

include all of the affected interests. The groups have committed to apprising the Commission of the status of their discussions at some interim date and the Commission would find that information helpful.

The Commission orders: The date for filing comments on the Notice of Proposed Rulemaking and the Notice of Inquiry in these dockets is extended to April 22, 1999.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-34587 Filed 12-29-98; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA-49-1-7400; FRL-6204-5]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana: Motor Vehicle Inspection and Maintenance (I/M) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing conditional approval of a Vehicle Inspection and Maintenance (I/M) Program proposed by the State of Louisiana. This action is taken under section 110 of the Clean Air Act (the Act). This conditional approval is also being proposed under the parallel processing provision of 40 CFR part 51. The EPA is proposing a conditional approval because the SIP revision is lacking certain elements necessary to meet the statutory and regulatory requirements of an enhanced I/M program. To correct the SIP deficiencies, the State must commit by a date certain within one year of final EPA rulemaking on this SIP to: submit a demonstration supporting its claim of 100 percent network effectiveness; submit an effectiveness demonstration of sticker-based enforcement; submit an opinion from the State Attorney General regarding barriers to immediate suspension authority in the Louisiana Constitution; submit an updated interagency agreement between the Louisiana Department of Environmental Quality (LDEQ) and the Department of Public Safety (DPS); make changes to the DPS Official Motor Vehicle Inspection Manual (the Manual) to reflect: changing the weight of light-and heavy-duty vehicles covered by the

program in the nonattainment area from 8,500 lb. Gross Vehicle Weight Rating (GVWR) to 10,000 lb. GVWR; adding test procedures for evaporative system checks in the nonattainment area to the Manual; adding a list of evaporative system check test equipment for the nonattainment area to the Manual; adding calibration of evaporative system check test equipment to the Manual; and adding an additional training requirement on evaporative system check equipment for inspector/technicians in the nonattainment area to the Manual. Furthermore, the State's I/M program must start up no later than January 1, 2000, to qualify for a final full approval.

If the State submits these documents and changes to the Manual to correct the deficiencies noted above by the date committed to within one year of the final conditional approval, then the I/M submittal will be fully approved into the SIP. If the conditions are not met by that date, the conditional approval converts to a disapproval. In addition, EPA has identified two sections of the Federal I/M Regulation for which the State cannot meet the requirements as written. The EPA intends to amend the sections of the Federal rule on test equipment and on-road testing to exempt programs that meet certain criteria from the portions of those sections which have been identified elsewhere in this action. The EPA cannot proceed with final action conditionally approving this SIP until it has completed final rulemaking amending the Federal I/M rule with respect to these issues.

DATES: Comments must be received on or before January 29, 1999.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Louisiana Department of Environmental Quality, Air Quality Compliance Division, 7290 Bluebonnet, 2nd Floor, Baton Rouge, Louisiana. Louisiana Department of Environmental Quality Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7367.

I. Background

A final EPA disapproval of the Louisiana 1996 I/M SIP revision was effective on February 13, 1998. Discussion of background leading up to that final disapproval can be found in the rulemakings on that SIP, 62 FR 61633 (June 9, 1997), 62 FR 41002 (July 31, 1997), and 62 FR 61633 (November 19, 1997). An 18-month sanction clock was started under section 179 of the Act on the effective date of the final disapproval. In July 1998, Louisiana sought greater flexibility from EPA for designing an I/M program tailored to meet the State's air quality needs. The EPA worked in parallel with the State in developing an approvable I/M SIP revision.

The State's I/M program is required because of its nonattainment classification and population. The SIP credits are not taken for the I/M plan in the 15% Rate-of-Progress (ROP) Plan or the 9% ROP plan, or the State's attainment demonstration. Additional information on these actions can be found in EPA's proposed approval in 63 FR 44192 dated August 18, 1998. Furthermore, EPA believes that in taking action under section 110 of the Act, it is appropriate to propose granting a conditional approval to this submittal since there are deficiencies with respect to certain statutory and regulatory requirements (identified herein) that EPA believes can be supplied by the State during the following 12 months. The State must commit to address the insufficiencies identified above by a date certain within one year of EPA final action on this SIP.

