

funds were appropriated under the authority of 8 U.S.C. § 1365 this Fiscal Year and therefore, this interim rule is no longer in effect and is being removed. SCAAP will be continued by the Bureau of Justice Assistance under the authority of 8 U.S.C. 1252(j) to which Congress appropriated a total of \$500 million in Fiscal Year 1996. An announcement of funding and guidance availability for the Fiscal Year 1996 program is being published concurrently with this notice in the Federal Register.

#### List of Subjects in 28 CFR Part 82

Grant programs—aliens, Prisons.

Under the general program and rulemaking authority of 42 U.S.C. 3742 and 3782 and for the reasons set out in the preamble, title 28, chapter I of the Code of Federal Regulations is amended by removing part 82.

Nancy Gist,

*Director, Bureau of Justice Assistance.*

[FR Doc. 96-18670 Filed 7-22-96; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WA43-7116a; FRL-5514-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Washington; Revision to the State Implementation Plan Vehicle Inspection and Maintenance Programs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rulemaking.

**SUMMARY:** In this action, EPA is approving the Inspection and Maintenance (I/M) State Implementation Plan (SIP), for Washington State. On August 21, 1995, Washington submitted SIP revision requests to the EPA to satisfy the requirements of sections 182(b)(4) and 182(c)(3) of the Clean Air Act, as amended and Federal I/M rule 40 CFR part 51, subpart S. These SIP revisions will require vehicle owners to comply with the Washington I/M program in the two Washington ozone nonattainment areas classified as "marginal" and in the three carbon monoxide nonattainment areas classified as "moderate". This revision applies to the Washington counties of Clark, King, Pierce, Snohomish, and Spokane.

**DATES:** This action is effective on September 23, 1996, unless adverse or critical comments are received by

August 22, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to Montel Livingston SIP Manager, Office of Air Quality (OAQ-107), EPA, 1200 6th Avenue, Seattle, WA 98101. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cooper, Office of Air Quality, (OAQ-107), 1200 6th Avenue, Seattle, WA 98101, (206) 553-6917.

#### SUPPLEMENTARY INFORMATION:

##### I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAA or Act), requires States to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) required 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 nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level. In addition, any ozone nonattainment area classified as moderate or worse must implement a basic or an enhanced I/M program depending upon its classification, regardless of previous requirements.

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. Ozone nonattainment areas classified as "serious" or worse with populations of 200,000 or more, and CO nonattainment areas with design values above 12.7 ppm and populations of 200,000 or more, and metropolitan statistical areas with populations of 100,000 or more in the northeast ozone transport region, were required to meet EPA guidance for enhanced I/M programs.

The EPA has designated two areas as ozone nonattainment in the State of Washington. The Puget Sound ozone nonattainment area is classified as marginal and contains King, Pierce, and Snohomish counties. The Vancouver Air Quality Maintenance Area is classified as marginal and contains Clark county. Additionally, three areas in Washington state are designated as CO nonattainment areas. Both the Spokane Carbon Monoxide Nonattainment area (Spokane County) and the Puget Sound Carbon Monoxide Nonattainment area (King, Pierce, and portions of Snohomish Counties) have design values greater than 12.7 ppm and are designated as "moderate plus". The Vancouver Air Quality Maintenance Area is a "moderate" carbon monoxide nonattainment area, with a design value below 12.7 ppm. The central Puget Sound has an urbanized area population of 1,793,612, and Spokane has an urbanized area population of 266,709. Based on these nonattainment designations and populations, a basic I/M program is required in the Vancouver and Puget Sound ozone nonattainment area, while enhanced I/M programs are required in the Puget Sound, and Spokane carbon monoxide nonattainment areas.

By this action, the EPA is approving the submittal of the Washington I/M SIP. The EPA has reviewed the State submittal against the statutory requirements and for consistency with the EPA regulations. A summary of the EPA's analysis is provided below. In addition, a history and a summary to support approval of the State submittal is contained in a TSD, dated May 10, 1996, which is available from the Region 10 Office (address provided above).

