proposed to be amended, regulating the handling of milk in the Appalachian, Florida, Southeast, Upper Midwest, Central, Pacific Northwest, Southwest, and Arizona Las Vegas marketing areas, is approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended) who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, and 1131

Milk marketing orders.

Dated: September 20, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

Order Amending the Orders Regulating the Handling of Milk in the Northeast and Other Marketing Areas

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Northeast and other marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas. The minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northeast and other marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the order amending the orders contained in the interim amendment of the orders issued by the Administrator, Agricultural Marketing Service, on April 19, 2004, and published in the **Federal Register** on April 23, 2004 (69 FR 21950), are adopted without change and, shall be the terms and provisions of this order.

[This marketing agreement will not appear in the Code of Federal Regulations.]

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ _____[1] to_____ , all inclusive, of the order regulating the handling of milk in the (____ Name of order____) marketing area (7 CFR Part____[2]) which is annexed hereto; and

II. The following provisions: § _____[3] Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of _____[4] ,____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Deputy Administrator, or Acting Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ _____[3] Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature

By (Name) _____

(Title) _____

(Address) _____

(Seal)

Attest

[FR Doc. 04–21416 Filed 9–23–04; 8:45 am]

BILLING CODE 3410–02–P

[1] First and last sections of order.

[2] Appropriate Part number.

[3] Next consecutive section number.

[4] Appropriate representative period for the order.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. R02—OAR–2004—NY–0002, FRL–7818–3]

Approval and Promulgation of Implementation Plans; New York; Low Emission Vehicle Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a New York State State Implementation Plan (SIP) revision which adopts California's second generation low emission vehicle program for light-duty vehicles, (LEV II). Clean Air Act Section 177 allows states to adopt motor vehicle emissions standards that are identical to California's and New York meets this requirement. Specifically, the State's SIP revision adopts changes to its existing LEV rule by incorporating a non-methane hydrocarbon standard and various administrative and grammatical changes to make its existing LEV rule identical to California's LEV II program.

DATES: Comments must be received on or before October 25, 2004.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R02–OAR–2004–NY–0002 by one of the following methods:

I. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

II. *Agency Web site: http://docket.epa.gov/rmepub/* Regional

Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

III. *E-mail: Werner.Raymond@epa.gov.*

IV. *Fax:* (212) 637–3901.

V. *Mail:* ''RME ID Number R02–OAR–2004–NY–0002,'' Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

VI. *Hand Delivery or Courier.* Deliver your comments to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket ID Number R02–OAR–2004–NY–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute. Do not submit information that you consider to be Confidential Business Information or otherwise protected through Regional Material in EDocket, regulations.gov, or e-mail. The EPA Regional Material in EDocket Web site and the *federal regulations.gov* Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through Regional Material in EDocket or *regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 in Regional Material in EDocket or in hard copy at the Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew A. Bascue, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249 or *bascue.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Description of the SIP Revision

A. Background

Under the Clean Air Act (CAA) Amendments of 1990, the New York-Northern New Jersey-Long Island Nonattainment Area was designated as severe nonattainment of the 1-hour ozone National Ambient Air Quality Standards (NAAQS). The New York counties that are part of the Nonattainment Area include Bronx, Kings, Nassau, New York, Putnam, Queens, Richmond, Rockland and Westchester and the lower Orange County towns of Chester, Minisink, Monroe, Tuxedo, Warwick and Woodbury, which for the purposes of this proposed rulemaking will be referred to as the New York Metropolitan NAA. The ozone attainment deadline for this area is November 15, 2007.

To bring the New York Metropolitan NAA into attainment New York adopted, among other measures, a Clean Fuel Fleet program, which was later replaced by a low emission vehicle (LEV) program identical to California's LEV I program. New York first adopted its LEV program in 1994 and EPA issued a direct final rule to approve the New York LEV program effective as of February 6, 1995 (60 FR 2025). Since that time New York has modified its LEV program to be consistent with and to maintain identicality to California's LEV program, which has undergone several changes over the years. The current version of the New York LEV program is intended to be identical to California's current LEV program.