II. The State's Proposal

Louisiana published a notice of a proposed I/M SIP in the *Louisiana Register* on October 20, 1998. The State received public comment through December 1, 1998. The SIP contains a SIP narrative, I/M Rules, and several appendices including the DPS Manual addressing the requirements of the I/M program. The submittal is intended to fulfill the requirements of the Act for the ozone nonattainment area of Louisiana that is required to implement an I/M program.

III. EPA's Analysis of Louisiana's Proposal

The EPA reviewed the State's proposal against the requirements contained in the Act and Federal I/M

rules (40 CFR part 51, subpart S). Deficiencies that EPA noted are the need for: (1) a demonstration supporting the State's claim of 100 percent network effectiveness; (2) an effectiveness demonstration of sticker-based enforcement; (3) an opinion from the State Attorney General regarding barriers to immediate suspension authority in the Louisiana Constitution; (4) an updated interagency agreement between LDEQ and the DPS. In addition, five changes to the DPS Manual must be made to reflect: (5) changing the weight of light- and heavy-duty vehicles covered by the program in the nonattainment area from 8,500 lb. GVWR to 10,000 lb. GVWR; (6) adding test procedures for evaporative system checks in the nonattainment area to the Manual; (7) adding a list of evaporative system check test equipment for the nonattainment area to the Manual; (8) adding calibration of evaporative system check test equipment to the Manual; and (9) adding training on evaporative system check equipment for inspector/technicians in the nonattainment area to the Manual. During EPA's public comment period, the State must formally commit to correct these deficiencies by a date certain within 12 months after the date of approval of the plan revision. The State must then correct the deficiencies within one year of final conditional approval or this approval will automatically convert to a disapproval under section 110(k)(4) the Act.

The following analysis describes the Federal requirement and addresses how the State intends to fulfill the requirements of the Act and the Federal I/M rules. This analysis assumes the State corrects the deficiencies stated above. A more detailed analysis of the State submittal is included in the Technical Support Document for this action and may be obtained from the EPA Region 6 office. A summary of EPA's findings follows.

Section 51.350 Applicability.

The SIP needs to describe the applicable areas in detail and, consistent with § 51.372 of the Federal I/M rule, shall include the legal authority or rules necessary to establish program boundaries.

The Louisiana regulations specify that an I/M program will be implemented in the Baton Rouge ozone nonattainment area. The low enhanced I/M program will be implemented in the urbanized area that includes East Baton Rouge Parish. In addition to East Baton Rouge Parish, the program will cover Ascension, Iberville, Livingston, and West Baton Rouge parishes in the

nonattainment area. The authority to establish program boundaries in this area is found in Louisiana Revised Statutes (LA R.S.) 32:1304(3).

The State submittal meets the applicability requirement of the Federal I/M regulation for approval.

Section 51.351-2 Low Enhanced I/M Performance Standard

The I/M program submitted by the State is required to meet a performance standard, either basic or enhanced as applicable. 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. Equivalency of emission levels needed to achieve the I/M program design in the SIP to those of the model program described in this section must be demonstrated using the most current version of EPA's mobile source emission model, or an alternative approved by the Administrator.

The State has submitted a modeling demonstration using the EPA computer model MOBILE5b and localized parameters showing that the low enhanced performance standard can be met for Volatile Organic Compounds (VOCs) in the Baton Rouge area with the program proposed by the State. The low enhanced performance standard is established in 40 CFR 51.351(g). That section provides that states may select the low enhanced performance standard if they have an approved SIP for reasonable further progress in 1996, commonly known as a 15% ROP Plan. Louisiana's 15% Plan for Baton Rouge was approved on October 22, 1996 (61 FR 54737). Projections of oxides of nitrogen (NOx) emissions were not included because EPA approved a NOx waiver for Baton Rouge on January 16, 1996, which was published on January 26, 1996 at 61 FR 2438. Light- and heavy-duty vehicles up to 10,000 lb. GVWR from 1980 and newer model years will be required to participate in the I/M program. No covered model years are exempted. The State is modeling with a test and repair program which assumes a 100 percent credit for network effectiveness. This amount of credit was chosen by the State to complete the modeling necessary to demonstrate compliance with the performance standard. States submitting I/M SIP revisions after passage of the National Highway System Designation Act (NHSDA) are not subject to an automatic 50 percent credit deduction for decentralized programs that had

