



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2025-0133; FRL-11841-01-R3]

Air Plan Approval; Delaware; Motor Vehicle Inspection and Maintenance Program

Certification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Delaware. This SIP revision addresses Clean Air Act (CAA) requirements for the enactment of a Basic vehicle emissions inspection and maintenance (I/M) program for the Delaware portion (i.e., New Castle County) of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Nonattainment Area (Philadelphia NAA) for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2025-0133 at <https://www.regulations.gov>, or via email to gordon.mike@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission

(i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Adam Lewis, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2026. Mr. Adam Lewis can also be reached via electronic mail at Lewis.Adam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 2024, Delaware submitted the “Basic Performance Standard Certification for New Castle County Inspection and Maintenance Program” (I/M Certification SIP) as a revision to the Delaware SIP. This Basic I/M certification SIP revision was submitted prior to the reclassification of the Philadelphia NAA from Moderate to Serious nonattainment for the 2015 8-hour ozone NAAQS (89 FR 61025, July 30, 2024). CAA section 182(c)(3) requires states with areas designated as Serious or above to submit SIP revisions that provide for the implementation of an Enhanced I/M program in certain urbanized areas of the NAA. That requirement will be addressed at a later date.

On October 1, 2015, the EPA revised the primary and secondary NAAQS for ozone to a level of 0.70 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of human health and the environment.¹ The 2015 ozone NAAQS retains the same general form and averaging time as

¹ 80 FR 65292 (October 26, 2015).

the 0.75 ppm NAAQS set in 2008, but is set at a more protective level. On June 4, 2018 (effective August 3, 2018), the EPA designated the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area (including Delaware's New Castle County) as Marginal nonattainment for the 2015 8-hour ozone NAAQS.² Areas designated as Marginal nonattainment were required to attain the 2015 8-hour ozone NAAQS by no later than August 3, 2021 (three years from the effective date of designation).

On October 7, 2022, the EPA determined that the Philadelphia NAA failed to attain the 2015 ozone NAAQS by its August 3, 2021 attainment date and reclassified the area from Marginal to Moderate nonattainment.³ Moderate areas were required to attain the 2015 8-hour ozone NAAQS by no later than six years after the effective date of initial designation, or August 3, 2024. CAA section 182 outlines SIP requirements applicable to ozone nonattainment areas specific to each classification category. The requirements for a Moderate ozone nonattainment area include a Basic vehicle I/M program. CAA section 182(b)(4). The Basic I/M requirements are further articulated in the EPA's I/M Rule at 40 Code of Federal Regulations (CFR) part 51, subpart S.⁴ The Federal performance standards⁵ for a Basic I/M program are outlined in 40 CFR 51.352. Consistent with the I/M Rule, areas with existing I/M programs need to conduct and submit a performance standard modeling analysis as well as make any necessary program revisions as part of their Moderate area SIP submissions to ensure that I/M programs are operating at or above the Basic I/M performance standard level for the 2015 8-hour ozone NAAQS. These areas may determine through the performance standard modeling analysis that an existing SIP-approved program would meet the performance standard for purposes of the 2015 ozone NAAQS without modification. In this case, the state could submit a SIP revision

² 83 FR 25776 (June 4, 2018).

³ 87 FR 60897 (October 7, 2022).

⁴ See 40 CFR 51.350(a)(4) for nonattainment area population I/M criteria applicability.

⁵ An I/M performance standard is a collection of program design elements which defines a benchmark program to which a state's proposed I/M program is compared in terms of its potential to reduce emissions of the ozone precursors, nitrogen oxides (NOx) and volatile organic compounds (VOCs).

with the associated performance modeling and a written statement certifying their determination in lieu of submitting new revised regulations.⁶

