bait and switch or truth in lending violations) to FTC is appropriate, we do not believe FTC staff would be sufficiently familiar with the unique requirements of the IRRRL program to oversee lender compliance. We are aware of no alternatives which could be considered that would allow the objectives to be met and provide less stringent rules for small businesses.

The adoption of the final rule would not have a significant impact on the resources available to small entities. The type of actions that would be required are the same or similar to types of actions already being handled by employees of small entities.

We are unaware of any alternatives that would accomplish the intended purposes. Further, we are unaware of any changes we could consider regarding clarification, consolidation, or simplification that could be made for small entities and still protect veterans and the interests of the Government. The final rule does not include performance standards because we believe there is no means to ensure compliance without design standards. Further, we believe there is no good reason for any lender to act contrary to the final rule.

The Catalog of Federal Domestic Assistance Program number is 64.114.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: March 25, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. In § 36.4306a, paragraphs (a)(3) through (a)(5) are revised, paragraphs (a)(6) and (a)(7) are added, and a parenthetical is added to the end of the section, to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) * * *

(3) The monthly principal and interest payment on the new loan must be lower than the payment on the loan being refinanced, except when the term of the new loan is shorter than the term of the loan being refinanced; or the new loan is a fixed-rate loan that refinances a VA-guaranteed adjustable rate mortgage; or the increase in the monthly payments on the loan results from the inclusion of energy efficient improvements, as provided by § 36.4336(a)(4); or the Secretary approves the loan in advance after determining that the new loan is necessary to prevent imminent foreclosure and the veteran qualifies for the new loan under the credit standards contained in § 36.4337.

(4) The amount of the refinancing loan may not exceed:

(i) An amount equal to the balance of the loan being refinanced, which must not be delinquent, except in cases described in paragraph (a)(5) of this section, and such closing costs as authorized by § 36.4312(d) and a discount not to exceed 2 percent of the loan amount; or

(ii) In the case of a loan to refinance an existing VA-guaranteed or direct loan and to improve the dwelling securing such loan through energy efficient improvements, the amount referred to with respect to the loan under paragraph (a)(4)(i) of this section, plus the amount authorized by § 36.4336(a)(4).

(Authority: 38 U.S.C. 3703, 3710)

(5) If the loan being refinanced is delinquent (delinquent means that a scheduled monthly payment of principal and interest is more than 30 days past due), the new loan will be guaranteed only if the Secretary approves it in advance after determining that the borrower, through the lender, has provided reasons for the loan deficiency, has provided information to establish that the cause of the delinquency has been corrected, and qualifies for the loan under the credit standards contained in § 36.4337. In such cases, the term ''balance of the loan being refinanced'' shall include any past due installments, plus allowable late charges.

(6) The dollar amount of guaranty on the 38 U.S.C. 3710(a)(8) or (a)(9)(B)(i) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(7) The term of the refinancing loan (38 U.S.C. 3710(a)(8)) may not exceed the original term of the loan being refinanced plus ten years, or the maximum loan term allowed under 38 U.S.C. 3703(d)(1), whichever is less. For manufactured home loans that were previously guaranteed under 38 U.S.C. 3712, the loan term, if being refinanced under 38 U.S.C. 3710(a)(9)(B)(i), may exceed the original term of the loan but may not exceed the maximum loan term allowed under 38 U.S.C. 3703(d)(1).

(Authority: 38 U.S.C. 3703(c)(1), 3710(e)(1))

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0601)

3. In § 36.4337, paragraph (a) is revised to read as follows:

§ 36.4337 Underwriting standards, processing procedures, lender responsibility and lender certification.

(a) *Use of standards.* The standards contained in paragraphs (c) through (j) of this section will be used to determine whether the veteran's present and anticipated income and expenses, and credit history are satisfactory. These standards do not apply to loans guaranteed pursuant to 38 U.S.C. 3710(a)(8) except for cases where the Secretary is required to approve the loan in advance under § 36.4306a.

