Connecticut laws at Chapter 246a—''Motor Vehicle Emissions, Section 14–164c''; Connecticut Department of Environmental Protection Regulations entitled ''Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance'' at Section 22a–174–27; and Connecticut Department of Motor Vehicles Regulation entitled ''Periodic Motor Vehicle Emissions Inspection and Maintenance'' at section 14–164c–1a to section 14–164c–18a). Additional detail of the motorist compliance enforcement program is included in section 11 of the SIP narrative.

L. Motorist Compliance Enforcement Program Oversight

Under EPA's I/M rule, the SIP must include a description of enforcement program oversight and information management activities.

The Connecticut I/M SIP revision provides for regular auditing of its enforcement program and adherence to effective management practices, including adjustments to improve the program when necessary. These program oversight and information management activities are described in the SIP narrative, and include a description of the Emissions Data Base Management System (EDBMS) and how this system interfaces with the Department of Information Technology (DoIT) vehicle registration records. If a vehicle is out of compliance with the emissions testing requirement, registration is denied. This is done through computer matching and is directly available to law enforcement. The SIP describes the procedures to be followed in identifying noncomplying vehicles, along with appropriate follow-up and program documentation audits in section 12 of the SIP narrative.

M. Quality Assurance

Under EPA's I/M rule, the SIP must include a description of the quality assurance program, and written procedure manuals covering both overt and covert performance audits, record audits, and equipment audits.

The December 19, 2007, submittal from Connecticut includes a description of the quality assurance program. The program will include operation and progress reports and overt and covert performance audits. Additionally, all test centers are video audited through remote visual observation during all scheduled hours. Overt audits occur at each station at least 3 times per month and covert audits are conducted at least 4 times per year, both in response to customer complaints and as targeted follow-up. Detailed QA/QC procedures are included in the SIP submittal at section 13 of the SIP narrative and in the inspection agreement.

N. Enforcement Against Contractors, Stations and Inspectors

Under EPA's I/M rule, the SIP must include a penalty schedule and legal authority for establishing and imposing penalties, civil fines, station and inspector license suspension, and revocations. In the case of state constitutional impediments precluding immediate authority to suspend licenses, the state Attorney General shall furnish an official opinion within the SIP explaining the constitutional impediment as well as relevant case law. The SIP also must describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including the agencies, courts, and jurisdictions involved; personnel to prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to the enforcement function, and the source of those funds. In states that are without immediate suspension authority, the SIP must demonstrate that sufficient resources, personnel, and systems are in place to meet the three-day case management requirement for violations that directly affect emission reductions.

The Connecticut I/M SIP revision includes specific penalties in its enforcement against contractors, stations and inspectors in accordance with the federal I/M rule. Based on its SIP submittal dated December 19, 2007, the State's enforcement procedures can be pursued through contractual or regulatory action. The State, through the contract that it has been authorized to enter into and directly under Connecticut laws at Chapter 246a—''Motor Vehicle Emissions, section 14–164c(f)(4)'', has the authority to immediately suspend a station inspector for violations that directly affect emission reduction benefits and a variety of other violations of procedures. Details are found in Appendix 14 of the SIP submittal and are included in the contract Inspection Agreement.

O. Data Analysis and Reporting

Under EPA's I/M rule, the SIP must describe the types of data to be collected.

The Connecticut I/M SIP provides for collecting test data to link specific test results to specific vehicles, I/M program registrants, test sites, and inspectors. The SIP in Section 16 of the SIP narrative, lists the specific types of test data and quality control data which will be collected. The data will be used to generate reports concerning test data, quality assurance, quality control, enforcement, as well as necessary changes and identified weaknesses in the program. The state has also committed to collecting all data necessary for the quality assurance and enforcement reports, as required by section 51.366 of the federal I/M rule.

P. Inspector Training and Licensing or Certification

Under EPA's I/M rule, the SIP must include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The I/M SIP submittal from the DEP provides detail on the inspector training program. The Connecticut I/M SIP provides for implementation of training, licensing, and refresher programs for emission inspectors. The SIP and the inspection contract describe this program and curriculum including written and hands-on testing at least once every two years. All inspectors will be required to be certified to inspect vehicles in the Connecticut I/M program. Further details of the Inspector Training Program are included in section 17 of the SIP narrative.

Q. Improving Repair Effectiveness

Under EPA's I/M rule, the SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

In the December 19, 2007 submittal, Connecticut provided additional detail and a description of the technical assistance, performance monitoring and repair technician training programs to be implemented. The SIP revision, as detailed in section 19 of the SIP narrative, provides for regularly informing repair facilities about changes to the inspection program, training course schedules, common problems, and potential solutions for particular engine families, diagnostic tips, repairs, and other assistance issues. As described in the submittal, the State has also ensured that a repair technician hotline is be available for repair technicians, and issued a contract to serve this purpose. Performance monitoring statistics of repair facilities will be provided to motorists whose vehicles fail the I/M test, as required in enhanced I/M areas. The State has committed to ensure that adequate repair technician training exists by establishing training courses at technical schools in the area.

R. Compliance With Recall Notices

Under EPA's I/M rule, the SIP must describe, for enhanced I/M programs, the procedures used to incorporate the vehicle recall lists provided into the inspection or registration database, the quality control methods used to insure that recall repairs are properly documented and tracked, and the method (inspection failure or registration denial) used to enforce the recall requirements. EPA has not yet established a computerized database listing all recalled vehicles.

