

the ASM5015 exhaust emission test to be removed. EPA received a request for the removal of all references to the evaporative pressure and purge test, while retaining the evaporative fuel cap leak test.

On May 28, 2003, EPA received a request from New Jersey to allow the substitution of an on-road inspection certification for the biennial inspection. The on-road inspection must comply with the testing that is required for the motor vehicle as part of a regular inspection, and must be within the two-month period prior to its regularly scheduled biennial inspection.

This letter also requested the exemption of OBD-eligible gasoline-fueled and bi-fueled school buses from I/M enhanced inspection purposes. All school buses must meet the Department emission standards and be inspected biannually using a 2,500 RPM test, not with an ASM5015 test, (*see* 34 N.J.R. 829(a) February 19, 2002). The school buses will be inspected under the MVC School Bus Inspection Unit regulation in accordance with N.J.S.A. 39:3B–18 *et seq.* The State also requested that leasing companies and out-of-state dealerships be allowed to issue temporary inspection decals, which would permit the motorist to present the vehicle at the exit of any centralized inspection facility and be issued a valid inspection decal.

In addition to restructuring the rule, amendments were made to: clarify the meaning of vehicles primarily operated in the area; clarify existing definitions and include new definitions; clarify fleet vehicle testing requirements, set fee payment methods, station testing procedures, emission test standards and waiver requirements; clarify the vehicle test report requirement for vehicles that fail the OBD test, reinspection, the clean screening test report requirements and the fleet vehicle reporting requirements; clarify the issuance of inspection certificates of approval or rejection; clarify the test methods for the OBD and the visual test methods, and clarify licensing of inspection agents and definitions of fraud. All of the factors of New Jersey's I/M program detailed above are approvable by the EPA.

3. Summary of Conclusions and Proposed Action

EPA's review of the materials submitted indicates that New Jersey has revised the I/M program in accordance with the requirements of the Clean Air Act (CAA), and all of EPA's technical requirements for an approvable OBD program. The CAA gives States the discretion in program planning to implement programs of the State's

choosing as long as necessary emission reductions are met. EPA is approving the proposed actions and revisions in addition to adding the OBD program described earlier, because New Jersey has successfully demonstrated through performance standard modeling that these modifications would not adversely affect emission reductions that the State is counting on from the program. The performance standard modeling, which reflects the State's enhanced I/M program as it is currently implemented, shows that the State's program meets the low enhanced performance standard. EPA's authority to approve New Jersey's enhanced I/M program is set forth at section 110 and 182 of the CAA.

4. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 25, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NV 050–0073B; FRL–7595–4]

Approval and Promulgation of Implementation Plans; State of Nevada; Designation of Areas for Air Quality Planning Purposes; Lake Tahoe Nevada Area

AGENCY: Environmental Protection Agency (EPA).