private sector, of $100 million or more. Under Section 205, the USEPA 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 the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a federal mandate. The mandate does not arise from this approval action, but from the language of section 246 of the CAA.

This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. 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, Hydrocarbons, Incorporation by reference, Ozone, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 15, 1996.

David A. Ullrich,

Acting Regional Administrator.

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. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(124) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(124) The state of Illinois requested a revision to the Illinois State Implementation Plan (SIP). This revision is for the purpose of establishing and implementing a Clean-Fuel Fleet Program in the Chicago ozone nonattainment area, which includes Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties, to satisfy the federal requirements for a Clean Fuel Fleet Program to be part of the SIP for Illinois.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 241; Sections 241.101, 241.102, 241.103, 241.104, 241.110, 241.111, 241.112, 241.113, 241.114, 241.115, 241.130, 241.131, 241.140, 241.141, 241.142, 241. Appendix A, 241. Appendix B adopted in R95–12 at 19 Ill. Reg. 13265, effective September 11, 1995.

(ii) Other material.

(A) September 29, 1995 letter and attachments from the Illinois Environmental Protection Agency's Bureau of Air Chief to the USEPA's Regional Air and Radiation Division Director submitting Illinois' revision to the ozone SIP.

[FR Doc. 96–6007 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IN56–1–7077a; FRL–5426–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana: Motor Vehicle Inspection and Maintenance

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is giving full approval through a direct final action to a state implementation plan (SIP) revision submitted on June 6, 1995 and September 28, 1995, by the Indiana Department of Environmental Management (IDEM). This revision provides for the adoption and implementation of an enhanced motor vehicle emission inspection and maintenance (I/M) program in the areas of Lake, Porter, Clark, and Floyd Counties. The Lake and Porter County area is designated severe nonattainment for ozone and is required to implement an enhanced I/M program. The Clark and Floyd County area is designated moderate nonattainment for ozone and has opted to implement enhanced I/M. These areas are required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (Act) by 2007 and 1996, respectively. The implementation of this important program in the areas stated above will reduce vehicle emissions which contribute to the formation of urban smog in Indiana by more than 4.5 tons per day. In the proposed rules section of this Federal Register, USEPA is proposing approval of this I/M program and SIP revision, and solicits public comments on the action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

DATES: This final rule is effective on May 20, 1996 unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of Indiana's I/M SIP submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

Anyone wishing to come to Region 5 offices should first contact Francisco J. Acevedo.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO), and nitrogen oxide (NO_X) emissions. The motor vehicle inspection and maintenance program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of

the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of nitrogen oxides and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections indicate that the steady growth in vehicle miles will continue.

Under the Act, the USEPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact the environment. This document deals with the third element of the strategy, vehicle inspection and maintenance, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by USEPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The USEPA projects that sophisticated I/M programs such as the one being implemented by Indiana will identify emission related problems and prompt the vehicle owner to obtain timely repairs thus reducing emissions.

The Act requires that certain areas which have not attained the ozone NAAQS adopt either a ''basic'' or ''enhanced'' I/M program, depending on the severity of the pollution and the population of the area. Moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs in Census-defined urbanized areas, fall under the ''basic'' I/M requirements. Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An ''enhanced'' I/M program covers more vehicles in operation in the fleet, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The Act directed USEPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own program if they can show that their program is as effective as the model program used in the performance standard. Naturally, the more effective the program the more credit a State will get toward the emission reduction requirement.

The USEPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs. There are three major keys to an effective program:

(1) Given the advanced state of current vehicle design and anticipated technology changes, the ability to accurately ''fail'' problem vehicles and ''pass'' clean ones requires improved test equipment and test procedures;

(2) Comprehensive quality control and aggressive enforcement is essential to assuring the testing is done properly;

(3) Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are missing in most older I/M programs. Specifically, the idle and 2500 RPM/idle short tests and anti-tamper inspections used in these older I/M programs are not as effective in identifying and reducing in-use emissions from the types of vehicles in the current and future fleet. Also, covert audits by USEPA and State agencies typically discover improper inspection and testing 50 percent of the time in test-and-repair stations, indicating poor quality control. Experience has shown that quality control at high-volume test only stations is usually much better. And, finally, diagnostics and mechanics training are often poor or nonexistent.