been in EPA's original I/M rules. The NHSDA effectively invalidated this regulatory provision establishing the credit reduction. However, the State must demonstrate within 12 months of final conditional approval of the SIP that the network effectiveness credit claimed is in fact being met, or adjust the credit accordingly to reflect the actual effectiveness of the test network.

The State must submit a demonstration supporting its claim of 100 percent network effectiveness in order to meet the low-enhanced I/M performance standard requirements of the Federal I/M regulations for approval. Although vehicles between 8,500 and 10,000 lb. GVWR are not required by the Federal I/M rule to be covered, the Louisiana program needs the credit generated by the additional vehicles to meet the performance standard. Accordingly, the State must submit a revision to the DPS Manual changing the maximum weight of light- and heavy-duty vehicles required to participate in the program from 8,500 lb. GVWR to 10,000 lb. GVWR.

Section 51.353 Network Type and Program Evaluation

The State submittal is required to include a description of the network to be employed, and the required legal authority. Also, for enhanced 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 State is implementing a decentralized test and repair program. The program includes an ongoing evaluation process with results reported to EPA on a biennial basis, in July, starting two years after the initial start of mandatory testing. Surveys assessing effectiveness, measured rates of tampering, and results of covert audits will be reported. In addition, the SIP commits to meet the ongoing program evaluation requirement using a sound methodology approved by EPA, and of at least 0.1 percent of subject vehicles, and reporting the results of such evaluation on a biennial basis. Resources and personnel for the program evaluation are described in the SIP. Legal authority, which is contained in LA R.S. 32:1305-1306, authorizes the DPS to implement the program and conduct the program evaluation.

The State SIP meets the network type and program evaluation requirements of the Federal I/M regulations for approval.

Section 51.354 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, and (2) a description of personnel resources. The plan shall include 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.

Louisiana R.S. 32:1306.C(2) authorizes the program to charge an emission inspection fee and a safety/antitampering inspection fee. The SIP narrative also describes the budget, staffing support, and equipment that will be added to the existing personnel and budget needed to implement the program. The State has committed to employ and train three additional employees dedicated to implementing this program.

The State submittal meets the adequate tools and resources requirements of the Federal I/M regulations for approval.

Section 51.355 Test Frequency and Convenience

The State submittal needs to describe 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 enhanced I/M programs, test systems shall be designed in such a way as to provide convenient service to motorists who are required to get their vehicles tested. 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 to test stations.

The revised Louisiana I/M SIP commits to testing all designated vehicles of model years 1980 and newer annually. In addition, at least 0.5 percent of the vehicle population will be subject to on-road testing. The program is decentralized and stations

will adhere to regular convenient inspection hours. The network of stations will consist of familiar locations where motorists regularly receive the annual currently required safety/antitampering inspections and other vehicle services. Louisiana R.S. 1301-1310 provides the legal authority for implementation of the test frequency.

The State submittal meets the test frequency and convenience requirements of the Federal I/M regulations for approval.

Section 51.356 Vehicle Coverage

The State submittal 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 revised Louisiana I/M SIP includes coverage of light- and heavy-duty cars and trucks up to 10,000 lb. GVWR registered or required to be registered in the I/M program area, including fleets. Subject vehicles will be identified through the Department of Motor Vehicle database. No covered model years are exempt. Approximately 388,000 vehicles will be subject to inspection. Legal authority for vehicle coverage is contained in LA R.S. 32:1304.A(2), and LA R.S. 47:501 and 503.

The State intends to revise to the Louisiana DPS Official Motor Vehicle Inspection Manual to increase the weight of vehicles included in their program in order to meet the performance standard. The weight of light- and heavy-duty vehicles covered by the program in the nonattainment area needs to be changed from 8,500 lb. GVWR to 10,000 lb. GVWR for the State program to meet the applicable performance standard. However, 40 CFR 51.356 only mandates coverage up to 8,500 lb. GVWR. The State submittal meets this requirement for vehicle coverage of the Federal I/M rule.

