

(c) \* \* \*

(117) The Tennessee Department of Environment and Conservation has submitted revisions to the Tennessee State Implementation Plan. These revisions address the requirements of section 507 of Title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) Revision to the Tennessee State Implementation Plan to Incorporate Small Business Assistance Program as Required by the Clean Air Act Amendments of 1990, approved by the Tennessee Air Pollution Control Board on February 10, 1993.

(ii) Additional information—None.

[FR Doc. 95-10978 Filed 5-5-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[AZ 47-1-6945a FRL-5191-1]

#### Approval and Promulgation of Implementation Plans; Arizona—State Implementation Plan Revision, Maricopa Nonattainment Area; Basic and Enhanced Inspection and Maintenance Program for Carbon Monoxide and Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is giving full approval through a direct final action on revisions to the Arizona State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards (NAAQSs) for carbon monoxide (CO) and ozone. The SIP revision provides for the adoption and implementation of both basic and enhanced motor vehicle inspection/maintenance (I/M) programs meeting all requirements of EPA regulations, published in the **Federal Register** on November 5, 1992 (I/M Regulations), concerning motor vehicle I/M programs. On November 14, 1994, the Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision to implement both a basic and enhanced I/M program meeting EPA's I/M regulations.

This direct final approval action will incorporate these rules into the federally approved SIP. The intended effect of approving this SIP revision is to regulate emissions of CO and volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of

these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary NAAQS and plan requirements for nonattainment areas.

**DATES:** This action is effective on July 7, 1995, unless adverse or critical comments are received by June 7, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

**ADDRESSES:** A docket has been established and contains material relevant to this action. A copy of the docket is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted SIP revisions are available for inspection at the following locations:

Mobile Sources Section (A-2-1), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), ANR 443, 401 "M" Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Roxanne Johnson, Mobile Sources Section (A-2-1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1225.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Motor vehicles are a major contributor of VOCs, CO, and oxides of nitrogen (NO<sub>x</sub>) emissions. The motor vehicle I/M program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of NO<sub>x</sub> and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 20×10<sup>12</sup> (20 trillion) miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections indicate that the steady growth in vehicle miles will continue.

Under the Act, the U.S. EPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact

the environment. This notice addresses the third element of the strategy, I/M, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by EPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The EPA projects that sophisticated I/M programs such as Arizona's will identify emission related problems and prompt the vehicle owner to obtain timely repairs, thus reducing emissions.

The Act directed EPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the performance standard. The more effective the program the more credit a State will get towards the emission reduction requirement. An effective program will help to offset growth in vehicle use and allow for industrial and or commercial growth. EPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs for polluted areas. There are three major keys to an effective program:

1. Given the advanced state of current vehicle design and anticipated technology changes, the ability to accurately fail problem vehicles and pass clean ones requires improved test equipment and test procedures;
2. Comprehensive quality control and aggressive enforcement is essential to assuring the testing is done properly;
3. Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are missing in most older I/M programs. Specifically, the idle and 2500 RPM/idle short tests and anti-tamper inspections used in current I/M programs are not as effective in identifying and reducing in-use emissions from the types of vehicles in the current and future fleet. Also, covert audits by EPA and State agencies typically discover improper inspection and testing 50 percent of the time in test-and-repair stations. Experience has shown that quality control at high-

volume test-only stations, such as Arizona's I/M program, is usually much better. And, finally, diagnostics and mechanics training are often poor or nonexistent.

EPA's I/M regulations, dated November 5, 1992, established a high-tech emission test for high-tech cars. This I/M test, known as the IM240 test, is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. The test can also accurately measure NO<sub>x</sub> emissions where NO<sub>x</sub> is important to address an ozone problem. Adding the "pressure and purge" tests increases the benefit even more by reducing problems associated with evaporative emissions losses. The pressure test is designed to find leaks in the fuel system, and the purge test evaluates the functionality of the vapor control system.