To address this Basic I/M requirement for the Delaware portion of the 2015 ozone Philadelphia NAA required for the Moderate classification, Delaware submitted the February 14, 2024, SIP revision. Due to more stringent nonattainment classifications under previous ozone NAAQS and Delaware's inclusion as part of the Ozone Transport Region (OTR),⁷ Delaware already implements an Alternate Low Enhanced I/M program in New Castle County and Kent County.⁸ The EPA recently approved (via a final rule published November 4, 2024) updates to Delaware's prior approved I/M SIP submitted in March 2023.⁹ This previous I/M program revision included regulatory updates made between the inception of Delaware's current Alternate Low Enhanced I/M program and March 2023. In approving this March 2023 SIP revision, the EPA's November 2024 action determined that the current I/M program in New Castle County (and Kent County) met the applicable CAA requirements for an Alternate Low Enhanced I/M program, a more stringent standard than a Basic program for which Delaware now seeks certification. For that Alternate Low Enhanced I/M program Delaware availed itself of flexibility in EPA's I/M rule that allows an Enhanced I/M subject area to adopt a program that meets an Alternate Low Enhanced I/M performance standard if the area: (1) has an approved SIP pursuant to CAA requirements for Reasonable Further Progress (for the period from 1990-1996); (2) does not have a disapproved plan for Reasonable Further Progress for the period after 1996; and (3) does not have a disapproved plan for attainment of the air quality standards for ozone or carbon monoxide.¹⁰ Delaware's Alternate Low Enhanced I/M program (applicable to Kent and New

⁶ See section II.E of the October 7, 2022 final rule (87 FR 60897, 60906) and the April 13, 2022 proposal (87 FR 21842).

⁷ The Philadelphia-Wilmington-Trenton NAA was previously classified as severe nonattainment under the now revoked 1979 ozone NAAQS. CAA Section 184(b)(1)(A) provides that an area within a state in an ozone transport region and with a metropolitan statistical area population of 100,000 or more must implement an enhanced I/M program.

⁸ See 40 CFR 51.351(g) for the Alternate Low Enhanced Performance Standard.

⁹ See 89 FR 87500 (November 4, 2024) and 89 FR 66295 (August 15, 2024) for these actions and a summary of the Delaware specific CAA requirements for I/M Programs, additional background on the Ozone NAAQS, and resulting Delaware Area Ozone Nonattainment Designation.

¹⁰ 40 CFR 51.351(g).

Castle Counties) was codified at Delaware Code Title 7, Regulation 31.¹¹

Delaware’s Alternate Low Enhanced I/M program applicable to the Delaware portion of the Philadelphia NAA is a centralized, state-run testing program (conducted by the Delaware Division of Motor Vehicles), with emissions testing conducted on a biennial basis. Testing is performed on 1968 and newer vehicles (up to 14,000 pounds gross vehicle weight rating (GVWR), as detailed in Table 1 below. New vehicles are exempted until seven years of age. A vehicle must pass inspection or be granted a waiver before it can be registered in the state.

Table 1—Delaware I/M Program Vehicle Coverage

I/M Program	Vehicle Model Years Tested	I/M Test Performed
Vehicles weighing up to 8,500 lb. GVWR	1968 - 1995	Unloaded Idle test
		Gas Cap Testing
	1975 - 1995	Evaporative System Pressure check
	1996 and newer	OBD testing
Vehicles weighing 8,501 to 14,000 lb. GVWR	2008 and newer	OBD testing
Vehicle inspections exemption years	7 newest model years	

II. Summary of Delaware’s February 2024 I/M Program SIP Revision, and the EPA’s Analysis

On February 14, 2024, Delaware submitted the I/M Certification SIP to the EPA. This SIP revision was submitted to certify that the existing SIP-approved Alternate Low Enhanced I/M program meets all applicable requirements for a Basic I/M program required for Moderate ozone nonattainment areas. Table 2, in this document, compares the EPA’s Basic I/M performance standard for areas designated nonattainment for the 2015 8-hour ozone standard of 40 CFR

¹¹ Recodified by the State as 7 DE Admin. Code 1131 in 2012.

51.352(e) with the state’s current Alternate Low Enhanced I/M Program. The I/M regulations at 40 CFR 51.372 address I/M SIP submissions, with paragraphs (a)(1) through (8) outlining the required elements. Table 5, in this document, summarizes how Delaware satisfied these requirements.