Section 51.357 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.

Vehicles tested in the nonattainment area program shall be subject to an antitampering check, a fill pipe pressure test, and a gas cap pressure test. Pressure testing procedures will meet requirements in EPA IM240 and Evaporative Test Guidance (1998 Revised Technical Guidance). Authority to conduct tests on vehicles is established in LA R.S. 32:1304. The State commits to implementing on-board diagnostic testing on all 1996 and newer vehicles beginning January 1, 2001.

The State must submit a revision to the Louisiana DPS Manual in order to meet the test procedures requirements of the Federal I/M regulations for approval. Test procedures for evaporative system checks in nonattainment areas must be added to the Manual.

Section 51.358 Test Equipment

The State submittal needs to include written technical specifications for all test equipment used in the program and needs to address each of the requirements contained 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 revised Louisiana I/M SIP states that all test equipment specifications will be consistent with that described in the EPA IM240 and Evap Technical Guidance (August 1998). In addition, the gas cap integrity test will be in accordance with EPA equipment specifications.

The State must submit a revision to the Louisiana DPS Manual in order to meet some of the test equipment requirements of the Federal I/M regulations for approval. A list of evaporative system check test equipment for the nonattainment area must be added to the Manual. Because the decentralized program does not include realtime data capture, which is currently required under section 51.358, this section of the Federal I/M regulation cannot be satisfied. However, EPA intends to amend the Federal I/M regulation to allow States, under certain circumstances, to be exempt from this requirement, provided they can demonstrate equal data capture effectiveness through other means. The EPA cannot proceed to final conditional approval of this SIP until EPA has completed this rulemaking.

Section 51.359 Quality Control

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

The revised Louisiana I/M SIP states that the quality control procedures applicable to the State program design will be conducted in accordance with 40 CFR 51.359. The requirements under LA R.S. 32:1305 and 1306 ensure that equipment calibrations are properly performed and recorded while maintaining compliance document security. Equipment manufacturers' quality control procedures, periodic maintenance schedules, and calibration procedures will be performed per the SIP revision to ensure proper operation of the test equipment.

The State must submit a revision to the Louisiana DPS Manual in order to meet the quality control requirements pertaining to proper calibration of test equipment of the Federal I/M regulations for approval. Calibration procedures for evaporative system check test equipment in the nonattainment area must be added to the Manual.

Section 51.360 Waivers and Compliance Via Diagnostic Inspection

The State submittal 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 committed to 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 needs to 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.

The State will not have a minimum waiver amount. That is, the State does not intend to allow any waivers from the program. The revised Louisiana I/M program therefore includes a waiver rate of 0 percent of initially failed vehicles. This waiver rate is used in the modeling demonstration. The State need not provide for waiver program administration or future corrective action because it does not have a waiver program at all.

The State submittal meets the waivers and compliance via diagnostic inspection requirement of the Federal I/M regulations for approval.

Section 51.361 Motorist Compliance Enforcement

The State submittal 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 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. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism shall be supported with detailed analyses. 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 enforce the I/M program with sticker-based enforcement. The current safety/antitampering program relies on sticker-based enforcement. Penalties for missing stickers include a fine, as well as possible criminal charges, or revocation of the inspector from the program.

The motorist compliance enforcement program will be handled cooperatively by the DPS, local law enforcement agencies, and the LDEQ. As a condition to the approval of the I/M SIP, the State is required to submit a demonstration of sticker-based enforcement effectiveness to show this method of enforcement is more effective than registration denial, as required by the Act.

There are no classes of on-road exempt vehicles. Fleet vehicles will be allowed to conduct self-testing provided that the fleet testing stations meet the required equipment standards, are certified by the administrative authority, and tests are performed in accordance with established inspection procedures. Motorists operating vehicles in the I/M areas with an expired or invalid sticker will be subject to penalties and/or citations by local and State law enforcement officials, imprisonment, or registration suspension. The SIP commits to a compliance rate of 96 percent through cooperation with the DPS. The legal authority to implement and enforce the program is included in the Louisiana statutes cited in the SIP.