(Authority: 38 U.S.C. 3703, 3710)

* * * * *

[FR Doc. 99–10146 Filed 4–22–99; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–84–1–7341a; FRL–6324–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves three revisions to the I/M SIP submitted by the State, thereby removing the conditions for final approval. The program was initially given conditional interim approval by the EPA on July 11, 1997 (62 FR 37138). The action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the Clean Air Act (Act). The EPA is removing the conditions from the interim approval because the State's SIP revisions correct the major conditions identified in the July 11, 1997, conditional interim approval action. In today's **Federal Register** action, EPA is

finding that the State has obtained the legislative authority needed to meet the major conditions contained in EPA's July 11, 1997 action. Today's action also approves into the SIP the definition of ''primarily operated,'' the State's commitment to implement On-Board Diagnostic testing, and removes the requirement for Test-on-Resale from the SIP.

DATES: This direct final rule is effective on June 22, 1999, without further notice, unless the EPA receives adverse comment by May 24, 1999. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

What Are the Previous Actions Related to This Action?

On October 3, 1996 (61 FR 51651), EPA published a Notice of Proposed Rule Making (NPR) proposing conditional interim approval of Texas' I/M program that was submitted to satisfy the applicable requirements of both the Act and the NHSDA. The formal SIP revision was submitted by Texas on March 14, 1996. After the NPR was published, EPA received comments requesting an extension of the comment period for 60 days which was granted on November 18, 1996 (61 FR 58671).

On July 11, 1997, (62 FR 37138), EPA finalized its conditional interim approval action and responded to comments made on the action. The **Federal Register** Notice stated that EPA was conditionally approving the Texas I/M program as a revision to the Texas SIP, based upon three major conditions to be remedied within twelve months of final interim approval. The State had made a commitment to remedy these conditions and to support the additional needed legislation to be carried out in Texas's 75th Legislative Session.

What Are the Conditions That Need To Be Met for the EPA To Grant Final Interim Approval?

Texas was required to obtain additional legal authority needed to implement its program. The specific authority needed was outlined in EPA's NPR (61 FR 51651) and was identified in a February 27, 1996, Governor's Executive Order that was submitted as part of the Texas I/M SIP. The major conditions are the legal authority identified in the Executive Order that includes: (1) The denial of re-registration of vehicles that have not complied with I/M program requirements, (2) the establishment of a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area (i.e., enforcement of remote sensing), and (3) the requirement for an inspection within 60 days of resale and prior to transfer of title to nonfamily member consumers in Dallas, Tarrant, or Harris counties.

The EPA also was aware that the State of Texas had expressed plans to remove the ''test-on-resale'' provisions from their I/M plan. In the FRN, EPA stated that we would not require the State to obtain authority for and implement the test-on-resale provisions of the current State plan if the State submitted a SIP revision removing it from the SIP, since the test-on-resale provision was not required by the Act or the Federal I/M rule.

What Else Will Be Needed for EPA To Grant a Final Full Approval?

The final conditional interim approval also identified further requirements for permanent I/M SIP approval, that are not being considered in this action. In addition to complying with all the major conditions of its commitment to EPA that is being acted on in this NPR, the State needs to provide EPA with the following:

(1) A program evaluation to confirm that the appropriate amount of program credit was claimed by the State and achieved with the interim program.

(2) Final Texas Department of Public Safety program regulations.

(3) Evidence that the Texas I/M program will meet all of the requirements of EPA's I/M rule, including those *de minimus* deficiencies identified in the October 3, 1996, proposal (61 FR 51651) as minor for purposes of interim approval.

(4) Evidence that the remote sensing program is effective in identifying and obtaining repairs on vehicles with high levels of emissions, or expand the Texas I/M core program area to include the entire urbanized area for both Dallas/Fort Worth and Houston.

II. EPA Analysis of Texas' Submittals

A. May 29, 1997

The revision included a deletion of the test-on-resale element to the SIP, the Memorandum of Understanding (MOU) between the Texas Natural Resource Conservation Commission (TNRCC) and Texas Department of Public Safety, and revision to the definition of ''primarily operated'' in the Texas I/M rules. The EPA has reviewed the State's submittal and finds it acceptable for approval.

Test-on-Resale

The removal of the test-on-resale element from the SIP fulfills one of the three major conditions required for SIP approval.

Memorandum of Understanding

The MOU outlines and specifies the respective responsibilities between the TNRCC and the Texas Department of Public Safety. It fulfills the Federal I/M rule requirement for SIP submissions contained in 40 CFR 51.372(a)(7).

