

not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards, therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. For the final NO_x SIP Call rule, the Agency conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of that rule. These findings were presented in the RIA for the NO_x SIP Call. This action does not affect this analysis.

K. 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. The 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). This rule will be effective May 22, 2008.

L. 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 District of Columbia Circuit by June 23, 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 must 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* CAA Section 307(b)(2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: April 16, 2008.

Stephen L. Johnson,
Administrator.

■ For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart G—Control Strategy

■ 2. Section 51.121 is amended as follows:

■ a. By revising paragraph (c)(2).

■ b. By removing the entry for "Georgia" from the tables in paragraphs (e)(2)(i), (e)(4)(iii) and (g)(2)(ii).

■ c. By removing and reserving paragraph (e)(2)(ii)(C).

■ d. By removing paragraph (s).

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

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(c) * * *

(2) With respect to the 1-hour ozone NAAQS, the portions of Missouri, Michigan, and Alabama within the fine grid of the OTAG modeling domain. The fine grid is the area encompassed by a box with the following geographic coordinates: Southwest Corner, 92 degrees West longitude and 32 degrees North latitude; and Northeast Corner,

69.5 degrees West longitude and 44 degrees North latitude.

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[FR Doc. E8–8673 Filed 4–21–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1009; FRL–8555–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Transportation Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision establishes the State's transportation conformity requirements. The intended effect of this action is to approve the State regulations which will govern transportation conformity determinations in the State of Delaware.

DATES: *Effective Date:* This final rule is effective on May 22, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–1009. All documents in the docket are listed in the www.regulations.gov Web site. 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 Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814–3335, or by e-mail at kotsch.martin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 2007 (72 FR 62807), EPA published a notice of proposed

rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision for Transportation Conformity. This action is being taken under the Clean Air Act. These SIP revisions were proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its SIP. The state's proposed SIP revisions were submitted to EPA on July 9, 2007 by the Delaware Department of Natural Resources and Environmental Control (DNREC). No comments were received during the public comment period on EPA's November 7, 2007 proposal. DNREC formally submitted the final SIP revision on November 1, 2007. That final submittal had no substantial changes from the proposed version submitted on July 9, 2007. A detailed description of Delaware's submittal and EPA's rationale for its proposed approval were presented in the November 7, 2007 notice of proposed rulemaking and will not be restated in its entirety here.

II. Summary of SIP Revision

Delaware's SIP revision contains the State Regulation 1132, Delaware Transportation Conformity Regulation. This SIP revision addresses the three provisions of the EPA Conformity Rule required under SAFETEA-LU: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (control measures) and, 40 CFR 93.125(c) (mitigation measures).

We reviewed the submittal to assure consistency with the February 14, 2006 "Interim Guidance for Implementing the Transportation Conformity provisions in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)." The guidance document can be found at <http://epa.gov/otaq/stateresources/transconf/policy.htm>. The guidance document states that each state is only required to address and tailor the aforementioned three sections of the Federal Conformity Rule to be included in their state conformity SIPs.

EPA's review of Delaware's proposed SIP indicates that it is consistent with EPA's guidance in that it includes the three elements specified by SAFETEA-LU. Consistent with the EPA Conformity Rule at 40 CFR 93.105 (consultation procedures), Regulation 1132.3 identifies the appropriate agencies, procedures, and allocation of responsibilities as required under 40 CFR 93.105 for consultation procedures. In addition, Regulation 1132.3 provides for appropriate public consultation/public involvement consistent with 40

CFR 93.105. With respect to the requirements of 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), Regulation 1132.4 specifies that written commitments for control measures and mitigation measures for meeting these requirements will be provided as needed.

Other specific requirements of the Delaware SIP revision for Transportation Conformity and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the Delaware SIP revision for Transportation Conformity as a revision to the Delaware State SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 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 (Pub. L. 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 Clean Air Act; 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 *June 23, 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 to approve the Delaware Transportation Conformity 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, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 9, 2008.

Donald S. Welsh,
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 I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by adding an entry for Regulation 1132 after the existing Regulation 31 to read as follows:

§ 52.420 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
* * *	Regulation 1132—Transportation Conformity			
Section 1	Purpose	11/11/2007	5/22/2008	Added Section.
Section 2	Definitions	11/11/2007	5/22/2008	Added Section.
Section 3	Consultation	11/11/2007	5/22/2008	Added Section.
Section 4	Written Commitments for Control and Mitigation Measures.	11/11/2007	5/22/2008	Added Section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2007-0185; FRL-8555-5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Incorporation of On-Board Diagnostic Testing and Other Amendments to the Motor Vehicle Emission Inspection Program for the Northern Virginia Program Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving three State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions pertain to the Commonwealth's motor vehicle inspection and maintenance (I/M) program for the Northern Virginia area that was previously SIP-approved by EPA. These three SIP revisions incorporate changes made by the Commonwealth to the I/M program since EPA last approved the I/M program as part of the SIP in 2002. The most significant change to the program is the incorporation of on-board diagnostic computer checks of 1996-and-newer model year vehicles as an element of the emission inspection

process for the Northern Virginia program area. In addition, Virginia made numerous minor changes to the program, including several changes to test procedures and standards, as well as changes to its roadside testing regimen. The I/M program helps to ensure that highway motor vehicles operate as cleanly as possible, by requiring vehicles to be periodically tested and by identifying vehicles having high emissions due to malfunctioning emission control systems. Such vehicles must then be repaired and retested by their owners, to the standards set by the Commonwealth's program. Vehicle I/M programs address nitrogen oxide and volatile organic compound emissions, both of which are precursors to formation of ground level ozone pollution, as well as the pollutant carbon monoxide. This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on May 22, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0185. All documents in the docket are listed in the <http://www.regulations.gov> Web site. 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 <http://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 Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

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

SUPPLEMENTARY INFORMATION:

I. Background

On February 12, 2008 (73 FR 8018), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of three separate revisions made by Virginia to its prior, SIP-approved motor vehicle inspection and maintenance program. These three formal SIP revisions were submitted by Virginia on December 18, 2002, April 2, 2003, and June 18, 2007, respectively.

The Northern Virginia I/M program area is comprised of the following localities: The counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. It is designated by EPA as a moderate 8-hour ozone nonattainment area. The Commonwealth's revised I/M program satisfies federal requirements under sections 182 and 184 of the Clean Air