Table 2—Basic I/M Performance Standard Comparison of the Alternate Low Enhanced Performance Standard of the Delaware portion of the Philadelphia-Wilmington-Atlantic City Ozone Nonattainment Area (New Castle County)

I/M Program Element	Basic I/M Model Program¹²	Delaware’s Alternate Low Enhanced I/M Program
Network Type	Centralized	Centralized
Program Start Date	4 years after the effective date of designation and classification under the 8-hour ozone standard.	New Castle County – 1995
Test Frequency	Annual	Biennial
Model Year Coverage	1968 and newer	1968 and newer (7 newest model years exempt)
Vehicle Type Coverage	Light-duty vehicles	1968 and newer light-duty gasoline vehicles (LDGVs) and light-duty gasoline trucks (LDGTs), up to 8,500 lbs GVWR; and 1970 and newer Medium Duty Gasoline Vehicles (MDVs), up to 14,000 lbs GVWR
Test Types	Idle Test for 1968-2000 vehicles; OBD checks on 2001 and newer vehicles	Curb Idle test: (1968-1995 LDVs and LDTs; and 1970-1995); OBD: 1996 and newer LDGVs and LDGTs, up to 8,500 lbs GVWR; and 1997 and later LDDVs (light-duty diesel vehicles), up to 8,500 lbs GVWR; and 2008 and newer MDVs (gasoline or diesel), up to 14,000 lbs GVWR
Emission Control Device Visual Inspection	None	1981 and newer Catalytic converter
Evaporative system function check	None, with the exception of those performed by the OBD system on	Gas Cap Pressure Test, for 1975-1995 vehicles

¹² See the *Basic performance standard for areas designated non-attainment for the 8-hour ozone standard* at 40 CFR 51.352(e).

	vehicles so-equipped and only for model year 2001 and newer vehicles	
Waiver Rate (for cost-limited I/M repair expenditures)	A 0% waiver rate as a percentage of failed vehicles	A 3% waiver rate
Compliance Rate	A 100% compliance rate	A 96% compliance rate

As part of its I/M Certification SIP, Delaware’s February 2024 submission included an I/M performance standard modeling analysis¹³ to demonstrate that the existing Alternate Low Enhanced I/M program obtains the same or lower emission levels as the applicable Basic I/M performance standard.

To demonstrate that the existing Delaware Alternate Low Enhanced I/M program meets the Basic I/M performance standard described in 40 CFR 51.352(e), the existing Delaware program must be evaluated on a performance basis against that of the EPA’s benchmark Basic I/M program to ensure that Delaware’s program achieves the same or better performance in reducing nitrogen oxides (NO_x) and volatile organic compounds (VOCs). This analysis is performed using the latest available version of the EPA’s Motor Vehicle Emissions Simulator Model (MOVES)¹⁴ and performance standard modeling guidance¹⁵ to establish the resultant MOVES-derived pollutant levels from highway mobile sources in the I/M area. For that evaluation, the Basic I/M Certification SIP presents a comparison of July weekday emissions rates (in grams per mile) for VOC and NO_x based on the existing Alternate Low Enhanced Delaware I/M program and the Basic I/M model program benchmark.

¹³ Available in the docket for this action as Appendix B, Performance Standard Modeling Output Analysis of the DE I/M Certification SIP

¹⁴ Delaware used MOVES3.1.0 (default database: MOVESDB20221007) for this analysis. See “Policy Guidance on the Use of MOVES3 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes” (EPA-420-B-20-044, November 2020), p. 7, available in the docket for this action. Delaware’s modeling analysis in support of this SIP revisions modeling was completed in March 2023 prior to the subsequent release by the EPA of MOVES4.

¹⁵ See the EPA’s *Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model* [EPA-420-B-22-034 October 2022] available in the docket for this action.

A summary of the inputs and assumptions used by Delaware for its MOVES analysis is described in Table 3 below. Delaware commenced work on this MOVES analysis in 2020, using MOVES3.1, which was the current version of the model at that time. Though the EPA has since released newer versions of the MOVES model (i.e., MOVES4 and MOVES5), Delaware had already completed significant work on its MOVES SIP analyses prior to the release of MOVES4 in September 2023.¹⁶

