

**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.

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**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).