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SUPPLEMENTARY INFORMATION:

Background

On November 5, 2002 (67 FR 67345), EPA published a notice of proposed rulemaking regarding a SIP revision submitted by the State of New Jersey. The notice proposed to approve New Jersey's plan to extend the new vehicle emission inspection exemption from two to four years, and the State's supporting revised performance standard modeling. This new vehicle emission inspection exemption was enacted by New Jersey on July 1, 2002 as Public Law 2002, Chapter 34, and supercedes the current emission inspection test frequency set forth in New Jersey's I/M rules. The new legislation requires any new vehicle of model year 2000 and newer to be exempt from the emission inspection for 4 years, and thereafter inspected every 2 years, however, implementation of this new legislation is contingent upon approval by EPA. New Jersey's goal is to begin implementation of the new vehicle emission inspection exemption on January 1, 2003.

Also included as part of the modeling assumptions for New Jersey's revised performance standard modeling demonstration were other proposed program changes contained in the State's April 24, 2002 proposed SIP revision. For more detailed information on these proposed design changes, please see the November 5, 2002 notice of proposed rulemaking. Although the State appropriately included these proposed changes in its revised modeling since they will, if adopted, impact the overall emission reduction potential of the I/M program, EPA is not taking action on these changes in this final rulemaking. However, EPA will take formal rulemaking action on these other changes after they are adopted and formally submitted by the State.

The SIP revision was proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its regulations. The proposed SIP revision was initially submitted to EPA on August 20, 2002, and the final SIP revision was formally submitted on December 3, 2002. It should be noted that EPA did not

receive any comments associated with the November 5, 2002 proposed approval of revisions to New Jersey's enhanced I/M program. A detailed description of New Jersey's submittals and EPA's rationale for the proposed action were presented in the proposal referenced above and will not be restated here.

Conclusion

EPA is taking final action to approve New Jersey's December 3, 2002 SIP revision, which updates New Jersey's enhanced I/M performance standard modeling to reflect the State's plan to extend the current new vehicle inspection exemption from one inspection cycle (2 years) to two inspection cycles (4 years). In accordance with the parallel processing procedures, EPA has evaluated New Jersey's final SIP revision submitted on December 3, 2002, and finds that no substantial changes were made from the proposed SIP revision submitted on August 20, 2002. Also in the final SIP revision, New Jersey addressed the four minor issues identified by EPA during technical review of the proposed SIP revision. EPA agrees with New Jersey's responses to those comments it received which are related to the enhanced I/M program as an element of the State's SIP.

EPA is approving New Jersey's I/M SIP revision submitted on December 3, 2002. New Jersey has demonstrated through performance standard modeling that its enhanced I/M program with the new vehicle emission inspection exemption, including other proposed program design changes, continues to meet EPA's low enhanced performance standard.

Administrative 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.*).

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