##### II. I/M Regulation General SIP Submittal Requirements

The original I/M regulation was codified at 40 CFR part 51, Subpart S, and required 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. On September 18, 1995, the EPA published a final regulation establishing the "low enhanced" I/M requirements, pursuant to section 182 and 187 of the Act (40 CFR part 51). These low enhanced I/M requirements superseded the former enhanced I/M requirements. The State has met the low enhanced I/M requirements established by the September 18, 1995 rulemaking.

### III. State Submittal.

On August 21, 1995, the State of Washington submitted the I/M SIP for its three nonattainment areas. Public hearings for the submittal were held in Vancouver, Bellevue, and Spokane on June 6, 7, and 8, 1995, respectively.

The submittals provide for the continued implementation of I/M programs in the Puget Sound, Spokane, and Vancouver areas. Inspection and Maintenance programs have been running in the Puget Sound area since 1982, in Spokane since 1985, and in Vancouver since 1993. Washington's centralized, test only, biennial program meets the requirements of EPA's low enhanced performance standard and other requirements contained in the Federal I/M rule in the applicable nonattainment counties. Testing will be overseen by the Washington State Department of Ecology and its I/M contractor, Systems Control. Other aspects of the Washington I/M program include: testing of 1968 and later light duty vehicles and trucks and heavy duty trucks, a test fee to ensure the State has adequate resources to implement the program, enforcement by registration denial, a repair effectiveness program, contractual requirements for testing convenience, quality assurance, data collection, reporting, test equipment and test procedure specifications, public information and consumer protection, and inspector training and certification. In addition, the low enhanced I/M programs will include: a two-speed (2500 and idle) test or a loaded idle test, and a program to evaluate on-road testing. An analysis of how the Washington I/M program meets the EPA's I/M regulation is provided below.

#### A. Applicability

The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries.

The Washington I/M regulations specify that I/M programs be implemented in the counties as described above. Although Vancouver requires only the basic I/M program for both its ozone and carbon monoxide nonattainment areas, the state is implementing one "low enhanced" program in all areas that require I/M programs. In the SIP, however, the performance standard for Vancouver is compared to EPA's basic performance standard.

#### B. Enhanced and Basic I/M Performance Standard

The I/M programs provided for in the SIP are required to meet a performance standard, either basic or low enhanced as applicable, for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The State has submitted a modeling demonstration using the EPA computer model MOBILE5ah showing that the low enhanced performance standard is met for Puget Sound and Spokane. The State has also submitted modeling for the basic I/M area of Vancouver to demonstrate that the program meets EPA's basic performance standard.

#### C. Network Type and Program Evaluation

The SIP needs to include a description of the network to be employed, and the required legal authority. For enhanced I/M areas, the SIP needs to include a description of the evaluation schedule and protocol, the sampling methodology, the data collection and analysis system, the resources and personnel for evaluation, and related details of the evaluation program, and the legal authority enabling the evaluation program.

The Washington program has chosen to implement a test only I/M network program design which will utilize operating contractors to implement the inspection portion of the program. The Washington State Department of Ecology describes and commits, in its SIP narrative, to institute a continuous ongoing evaluation program consistent with the low enhanced I/M rule. The results of the evaluation program will be reported to EPA on a biennial basis. Legal authority which is contained in the Revised Code of Washington section 70.120.170 allows the WDOE to authorize, through contracts, the establishment and operation of inspection stations to conduct vehicle inspections. Washington commits to an ongoing evaluation to quantify the emission reduction benefits of the program.

#### D. Adequate Tools and Resources

The SIP needs to include a description of the resources that will be used for program operation, and discuss how the performance standard will be

met which includes: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment (such as vehicles for undercover audits), and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in the Federal I/M rule, (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The Emission Check program is funded by a biennial appropriation from the state general fund. The fee will be set at the minimum whole dollar amount required to (i) compensate the contractor or inspection facility owner, and (ii) offset the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program (RCW 70.120.170(4)(a)). Currently, the inspection fee is \$12 and the administrative cost per vehicle is \$3.90 for the 1993-1995 biennium.