B. What Are the Relevant EPA and CAA Requirements?

Section 209(a) of the CAA preempts 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 may grant a waiver to the State of California to adopt its own motor vehicle emissions standards. Section 209(b) of the CAA states that California must show that its standards will be: ''* * * in the aggregate, at least as protective of public health and welfare as applicable Federal standards * * *''. Section 209(b) goes on to state that EPA will grant a waiver unless it finds that: (1) The State's determination is arbitrary and capricious, (2) the State ''does not need such State standards to meet compelling and extraordinary conditions,'' or (3) the State's standards and accompanying enforcement procedures are not consistent with section 202(a) of the CAA.

Section 177 of the CAA allows other states to adopt and enforce California motor vehicle emission standards. The state must show that the standards are identical to California's and must adopt such standards at least two years prior to the commencement of the model year to which the standards will apply. New York has met both of these requirements.

C. What Is the California LEV II Program?

The California Air Resources Board (CARB) adopted the first generation low emissions vehicle (LEV I) regulations in 1990, which were effective through the 2003 model year. CARB adopted

California's second generation LEV regulations (LEV II) following a November 1998 hearing. Subsequent to the adoption of the LEV II program in February 2000, the U.S. EPA adopted its own standards known as the Tier 2 regulations (65 FR 6698). In December 2000, CARB modified the LEV II program to take advantage of some elements of the Federal Tier 2 regulations to ensure that only the cleanest vehicle models would continue to be sold in California. EPA granted California a waiver for its LEV II program on April 22, 2003 (68 FR 19811).

The LEV II regulations expand the scope of the LEV I regulations by setting strict fleet-average emission standards for light-duty, medium-duty (including sport utility vehicles) and heavy-duty vehicles. The standards would begin with the 2004 model year and increase in stringency through 2010 and beyond. The LEV II regulations provide flexibility to auto manufacturers by allowing them to certify their vehicle models to one of several different emissions standards. The different tiers of increasingly stringent LEV II emission standards to which a manufacturer may certify a vehicle are: low-emission vehicle (LEV), ultra-low-emission vehicle (ULEV), super-ultra low-emission vehicle (SULEV), partial zero-emission vehicle (PZEV), advanced technology partial zero-emission vehicle (ATPZEV) and zero-emission vehicle (ZEV).

The manufacturer must show that the overall fleet for a given model year meets the specified phase-in requirements according to the fleet average non-methane hydrocarbon requirement for that year. The fleet average non-methane hydrocarbon requirements are progressively lower with each model year. The program also requires auto manufacturers to include a ''smog index'' label on each vehicle sold, which is intended to inform consumers about the amount of pollution coming from that vehicle relative to other vehicles.

In addition to the LEV II requirements, minimum percentages of passenger cars and the lightest light-duty trucks marketed in California by a large or intermediate volume manufacturer must be ZEVs; this is referred to as the ZEV mandate. The ZEV mandate has undergone several modifications through the years in California. Most recently, CARB has put in place an alternative compliance program (ACP) to provide auto manufacturers with several options to meet the ZEV mandate. The ACP established ZEV credit multipliers to allow auto manufacturers to take credit for meeting the ZEV mandate by selling more PZEVs and ATPZEVs than they are otherwise required.

D. What Is the History and Current Content of the New York Low Emission Vehicle Program?

Section 182(c)(4)(A) of the CAA requires certain states, including New York, to submit for EPA approval a State Implementation Plan (SIP) revision that includes measures to implement the Clean Fuel Fleet program (CFFP). Section 182(c)(4)(B) of the CAA allows states to ''opt out'' of the CFFP by submitting for EPA approval a SIP revision consisting of a program or programs that will result in at least equivalent long term reductions in ozone precursors and toxic air emissions as achieved by the CFFP. In 1994, New York opted out of the CFFP, promulgating its LEV program in New York State Code of Rules and Regulations Part 218, ''Emission Standards for Motor Vehicles and Motor Vehicle Engines''. EPA approved the light-duty portion of New York's LEV program on January 6, 1995 (60 FR 2022), which was identical to California's LEV program.

Most recently, New York has amended its LEV program to be identical to California's LEV II program. New York has adopted California's LEV II program by reference, which includes provisions for light-duty, medium-duty and heavy-duty vehicles and an ACP identical to those in California's program. New York has also adopted its own ACP, which is specific to New York State and gives auto manufacturers an additional level of flexibility in meeting the ZEV mandate beyond the flexibility provided by the ACP in California's program.

