Jersey Department of Environmental Protection was converted to a disapproval by a December 12, 1997 letter from EPA to New Jersey.

4. Section 52.1582 is amended by adding new paragraph (e) as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(e) The State of New Jersey's March 27, 1996 submittal for an enhanced motor vehicle inspection and maintenance (I/M) program, as amended on November 27, 1996 and April 1997, is approved pursuant to section 110 of the Clean Air Act, 42 U.S.C. 7410. However, since New Jersey failed to start its program by November 15, 1997, the interim approval granted under the provisions of Section 348 of the National Highway Systems Designation Act of 1995 (NHSDA), 23 U.S.C. 348, which allowed the State to take full credit in its 15 Percent ROP Plan for all the emission reduction credits in its proposal, converted to a disapproval when EPA sent finding letters to the State on December 12, 1997. The finding letters also informed the state that the underlying enhanced I/M program approval, pursuant to Section 110 of the Act, remained in effect as part of the federally enforceable SIP.

[FR Doc. 98–22791 Filed 8–25–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ30–184; FRL–6151–4]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey changing the inspection frequency of the current inspection and maintenance (I/M) program from annual to biennial and adding a gas cap inspection.

DATES: This approval becomes effective on September 25, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866 and New Jersey Department of Environmental Protection, East State Street, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Richard Graciano, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249. GRACIANO.RICHARD @EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1998 New Jersey submitted a proposed revision to its State Implementation Plan (SIP) changing the inspection frequency, from annual to biennial, of its existing basic automobile inspection and maintenance (I/M) program during the transition period to a biennial enhanced I/M program. On June 5, 1998, the State submitted the final SIP revision providing analysis that quantifies the emission reduction loss as a result of switching to biennial testing, as well as the net benefit resulting from the addition of the gas cap test. Switching to biennial testing during the transition period will allow the State to accommodate decreased availability at the test-only stations while they are being retrofitted to conduct the new enhanced test.

New Jersey has had a basic I/M program in place since 1974. This program, in its current form, was subject to its most recent amendment on January 21, 1985, which was approved by EPA and incorporated into the SIP on September 17, 1992 (57 FR 42893). EPA conditionally approved New Jersey's enhanced I/M program on May 14, 1997 (62 FR 26405). On January 30, 1998, the State submitted performance standard modeling to EPA, fulfilling the remaining condition required by EPA in its approval notice.

Under provisions of sections 182, 184, and 187 of the Clean Air Act (Act), New Jersey is required to implement an enhanced I/M program throughout the entire State. In its July 10, 1995 and March 27, 1996 SIP submittals, the State indicated that the enhanced I/M program would require biennial inspections, and suggested that early implementation of biennial testing may be necessary to facilitate system upgrades.

Pursuant to section 193 of the Act, such a change could not be approved if it results in increased emissions of volatile organic compounds (VOCs) and/or carbon monoxide (CO), which could be the case if biennial testing is implemented under the current I/M program without other offsets. In order to offset the increased VOC emissions that could occur by going biennial, New Jersey is adding a test that checks the functional operation of vehicle gas caps. The gas cap checks will be implemented during the transition period from the existing program to the enhanced program rather than at the start of the enhanced program. New Jersey expects that this strategy will offset the increase in VOCs resulting from the conversion to biennial testing and has submitted modeling results that support this. New Jersey estimates that the resulting VOC emissions increase from changing the program frequency to biennial will be about 0.026 grams per mile. The VOC emissions reduction associated with the functional gas cap test are estimated to be about 0.033 grams per mile, resulting in a net benefit of 0.007 grams per mile.

New Jersey also estimates that CO emissions will increase about 0.365 grams per mile as a result of the change in inspection frequency. EPA acknowledges that the most efficient means to achieve significant carbon monoxide reduction and ultimate attainment is through the speedy implementation of the State's enhanced I/M program. Specifically, EPA expects that the State's enhanced I/M implementation will result in excess carbon monoxide benefits beyond the required performance standard. These are approximately 0.526 grams per mile.

These air quality benefits cannot be achieved without accommodating the practical obstacles associated with retrofitting test-only stations, which include transitional biennial testing.

Since the State was proceeding with a construction and operation contract process for its approved enhanced program (and recently awarded this contract), at New Jersey's request, EPA agreed to proceed with an expedited decision process for this revision to the existing program. As a result, approval of this revision was proposed on May 13, 1998, under a procedure called parallel processing, whereby EPA can propose rulemaking action concurrently with the State's procedures for amending its regulations (63 FR 26562). If the State's proposed revision had substantially changed, EPA would have been obligated to evaluate those changes and publish another notice of proposed rulemaking. This final rulemaking action by EPA is taking place because New Jersey's SIP revision has been adopted, as proposed, by the State and submitted formally to EPA for incorporation into the SIP.

II. Public Comments/Response to Comments

This section discusses the content of the comments submitted to the docket during the federal comment period for the notice of proposed rulemaking, published in the May 13, 1998 **Federal Register**, and provides EPA's responses to those comments. Comments were received from the State of New York only. Copies of the original comment letter is available at EPA's Region II office at the address listed in the **ADDRESSES** section of this document.