Definition of ''Primarily Operated''

The State also revised its definition of primarily operated to require compliance of vehicles that are operated 60 calendar days in the nonattainment area, instead of 60 continuous days. The revision will result in a strengthening of the State I/M plan.

B. June 23, 1998

In this revision to the I/M SIP, the State commits to implementing On-board Diagnostic testing beginning on January 1, 2001. This revision was required under section 51.358 of the Federal I/M regulation.

C. December 22, 1998

During the 75th Texas legislative session, the State obtained the authority to implement a program for denial of re-registration of vehicles that have not complied with I/M program requirements, and the authority to establish a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area (i.e., enforcement of remote sensing). Senate Bill 1856, signed by the Governor, and effective on June 19, 1997, revised section 382 of the Texas Health and Safety Code, and sections 502 and 548

of the Texas Transportation Code to correct legislative deficiencies identified in the July 11, 1997, conditional interim approval. A certified copy of the legislation was submitted to EPA under a letter from the Governor dated December 22, 1998.

III. Discussion of Rulemaking Action

The EPA review of this material indicates that these supplemental SIP revisions, with supporting documentation, meet the minimum requirements of the Act, NHSDA, and Federal I/M regulations. Based upon the discussion contained in the previous analysis section, EPA concludes the State's submittals satisfy the conditions established in the July 11, 1997 conditional interim approval. Therefore, EPA is granting final interim approval for the Texas I/M program.

Because EPA views the approval of these SIP revisions as non-controversial, we are taking direct final action to approve these revisions to the I/M SIP.

IV. Explanation of the Interim Approval

In the July 11, 1997, notice the 18-month interim approval was set to lapse on February 11, 1999. Prior to that date, Texas submitted a program effectiveness demonstration. The EPA is reviewing that submittal and will take action in the near future.

V. Further Requirements for Permanent I/M SIP Approval

Final approval of the State's plan will be granted based upon the criteria outlined in the background section and explained in the July 11, 1997 notice. This **Federal Register** action does not change the requirements for permanent I/M SIP approval.

VI. Final Action

The EPA is approving the State's May 29, 1997, June 23, 1998, and December 22, 1998, submittals. By this approval, EPA is giving final interim approval to the Texas I/M program. As discussed above, the State submitted the required program demonstration prior to lapse of the program approval. The EPA will take a separate action on that demonstration.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial submittal and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 22, 1999, without further notice unless we receive adverse comments by May 24, 1999.

If EPA receives such comments, we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. A second comment period will not be instituted. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1999, and no further action will be taken.

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.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) 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 OMB 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 E.O. 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 OMB, 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).

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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the U.S. comptroller General prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR PART 52

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

Dated: March 30, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 SS—Texas

2. Section 52.2270 is amended by adding new paragraph (c)(120) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(120) Revisions submitted by the Governor on May 29, 1997, June 23, 1998, and December 22, 1998, that change the definition of ''primarily operated,'' commit to on-board diagnostic testing, remove the test-on-resale of vehicles subject to the inspection and maintenance program, and provide the legal authority for denial of re-registration of vehicles that have not complied with the I/M program requirements, and the establishment of a class C misdemeanor penalty for operating a grossly polluting vehicle in a nonattainment area.

(i) Incorporation by reference:

(A) Narrative of State Implementation Plan revision submitted May 29, 1997, by the Governor.

(B) Narrative of State Implementation Plan revision submitted June 23, 1998, by the Governor.

(C) Letter from the Governor dated December 22, 1998, submitting Senate Bill 1856.

(ii) Additional material:

(A) Senate Bill 1856.

(B) Memorandum of Agreement between the Texas Natural Resource Conservation Commission and the Texas Department of Public Safety adopted November 20, 1996, and signed February 5, 1997.

§ 52.2310 [Removed]

3. Section 52.2310, Conditional approval, is removed.

[FR Doc. 99–9460 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ33–2–191; FRL–6328–8]

Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plans, Recalculation of 9 Percent Rate of Progress Plans and 1999 Transportation Conformity Budget Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a New Jersey State Implementation Plan (SIP) revision involving the State's Ozone plan. Specifically, EPA is approving the 15 Percent Rate of Progress (ROP) Plans, recalculation of the 9 Percent ROP Plans, revisions to the 1990 base year emission inventories, revisions to the