Table 3—Performance Standard MOVES Inputs and Assumptions Data

MOVES RunSpec	Delaware’s Basic I/M Modeling for Performance Standard Certification for New Castle County
Emission Model	MOVES3.1.0 (default database: MOVESDB20221007)
Scale/Calculation Type	County Scale Inventory Run
Analysis Years	2023
Analysis Months	July
Analysis Days	Weekdays
Analysis Hours	All
Geographic Bounds	New Castle, DE (10003)
Pollutants	VOC, NO _x + Necessary Precursors
Fuel Types	Compressed Natural Gas (CNG), Diesel, Electricity, Ethanol (E-85), Gasoline
Traffic Data	
Vehicle Miles Traveled (VMT) Growth Forecast	Used the Federal Highway Administration (FHWA) forecast growth rate for 2019 to 2049 (1.007733). Applied this to the 2019 data to get the projected 2023 VMT. https://www.fhwa.dot.gov/policyinformation/tables/vmt/
County Database Inputs	
Source Type Year VMT	Grew the 2019 VMT data to 2023, using a growth factor of 1.00733 per annum. Used the same distribution as was used in the EPA data set for the 2020 National Emissions Inventory (NEI). This distribution was applied to the 13 MOVES vehicle types to allocate the VMT.
Month VMT Fractions	Used the month VMT from the 2017 NEI
Day VMT Fractions	Used the day VMT from the 2017 NEI
Hourly VMT Fractions	Used the hourly VMT from the 2017 NEI

¹⁶ 88 FR 62567 (September 12, 2023). See *supra* note 15.

MOVES RunSpec	Delaware’s Basic I/M Modeling for Performance Standard Certification for New Castle County
I/M Parameters New Castle County Plan Scenario	Used the January 2023 changes to Delaware’s regulation 1131
I/M Parameters – Basic Performance Standard Scenario	Basic I/M per 40 CFR 51.352(e)
Road Distribution Type	Used the analysis of the 2020 DelDOT tables: https://deldot.gov/Publications/reports/hpms/index.shtml?dc=hpms_2020As as well as yielding VMT, this data also yields road type distributions
Source Type Year (Population)	Using Vehicle Population data (R45CAM07), we collected the data from years 2017 to 2022, and projected this data forward to 2023 using a linear regression model
Vehicle Distribution Age	Analysis of 2022 R45CAM07 data. The distribution was grown to 2023 using the EPA's spreadsheet tool: moves3-age-distribution-projection-tool-202104051.xls
Average Distribution Speed	Used the CRCA100 data set
Fuel Supply	MOVES3.1 default tables
Fuel Formulation	MOVES3.1 default tables
Fuel Usage Fraction	MOVES3.1 default tables, Set Flex Fuel Vehicle E85 usage to zero
Alternative Vehicle Fuel Table (AVFT)	MOVES3.1 Default Tables, edited by using Delaware's EV registration data from 2010 to 2022. We used the same EV proportions for future years. MOVES3.1 only accepts Electric vehicles for Source Use Types 21,31 and 32.
ZoneMonthHour	Average hourly data by month from years 2020, 2021 and 2022 meteorological datasets maintained by NOAA

Table 4 in this document, shows the results of Delaware’s Basic I/M performance standard analysis for the New Castle County, Delaware portion of the Philadelphia NAA. The results of this modeling show that for a 2023 evaluation year, NO_x and VOC emission levels from Delaware’s existing New Castle County I/M program are lower than those for EPA’s Basic I/M performance standard, at 40 CFR 51.352(e), as shown in Table 4.

Table 4—Performance Standard Modeling Results for the Delaware Portion of the Philadelphia-Wilmington-Atlantic City I/M Program for a 2023 Evaluation Year

County	I/M Program	NO_x (in grams per mile)	VOC (in grams per mile)
New Castle	Existing Alternate Low Enhanced I/M Program Emission Rate	0.3733	0.2085

	EPA Basic I/M Program Performance Standard Emission Rate	0.3811	0.2148
	Performance Standard Margin	0.0078	0.0063
	Meets EPA Basic Performance Standard?	Yes	Yes

For both VOC and NO_x in the 2023 analysis year, Delaware’s modeling results indicate that the performance of Delaware Alternate Low Enhanced I/M program exceeds the applicable Federal Basic I/M performance standard. Based on the review of Delaware’s documentation included in the I/M Certification SIP, the EPA finds that Delaware used appropriate methods and input data to perform the I/M performance standard analyses for the subject area, analyzed an appropriate evaluation year of 2023,¹⁷ and included sufficient documentation to support the results. The EPA finds that the State’s MOVES-based performance standard evaluation results and the previously noted improvements in Delaware’s prior approved I/M SIP submitted in March 2023 were conducted appropriately.

As noted above, the I/M regulations at 40 CFR 51.372 address I/M SIP submissions, with paragraphs (a)(1) through (8) outlining the required elements. Table 5 in this document, summarizes how Delaware satisfied these requirements.