The State must submit a demonstration of sticker-based enforcement effectiveness in order to meet the motorist compliance enforcement requirements of the Act and Federal I/M regulations for approval.

Section 51.362 Motorist Compliance Enforcement Program Oversight

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

The Louisiana I/M SIP provides for regular auditing of its enforcement efforts and for following effective management practices, including adjustments to improve the program when necessary. The program oversight and information management activities listed in the SIP narrative and in the interagency agreement include schedules and procedures for I/M document handling and processing, audit procedures, and procedures for dealing with motorists and inspection facilities suspected of violating program rules.

The State submittal meets the motorist compliance enforcement program oversight requirements of the I/M regulations for approval.

Section 51.363 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 revised Louisiana I/M SIP includes a detailed description of its quality assurance program. The program includes both covert and overt audits which will be conducted on a regular basis. The SIP describes regular performance audits which include the inspection of records and equipment. Procedures for program oversight are based upon written instructions and will be updated as necessary.

The State submittal meets the quality assurance requirement of the Federal I/M regulations for approval.

Section 51.364 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 needs to 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. In States without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

The revised Louisiana I/M SIP states that the State may assess penalties in its enforcement against stations and inspectors. The penalty schedule is discussed in the SIP narrative. The SIP describes the enforcement process. The legal authority for Louisiana to assess penalties is located in LA R.S. 32:1312. The authority for DPS to deny application for license or revoke or suspend an outstanding license of any inspection station or the license of any person to inspect vehicles is found in LA R.S. 32:1305(C). Louisiana has indicated that the State Constitution precludes immediate suspension of licenses to inspect. The State must submit a statement from the Attorney General outlining the Constitutional prohibition and outlining the process by which the State can suspend or revoke a license within 3 business days of discovery of the violation.

The State must submit an opinion from the State Attorney General as described above as a condition of approval. Other than this condition regarding suspension authority, the State submittal meets the other requirements for approval of enforcement against inspection stations and inspectors of the Federal I/M regulations.

Section 51.365-6 Data Collection, Analysis and Reporting

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

The revised Louisiana I/M SIP provides for collection of test data to link specific test results to specific vehicles, I/M program registrants, test sites, and inspectors. The SIP lists the specific types of test data and quality control data which will be collected to evaluate program effectiveness. The data collected will be consistent with that required in the Federal I/M rule. The data will be entered into an electronic database and used to generate reports in the areas of test data, quality assurance, quality control, and enforcement.

The State submittal meets the data collection, analysis and reporting requirements of the Federal I/M regulations for approval.

Section 51.367 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 revised Louisiana I/M SIP provides for the implementation of training, licensing, and refresher programs for emission inspectors consistent with EPA's regulations. The SIP describes this program including written and hands-on testing. Inspector licenses will expire two years after issuance. All inspectors must be licensed to inspect vehicles in the Louisiana I/M program.

The State must submit a revision to the Louisiana DPS Manual in order to meet the training and licensing or certification requirements of the Federal I/M regulations for approval. Additional training on evaporative system check equipment for inspector/technicians in the nonattainment area must be added to the Manual.

Section 51.368 Public Information and Consumer Protection

The SIP needs to include a plan for informing the public on an ongoing basis throughout the life of the I/M program of the air quality problem, the requirements of Federal and State law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection program, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program. Also, the SIP shall include a detailed consumer protection plan.

The revised Louisiana I/M SIP commits to the establishment of an ongoing public awareness plan addressing the significance of the air quality problem, the requirements of Federal and state law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection

program, the ways to maintain a vehicle in low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program. The SIP states under the Improving Repair Effectiveness section (40 CFR 51.369) that motorists will be offered general repair information including a list of repair facilities, information on the results of the repairs by repair facilities in the area, diagnostic information and warranty information. The SIP also describes consumer protection provisions which include a challenge mechanism, oversight of the program through the use of audits, and whistle blower protection.

