

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). The revisions effect Delaware's Motor Vehicle Emissions Inspection Program and Low Enhanced Inspection and Maintenance Program. These revisions include a five-model-year vehicle exemption, the incorporation of a New Model Year Clean Screen provision, and the addition of an on-board diagnostic (OBD) systems check. EPA is approving these revisions to Delaware's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on January 26, 2004, without further notice, unless EPA receives adverse written comment by December 26, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to morris.makeba@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in part III of the Supplementary Information section. 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.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814-2174, or by e-mail at magliocchetti.catherine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 30, 2001, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted SIP revisions to Delaware Regulation 26: Motor Vehicle Emissions Inspection Program and Delaware Regulation 31: Low Enhanced Inspection and Maintenance (LEIM) Program. The revisions to Regulation 26 include a provision to exempt the five newest model year vehicles from inspection and an amendment to the program's waiver requirements. The

revisions to Regulation 31 create a new car clean screen provision in the LEIM program. On September 24, 2001, DNREC submitted another SIP revision to Regulation 31 that incorporates an on-board diagnostics (OBD) systems check as part of the LEIM Program.

This rulemaking pertains to both the January 30, 2001 and September 24, 2001 SIP revisions submitted by DNREC to amend Regulations 26 and 31.

II. Summary of SIP Revision and EPA's Evaluation

On January 30, 2001, DNREC officially submitted a revision to EPA pertaining to SIP-approved Delaware Regulation 31. Regulation 31 for the LEIM program applies in Kent and New Castle Counties. The revision includes a new model year clean screen provision whereby newer model year vehicles may be exempt from exhaust and evaporative emissions testing when waiting lines at inspection stations are too long. The previous version of Regulation 31 called for the use of a low emitter profile (LEP) model to clean screen vehicles at the lanes during peak inspection periods. However, this LEP model clean screen provision of the previous version of Regulation 31 was not implemented, and long lines continued to be a problem during certain times. The main reason for not implementing the LEP clean screen program was the complexity of integrating the LEP program into the existing information systems. The revision to Regulation 31 replaces the LEP model clean screen provision with a new model year clean screen exemption to exempt vehicles that are less than eight model years old. The DNREC provided a modeling analysis that demonstrates that with this new model year clean screen provision, its LEIM program still meets the applicable performance standard required under the Federal I/M rule. Furthermore, DNREC's analysis demonstrates that with this revision to Regulation 31, its LEIM program provides more emission reductions than the previous version calling for the use of an LEP model to clean screen. For a more detailed evaluation of the modeling analysis, please see the Technical Support Document (TSD) prepared in support of this rulemaking action. Copies of that TSD are available from the EPA Regional Office listed in the **ADDRESSES** section of this document. EPA has determined that these revisions to Regulation 31 are consistent with the applicable requirements of the Federal I/M rule.

The DNREC's January 30, 2001 SIP revision submittal also included

amendments to Delaware Regulation 26: Motor Vehicle Emissions Inspection Program, which only applies in Sussex County. The revisions to Regulation 26 include a provision to exempt the five newest model year vehicles from inspection and an amendment to the program's waiver requirements. EPA has determined that the five-year-model exemption and revised waiver provisions are consistent with the applicable requirements of the Federal I/M rule.

On September 24, 2001, DNREC submitted to EPA further revisions to Regulation 31 to incorporate an OBD systems check as part of the LEIM Program. This revision addresses the key components for making an OBD systems check part of a LEIM program such as implementation deadlines, model year coverage, test standards and procedures, waivers, and test reports. The September 24, 2001 submittal also revises Regulation 31 to clarify the test procedures for the Evaporative System Integrity Test (pressure test). EPA has determined that these revisions to Regulation 31 are consistent with the applicable requirements of the Federal I/M rule.

III. Final Action

EPA is approving the SIP revisions submitted by DNREC on January 30, 2001 pertaining to Regulations 26 and 31 and on September 24, 2001 pertaining to Regulation 31 as described in Section II of this document.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on January 26, 2004, without further notice unless EPA receives adverse comment by December 26, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. 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.