Comment—Noncomplying Schedule

The New York State Department of Environmental Conservation (NYSDEC) commented that the New Jersey proposal does not comply with EPA's interim Final Rule because the enhanced I/M program did not start on November 15, 1997 or by February 1, 1998, and as a result New Jersey will not comply with the 18-month NHSDA short term evaluation clock that expires on December 14, 1998. NYSDEC also commented that EPA has not converted the proposed approval to a disapproval, and that New Jersey cannot be allowed to claim any emission reduction credits toward the 15 Percent or Rate of Progress Plans if the program begins on January 1, 2000.

Response to Comment: EPA maintains that today's action is wholly consistent with EPA's interim Final Rule. While EPA agrees that New Jersey cannot be allowed to claim any emission reduction credits toward the 15 Percent Plans if the program begins on January 1, 2000, it does not agree that this emission credit shortfall warrants a disapproval of the underlying enhanced I/M program.

By letter dated December 12, 1997, EPA informed New Jersey of its decisions to disapprove the State's 15 Percent Plan pursuant to section 110(k) of the Act, which triggered its own sanctions and the FIP clock, and to begin sanctions for New Jersey's failure to implement its enhanced I/M program, in accordance with section 179(a)(4) of the Act. The enhanced I/M SIP approval was a separate action and the delayed start date has different consequences for the 15 Percent Plan than for the enhanced I/M SIP.

Specifically, the New Jersey enhanced I/M program remains an approved part of the applicable implementation plan for New Jersey because it meets all of the federal regulatory requirements. The start date was significant for purposes of taking credit for reductions under the NHSDA. Furthermore, unless New Jersey begins implementation of its enhanced I/M program, starting 18 months from December 12, 1997, increased emissions from new or modified sources of VOCs and nitrogen oxides must be offset at a rate of two tons of reduction for every one ton of increased emissions. Starting six months thereafter, restrictions of New Jersey's receipt of federal highway funds will also begin. NYSDEC should also note that the 15 Percent Plan was converted to a disapproval because the 15 Percent Plan was not viable without the reductions from the enhanced I/M program that New Jersey had projected based upon the February 1998 start date. At present, New Jersey must submit a revised 15 Percent Plan which does not rely upon its enhanced I/M program to achieve the necessary emission reductions.

Comment—Inadequate Mobile Modeling

NYSDEC made several comments on New Jersey's modeling analysis suggesting it was inadequate because the State claims credits from use of final cutpoints at the start of the enhanced program. In addition, NYSDEC commented that New Jersey's assumption of inspections at change of ownership is not justified, that New Jersey's did not adequately support the claim of 100 percent credit for the technician training and certification program, and that the State failed to use locally specific inputs.

Response to Comment: This rulemaking action is limited to New Jersey's request to change the testing frequency of the existing basic program. NYSDEC's comments refer to New Jersey's performance standard modeling analysis for the enhanced I/M program and are therefore beyond the scope of this document. However, EPA will take these comments into consideration when evaluating New Jersey's final program submittal to take place once the enhanced program has begun.

III. Conclusion

New Jersey's June 5, 1998 submittal of the SIP revision request contained no changes from the proposed revision submitted on February 26, 1998, and there were no comments that would impact on this decision. As a result, EPA is moving forward with this approval. Had the State's submittal contained substantial changes, EPA would have evaluated them to determine their effect on the overall submittal and published another notice of proposed rulemaking.

With respect to this approval, EPA reiterates the requirement that testing frequency conversion under the terms of the SIP only applies after the State awards the necessary construction contracts for its enhanced I/M program.

IV. Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order (E.O.) 12866 entitled, Regulatory Planning and Review. The proposed rule is not subject to E.O. 13045 entitled, Protection of Children from Environmental Health Risks and Safety Risks, because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. 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 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**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 October 26, 1998. 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, Hydrocarbons, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: August 14, 1998.

William J. Muszynski,

Acting 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 52.1582 is amended by adding new paragraph (f) to read as follows:

52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(f) The State of New Jersey's June 5, 1998 submittal for the conversion of the inspection frequency of the current inspection and maintenance (I/M) program from annual to biennial in order to facilitate the upgrade of the existing state lanes to accommodate the testing equipment for the enhanced program has been approved by EPA. The State will be adding a gas cap inspection to the current I/M program, which will result in a net increase in overall emissions reductions.

[FR Doc. 98–22792 Filed 8–25–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300695; FRL 6021–5]

RIN 2070–AB78

Triclopyr; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends time-limited tolerances for residues of the herbicide triclopyr and its metabolites in or on fish and shellfish at 0.2 part per million (ppm) and 5.0 ppm, respectively, for an additional one and one-half-year period, to June 30, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on aquatic sites. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement of a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective August 26, 1998. Objections and requests for hearings must be received by EPA, on or before October 26, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300695, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300695, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9364; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of September 5, 1997 (62 FR 46888) [(FRL 5738–8)], which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established time-limited tolerances for the residues of triclopyr and its metabolites in or on fish and shellfish at 0.2 and 5.0 ppm, respectively, with