## II. Background

On March 3, 1978, EPA promulgated a list of ozone and CO nonattainment areas under the provisions of the Clean Air Act, as amended in 1977, that included Maricopa County. 43 FR 8970, 40 CFR 81.305. Generally, the states containing these designated "nonattainment areas" had to submit revised SIPs by January 1, 1979. The 1979 SIP revisions were to provide for attainment of the NAAQS by December 31, 1982, however an extension until 1987 was available under section 172 if the state could demonstrate as part of its 1979 SIP revision that attainment by the end of 1982 was not possible, despite the implementation of all reasonably available control measures. Arizona submitted Maricopa County's initial nonattainment area plan for CO in 1979 and 1980. On October 30, 1980, the State submitted a request to EPA to extend the CO attainment date in Maricopa County to December 31, 1987. EPA proposed to approve the extension request on February 5, 1982 (47 FR 5439). On May 5, 1982 (47 FR 19826), EPA took final action to approve the 1979 SIP revision.

On August 10, 1987, the U.S. District Court for the District of Arizona ordered EPA to promulgate a federal implementation plan<sup>1</sup> (FIP) under section 110(c) of the Act for CO.<sup>2</sup> The Maricopa Association of Governments developed a plan for the CO nonattainment portions of Maricopa

County. The plan claimed credit both implicitly and explicitly, for the Arizona vehicle I/M program as expanded through 1987. EPA proposed approval of the improvements to the State's I/M program as adopted by the Arizona State Legislature in 1985, 1986, and 1987. (51 FR 14818 (April 26, 1988).) In that notice EPA stated that if the Arizona legislature adopted a loaded-mode test requirement, EPA would approve the I/M program through a direct final rulemaking process. Revisions to the Arizona I/M program were adopted and EPA approved the I/M program.

On June 21, 1994, Arizona Department of Environmental Quality (ADEQ), acting as the governor's designee, submitted a SIP revision to implement a motor vehicle basic I/M program meeting EPA's I/M regulations. On July 13, 1994, EPA found that the SIP submittal conformed to the completeness criteria in 40 CFR Part 51, Appendix V.<sup>3</sup> EPA is today taking final action to approve this program.

Under the Act, Arizona is required to implement only a basic vehicle I/M program (182(b)(4)). To aid the State in meeting federal requirements for the portion of its ozone SIP pertaining to the Maricopa County nonattainment area, Arizona "opted-up" to an enhanced vehicle I/M<sup>4</sup> program to reduce by 15% emissions of VOCs which contribute to ozone pollution by 1996 from baseline levels established in 1990, net of growth. This rule was adopted as part of Maricopa's effort to achieve the NAAQS for ozone and CO.

## III. Requirements for I/M Programs

### A. Applicability of Basic and Enhanced I/M Programs

As amended in 1990, the Clean Air Act requires states to make changes to improve existing I/M programs or to implement new ones for certain nonattainment areas. Section 182(a)(2)(B) of the Act directed EPA to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The Act further requires each area required to have an I/M program to incorporate this guidance into the SIP. Based on these requirements, EPA promulgated I/M regulations.<sup>5</sup>

Under section 182(b)(4) of the Act, basic I/M programs are required in all moderate ozone nonattainment areas. Under sections 182(c)(3) and 187(b)(1), areas designated as serious and worse ozone nonattainment areas with 1980 populations of 200,000 or more and CO nonattainment areas with design classifications above 12.7 ppm and populations of 200,000 or more, in addition to metropolitan statistical areas with populations of 100,000 or more in the northeast ozone transport region, are required to meet EPA regulations for "enhanced" I/M programs.

The I/M regulation establishes minimum performance standards for basic and enhanced I/M programs as well as requirements for the following: Network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standard; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines.