The revised Connecticut I/M SIP will ensure that vehicles subject to enhanced I/M programs, that are included in either a voluntary emission recall or a remedial plan determination pursuant to the CAA, have had the appropriate repairs made prior to the inspection. As described in section 20 of the SIP narrative, the State and contractor will implement this when EPA databases exist which identify vehicles that have not completed recall repairs by an electronic database. At that time, motorists with unresolved recall notices will be required to show proof of compliance or will be denied the opportunity for inspection.

S. On-Road Testing

Under the CAA and EPA's I/M rule, the SIP must include a detailed description of the on-road testing program required in enhanced I/M areas, including the types of testing, test limits and criteria, the number of vehicles (the percentage of the fleet) to be tested, the number of employees to be dedicated to the on-road testing effort, the methods for collecting, analyzing, utilizing, and reporting the results of on-road testing and the portion of the program budget to be dedicated to on-road testing. Also, the SIP must include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements. In addition, emission reduction credit for on-road testing programs can only be granted for a program designed to obtain significant emission reductions over and above those predicted to be achieved by other aspects of the I/M program. The SIP needs to include technical support for the claimed additional emission reductions.

The I/M SIP submitted on December 19, 2007, includes a description of Connecticut's on-road testing program in section 21 of the SIP narrative. The testing program will include 0.5% of the subject vehicles, or 20,000 vehicles. Vehicles with emission readings will be measured by remote sensing devices. The State of Connecticut has the legal authority to require a vehicle to obtain an out-of-cycle inspection at a vehicle emission inspection facility (Connecticut laws at Chapter 246a—''Motor Vehicle Emissions, section 14–164c(j)''). The State did not include additional modeling credit for this portion of the program in the modeling demonstrating that EPA's performance standard was met.

T. Concluding Statement

A more detailed analysis of the State's submittal and how it meets the federal requirements is contained in the EPA's technical support document (TSD) prepared for this action. The TSD is available from the EPA New England Regional office listed above. The criteria used to review the submitted SIP revision are based on the requirements set forth in section 182 of the CAA and in the federal I/M regulations. Based on these requirements, EPA developed a detailed I/M approvability checklist to be used nationally to determine if I/M programs meet the requirements of the CAA and the federal I/M rule. The checklist states the federal requirements, referenced by section of the rule, and whether the Connecticut program meets such requirements. This checklist, the CAA, and the federal I/M regulation formed the basis for EPA's technical review. EPA has reviewed the Connecticut I/M SIP revision submitted to the EPA using the criteria stated above. The Connecticut regulations and accompanying materials contained in the SIP submittals from the State represent an acceptable plan to comply with the I/M requirements and meet all the criteria required for EPA to approve the SIP. EPA's review of the materials submitted indicates that Connecticut 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 vehicle inspection and maintenance program, including OBD2.

V. Final Action

EPA is approving the SIP revision submitted by the State of Connecticut of December 19, 2007. This SIP revision contains the State's revised vehicle inspection and maintenance program. Specifically, EPA is approving the Connecticut Department of Motor Vehicles Regulation at section 14–164c–1a to section 14–164c–18a (effective May 28, 2004), and the Connecticut Department of Environmental Protection Regulations at section 22a–174–27 (August 25, 2004) and incorporating these rules into the Connecticut SIP. EPA is approving Connecticut's revised I/M program because it is consistent with the CAA I/M requirements and EPA's I/M regulations and it will strengthen the Connecticut SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective February 3, 2009 without further notice unless the Agency receives relevant adverse comments by January 5, 2009.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 3, 2009 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 February 3, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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).)

List of Subjects in 40 CFR Part 52

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

Dated: September 12, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of 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 *et seq.*

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(98) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(98) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on December 19, 2007.

(i) Incorporation by reference.

(A) Connecticut Department of Environmental Protection Regulations entitled ''Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance'' at section 22a–174–27 (effective in the State of Connecticut on August 25, 2004).

(B) Connecticut Department of Motor Vehicles Regulation entitled ''Periodic Motor Vehicle Emissions Inspection and Maintenance'' at section 14–164c–1a to Section 14–164c–18a (effective in the State of Connecticut on May 28, 2004).

■ 3. In § 52.385, Table 52.385 is amended by adding new entries to existing state citations for section 22a–174–27 and Section 14–164c to read as follows:

§ 52.385 EPA-approved Connecticut Regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–27	Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance.	8/25/04	12/05/08	[Insert **Federal Register** page number where the document begins].	(c)(98)	DEP regulations including emissions standards and OBD2 requirements.
*	*	*	*	*	*	*
14–164c	Periodic Motor Vehicle Emissions Inspection and Maintenance.	5/28/04	12/05/08	[Insert **Federal Register** page number where the document begins].	(c)(98)	DMV regulation revisions for test and repair network and implementing OBD2 and other tests.
*	*	*	*	*	*	*

[FR Doc. E8–28734 Filed 12–4–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0788; FRL–8745–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO_X) emissions from large water heaters and small boilers and process heaters. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on February 3, 2009 without further notice, unless EPA receives adverse comments by January 5, 2009. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number [EPA–R09–OAR–2008–0788], by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 972–3248, *perez.idalia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).