

Distribution, or Use” (66 FR 28355, May 22, 2001).

#### *Regulatory Flexibility Act*

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.).

#### *Unfunded Mandates Reform Act*

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).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

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).

#### *Executive Order 13132: Federalism*

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.

#### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

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 approves a state rule implementing a Federal Standard.

#### *National Technology Transfer Advancement Act*

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.

#### *Paperwork Reduction Act*

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.).

#### *Congressional Review Act*

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 14, 2008. 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, Incorporation by reference, Intergovernmental relations,

Oxides of nitrogen, Oxides of nitrogen budget trading program.

Dated: January 30, 2008.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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 KK—Ohio**

■ 2. Section 52.1870 is amended by adding paragraph (c)(141) to read as follows:

#### **§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(142) On October 6, 2006, Ohio submitted revisions to Ohio Administrative Code (OAC) Chapter 3745-14-05 to permanently retire 240 new source set aside allowances from the State’s oxides of nitrogen budget trading program.

(i) *Incorporation by reference.*

(A) Ohio Administrative Code Rule 3745-14-05 “NO<sub>x</sub> Allowance Allocations,” effective July 17, 2006.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[Docket No. EPA-R02-OAR-2006-0920, FRL-8522-3]

### **Approval and Promulgation of Implementation Plans; New Jersey; Zero-Emission Vehicle Component of the Low Emission Vehicle Program**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is approving, through model year 2011, the portion of New Jersey’s low emission vehicle program related to the manufacture and sale of zero-emission vehicles, consistent with California’s current low emission vehicle regulations. EPA previously approved New Jersey’s low emission vehicle program, but did not take action on the zero-emission vehicle provisions. The intended effect of this action is to approve, as consistent with section

110(a)(2) of the Clean Air Act, a control strategy that will help New Jersey achieve attainment of the National Ambient Air Quality Standard for ozone.

**DATES:** *Effective Date:* This rule will be effective March 14, 2008.

**ADDRESSES:** Copies of the State submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. New Jersey Department of Environmental Protection, Public Access Center, 401 East State Street, 1st Floor, Trenton, New Jersey 08625.

**FOR FURTHER INFORMATION CONTACT:**

Matthew Laurita,  
*laurita.matthew@epa.gov* at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866, telephone number (212) 637-3895, fax number (212) 637-3901.

**SUPPLEMENTARY INFORMATION:**

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- I. Description of the SIP Revision
- II. Comments on the Proposed Rulemaking
- III. Final EPA Action
- IV. Statutory and Executive Order Reviews

**I. Description of the SIP Revision**

Section 209(a) of the Clean Air Act (CAA or the Act) prohibits states from adopting or enforcing standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. However, under section 209(b) of the CAA, EPA will grant a waiver of the section 209(a) prohibition to the State of California, thereby allowing California to adopt its own motor vehicle emissions standards, if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. EPA will not grant a section 209(b) waiver if it makes the specific findings listed in that section.

Section 177 of the CAA allows other states to adopt and enforce California's standards relating to the control of emissions from new motor vehicles, provided that, among other things, such state standards are identical to the California standards for which a waiver has been granted under CAA section 209(b). In addition to the identity requirement, the state must adopt such standards at least two years prior to the commencement of the model year to which the standards will apply. All state implementation plan (SIP)

revisions submitted to EPA for approval must also meet the requirements of CAA section 110.

In January 2004, the New Jersey Legislature passed legislation requiring the New Jersey Department of Environmental Protection (NJDEP) to adopt the California low emission vehicle (LEV) program, known as the LEV II program. Pursuant to this legislation, New Jersey promulgated regulations to adopt a LEV program identical to California's LEV II program. New Jersey's regulations were adopted on November 28, 2005 and became effective on January 17, 2006. New Jersey's LEV program will affect light-duty motor vehicles manufactured in model year 2009 and later.

On June 2, 2006, New Jersey submitted a SIP revision to EPA, seeking federal approval of its LEV regulations. EPA approved New Jersey's LEV program on August 27, 2007 (72 FR 48936), but did not take action on the zero-emission vehicle (ZEV) provisions of the program. New Jersey commented on EPA's March 21, 2007, Proposed Rulemaking (72 FR 13227), and requested that EPA approve the ZEV provisions of New Jersey's LEV program, consistent with EPA's section 209(b) waiver that allows California to enforce the ZEV sales requirement through model year 2011. On September 4, 2007 (72 FR 50650), EPA proposed to approve the ZEV provisions of New Jersey's LEV program through the 2011 model year. EPA's approval of the ZEV component of New Jersey's LEV program makes it Federally-enforceable. For further information on New Jersey's LEV program see the March 21, 2007, Proposed Rulemaking (72 FR 13227), the August 27, 2007, Final Rulemaking (72 FR 48936) and the September 4, 2007, ZEV Proposed Rulemaking (72 FR 50650).

**II. Comments on the Proposed Rulemaking**

EPA received no comments on the Proposed Rulemaking, published in the September 4, 2007, **Federal Register** (72 FR 50650).

**III. Final EPA Action**

EPA is approving the zero-emission vehicle component of New Jersey's LEV program through the 2011 model year, which is identical to the zero-emission vehicle portion of California's LEV II program for which EPA has issued a section 209(b) waiver of pre-emption. Approval of this component of New Jersey's LEV program further ensures that planned emissions reductions attributable to this program will be achieved. The New Jersey LEV program

was adopted on November 28, 2005, published in the New Jersey State Register on January 17, 2006 with an effective date of January 17, 2006, and is codified in Title 7, Chapter 27, Subchapter 29 of the New Jersey Administrative Code.

**IV. Statutory and Executive Order Reviews**

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 CAA. 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 CAA. 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 CAA. 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. section 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**. A major rule cannot take effect until 60 days after it

is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 14, 2008. 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, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Dated: January 14, 2008.

**Alan J. Steinberg,**  
*Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 FF—New Jersey**

■ 2. Section 52.1570 is amended by adding paragraph (c)(84) to read as follows:

**§ 52.1570 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*  
\* \* \* \* \*

(84) Revisions to the State Implementation Plan submitted on June 2, 2006, by the New Jersey Department of Environmental Protection which consists of the adoption of California's Zero Emission Vehicle (ZEV) provisions.

(i) Incorporation by reference:

(A) Regulation Subchapter 29 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Low Emission Vehicle (LEV) Program," sections 29.6, 29.7, and the incorporation of California Section 1962, "Zero Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," within section 29.13(g), effective on January 17, 2006.

■ 3. Section 52.1605 is amended by revising the entry for Subchapter 29 under Title 7, Chapter 27 to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

State regulation	State effective date	EPA approved date	Comments
* * *	* * *	* * *	* * *
Title 7, Chapter 27			
* * *	* * *	* * *	* * *
Subchapter 29, "Low Emission Vehicle (LEV) Program".	January 17, 2006 .....	February 13, 2008, [Insert Federal Register page citation].	In Section 29.13(g), Title 13, Chapter 1, Article 2, Section 1961.1 of the California Code of Regulations relating to greenhouse gas emission standards, is not incorporated into the SIP.
* * *	* * *	* * *	* * *

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[EPA-HQ-OAR-2007-0002; FRL-8529-2]

**Approval of Louisiana's Petition To Relax the Summer Gasoline Volatility Standard for the Grant Parish Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving the State of Louisiana's request to relax the federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce in Grant Parish, Louisiana, (Grant Parish) during the summer ozone control season—June 1 to September 15 of each year. Grant Parish is a designated attainment area under the 8-hour ozone National Ambient Air Quality Standard ("NAAQS") and is a redesignated attainment area under the