### B. I/M Program in Arizona

#### 1. Arizona SIP

The State of Arizona submitted a basic I/M SIP revision on June 21, 1994 to improve their I/M program for Arizona's ozone and CO nonattainment areas. In that submittal, Arizona's air quality regulations took effect only until January 1, 1995. On November 14, 1994, Arizona submitted a full SIP for both basic and enhanced motor vehicle I/M programs. Therefore, the November 14, 1994 SIP submission superseded the June 21, 1994 SIP revision and the EPA is recognizing the November 14, 1994 as the full SIP submission. A public hearing on the November 14, 1994 submittal was held by the State on November 10, 1994.

*a. Reason for Adopting Enhanced I/M.* The Arizona legislature adopted rules to implement enhanced I/M to meet federal requirements for the portion of its ozone SIP pertaining to the Maricopa County nonattainment area. Because of requirements for reasonable further progress, and rapid growth in vehicle miles traveled (VMT) projected for Area

<sup>1</sup> The proposed FIP for Maricopa County consisted of a motor vehicle winter time oxygenated fuels program and an employee-based trip reduction program.

<sup>2</sup> The court order was the result of a citizen suit brought against EPA on April 8, 1985, by the Arizona Center for Law in Public Interest (ACLPI).

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>4</sup> Meeting EPA performance standards for two levels of I/M programs: basic and enhanced.

<sup>5</sup> November 5, 1992 (57 FR 52950)

A,<sup>6</sup> the State moved forward and put an enhanced I/M program in place that began January 3, 1995.<sup>7</sup> The new upgrades are efficient, enforceable, and did not require expensive modifications to the program. H.B. 2001 established a biennial, transient loaded (IM240) emission test for gasoline powered vehicles model years 1981 or newer with a gross vehicle weight of up to 8,500 pounds. A purge and pressure check is also required, eliminating Arizona's current tampering check. Gasoline powered vehicles model years 1967–1974 are required to pass a loaded emission test. Motorcycles and or constant four-wheel drive vehicles are required to take and pass an idle emissions test. A snap idle test for diesel powered vehicles was also required as of January 1, 1995. Arizona's enhanced I/M program is in Area A and the basic I/M program is implemented in Area B.<sup>8</sup> Area A vehicles are subject to biennial tests where registration expiration date will come every other year, and area B vehicles are subject to annual testing where registration expiration will come every year.

## 2. Background

ADEQ's centralized Vehicle Emission Inspection (VEI) program began January 1976.<sup>9</sup> Major improvements to Arizona's VEI program over the years included: (1) H.B. 2014 enacted in 1988 provided the I/M program under which vehicles must be tested in the loaded-mode condition,<sup>10</sup> as well as in the idle mode, to determine pass/fail status; (2) S.B. 1176 enacted in 1989 increased the number of vehicles subject to the I/M program by removing the exemption for vehicles manufactured in or before the 1966 model year; (3) S.B. 1430 enacted in 1992 made several changes to Arizona's VEI program; (4) H.B. 2001 enacted 1993 gave ADEQ authority to implement an enhanced vehicle program; (5) finally, in 1994 H.B. 2575

<sup>6</sup> Area A means a CO nonattainment area in a county with a population of one million two hundred thousand or more persons as determined by the most recent U.S. decennial census.

<sup>7</sup> Act 1 of the sixth special session of the 1993 legislature, more commonly known as HB 2001, gave ADEQ the statutory authority necessary to implement an enhanced vehicle emissions program, and contains the primary authority for most of the rule.

<sup>8</sup> Arizona defines Area "B" as a CO nonattainment area in a county with a population in excess of four hundred thousand but fewer than one million two hundred thousand persons as determined by the most recent U.S. decennial census.

<sup>9</sup> Arizona law, ARS 49–404 gives the Director of ADEQ Director authority to adopt rules related to air quality for SIP purposes.

<sup>10</sup> Effective January 1, 1989.

made a number of corrections to H.B. 2001.

## IV. EPA Evaluation of State Submittal

### 1. Applicability Section 51.350

EPA's I/M regulations require I/M SIP submittals to describe the applicable areas in detail and to include the legal authority or rules necessary to establish program boundaries. The Maricopa County ozone nonattainment area and CO nonattainment area are both classified as moderate. Pima County is not classified for CO and is in attainment for the ozone NAAQS.