Table 5—Basic I/M Certification SIP Requirements

	Required Element	Element Satisfaction
40 CFR 51.372(a)(1)	A schedule of implementation of the program including interim milestones leading to mandatory testing.	Motor Vehicle Emissions Inspection Program; Plan for Implementation (PFI) for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: Section 1 - Applicability (c) & sSection 2 - Low Enhanced I/M Performance Standard (b)

¹⁷ 2023 is the start of the attaining ozone season. The attainment date of August 3, 2024, is in the middle of the ozone season and thus 2023 is the last complete ozone season prior to attainment. Pursuant to the *Modeling and attainment demonstration requirements* of 40 CFR 51.1308, if Delaware were to start a new I/M program, for attainment purposes, they would need to have it fully implemented “no later than the beginning of the attainment year ozone season.”

	Required Element	Element Satisfaction
40 CFR 51.372(a)(2)	An analysis of emission level targets for the program using the most current EPA mobile source emission model or an alternative approved by the Administrator showing that the program meets the performance standard described in 40 CFR 51.351 or 51.352 of this subpart, as applicable;	Reviewed and found to satisfy the requirement in section II of this document
40 CFR 51.372(a)(3)	A description of the geographic coverage of the program, including ZIP codes if the program is not county-wide;	Motor Vehicle Emissions Inspection Program; PFI for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: section 1 – Applicability (a) & (b)
40 CFR 51.372(a)(4)	A detailed discussion of each of the required design elements, including provisions for Federal facility compliance;	Motor Vehicle Emissions Inspection Program; PFI for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: section 2 – Low Enhanced I/M Performance Standard
40 CFR 51.372(a)(5)	Legal authority requiring or allowing implementation of the I/M program and providing either broad or specific authority to perform all required elements of the program;	Motor Vehicle Emissions Inspection Program; PFI for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: section 6 – Vehicle coverage & Appendix F
40 CFR 51.372(a)(6)	Legal authority for I/M program operation until such time as it is no longer necessary (i.e., until a Section 175 maintenance plan without an I/M program is approved by EPA);	Motor Vehicle Emissions Inspection Program; PFI for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: section 6 – Vehicle coverage & Appendix F
40 CFR 51.372(a)(7)	Implementing regulations, interagency agreements, and memoranda of understanding; and	Title DE Code 6701. Emissions standards require for inspection and Section 6708. Implementation; Department’s standards
40 CFR 51.372(a)(8)	Evidence of adequate funding and resources to implement all aspects of the program.	Motor Vehicle Emissions Inspection PFI for 7 DE Admin Code 1126 and 7 DE Admin. Code 1131: Section 4 - Adequate tools and resources

III. EPA’s Evaluation

After a review of Delaware’s submission, the EPA has determined that the state’s modeling analysis showed that the New Castle County I/M program was modeled appropriately; modeling inputs accurately reflected the vehicles subject to I/M testing, and emission reductions from the State’s I/M program were greater than or equal to the I/M benchmark program for the Basic performance standard pursuant to CAA section 182(b)(4) and 40 CFR part 51, subpart S. This

modeling was consistent with the most current guidance¹⁸ at the time of the State's analysis, and we concur with the State's determination that the Delaware I/M program for New Castle County (within the 2015 Ozone Philadelphia NAA) meets the applicable performance standard and requirements for a Basic I/M program. This is consistent with the EPA's November 2024 final rule (89 FR 87500, (November 4, 2024) that determined the same program met the more stringent standard of an Alternate Low Enhanced I/M program pursuant to 40 CFR 51.351(g) and the supporting review shows that it meets all applicable requirements for a Basic I/M program required for a Moderate ozone nonattainment area.

IV. Proposed Action

The EPA has evaluated Delaware's Basic I/M Certification SIP against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and is proposing that the Delaware Alternate Low Enhanced I/M Program in New Castle County (within the 2015 Ozone Philadelphia NAA) meets all applicable requirements for a Basic I/M program, as required for a Moderate nonattainment zone under the 2015 ozone NAAQS.

The EPA is proposing to approve the vehicle emissions I/M program certification submitted by Delaware on March 4, 2024 for the New Castle County Portion of Philadelphia NAA for the 2015 8-hour ozone as satisfying the applicable CAA requirements. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional

¹⁸ See *supra* note 15.

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);
- Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because SIP actions are exempt from review under Executive Order 12866;
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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