In May, 1996, Ecology submitted a supplement to the SIP providing more detail on budget and staffing levels. The I/M program has a General Fund budget of \$3,861,939 for the 1995-97 biennium, and that budget will likely be carried into the 1997-99 biennium. Ecology dedicates a staffing level of 31 full-time equivalent employees (FTEs) to support the program.

#### E. Test Frequency and Convenience

The SIP needs to include the test schedule in detail including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process. In addition, in low enhanced I/M programs the SIP needs to demonstrate that the network of stations providing test services is sufficient to insure short waiting times to get a test and short driving distances.

The Washington SIP requires biennial inspections for all privately owned vehicles within the subject area, and annual tests for state and local government vehicles. The inspections will be conducted so that odd model year vehicles must test in the odd calendar year and even model year vehicles must test in the even calendar year. The authority for the enforcement of the testing frequency is contained in the Washington I/M rule. Short waiting

times are addressed the contracts between the State and its managing contractors. In terms of driving distances, 95% of the subject public are within ten minutes of most test facilities.

#### *F. Vehicle Coverage*

The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area. Also, the SIP needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

The Washington program includes coverage of all 1968 and newer model year gasoline powered light-duty vehicles and light-duty and heavy-duty trucks up to 8,500 GVWR, registered or required to be registered within the nonattainment areas and fleets primarily operated within an I/M program area. The starting model year of a vehicle testing program may be changed each year to include the most recent 24 model years. I/M testing exemptions are granted for change of ownership, alternative fuel vehicles, electric vehicles, and motorcycles.

All subject fleets must complete the emission inspection process, without a waiver option being available. Fleets may be inspected in facilities other than Systems Control facilities provided that Ecology approves the alternative tests. Vehicles operated on federal installations are required to be tested regardless of whether the vehicles are registered in the state or local I/M area. Legal authority for the vehicle coverage is contained in the Washington I/M rule.

#### *G. Test Procedures and Standards*

The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance or law describing and establishing the test procedures.

The Washington I/M SIP establishes test vehicle procedures and standards that at a minimum are consistent with EPA regulations. Test procedures and standards are specified in WAC 173-422-070. In Washington, all 1968 and newer gasoline or diesel-fueled vehicles are tested. The State will test vehicles on a steady-state dynamometer or by a

two-speed idle and 2500 RPM unloaded test. Diesel vehicles are tested for exhaust opacity only. Specified vehicles are tested using a transient emissions test.

#### *H. Test Equipment*

The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Washington I/M SIP describes the performance features of computerized test systems, gasoline exhaust gas analyzer specifications, and exhaust gas analyzer specifications. For transient emissions tests, EPA's "High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements and Equipment Specifications" Final Technical Guidance is followed.

#### *I. Quality Control*

The SIP needs to include a description of quality control and recordkeeping procedures. The SIP needs to include the procedures manual, rule, and ordinance or law describing and establishing the procedures of quality control.

The Washington I/M SIP includes a Quality Control Plan that specifies quality control and periodic maintenance procedures. Quality control procedures are specified in WAC 173-422-120 and authorized by RCW 70.120. The Department of Ecology's Emission Check staff performs inspections to ensure that operation of the emission testing facilities, calibration and maintenance of exhaust analyzers and test procedures, training of management and inspection personnel meet the standards as outlined in WAC 173-422.

#### *J. Waivers and Compliance via Diagnostic Inspection*

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall

include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

Cost limits for the minimum expenditure waivers must be in accordance with the CAA and Federal I/M rule. To receive a waiver within basic and enhanced areas within Washington, vehicle owners are required to spend at least \$100 or more on 1968 to 1980 vehicles, and at least \$150 or more on 1981 and newer vehicles in an attempt to correct applicable emission failure(s). The SIP pledges that by 1998, these limits will be adjusted to \$450 in the enhanced I/M areas, and in basic areas, to \$200. Washington's waiver rates (as percentages of initially failed vehicles) are, for Central Puget Sound and Vancouver, 15% for 1980 and older vehicles, and 14% for 1981 and newer vehicles; and for Spokane, 13% for 1980 and older vehicles, and 12% for 1981 and newer vehicles. These waiver rates are used in the modeling demonstration. Ecology states in the SIP that if the waiver rates are higher than estimated, the State will take corrective action to address the deficiency so that compliance with the performance standard is assured. In Washington, a waiver, or "Certificate of Acceptance", (COA) is issued by the contractor through authority granted by the Department of Ecology. These waivers are consistent with the low-enhanced I/M rule.