The legal authority and areas required to implement basic I/M are described in the Arizona Revised Statutes (ARS) §§ 49–542.A and 49–541.17 and Arizona Administrative Code (AAC) R18–2–1003.A and R18–2–1001.48. Arizona's authority to implement enhanced I/M was amended by H.B. 2001, 1993 Sixth Special Legislative Session and is found in AAC R18–2–1001 and R18–2–1003, Title 18, Chapter 2, Article 10, Motor Vehicles: Inspection and Maintenance. Arizona's centralized I/M program was implemented August 1, 1988. The geographic coverage of the program complies with the requirements of the EPA I/M regulation for basic I/M areas and is approvable.

### 2.a. Basic I/M Performance Standard Section 51.352

EPA's I/M regulations outline the method States are to follow to arrive at a minimum performance standard. The performance standard sets an emission reduction target that the program must meet in order for the SIP to be approvable. The SIP must also demonstrate that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The performance standard for which the ADEQ must be able to demonstrate compliance was established using the MOBILE5a model inputs and local characteristics outlined in § 51.352. Arizona's modeling and accompanying documentation indicates that the state program meets the EPA performance standard for hydrocarbons (HC) and for CO, i.e., that the emission factors resulting from modeling the state's program are at or below the EPA performance standard.

### 2.b. Enhanced I/M Performance Standard Section 51.351

The EPA MOBILE5a input file used to model the enhanced performance standard reflects EPA-specified inputs tailored to the characteristics of the

local area. Arizona's beginning date of January 1, 1995 used appropriate inputs and meets EPA's performance standard for the enhanced I/M program. EPA has allowed the assumption of one full cycle of testing for summer 1996 ozone modeling.<sup>11</sup>

### 3. Network Type and Evaluation Section 51.353

EPA's I/M rule requires SIPs to include a description of the network to be employed, the required legal authority, and a description of the evaluation schedule and protocol, sampling methodology, the data collection and analysis system, the resources and personnel for evaluation, and related details of the evaluation program.

Through a contractual agreement, Arizona operates a centralized program, consisting of eleven inspection stations with 48 testing lanes. The ADEQ compiles data (including the enhanced I/M data requirements) supporting modelling assumptions and modelled program evaluation and effectiveness including failure rate, compliance rate, the number of certificates issued, and other similar matters.

The SIP adequately describes these features and is approvable.

### 4. Adequate Tools and Resources Section 51.354

Section 51.354 requires States to demonstrate that the appropriate administrative, budgetary, personnel, and equipment resources have been allocated for the I/M program and discusses how the performance standard will be met. Arizona's submittal, Appendix 1, ARS §§ 49–544 and 49–545, describes the personnel, equipment and funding resources to be used for program operation and maintaining all required program functions. Section 49–544 insures future dedicated funding and provides for sufficient staff to carry out program duties. Appendix 1, ARS §§ 49–545.A authorizes a contract with an independent contractor, Gordon Darby. Subsection B of that section specifies that the contractor may not be in the business of maintaining or repairing motor vehicles.

<sup>11</sup> Regarding any potential increase in NO<sub>x</sub>, ADEQ on April 8, 1994 submitted a petition for exemption to NO<sub>x</sub> reasonable available control technology (RACT) requirements for major sources within the Maricopa County ozone nonattainment area. EPA proposed to approve ADEQ's request on November 1, 1994 (59 FR 54540). NO<sub>x</sub> testing is not required for basic areas opting-up to an enhanced I/M program.

### 5. Test Frequency and Convenience Section 51.355

The I/M regulations require the SIP to describe in detail the test schedule of the program. If the testing is not performed on an annual basis, the description is to include the test year selection scheme. In addition, the SIP should 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.