On November 5, 1992 (57 FR 52950), USEPA established a high-tech emission test for high-tech cars. This I/M test, known as the IM240 test, is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. The test can also accurately measure NO_X emissions where NO_X is important to address an ozone problem. Adding the pressure and purge test increases the benefit even more, resulting in lower testing costs and consumer time demands. The pressure test is designed to find leaks in the fuel system, and the purge test evaluates the functionality of the vapor control system. In addition, USEPA published additional changes to the I/M rule in the Federal Register on September 18, 1995 (60 FR 48029), in order to provide greater flexibility to states required to implement I/M programs.

II. Background

The State of Indiana contains the Lake and Porter County area which is classified as a severe nonattainment area for ozone, and the Clark and Floyd County area which is classified as a moderate nonattainment area for ozone. On June 6, 1995, IDEM submitted a complete SIP revision request containing the I/M program. USEPA made a finding of completeness in a letter dated June 9, 1995. This submittal includes new I/M regulations adopted on April 5, 1995 by the Indiana Air Pollution Control Board and documentation addressing required portions of the Federal I/M rule. The rules were signed by Governor Bayh on June 20, 1995, and the final rules were published in the Indiana Register on August 1, 1995. On September 28, 1995, IDEM submitted additional documentation for the Indiana I/M SIP. Under IC 13–1–1 and 13–7–7, the Air Pollution Control Board has the authority to adopt air pollution regulations for the State under Title 326 Indiana Administrative Code. The adopted regulation changes the current program in all four counties from a basic I/M program to an enhanced I/M program. In addition to the Indiana I/M rule, the State SIP submittal includes the Indiana I/M Performance Standard Modeling Demonstration (August 30, 1995); State of Indiana Request for Proposal #A305–2038 for the Indiana Department of Environmental Management (December 14, 1993); Systems Control Inc. Contract for Services with Amendments; Systems Control Inc. Proposed Public Information Plan; Supplemental I/M State Implementation Plan Document (September 27, 1995). USEPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350–51.373 and its analysis of the state submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992, Federal Register document (57 FR 52950) and 40 CFR 51.350–51.373.

III. EPA's Analysis of the Indiana, Enhanced I/M Program

As discussed above, section 182 of the Act requires that states adopt and implement updated regulations for I/M programs in moderate and above ozone nonattainment areas. The following sections of this document summarize the requirements of the Federal I/M regulations and address whether the

elements of the State's submittal comply with the Federal rule.

Applicability—40 CFR 51.350

Under the requirements of the Act, basic I/M programs are required in a number of areas classified as moderate nonattainment for ozone. In Indiana, these areas are: Clark and Floyd Counties. In addition, areas classified as serious and above are required to implement an enhanced I/M program. In Indiana, these are Lake and Porter Counties. The Indiana submittal contains the legal authority and regulations necessary for IDEM to establish the program boundaries and operate an enhanced I/M program in all four counties cited above. 326 IAC 13–1.1 specifies that the geographic boundaries of the program in each area are county-wide. The program boundaries described in the Indiana submittal meet the Federal I/M requirements under Section 51.350 and are approvable. The Federal I/M regulation requires that state programs not lapse prior to the time they are no longer needed. USEPA believes that a program that does not lapse prior to the attainment deadline for each applicable area would meet this requirement. The attainment date for the Clark and Floyd County nonattainment area is November 15, 1996, and the attainment date for the Lake and Porter County nonattainment area is November 15, 2007. The State I/M regulation contained in the Indiana submittal allows for implementation of the program through the attainment date for each of the areas listed above, and is therefore approvable.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the USEPA mobile source emission factor model. At the time of the Indiana submittal, the most current version was MOBILE5a. Areas shall meet or exceed the performance standard for the pollutants which cause them to be subject to I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both nitrogen oxides (NO_X) and volatile organic compounds (VOCs).