The State submittal meets the public information and consumer protection requirements of the Federal I/M regulations for approval.

Section 51.369 Improving Repair Effectiveness

The SIP needs to 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 of the Federal I/M rule, and a description of the repair technician training resources available in the community.

The revised Louisiana I/M SIP includes a description of the technical assistance plan, repair industry performance monitoring plan, repair technician training assessment, and recognized repair technician requirements. The State will regularly inform repair facilities through the use of a newsletter regarding changes to the inspection program, training course schedules, common problems and potential solutions for particular engine families, diagnostic tips, repair, and other technical assistance issues. Repair facility performance monitoring statistics will be available to motorists whose vehicles fail the I/M test. The State will also ensure that adequate repair technician training resources are available to the repair community.

The State submittal meets the improving repair effectiveness requirements of the Federal I/M regulations for approval.

Section 51.370 Compliance With Recall Notices

The SIP needs to describe the procedures used to incorporate the vehicle lists provided in 40 CFR 51.370 (a)(1) 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 revised Louisiana I/M SIP commits to ensuring compliance with EPA I/M recall rules when they are finalized. Additional rulemaking by EPA related to recall requirements is needed before the State will be able to implement this provision. Inspection failure will be used to enforce the recall requirements.

The State submittal meets the compliance with recall notices requirements of the Federal I/M regulations for approval.

Section 51.371 On-road Testing

The SIP needs to include a detailed description of the on-road testing program, including the types of testing, test limits and criteria, the number of vehicles (the percentage of the fleet) to be tested, the number of employees to be dedicated to the on-road testing effort, 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. Also, the SIP needs to include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements. In addition, emission reduction credit for on-road testing programs shall be granted for a program designed to obtain significant emission reductions over and above those already predicted to be achieved by other aspects of the I/M program. The SIP needs to include technical support for the claimed additional emission reductions.

The revised Louisiana I/M SIP includes a description of its on-road testing program. The State is planning roadside antitampering checks and evaporative emission testing. The State has committed to cover 0.5 percent of the EPA required subject vehicles. The legal authority to conduct on-road testing is in LA R.S.32:1302-1303. The SIP describes adequate funding, resources and personnel to implement the on-road testing program. The State does not claim any additional reductions from on-road testing.

Louisiana's on-road testing program will check for hydrocarbon emissions as a complement to the required evaporative emissions testing program. Because the on-road testing program does not include tailpipe testing, this section of the Federal I/M regulation cannot be satisfied. However, EPA intends to amend the Federal I/M regulation to allow States, under certain circumstances, to be exempt from the tailpipe testing requirement. The EPA

cannot proceed to final action on this SIP approval prior to completion of the amendment to the Federal I/M rule.

Section 51.372 State Implementation Plan Submissions

Under the Federal I/M rule, the SIP submittal should include legal authority for I/M program operation until such time as it is no longer necessary.

Legal authority to operate the I/M program is found in LA R.S. 32:1304.

The revised Louisiana I/M SIP commits to revising the I/M SIP as new regulations are promulgated, including the provision for inclusion of on-board diagnostic checks as they become available. In addition, the SIP commits to having all agreements with the DPS in place prior to start up. Updating the interagency agreement between LDEQ and the DPS is a deficiency that must be corrected for full approval of this SIP revision.

Section 51.373 Implementation Deadlines

The original Federal I/M rule had a January 1995 start date requirement as well as subsequent start dates for special circumstances. In response to States' requests after January 1995 for greater flexibility in implementing I/M program SIPs processed under the National Highway System Designation Act EPA SIP approvals allowed programs to start as soon as possible, and specified start dates of November 15, 1997. Then in a narrower application, a January 1, 1999, start date was designated as a result of providing greater flexibility only in Ozone Transport Regions (OTR) (61 FR 39034, July 25, 1996). The OTRs affected would normally be exempt from I/M program requirements except for their location within the OTR. The January 1, 1999, start date allows the affected areas to meet the performance standard by the Act's attainment and reasonable further progress deadlines, including the end of 1999 for serious ozone nonattainment areas. The EPA received no public comment regarding the 1999 start date in this notice. Finally, at this late date, starting the program in the Baton Rouge nonattainment area by January 1, 2000, is "as soon as possible" for Louisiana.