Arizona's program is based upon an annual and biennial test frequency and legal authority for enforcing such frequency is in Appendix 1, ARS § 49-542 and AAC R18-2-1005. Those provisions state that applicable vehicles may not be registered nor re-registered without undergoing emissions inspection. Appendix 1, AAC R18-2-1006 requires that the contractor test any subject vehicle presented for inspection, except for vehicles exhibiting unsafe conditions or carrying explosives or other hazardous materials.

### 6. Vehicle Coverage Section 51.356

SIPs are 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. The SIP should also include a description of any special exemptions granted by the program, an estimate of the percentage and number of subject vehicles which will be exempted. Exempted vehicles should be accounted for in the emission reduction analysis. The SIP should also include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

Requirements for vehicles subject to the Arizona I/M program are presented in Appendix 1. ARS § 49-542 and AAC R18-2-1003 describe vehicular coverage by test methods, categories of model year, fuel type, result summary for 1993, and displays tests performed differentiated by those categories. Vehicles exempted from testing are described in ARS § 49-542 and AAC R18-2-1003.B. Modeling conducted in response to § 51.352 took into account exempted vehicles. ARS § 49-542 and AAC R18-2-1003, -1017 and -1019 (Appendix 1) provide for fleet vehicles, including federally-owned vehicles, that are subject to the same testing and quality control requirements as are non-fleet vehicles. ARS § 49-542 and AAC R18-21023 (Appendix 1) provide the requirements for vehicles registered in the program area and operated outside the area.

The Arizona I/M program exempts the following vehicles from the program:

- a. Vehicles manufactured in or before the 1966 model year.
- b. Vehicles leased to a person residing outside Areas A and B by a leasing company whose place of business is in Area A or B.
- c. Vehicles being sold between motor vehicle dealers.
- d. Electrically-powered vehicles.
- e. Prorate vehicles.
- f. Golf carts.
- g. Vehicles with engine displacements of less than 90 cubic centimeters.
- h. New vehicles originally registered at the time of initial retail sale and titling in the state.
- i. Vehicles being registered at the time of change of name of ownership except when the change in registration is accompanied by required fees for the year following expiration of the prior registration or the change results from the sale by a dealership whose place of business is located in area A or area B.
- j. Vehicles for which a current certificate of exemption or Director's certificate has been issued.

The Arizona SIP submittal provides an estimate of the number of vehicles exempted due to vehicle age, fuel type, and engine type. These exempted vehicles are accounted for in the compliance area which was used in the MOBILE5a modeling process to demonstrate compliance with the performance standard.

### 7. Test Procedures and Standards Section 51.357

The I/M rule requires SIPs to include a description of each test procedure used, the legal authority or rule describing and establishing the test procedures, and the test standards. The EPA Checklist<sup>12</sup> lists the criteria that State I/M programs must satisfy in order to be approvable. The Arizona I/M program satisfies the criteria of the Checklist. AAC R18-2-1006 provides detailed test procedures and pass/fail standards for all applicable classes of vehicles. Procedures and standards correspond to EPA requirements for short tests. Initial tests are performed without prior repair at the test facility, as the contractor is prohibited from being in the business of repairing vehicles.

Requirements for reinspection of failed vehicles are described in AAC R18-2-1013. R18-2-1029 requires that all vehicles must have all emission control devices that were installed by

the vehicle manufacturer. AAC R18-2-1001.42 requires vehicles with "switched" engines to meet standards applicable to the year of vehicle manufacture.

### 8. Test Equipment Section 51.358

The I/M rule requires SIPs to include written technical specifications for all test equipment used in the program. The specifications should describe the emissions analysis process, the necessary test equipment, the required features, and written acceptance of testing criteria and procedures. Arizona's SIP provides detailed requirements for test equipment, automation to the highest degree commercially available to minimize the potential for intentional fraud and/or human error, security, accuracy, recording of test data and quality assurance. Also, Arizona's rules require the contractor to provide the necessary computerized test equipment capable of testing all subject vehicles, including test systems that are connected by a real-time data link to a host computer that prevents unauthorized multiple initial tests on the same vehicle.