The Indiana submittal includes the following program design parameters: centralized test only network; January 1, 1996 start date; biennial frequency; 1976 and newer model year coverage; Vehicle type include LDGV, LDGT1, LDGT2 up to 9,000 pounds; IM240 for 1981 and newer vehicles, and Idle for 1976 through 1980 vehicles; four element visual inspection; purge test on 1981 and newer vehicles; pressure test on 1976 and newer vehicles; stringency rate will be 20 percent for 1980 and older vehicles; waiver rate will be 3 percent and a 95 percent compliance rate for Clark and Floyd Counties and 96 percent compliance rate for Lake and Porter Counties.

The Indiana program design parameters meet the Federal I/M regulations and are approvable. The emission levels achieved by the State, for each area, were modeled using MOBILE5a. The modeling demonstration was performed correctly, using local characteristics where available and it demonstrated that the program design will meet the enhanced I/M performance standard, expressed in gpm, for VOCs and NO_X for each milestone and for the attainment deadline. The modeling demonstration is approvable.

Network Type and Program Evaluation—40 CFR 51.353

The two Indiana ozone nonattainment areas required to implement an I/M program will be implementing an enhanced I/M program. In both areas a single contractor, Systems Control, Inc., will operate a test-only centralized network for inspections and reinspection. All vehicles included in the emission reduction demonstration will be tested by the contractor in centralized I/M test facilities. The contract specifies that the contractor is barred from involvement in motor vehicle-related business with the exception of vehicle testing equipment fabrication and sales. The Indiana I/M program plan calls for IDEM to institute an ongoing evaluation of the enhanced I/M program consistent with USEPA regulations to quantify the emissions reductions benefits of the program to verify that it is meeting the requirements of the Act. The evaluation will consist of monitoring the performance of IM240 on a random, representative sample of at least 0.1 percent of the vehicles subject to inspection and covering 1981 and later vehicles. Evaporative system purge (1981 and newer vehicles) and pressure tests (1976 and newer vehicles) will be performed on those vehicles subject to the test requirements. The State's plan describes the manner in which the State will perform the evaluation: using IDEM auditors, visiting each lane at every station quarterly, choosing vehicles at random at different times of the day, performing calibration checks, and ensuring the selected vehicles represent the fleet mix in the test area. Data will be collected as part of the regular data collection system for routine testing. IDEM will submit biennial reports on the results of the evaluations. The reports will assess whether the program is meeting the emission reduction target. The State's submittal meets the network type and program evaluation requirements in the Federal I/M rules.

Adequate Tools and Resources—40 CFR 51.354

The Federal regulation requires states to demonstrate that adequate funding of the program is available. Reliance on funding from a state or local General Fund is not acceptable unless doing otherwise would be a violation of the State's Constitution. The SIP shall include a budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions. Indiana has entered into a contract for services with Systems Control, Inc. to conduct enhanced I/M testing in Lake, Porter, Clark, and Floyd Counties. This contract has a ten-year duration. During the first two years of the program, Indiana intends to use $6.8 million in Congestion Mitigation and Air Quality funds and $4.2 million in State funds to operate the program. The submittal demonstrates that sufficient funds, equipment and personnel have been appropriated to meet program operation requirements. The State's submittal meets the adequate tools and resources requirements set forth in the Federal I/M regulations.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance

standard is achieved. The SIP shall describe the test year selection scheme and shall include the legal authority, regulations, or contract provisions necessary to implement and enforce the test frequency requirement. The program shall be designed to provide convenient service to motorists by ensuring short waiting times, short driving distances and regular testing hours. The Indiana enhanced I/M regulation provides for a biennial test frequency for all subject vehicles. New vehicles are exempt from testing the first year. Based on the performance standard modeling provided by the State, the enhanced I/M program meets the performance standard accounting for biennial test frequency. For re-registration the vehicles are placed back into the testing cycle according to their vehicle identification number (VIN). In Indiana's biennial program if the last three digits of the VIN are from 000 to 495, or if the VIN contains any letters in place of the last three digits, such vehicles will be tested in even-numbered calendar years. If the last three digits of the VIN are from 496 to 999, such vehicles will be tested in odd-numbered calendar years. Used vehicles that are not currently registered in the four subject counties must be tested and receive a valid emission test certificate prior to registration in the subject counties. The State plan specifies that test facilities are located such that eighty (80) percent of all motorists in urban areas do not have to drive more than five (5) miles to a test facility, and ninety-six (96) percent in urban areas will not have to drive more than twelve (12) miles. The I/M contract specifies at least fifty-four (54) hours of operation of a test facility per week. These provisions are approvable.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and newer model year light duty vehicles and light duty trucks up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. The Indiana I/M program requires coverage of all 1976 and newer gasoline powered light duty passenger cars, light duty trucks up to 9,000 pounds GVWR. The Indiana Bureau of Motor Vehicles (IBMV) data available on the current fleet does not include vehicles owned by the U.S. General Services Administration or the U.S. Post Office. These government vehicles are required to be tested but are not currently part of the State data base. IDEM is working with these organizations to establish a testing routine and schedule for these vehicles, which are not presently licensed by the IBMV. The Indiana program exempts vehicles older than model year 1976, motor cycles, vehicles over 10,000 pounds, and diesel-fueled vehicles, electric vehicles, farm vehicles, and recreational vehicles. USEPA agrees with the State that these vehicles do not make up a significant portion of the total motor vehicle fleet in the tested area and most are not included in the modeling for the performance standard. Additional information and other statistical information regarding the fleet, required to manage the program, will become available following the first test cycle. This section is approvable.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards are required to be established and followed for each model year and vehicle type included in the program. Federal test procedures and standards are found in 40 CFR 51.357 and in the draft USEPA document entitled ''High-Tech I/M Test Procedures, Equipment Standards, Quality Control Requirements, and Equipment Specifications'', EPA–AA–EPSD–IM–93–1, finalized in April 1994. IDEM has the authority to establish test procedures according to the needs of the program. The Indiana submission requires the contractor to develop and maintain written up-to-date procedures which correspond to the USEPA recommended test procedures. All applicable 1981 and newer vehicles will be subject to an IM240 test that includes the purge and pressure test. All applicable 1976 through 1980 vehicles will be subject to a BAR90 single-speed idle test that includes the pressure test. The IM240 test will include a fast-pass algorithm. All vehicles will be tested in an as-received condition and vehicle owners will have an opportunity to view the test from an area at the test site that affords an unobstructed view. Each vehicle will be inspected prior to the emissions test and rejected from testing if any unsafe condition exists or if the exhaust is leaking or missing. In the event of an emission failure of any kind, all components are retested after repairs. These provisions are approvable.

Test Equipment—40 CFR 51.358

The Federal regulation requires computerized test systems for performing any measurement on subject vehicles. IDEM lists the details of the technical specification of the test equipment in the Indiana SIP, and makes reference to the requirements of the Federal regulations and the technical guidance document. Computerized test systems are required for performing any measurements on subject vehicles. According to the requirements in the SIP, these systems must conform to Federal requirements. Each of the State's test lanes shall be equipped with a dynamometer, constant volume sampler, non-dispersive infrared analyzers to measure carbon monoxide, carbon dioxide, and hydrocarbons, and an analyzer for measuring NO_x, and pressure and purge test equipment. All of this equipment must pass an acceptance test before it is approved by the State. All test systems will be linked by a real-time data link in order to prevent unauthorized multiple initial tests on the same vehicle in the same test cycle. These provisions are approvable.