In the current action, New York is requesting that EPA take action on the light-duty portion of its LEV program without the ZEV mandate or the associated ACP segments. The State has already taken emissions reduction credit for the light-duty portion of its LEV program; EPA approved that credit as part of our approval of New York's attainment demonstration SIP revision on February 4, 2002 (67 FR 5170). The State showed that its LEV program will meet necessary emissions reductions without relying on its ZEV sales mandate (*i.e.,* since the emission reductions are already assured by the fleet average emissions standard). In the current SIP revision, New York is requesting Federal approval of the program regulation. EPA's approval would make the program Federally-enforcable—further ensuring that planned emissions reductions will continue to take place.

II. Proposed EPA Action

EPA is proposing to approve the light-duty vehicle portion of New York's LEV program without the ZEV mandate or associated ACP segments, since the State has sought approval only for the light-duty portion of the program. Approval of this program will further ensure that planned reductions attributable to this program, as detailed in New York's 1-hour ozone attainment demonstration, will be achieved. The State adopted the program on December 13, 2000, as noticed in the New York State Register.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposes to approve 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 proposed 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 14, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 04–21497 Filed 9–23–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431 and 457

[CMS–6026–CN]

RIN 0938–AM86

Medicaid Program and State Children's Health Insurance Program (SCHIP); Payment Error Rate Measurement; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an incorrect date for the close of the public comment period that appeared in the proposed rule that was published in the **Federal Register** on August 27, 2004 entitled ''Medicaid Program and State Children's Health Insurance Program (SCHIP) Payment Error Rate Measurement.''

DATES: The comment deadline for the proposed rule published on August 27, 2004 at 69 FR 52620 is corrected to October 21, 2004.

FOR FURTHER INFORMATION CONTACT: Christine Saxonis (410) 786–3722. Janet E. Reichert, (410) 786–4580.

SUPPLEMENTARY INFORMATION:

I. Background

On August 27, 2004, we published a proposed rule in the **Federal Register** titled ''Medicaid Program and State Children's Health Insurance Program (SCHIP) Payment Error Rate Measurement'' (69 FR 52620). That proposed rule would require State agencies to estimate improper payments in the Medicaid program and SCHIP program. The Improper Payments Information Act of 2002 requires Federal agencies to annually review and identify those programs and activities that may be susceptible to significant erroneous payments, estimate the amount of improper payments and report those estimates to the Congress and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments.

The intended effect and expected results of that proposed rule would be for States to produce improper payment estimates for their Medicaid and SCHIP programs and to identify existing and emerging vulnerabilities that can be addressed by the States through actions taken to reduce the rate of improper payments and produce a corresponding increase in program savings at both the State and Federal levels.

In FR Doc. 04–19603 of August 27, 2004 (69 FR 52620), we erroneously incorporated an incorrect date for the close of the public comment period. The correct date for the close of the comment period should be October 27, 2004. We had intended to provide a 60-day public comment period since the regulation is complex. A 30-day comment period may not provide enough time for States to analyze the requirements and determine the impact on staffing, costs, technology, statistical support, and any other needs; develop comments, obtain internal clearances, and submit the comments for our consideration.

In addition, States have expressed an interest in meeting among themselves and working with their Technical Advisory Groups to develop comments. The 30-day comment period may not accommodate this approach.

Furthermore, the regulation is not detailed in terms of implementation. The Office of Management and Budget asked that we specifically request comments on this issue. A 30-day comment period may not give States time to analyze issues and problems concerning implementation, develop comments, obtain internal clearances, and submit them for our consideration.

The error is corrected in the ''Correction of Errors'' section below.

II. Correction of Errors

In FR Doc. 04–19603 of August 27, 2004 (69 FR 52620), make the following correction:

On page 52621, in the first column; in the **DATES** section, correct the date ''September 27, 2004'' to read ''October 27, 2004.''

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Program)

Dated: September 15, 2004.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 04–21198 Filed 9–17–04; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 04–256; DA 04–2996]

Attribution of Joint Sales Agreements in Local Television Markets; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, extension of comment period.

SUMMARY: In this document, the Media Bureau extends the period for comment and reply comments in the Attribution of Joint Sales Agreements in Local Television Markets proceeding. The proposed rule seeks comment on whether to attribute certain TV Joint Sales Agreements for purposes of applying the broadcast ownership rules. The deadline to file comments is extended from September 27, 2004, to October 27, 2004, and the deadline to file reply comments is extended from October 12, 2004, to November 30, 2004.