

for a port or place subject to the jurisdiction of the United States, and all vessels not engaged in commercial service whose last port of call was in the United States. Vessels requiring inspection by the COTP may contact the COTP via marine band or Very High Frequency (VHF) channel 16, telephone at (203) 468-4401, facsimile at (203) 468-4418, or letter addressed to Captain of the Port, Long Island Sound, 120 Woodward Ave., New Haven, CT 06512.

(4) All vessels operating within the RNA that are bound for a port or place located in the United States or that must transit the internal waters of the United States, must obtain authorization from the Captain of the Port (COTP) before entering waters within three nautical miles from the territorial sea baseline. Vessels awaiting COTP authorization to enter waters within three nautical miles from the territorial sea baseline will be required to anchor in the manner directed by the COTP. This section does not apply to vessels operating exclusively within the Long Island Sound Marine Inspection and COTP Zone, vessels on a single voyage which depart from and return to the same port or place within the RNA, all towing vessels engaged in coastwise trade, vessels in innocent passage not bound for a port or place subject to the jurisdiction of the United States, and all vessels not engaged in commercial service whose last port of call was in the United States. Vessels may request authorization from the COTP by contacting the COTP via marine band or Very High Frequency (VHF) channel 16, telephone at (203) 468-4401, facsimile at (203) 468-4418, or letter addressed to Captain of the Port, Long Island Sound, 120 Woodward Ave., New Haven, CT 06512.

(5) Vessels over 1,600 gross tons operating in the RNA within three nautical miles from the territorial sea baseline that are bound for a port or place located in the United States or that must transit the internal waters of the United States must receive authorization from the COTP prior to transiting or any intentional vessel movements, including, but not limited to, shifting berths, departing anchorage, or getting underway from a mooring. This section does not apply to vessels in innocent passage not bound for a port or place subject to the jurisdiction of the United States.

(6) *Ferry vessels.* Vessels of 300 gross tons or more are prohibited from entering all waters within a 1200-yard radius of any ferry vessel transiting in any portion of the Long Island Sound Marine Inspection and COTP Zone without first obtaining the express prior

authorization of the ferry vessel licensed operator, licensed master, COTP, or the designated COTP on-scene patrol.

(7) *Vessels engaged in commercial service.* No vessel may enter within a 100-yard radius of any vessel engaged in commercial service while that vessel is transiting, moored, or berthed in any portion of the Long Island Sound Marine Inspection and COTP zone, without the express prior authorization of the vessel's licensed operator, master, COTP, or the designated COTP on-scene representative.

(8) *Bridge foundations.* Any vessel operating beneath a bridge must make a direct, immediate and expeditious passage beneath the bridge while remaining within the navigable channel. No vessel may stop, moor, anchor or loiter beneath a bridge at any time. No vessel may approach within a 25-yard radius of any bridge foundation, support, stanchion, pier or abutment except as required for the direct, immediate and expeditious transit beneath a bridge.

(9) This section does not relieve any vessel from compliance with applicable navigation rules.

■ 3. Add § 165.154 to read as follows:

**§ 165.154 Safety and Security Zones: Long Island Sound Marine Inspection Zone and Captain of the Port Zone.**

(a) *Safety and security zones.* The following areas are safety and security zones:

(1) *Dominion Millstone Nuclear Power Plant Safety and Security Zones.* (i) All waters north and north east of a line running from Bay Point, at approximate position 41-18.57 N, 072-10.41 W, to Millstone Point at approximate position 41-18.25 N, 072-09.96 W.

(ii) All waters west of a line starting at 41-18.700 N, 072-09.650 W, running south to the eastern most point of Fox Island at approximate position 41-18.400 N, 072-09.660 W. All coordinates are North American Datum 1983.

(2) *Coast Guard Vessels Safety and Security Zones.* All waters within a 100-yard radius of any anchored Coast Guard vessel. For the purposes of this section, Coast Guard vessels includes any commissioned vessel or small boat in the service of the regular Coast Guard and does not include Coast Guard Auxiliary vessels.

(b) *Regulations.* (1) The general regulations contained in § 165.23 and § 165.33 of this part apply.

(2) In accordance with the general regulations in § 165.23 and § 165.33 of this part, entry into or movement within this zone is prohibited unless

authorized by the Captain of the Port Long, Island Sound.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 8, 2003.