#### *K. Motorist Compliance Enforcement*

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. In addition, the SIP needs to include the legal authority to implement and enforce the

program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The State has chosen to use registration denial as its primary enforcement mechanism in both basic and enhanced I/M areas. Motorists will be denied vehicle registration unless the vehicle has complied with the I/M program requirements. The motorist licensing compliance enforcement program will be implemented by the Washington State Department of Licensing (DOL). The DOL will deny registration unless the vehicle owner demonstrates proof of having passed an emissions test, or has a waiver. Persons who reside in emissions-contributing areas and who register their vehicle outside of that area are subject to a \$250 fine. A \$250 fine will also be given to citizens who obtain a vehicle license without having an emissions test. The legal authority to implement and enforce the program is in Chapter 173-422 WAC.

#### *L. Motorist Compliance Enforcement Program Oversight*

The SIP needs to include a description of enforcement program oversight and information management activities.

The Washington I/M SIP provides for monthly reviews of exemptions and waivers conducted by I/M field staff. Additionally, the SIP provides for the implementation of procedures to ensure effective overall performance of the enforcement system. Examples include verification of exempt vehicle status by inspecting and confirming such vehicles by the program or its delegate, and maintenance of an audit trail to allow for assessment of enforcement effectiveness. Ecology will establish an information base used to evaluate and enforce the program. As part of this effort, the testing database will be reviewed for accuracy and compared to the registration database to determine program effectiveness, and establish compliance rates. Noncomplying motorists will have to pay a \$250 fine.

#### *M. Quality Assurance*

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Washington I/M SIP includes a description of its quality assurance program. The goal of the quality assurance program is to discover, correct, and prevent fraud, waste and abuse within the Emission Check program, including the accuracy of equipment and the adequacy of procedures. The administration of quality assurance is performed by the Emission Check staff and the Department of Ecology's DOL liaison. The SIP text describes the performance audits, overt performance audits, covert performance audits, record audits, and equipment audits to occur under the quality assurance plan.

#### *N. Enforcement Against Contractors, Stations and Inspectors*

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds.

The Washington I/M SIP includes specific penalties in its enforcement against contractors, stations and inspectors. The SIP includes the State's enforcement procedures which can be pursued through either contractual (Systems Control Contract #99-92) or regulatory action (WAC 173-422). Specific penalties are outlined against the contractor, fleet testers, and emission specialists. Emission Check personnel have authority under the Systems Control contract to stop inspections if invalid inspections are a possibility. Inspectors may be suspended if the Emission Check Program staff determines that they are not qualified. Legal authority is contained in WAC 173-422-120.

#### *O. Data Analysis and Reporting*

The SIP needs to describe the types of data to be collected.

The Washington I/M SIP commits the Department of Ecology to provide to EPA annual reports containing basic statistics on the program for the previous year. The state commits to

providing all area specific applicable data as required, including computerized test data, quality assurance data, quality control, and enforcement data. Ecology's Information Data Services maintains the data and evaluates it for inclusion in yearly and biennial reports. The biennial reports will discuss any changes to the program design or implementation, program weaknesses, and cures for those weaknesses.

#### *P. Inspector Training and Licensing or Certification*

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Department of Ecology has a formal training and certification program for fleet and centralized contractor testing facilities. Washington's program includes training, certification, test procedures, and public relations. Certification occurs after an inspector has passed an approved Department of Ecology written test with a score of 80% or better, and after a hands-on test. The legal authority for inspectors to attend and pass a course of study and become certified is established by RCW 70.120.020.