### 9. Quality Control Section 51.359

The I/M rule requires SIPs to include a description of quality control and recordkeeping procedures. The submittal should include the procedures manual, rule, ordinance, or law establishing the procedures of quality control and recordkeeping.

Arizona's rules, Appendix 1, AAC R18-2-1025 through -1028 provide all the required quality control elements of basic and enhanced I/M programs. Protection of analyzer bench and electrical components is assured through the enclosure of such equipment in lockable steel cabinets.

### 10. Waivers and Compliance via Diagnostic Inspection Section 51.360

Section 51.360 outlines the standards that State SIP submittals must satisfy before owners of vehicles can be issued waivers or temporary extensions. A waiver or temporary extension allows motorists to renew vehicle registration. These requirements include: A maximum waiver rate used for estimating emission reduction benefits in the modeling analysis; a commitment by the State to take corrective action if the waiver rate exceeds that which was committed to in the SIP or a commitment to revise the SIP and emission reductions claimed; description of waiver criteria and procedures, including cost limits, quality assurance methods and administration; and the necessary legal

<sup>12</sup> Checklist for Completing the Inspection/Maintenance SIP, published March 1993.

authority to issue waivers, set and adjust cost limits and carry out any other functions necessary to administer the waiver system.

Section 51.360 established the minimum repair expenditures (both for basic and enhanced I/M programs) that vehicle owners must incur in order to qualify for a waiver. In basic I/M programs, owners must expend a minimum of \$75 for pre-1981 and at least \$200 for 1981 and newer vehicles. For enhanced I/M programs, vehicle owners at a minimum must expend \$450 in repairs to qualify for a waiver.

Arizona's rules provide that waivers may only be issued after failing a retest and after qualifying repairs are made, including performance of a low-emission tune-up. Those provisions exclude costs of repair of tampering from applicability to a waiver cost limit, and inspection and review of receipts. Owners of all failing vehicles receive a brochure describing possible eligibility of warranty coverage. Waiver limits prescribed in ARS § 49-542.L and R18-3-1010.E for Area A (enhanced I/M program) and R18-2-1010.F for Area B (basic I/M program) differ from those prescribed in EPA's I/M regulation, but are not overall less stringent. For Area B, 1967-74 model year vehicles are subject to a lower \$50 limit, yet 1975-80 model year vehicles are subject to a \$200 limit, exceeding EPA's minimum standard. Arizona's \$350 limit for 1981 and newer vehicles is also more stringent than EPA's minimum \$200 limit for Area B. Waiver limits for Area A exceed the EPA I/M program guidelines for vehicles not subject to the enhanced test procedure. Arizona has provided for vehicle repair grants in R18-2-1014.

#### *11. Motorist Compliance Enforcement Section 51.361*

Under § 51.361, SIP submittals must include a description of the enforcement process; a determination of the current compliance rate that includes at a minimum an estimate of compliance loss due to loopholes; legal authority for enforcement; and a commitment to an enforcement level to be used for modeling purposes and to be main Area B documents.

Appendix 1, ARS § 49-542.D and AAC R18-2-1007 require that no affected motorist can obtain a vehicle registration without demonstrating that the vehicle has completed a vehicle emissions inspection. The State will be able to verify emissions compliance by checking an up-to-date computer database produced directly from contractor testing data rather than relying on a document. A1050X may not

be used for Area A registration purposes. AAC R18-2-1017, -1019 address inspection procedures for fleets, including governmental vehicles. Appendix 2 addresses the assumed level of enforcement for modeling purposes and ARS 49-542.E provides for the registering officer to issue an air quality compliance sticker to be placed on the subject vehicle.

