



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0605; FRL-9620-2]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania;
Clean Vehicles Program**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This SIP revision contains Pennsylvania's Clean Vehicle Program, which adopts California's second generation low emission vehicle program for light-duty vehicles (LEV II). The Clean Air Act (CAA) contains specific authority allowing any state to adopt new motor vehicle emissions standards that are identical to California's standards in lieu of applicable Federal standards. Pennsylvania has adopted a Clean Vehicle Program that incorporates by reference provisions of California's LEV II rules and specifies a transition mechanism for compliance with these clean vehicle standards in Pennsylvania. EPA is approving this SIP revision, in accordance with the requirements of the CAA, which will help Pennsylvania to achieve and maintain attainment of the National Ambient Air Quality Standard (NAAQS) for ozone.

DATES: Effective Date: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2011-0605**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy 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. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On November 4, 2011 (76 FR 68381), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania’s Clean Vehicle Program rule, in which the Commonwealth adopted California’s Low Emission Vehicle Program (California LEV), under authority of section 177 of the CAA. The formal SIP Clean Vehicle SIP revision was submitted by Pennsylvania on May 31, 2007.

II. Summary of SIP Revision

Pennsylvania adopted its revised Clean Vehicles Program rule and published it as a final rule in December 9, 2006 edition of the Pennsylvania Bulletin (36 Pa.B. 7424). The Clean Vehicle Program rule was meant to formalize cessation of Pennsylvania’s participation of the National

Low Emission Vehicle (NLEV) program. The Commonwealth had participated in the NLEV program prior to implementation by EPA of its second general Federal motor vehicle emissions standards under the 1990 CAA (i.e., Tier 2 standards). By model year 2006, Federal Tier 2 standards had superseded prior NLEV standards, except where states had adopted California emission standards as an alternative to Federal emission standards, under authority granted under section 177 of the CAA. Pennsylvania had adopted California LEV program as a “backstop” to its NLEV program, to take effect upon the expiration of the NLEV program. Pennsylvania’s May 2007 Clean Vehicles SIP revision reiterated the Commonwealth’s participation in the California LEV program, updated its incorporation by reference to include the most recent version of California’s program, delayed the start date for the Pennsylvania Clean Vehicle Program from model year 2006 to model year 2008 (leaving the Tier 2 Federal standards as the compliance alternative for the 2006-2008 model years), and made changes to the Clean Vehicle Program to reflect post-1998 changes made by California and specified a 3-year early credit earning period within which vehicle manufacturers could comply with the program’s fleet average non-methane organic gases (NMOG) requirements. For a more complete summary and additional background information on the Pennsylvania Clean Vehicle program, refer to EPA’s NPR published in the November 4, 2011 Federal Register.

Other specific requirements of the Pennsylvania Clean Vehicle Program and EPA’s rationale for our proposed action are explained in the NPR and will not be restated here. EPA received one public comment on the NPR, which was supportive of both Pennsylvania’s adoption of and EPA’s approval of the Clean Vehicle Program.

III. Final Action

EPA is approving the Clean Vehicle Program as a revision to the Pennsylvania SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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).

C. Petitions for Judicial Review

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 [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 to approve the Pennsylvania Clean Vehicle Program SIP 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

January 4, 2012
Dated:

W. C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 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 NN--Pennsylvania

2. In § 52.2020, the table in paragraph (c)(1) is amended by:

- a. Revising the entry for Section 121.1.
- b. Revising the entry for Section 126.401.
- c. Removing the entry for Section 126.402.
- d. Revising the entries for Sections 126.411, 126.412, and 126.413.
- e. Revising the heading between Sections 126.413 and 126.421.
- f. Revising the entries for Sections 126.421, 126.422, 126.423, 126.424, and 126.425.
- g. Revising the entries for Sections 126.431, 126.432, and 126.441.
- h. Adding a new heading and entry for Section 126.451.

The amendments read as follows:

§ 52.2020 Identification of plan.

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(c) ***

(1) ***

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25-- Environmental Protection Article III--Air Resources				

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Chapter 121 - General Provisions				
Section 121.1	Definitions	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	Adding definition of one term, revising definitions of four terms, and removing definitions of five terms.
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Chapter 126 – Motor Vehicle and Fuels Programs				
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Subchapter D. Pennsylvania Clean Vehicles Program				
General Provisions				
Section 126.401	Purpose	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
Pennsylvania Clean Vehicles Program				
Section 126.411	General requirements	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
Section 126.412	Emission requirements	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
Section 126.413	Exemptions	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
Applicable New Motor Vehicle Testing				
Section 126.421	Exemptions	12/9/06	[Insert Federal	

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
			<u>Register publication date</u> [<u>Insert page number where the document begins</u>]	
Section 126.422	New motor vehicle compliance testing	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	
Section 126.423	Assembly line testing	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	
Section 126.424	In-use motor vehicle enforcement testing	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	
Section 126.425	In-use surveillance testing	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	
Motor Vehicle Manufacturers' Obligations				
Section 126.431	Warranty and recall	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	
Section 126.432	Reporting requirements	12/9/06	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Motor Vehicle Dealer Responsibilities				
Section 126.441	Responsibility of motor vehicle dealers	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
Department Responsibilities				
Section 126.451	Responsibilities of the Department	12/9/06	[Insert Federal Register publication date] [Insert page number where the document begins]	
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[FR Doc. 2012-1300 Filed 01/23/2012 at 8:45 am; Publication Date: 01/24/2012]