**Vivien S. Crea,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 03-20929 Filed 8-14-03; 8:45 am]

BILLING CODE 4910-15-P

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 207-4213; FRL-7544-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program—Revised Final Standards for the Acceleration Simulation Mode Exhaust Emissions Test

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision amends Pennsylvania's SIP-approved Enhanced Vehicle Inspection and Maintenance Program (or I/M program) to implement final tailpipe test standards for the Acceleration Simulation Mode (ASM) tailpipe emissions test. This is being done through the substitution of revised ASM test standards in place of the previously adopted and SIP-approved final ASM test standards. Under Pennsylvania's SIP-approved I/M program, ASM testing is conducted only in the Philadelphia I/M program area comprised of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. Therefore, this action affects only motorists in those counties subject to the ASM test as part of the I/M program for the Philadelphia area. The intended effect of this action is to approve Pennsylvania's SIP revision request. This action is being taken under authority of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on September 15, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460. Copies are also available for public inspection at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by e-mail at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### **I. Background**

On June 27, 2003 (68 FR 38266), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. EPA's NPR proposed to approve a revision to Pennsylvania's SIP-approved enhanced I/M program SIP to revise final exhaust emission standards for Pennsylvania's ASM exhaust emissions test. The Commonwealth submitted a request for parallel processing of the state-proposed version of this SIP revision on June 5, 2003. Parallel processing is a means by which EPA proposes rulemaking action concurrently with the state's procedures for adoption of regulations. Upon completion of the state adoption process, EPA can then take final rulemaking action. Pennsylvania formally submitted its final, adopted SIP revision (amending the final test cutpoints for the ASM test) to EPA on July 23, 2003.

### **II. Summary of SIP Revision**

The Commonwealth's SIP revision substitutes a set of revised final ASM test cutpoints (recently released by EPA as a compliance alternative) for the cutpoints previously approved in Pennsylvania's I/M program SIP.

The ASM test is a test method used to measure tailpipe emissions from cars. In Pennsylvania, the test is performed on a portion of the I/M-subject fleet in five counties in the Philadelphia severe ozone nonattainment area (Bucks, Chester, Delaware, Montgomery, and Philadelphia counties). The ASM tailpipe emissions test employs tailpipe emissions sensing equipment that measures emissions while the vehicle is driven, under load, at a steady speed on a chassis dynamometer. This SIP revision serves to substitute a different

set of final test cutpoints than was previously SIP-approved—that utilize a different methodology and which are expressed in different units of measurement, and which are different than the prior approved phase-in or final ASM cutpoints. Since the Commonwealth is utilizing a set of alternative final ASM cutpoints that were developed by EPA for the purpose of providing a compliance alternative in implementing an ASM-based I/M program, EPA proposed approval of the Commonwealth's proposed SIP revision.

A more detailed explanation of the Commonwealth's SIP revision or the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

### **III. Final Action**

EPA is approving Pennsylvania's July 23, 2003 formal SIP revision to substitute an alternative set of final ASM test cutpoints to the I/M program as a revision to the Pennsylvania SIP.

### **IV. Statutory and Executive Order Reviews**

#### *A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves 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 rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This 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.*).

#### *B. Submission to Congress and the Comptroller General*

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 rule 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this approval of an alternative set of final ASM test cutpoints to Pennsylvania's I/M program SIP must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 2003. Filing a petition for reconsideration by the Administrator of this final rule 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).)

### List of Subjects in 40 CFR Part 52

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

Dated: August 6, 2003.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 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 NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(211) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(211) Revisions to the Pennsylvania Emission Inspection Program Regulations to adopt revised alternative final ASM test cutpoints submitted on July 23, 2003 by the Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of July 23, 2003 from the Secretary of the Department of Environmental Protection transmitting a regulatory amendment to the motor vehicle emissions testing program to adopt an alternative set of final ASM test cutpoints developed by EPA.

(B) Revisions to Chapter 177, Appendix A, Section 1 of the Pennsylvania motor vehicle emission inspection program regulations (codified in the Pennsylvania Code at

Title 67, Part I, Subpart A, Article VII), effective on May 24, 2003.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(211)(i) of this section.

[FR Doc. 03-20895 Filed 8-14-03; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 424

[CMS-0008-IFC]

RIN 0938-AM22

### Medicare Program; Electronic Submission of Medicare Claims

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule with comment period implements the statutory requirement that claims for reimbursement under the Medicare Program be submitted electronically as of October 16, 2003, except where waived. This rule identifies those circumstances for which mandatory submission of electronic claims to the Medicare Program is waived.

**DATES:** *Effective date:* October 16, 2003. These regulations are applicable for Medicare claims submitted on or after October 16, 2003.

*Comment date:* Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 14, 2003.

**ADDRESSES:** In commenting, please refer to file code CMS-0008-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission or e-mail. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-0008-IFC, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays. If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 445-G, Hubert H. Humphrey (HHH) Building, 200

Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244-8010.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed, and could be considered untimely.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Simmons, (410) 786-6157. Stewart Streimer, (410) 786-9318.

#### SUPPLEMENTARY INFORMATION:

*Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, contact Sharon Jones (410) 786-9994.

*Copies:* Additional copies of the **Federal Register** containing this interim final rule with comment period can be made at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: <http://www.access.gpo.gov/nara/index.html>.

## I. Background

Section 3 of the Administrative Simplification Compliance Act (ASCA), Pub. L. 107-105, was enacted by the Congress to improve the administration of the Medicare Program by facilitating program efficiencies gained through the electronic submission of Medicare claims. Section 3 of ASCA amends subsection (a) of section 1862 of the Social Security Act (the Act) (42 U.S.C. 1395y(a)) and adds a new subsection (h) to section 1862 (42 U.S.C. 1395y). The amendment to subsection (a) requires