Quality Control—40 CFR 51.359

Quality control measures shall ensure that emission measurement equipment are calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained. IDEM prepared the I/M contract to require the contractor to develop and implement a quality assurance/quality control plan which complies with 40 CFR 51.359. The Indiana SIP states that the contractor's quality control procedures shall ensure that emission measurement equipment are properly calibrated and maintained. Analyzers will automatically record quality control check information, lockouts, attempted tampering, and any other recordable circumstances that impact quality control. These provisions are approvable.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The I/M program allows the issuance of a waiver, which is a form of compliance with the program requirements, that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria are met. The State program plan contains elements in this section which generally follow the waiver issuance criteria listed in the Federal I/M regulation. In modeling the emission reduction benefits, Indiana used MOBILE5a and assumed a maximum waiver rate of 3 percent for 1980 and older model year vehicles and 3 percent for 1981 and newer vehicles. In the event the actual waiver rate exceeds the planned maximum used for estimating the emission reduction benefit, the State will remodel to assess the emission

reduction benefits based on the actual waiver rate. The Indiana I/M rule provides the authority to issue waivers, set and adjust cost limits, and administer the waiver system. Following a test failure, the subsequent reinspection must show that the minimum waiver limit amount has been spent on emission related repairs. A vehicle is eligible for a waiver when proof is provided that the vehicle has received all repairs and adjustments for which it is eligible under any emissions performance warranty. The costs associated with repair of any tampering is not considered valid toward a waiver. When proof is provided to the inspection station manager that appropriate repairs have been performed on the vehicle, such vehicle will be eligible for a waiver. The inspection station manager is responsible for verifying repairs and reviewing repair receipts. The station managers are authorized to determine waiver eligibility. Waivers are valid for one (1) year and are not renewable. The minimum expenditure made on emission repairs in Clark and Floyd Counties is seventy-five ($75) dollars for 1980 and older vehicles and two-hundred ($200) dollars for 1981 and newer. While the Clean Air Act requires a minimum waiver repair expenditure for enhanced I/M programs of $450, basic areas such as the Clark and Floyd county areas which are opting up to enhanced I/M do not have to meet this requirement. In order to qualify for a waiver in the Lake and Porter Counties, motorists with 1981 model year or newer vehicles shall spend at least three hundred dollars in repairs between January 1, 1996, and December 31, 1998; and at least four hundred fifty dollars in repairs on or after January 1, 1999. Beginning in January 1, 2000, IDEM shall adjust the four hundred fifty dollar minimum expenditure in January of each year by the percentage, if any, by which the Consumer Price Index (CPI) for the preceding calendar year differs from the CPI for 1989. Motorists in Lake and Porter County with 1980 model year or older vehicles shall expend at least seventy-five dollars in repairs. The State allows exemptions to the inspection requirement and extensions if a vehicle is undergoing extensive repair at the time of its registration or registration renewal. The requirements for an extension or exemption are sufficient to allow the State full understanding of the need by the consumer for the extension or exemption, and places a burden on the consumer to prove to the State that such an extension or exemption is needed. The Federal I/M rules also allow the use of compliance via diagnostic inspection following repairs after a test failure. The State of Indiana has chosen to allow compliance via diagnostic repair. These provisions are approvable.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulations require the use of registration denial to ensure compliance with the requirements of the I/M program. IDEM, along with the IBMV, will continue to implement a registration denial enforcement program. Vehicle owners who do not renew vehicle registrations, and continue to drive an unregistered vehicle in the State, will be subject to enforcement action by any law enforcement officer in the State. Local governments are responsible for establishing policies for the mandatory fines of all traffic violations including failing to comply with registration requirements. Owners of all vehicles registered in the State are required to affix stickers to the upper portion of the license plate. These stickers identify the month and year of the registration renewal date. If an owner or driver fails to comply with I/M or registration requirements, he or she will be unable to legally drive that automobile and will be subject to enforcement action. In the I/M SIP, Indiana commits to the level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles in Lake and Porter Counties and 95 percent in Clark and Floyd counties. If it is determined as part of the required program evaluation that the I/M program is not meeting the compliance rate, Indiana commits to investigating the problem and instituting changes to improve the compliance rates. These provisions are approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established to characterize, evaluate and enforce the program. The legal authority for the implementation of an I/M program is found in Indiana Environmental Statutes IC 13–1–1 and 13–7–7. These statutes provide the authority necessary to develop and implement the enforcement program oversight element of the I/M program. Specific operation of this aspect of the program is contained in 326 IAC 13–1.1–3. Program oversight shall be accomplished by IDEM staff using two oversight personal computers located at IDEM. The information base for the enforcement program is assured through the use of trackable serial numbers and test lane and inspector identifiers, such that responsible personnel can be identified. Program software precludes any duplicate initial inspections being conducted. Follow-up of exempt vehicles and exemption-triggering registration changes will be done through periodic program documentation audits. These provisions are approvable.

Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all State I/M enforcement officials and auditors. A description of the quality assurance program which includes written procedure manuals on the above discussed items must be submitted as part of the SIP.

Both 326 IAC 13–1.1–16 and the I/M contract with Systems Control, Inc., include provisions necessary to develop and implement the quality assurance element of the I/M program. Overt audits shall include a check of document security; recordkeeping practices; licenses, certificates and required display information; observation and written evaluation of each inspector's ability to perform the test procedure; and, a quality control evaluation of test equipment. Test records will be reviewed electronically once a month by station to flag statistically inconsistent or improbable results. The program shall conduct yearly covert audits based upon the number of inspectors participating in the program. Additional covert audits may be conducted as necessary for suspected problem sites. Covert vehicles will be set to fail various aspects of the inspection so as to reflect the full range of technology and malfunction types based upon procedures established for audits. These provisions are approvable.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and

procedures which can be imposed against stations, contractors and inspectors. Senate Enrolled Act No. 285 amended the Indiana Administrative Code and gives IDEM authority to enter into a contract to implement and maintain an inspection and maintenance program. This contract allows the State to impose penalties when violations occur that adversely affect the operation of the inspection network. The contract lists a variety of rules infractions, which will be used for violations discovered at an inspection facility as a result of overt and covert audits conducted by IDEM staff. Penalties range from monetary fines to termination of employment and breach of contract depending on the violation. Under 326 IAC 13.1.1–15, in cases of inspector incompetence, IDEM may suspend, revoke, or deny renewal of an inspector's state certification. All warnings, fines, suspensions, revocations, and notices of violation will be recorded as enforcement activities. An Enforcement Activity Summary Report will be compiled and submitted to USEPA annually. These provisions of the Indiana submittal are approvable.

Data Collection—40 CFR 51.365

In order to manage, evaluate and enforce the program requirements, an effective I/M program requires accurate data collection. The Indiana I/M program requires the contractor to design the program to include all of the elements of data collection listed in the Federal rule and 326 IAC 13–1.1–14. The contractor is also required to conduct quality control checks and report data from those checks. This section of the Indiana submittal is approvable.

Reporting—40 CFR 51.366

Data analysis and reporting are required in order to monitor and evaluate the program by the State and the USEPA. The Federal rule requires annual reports submitted to the USEPA following a performance period by a specific time. The Indiana I/M program requires the contractor to provide the information to the State in order to meet the submittal requirements of the Federal rule. Beginning July 1, 1997, and annually thereafter, the State of Indiana shall report summary data based upon program activities taking place from January through December of the previous year. This report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. In the I/M SIP, the State commits to address any appropriate data elements listed in 40 CFR 51.366. Beginning July 1, 1999, and biennially thereafter, Indiana will report on all changes made in the program design, funding, personnel levels, procedures, regulations, and legal authority, and will outline the impact of such changes upon the program. The report will also discuss any weakness or problems discovered in the program over the previous two-year period, as well as the steps that were taken to address those problems, the result of those corrective actions, and any future efforts planned. These provisions of the Indiana submittal are approvable.