The revised Louisiana I/M SIP commits to implementing all requirements related to the I/M program by January 1, 2000. A schedule for start-up related activities is included. The EPA concludes that given the circumstances described above, this start date is approvable as being "as soon as possible" for Louisiana. The EPA is requiring that the I/M program start up no later than January 1, 2000.

IV. Discussion for Rulemaking Action

A. Concluding Statement of Conditional Approval

The EPA's review of this material indicates that the proposed SIP revision meets the minimum requirements of the Act and Federal I/M rules with the exceptions of the deficiencies explained in this proposal. Based upon the discussion contained in the previous analysis sections and technical support document, EPA concludes the State's submittal represents an acceptable approach to the I/M requirements and meets the requirements for conditional approval. During the comment period, Louisiana must commit to meet the proposed conditions by a date certain no later than 12 months after the date of final approval. Therefore, EPA is proposing a conditional approval of the proposed Louisiana I/M SIP revision. The EPA is soliciting public comment on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA regional office listed in the ADDRESSES section of this notice.

B. Explanation of the Approval

At the end of the period committed to by the State, the approval status for this program will automatically convert to a disapproval pursuant to section 110(k) of the Act, unless the conditions of the approval are satisfied. The proposed conditions are submittal of:

1. A network effectiveness demonstration.
2. A sticker-based enforcement demonstration.
3. An opinion from the State Attorney General regarding barriers to immediate suspension authority in the Louisiana Constitution.
4. An updated interagency agreement between LDEQ and DPS. Additional conditions for approval include making changes to the DPS Official Motor Vehicle Inspection Manual (the Manual). These are:
5. The weight of light- and heavy-duty vehicles covered by the program in the nonattainment area will be changed from 8,500 lb. GVWR to 10,000 lb. GVWR.
6. Test procedures for evaporative system checks in the nonattainment area will be added to the Manual.
7. A list of evaporative system check test equipment for the nonattainment area will be added to the Manual.

8. Calibration of evaporative system check test equipment will be added to the Manual.

9. Additional training on evaporative system check equipment for inspector/technicians in the nonattainment area will be added to the Manual.

Furthermore, EPA expects this program to start by January 1, 2000. If the State fails to start the program by January 1, 2000, the approval will convert to a disapproval, and the State will be notified by letter.

In addition, EPA has identified two sections of the Federal I/M regulation for which the State cannot meet the requirements as written. The EPA intends to amend the sections on test equipment and on-road testing to exempt programs that meet certain criteria from the portions of those sections which have been identified elsewhere in this action. The EPA cannot proceed to final action on this SIP approval prior to completion of these amendments to the Federal I/M rule.

V. Status of Sanctions

The proposed approval will not stop the sanction clock that has been running since February 13, 1997, but the proposal is the first step toward staying sanctions. Sanctions can be stayed after the State submits a final I/M SIP revision along with approved State regulations to implement the program. If a full approval of the SIP cannot be made at that time, EPA will then publish an interim final determination that the State has cured the deficiency that gave rise to the sanctions clock. At that time the sanctions will be stayed until the conditions are met or the approval converts to a disapproval, whichever occurs first. If the conditions are met, the threat of sanctions will be lifted. If the conditions are not met within the specified timeframe, the final conditional approval converts to a disapproval. After a letter is sent to the Governor notifying the State of the disapproval, sanctions will be immediately imposed. (See, Order of Sanctions Rule, 59 FR 39833, August 4, 1994).

The sanction clock for two-to-one offsets will expire on August 13, 1999, and the clock for Federal highway fund sanctions will expire on February 13, 2000. If the approval converts to a disapproval on or after August 13, 1999, offset sanctions will immediately go into effect. If a disapproval is in effect on or after February 13, 2000, highway sanctions will immediately apply.