#### *Q. Improving Repair Effectiveness*

The SIP needs to include a description of the technical assistance program to be implemented to improve repair effectiveness, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

Washington has several facets to its repair effectiveness program. Technician training is an ongoing element of the Emission Check Program, and technical colleges, independent training facilities, etc. are working to assess and improve the current program. Emission system diagnosis and repair curriculum will be consistent with 40 CFR 51.369 (c). Also, performance monitoring and evaluation of the repair facilities will help to identify the most effective repair shops and the emission reductions obtained through these facilities. A list of the most effective repair shops will be provided to the public through Systems Control. Also, repair shops are visited during audits, and technicians are notified of information regarding effective repairs via a Department of Ecology newsletter. Technician assistance is available through a 1-800 number; the same

service is available to the public at another 1-800 number.

#### R. Compliance With Recall Notices

The SIP needs to describe the procedures used to incorporate the vehicle recall lists provided into the inspection or registration database, the quality control methods used to insure that recall repairs are properly documented and tracked, and the method (inspection failure or registration denial) used to enforce the recall requirements.

The Washington I/M SIP states that vehicles that were not repaired as required by an emission recall for which owner notification was attempted after January 1, 1995 will not be inspected until compliance with that recall is established. Information on recall notification is intended to remind the vehicle owner or operator that an emission test is required and that manufacturers recalls must be completed before tabs will be renewed. Thereby, notification of recall can be directly referenced during the inspection.

#### S. On-Road Testing

The SIP needs to include a detailed description of the on-road testing program required in enhanced I/M areas, including the types of testing, test limits and criteria, the number of vehicles (the percentage of the fleet) to be tested, the methods for collecting, analyzing, utilizing, and reporting the results of on-road testing, and the portion of the program budget to be dedicated to on-road testing.

The Washington SIP includes a description of its on-road testing program. The Department of Ecology will conduct an evaluation of on-road testing options beginning in 1996. This testing should involve the required .5 percent of the subject fleet. The State did not include additional modeling credit for this program in their modeling demonstration needed to meet EPA's performance standard.

#### T. Concluding Statement

The criteria used to review the submitted SIP revision are based on the requirements stated in Section 182 of the CAA and the most recent Federal I/M regulations (September 18, 1995). EPA has reviewed the Washington I/M SIP revision. The Washington regulations and accompanying materials contained in the SIP represent an acceptable approach to the I/M requirements and meet the criteria required for approvability.

#### IV. Today's Action

The EPA is approving the Washington I/M SIP as meeting the requirements of the CAA and the Federal I/M rule. All required SIP items have been adequately addressed as discussed in this Federal Register action.

#### V. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA 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, EPA 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 section 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 costs to State, local, or tribal governments in the aggregate; or to the 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 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 23, 1996 unless, by August 22, 1996 adverse or critical comments are received.

If the EPA 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 be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on 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 September 23, 1996.

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 September 23, 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), 42 U.S.C. 7607(b)(2).)

#### Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: May 24, 1996.

Jane S. Moore,

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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(61) to read as follows:

##### § 52.2470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(61) SIP revisions received from WDOE on August 21, 1995, requiring vehicle owners to comply with its I/M program in the two Washington ozone nonattainment areas classified as "marginal" and in the three carbon monoxide nonattainment areas classified as "moderate". This revision applies to the Washington counties of Clark, King, Pierce, Snohomish, and Spokane.

(i) Incorporation by reference.

(A) July 26, 1995 letter from Director of WDOE to the Regional Administrator of EPA submitting revisions to WDOE's SIP consisting of the July 1995 *Washington State Implementation Plan for the Motor Vehicle Inspection and Maintenance Program* (including Appendices A through F), adopted August 1, 1995, and a supplement letter and "Tools and Resources" table dated May 10, 1996.

[FR Doc. 96–18199 Filed 7–22–96; 8:45 am]

BILLING CODE 6560–50–P

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### 44 CFR Part 65

##### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, FEMA.  
**ACTION:** Final rule.

**SUMMARY:** Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**EFFECTIVE DATES:** The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

**ADDRESSES:** The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, DC 20472, (202) 646–2756.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the

modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

#### National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

#### Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of