Inspector Training and Licensing or Certification—40 CFR 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to conduct inspections. The Indiana I/M regulation (326 IAC 13–1.1–15) requires all inspectors to receive formal training, be certified, and renew their certification at least every two years. In order to be licenced by the State, an inspector shall be required to pass an examination developed by the State in conjunction with the contractor, which shall include both written and practicum sections. Curricula shall include, but will not be limited to, the following: emission testing program orientation, State policies, vehicle emissions and standards, inspection and facility operations procedures, customer service, and complaint handling. This provision meets the Federal I/M regulation requirements for inspector training and certification and is approvable.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include a public information and consumer protection program. IDEM assigned some public awareness efforts to the contractor with state oversight. These efforts include the operation of a hot-line to be used by the public for (but not limited to) general information, inquiries on inspection facility hours, queuing times and, complaints. In addition, the contractor will develop and distribute general information brochures on the emission testing program to the public in the program area. Brochures will include discussions of potential fuel savings, tampering, fuel switching and vehicle warranties. The contractor will also work with the Indiana Vocational Technical College (Ivy Tech) public relations personnel in order to provide a smooth transition of the I/M inspection program during the period where Ivy Tech's involvement is phased out and the contractor becomes involved. The public information and consumer protection programs contained in the SIP submittal meets the Federal regulations and are approvable.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires States to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and, a description of the repair technician training resources available in the community. Systems Control, Inc., will be responsible for assisting repair facilities and technicians. A technician hotline service will be provided by ASPIRE. This service is a user friendly, diagnostic service for repair mechanics which will be accessed by dialing a 1–900 phone number which has a cost to the caller. The Indiana program will monitor the performance of individual motor vehicle repair facilities, so the consumer has a choice of locations to seek repairs. The repair statistics also will be available to the repair facilities. The repair effectiveness program described in the SIP submission meets the Federal regulation and is approvable.

Compliance with Recall Notices—40 CFR 51.370

States are required to establish a method to ensure that vehicles subject to enhanced I/M and that are included in either a voluntary emissions recall as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to section 207(c) of the Act, receive the required repairs. IDEM, at the time of submittal, did not have a specific plan developed but included provisions in its Request-for-Proposal (RFP) for the contractor to follow to ensure subject vehicles receive all required recall repairs. Emissions tests will not be conducted on a vehicle that has an unresolved recall notice until all of the work is done. Vehicles with unresolved recall work will be identified as noncomplying by the contractor's system. An owner is required to provide proof that the repairs have been performed before a test is allowed. The contractor shall have the ability to resolve situations where the repairs have been performed

but the database has not yet been updated. The State rule 326 IAC 13–1.1–11 requires documented proof that the repairs have been performed. The cost of these repairs are not counted toward the amount needed for a waiver. Unresolved recall reports from the contractor to the State are required on an annual basis. The State requires the contractor to provide detailed information in the annual report sufficient for the State to inform the USEPA of the status of operations of the program. These provisions meet the Federal regulations and are approvable.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers, including tailpipe emission testing, can be used to meet the Federal regulations. The program must include on-road testing of 0.5 percent of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of a on-road test shall be required to pass an out-of-cycle test. The Indiana I/M regulation (326 IAC 13–1.1–12) requires on-road testing through the use of remote sensing devices or roadside pullovers, including tailpipe emissions testing. If a violation is detected the motorist shall be notified that the vehicle is required to pass an out-of-cycle follow-up inspection at a state facility. Penalty for noncompliance is suspension of the motorist's vehicle registration. These provisions meet the Federal regulations and are approvable.

State Implementation Plan Submissions—40 CFR 51.372–373

Indiana is currently in the process of implementing an enhanced I/M program. The June 6, 1995 I/M SIP submittal and the September 28, 1995 additional documentation are fully approvable and contain all elements meeting USEPA's I/M requirements. Such elements include: mobile computer modeling which shows that the program meets the performance standard, a description of the geographic area, a discussion of the design elements included in the SIP, final copy of the legal authority, regulation, final RFP, and a final, signed contract with Systems Control, Inc. USEPA's review of the material indicates that the State has adopted an enhanced I/M program in accordance with the requirements of the Act.