VI. Notice of Parallel Processing

Because a Sanction Clock is running in the State, and because the Administrator agreed that EPA would work with the State to expedite processing of an I/M SIP approval, Louisiana has requested that EPA proceed with an expedited decision process for this revision to the SIP. Therefore, approval of this revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for approving a SIP submittal and amending its regulations (40 CFR part 51, Appendix V, section 2.3). If the State's proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas specified in this document, EPA proposes to publish a final rulemaking on the revisions after responding to any submitted comments. Final rulemaking action by EPA will occur only after the SIP revision has been fully adopted by Louisiana and submitted formally to EPA for incorporation into the SIP. In addition, any action by the State resulting in undue delay in the adoption of the SIP by the State, or adoption of the regulations by the DPS may result in a re-proposal altering the approvability of the SIP.

VII. Notice of Proposed Rulemaking

The EPA is proposing to grant conditional approval of the State's submission contingent upon the State satisfying the nine conditions listed above, and the I/M program starting no later than January 1, 2000. The EPA proposes that if the State fails to meet the conditions, or fails to start the program on the date identified above, the approval will convert to a disapproval, and EPA will send a letter notifying the State of the conversion to disapproval.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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.

VIII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concern, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal government "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's proposed rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposed rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The proposed rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposed rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because conditional approval of SIP submittals under section 110 and subchapter I, part D of the Act does not create any new requirements but simply approves requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into

the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, I certify that this potential disapproval action will not have a significant economic impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, 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 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.

The EPA has determined that the approval action proposed 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 preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: December 14, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 9.

[FR Doc. 98–34420 Filed 12–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ079; FRL–6212–5]

RIN 2060–A122

Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve under the Clean Air Act (CAA or Act) a revision to the Arizona State Implementation Plan (SIP) reflecting Arizona State legislation that provides for the expeditious implementation of best management practices to reduce fugitive dust from agricultural sources in the Maricopa County (Phoenix) PM–10 nonattainment area. Because EPA is proposing to approve the State legislation as meeting the reasonably available control measure (RACM) requirements of the Act, EPA is also proposing to withdraw a federal implementation plan (FIP) commitment, promulgated under section 110(c) of the Act, to adopt and implement RACM for agricultural fields and aprons in the Maricopa area.

DATES: Written comments will be accepted until January 29, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: John Ungvarsky, EPA Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, (Phone: 415–744–1286).

A copy of docket No. A–98–45, containing material relevant to EPA's proposed action, is available for review at: EPA Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. Interested persons may make an appointment with John Ungvarsky to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

A copy of docket no. A–98–45 is also available to review at the Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

Electronic Availability

This document is also available as an electronic file on EPA's Region 9 Web Page at <http://www.epa.gov/region09/air>.

FOR FURTHER INFORMATION CONTACT: For questions and issues regarding this proposed rulemaking contact, John Ungvarsky (415) 744–1286.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

1. Designation and Classification

Portions of Maricopa County¹ are designated nonattainment for the PM–10 national ambient air quality standards (NAAQS)² and were originally classified as “moderate” pursuant to section 188(a) of the Clean Air Act (CAA or Act). 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM–10 nonattainment area to “serious” under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in the CAA, including a demonstration that best available control measures (BACM) will be implemented by June 10, 2000. CAA sections 188(c)(2) and 189(b). While the Phoenix PM–10 nonattainment area is currently classified as serious, today's proposed actions relate only to the moderate area statutory requirements.

Pursuant to section 189(b)(2), the State of Arizona was required to submit a serious area plan addressing both PM–10 NAAQS for the area by December 10, 1997. The State has not yet submitted that plan.

¹ “Maricopa,” “Maricopa County” and “Phoenix” are used interchangeably throughout this proposal to refer to the nonattainment area.

² There are two PM–10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). At that time, EPA established two PM–10 standards. The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The 24-hour PM–10 standard of 150 $\mu\text{g}/\text{m}^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, Appendix K.

On July 18, 1997, EPA revised both the annual and the 24-hour PM–10 standards and also established two new standards for PM, both applying only to particulate matter up to 2.5 microns in diameter (PM–2.5) (62 FR 38651). Today's proposed actions relate only to the CAA requirements concerning the 24-hour and annual PM–10 standards as originally promulgated in 1987.