IV. Comments and Approval Procedure

The USEPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse public comments. However, in a separate document in this Federal Register publication, the USEPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on May 20, 1996 unless, by April 18, 1996, adverse or critical comments are received. If USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be discussed in a subsequent final rule based on the separate proposed rule. The USEPA will not institute a second comment period for this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 20, 1996.

Final Action

USEPA is approving this revision to the Indiana SIP for an enhanced I/M program. The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements. Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed In the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607 (b)(2).) The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Precedental Effect

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, or tribal governments in the aggregate. USEPA's final action does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act, upon the State. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments, or upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. For these reasons, USEPA has determined that this final action does

not include a mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Reporting and record-keeping requirements.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

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. 7401–7671q.

Subpart P—Indiana

2. Section 52.770, is amended by adding paragraph (c)(102) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(102) On June 6, 1995, and on September 28, 1995 the Indiana Department of Environmental Management submitted State Implementation Plan (SIP) revisions establishing an enhanced inspection and maintenance (I/M) program in accordance with the requirements of the Clean Air Act as amended in 1990. The new enhanced I/M program replaces the basic I/M programs in operation in Lake, Porter, Clark, and Floyd Counties. The Air Pollution Control Board adopted new rule 326 IAC 13–1.1 and repealed existing 326 IAC 13–1, thereby putting in place a revised I/M program.

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 13–1.1 adopted April 5, 1995, effective October 1, 1995.

(ii) Other material.

(A) June 6, 1995 letter and enclosures from the Indiana Department of Environmental Management (IDEM) Commissioner to the Regional Administrator of the United States Environmental Protection Agency (USEPA) submitting Indiana's revision to the ozone State Implementation Plan (SIP).

(B) September 28, 1995 letter and enclosures from the IDEM Assistant Commissioner to the Regional Administrator of USEPA submitting supplemental vehicle inspection and maintenance SIP revision information and documentation.

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[FR Doc. 96–6466 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CO37–2–6290(a); FRL–5417–5]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves the State Implementation Plan (SIP) revision submitted by the State of Colorado. This revision establishes and requires the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the urbanized areas of El Paso (Colorado Springs), Larimer (Fort Collins), and Weld Counties (Greeley). The intended effect of this action is approval of a basic motor vehicle I/M program. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective on May 20, 1996, unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Douglas Skie, Chief, Air Programs Branch (8ART–AP), USEPA Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the address listed above. Anyone wanting to view these documents must make an appointment at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Scott P. Lee, Air Programs Branch, State Implementation Plan Section (8ART–AP), USEPA, Region 8, Denver, Colorado 80202, (303) 293–1887.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAAA or Act), requires states to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) requires any ozone nonattainment area which has been classified as ''marginal'' (pursuant to section 181(a) of the Act) or worse with an existing I/M program that was part of a SIP, or any area that was required by the 1977 Amendments to the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level required in past EPA guidance or to what had been committed to previously in the SIP whichever was more stringent. All carbon monoxide (CO) nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level.

In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the Act to have an I/M program.

On November 5, 1992 (57 FR 52950), the EPA published a final regulation establishing the I/M requirements, pursuant to sections 182 and 187 of the Act. The I/M regulation was codified at 40 CFR part 51, subpart S, and requires states to submit an I/M SIP revision which includes all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993. The State of Colorado has met these requirements.

The nonattainment designations for CO and ozone were published in the Federal Register (FR) on November 6, 1991, and November 30, 1992, and have been codified in the Code of Federal Regulations (CFR). See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Based on these nonattainment designations, basic I/M programs are required in three of Colorado's Front Range Counties. These are: El Paso County (Colorado Springs area nonattainment for CO); Larimer County (Fort Collins area nonattainment for CO); and Weld County (Greeley area nonattainment for CO).

By this action, the EPA is approving this submittal. The EPA has reviewed the State submittal against the statutory requirements and for consistency with the EPA regulations. EPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350 through 51.373 and its analysis of the State submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 Federal Register document (57 FR 52950) or 40 CFR 51.350 through 51.373.

II. Background

On January 14, 1994, and on June 24, 1994, the State of Colorado submitted its