#### *12. Motorist Compliance Enforcement Program Oversight Section 51.362*

The I/M SIP submittals are to include a description of enforcement program oversight and information management activities. The enforcement program must be audited regularly and follow effective program management practices. Arizona's law, ARS 49-542.D sets out the requirement for registration enforcement of I/M requirements for subject vehicles. Subsection I.2 of that section defines a list of readily exempted vehicles, including vehicle age, engine displacement, mode of power, and type of registration. The Motor Vehicle Division (MVD) of the Arizona Department of Transportation has the authority for vehicle registration. In the case of Maricopa County, MVD has delegated the authority for processing registrations to the Maricopa County Assessor; however, MVD retains responsibility for the registration program and for the registration database. The requirement for inspection of a vehicle is determined in the MVD database by zip code of the physical address of the vehicle registration and by other parameters relating to exemptions listed in ARS 49-542.H.

MVD, the Maricopa County Assessor, and ADEQ maintain written procedures governing the issuance and auditing of compliance-related documents, including waivers and validations tabs, as appropriate. All compliance documents, certificates of waiver, and validation tabs are individually numbered and kept according to the respective agencies' security procedures. AAC R18-2-1023 provides procedures for processing exemptions for vehicles not available within the State at time of registration or re-registration. That rule also requires inspection by an out of state I/M program, if the subject vehicle is being operated in a program area.

ADEQ and registering agencies have developed procedures to address vehicles physically registered in zip codes which straddle I/M program boundaries. Under that process, emissions applicability is determined by motorist submittal of a "Code 52" application, which provides verifiable

information that the physical registration address is outside the I/M program boundary. The "Code 52" process is conducted by ADEQ in Maricopa County and by MVD in Pima County. Arizona law enforcement agencies and MVD are authorized under statute to enforce the sticker-based registration and I/M requirements. MVD and Maricopa County routinely make their databases available to ADEQ for compliance and enforcement purposes.

#### *13. Quality Assurance Section 51.363*

The I/M rule requires States to operate on-going quality assurance programs aimed at discovering, correcting, and preventing fraud, waste and abuse. The quality assurance officer should also assess whether correct operating procedures are being followed and that testing equipment provides accurate measurements. SIP submittals must include a description of the quality assurance program, written procedures manuals covering covert and overt audits, records audits, and equipment audits. Quality assurance procedures can be found in AAC R18-2-1025 and -1026. Performance audits are based upon written procedures, with audit results recorded and retained in station and inspector files. Records are of sufficient detail to support administrative or civil hearings.

Both the testing contractor and ADEQ conduct routine covert audits and exchange audit findings. Covert audits are performed at least once per year per licensed inspector employed by the independent contractor. Covert vehicles are procured through rental or through cooperative agreement with the Department of Public Safety to obtain undercover vehicles. A tampering defect or emissions-related failure condition is introduced and a driver not directly affiliated with the program is selected. ADEQ monitors the contractor's response to failed covert audits, including training, disciplinary actions or dismissal. ADEQ performs remote observation of inspections, including covert actions designed to detect fraud or collusion between inspectors and either repair facilities or dealers. Overt audits are performed at least twice per year for each inspection lane. In the event that an inspector fails any of the requirements in AAC R18-2-1025, the inspector's license may be suspended or revoked.

#### *14. Enforcement Against Contractors, Stations & Inspectors Section 51.364*

I/M programs are to include enforcement mechanisms that allow for the imposition of penalties against licensed stations, contractors or

inspectors that violate program requirements. SIP submittals must describe the legal authority for imposing penalties, civil fines, license suspension, and revocations. ARS, Section 49-548 prohibits improper representation of a facility as an official testing site, or false issuance of certificates of inspection by fleets. ARS 49-549 prohibits production and use of false I/M certificates. ARS 49-550 provides civil penalties for violations of I/M requirements. ADEQ has submitted, under separate cover, dated, August 2, 1994, an opinion by the Attorney General related to the applicability of that statute to the deadlines for license suspension contained in 40 CFR 51.364.

#### *15. Data Collection Section 51.365*

EPA's I/M rule outlines the test data and quality control data that must be collected for the management, evaluation, and enforcement of an I/M program. I/M programs must gather test data on individual vehicles, as well as quality control data on test equipment. The Arizona I/M program contains data gathering provisions that meet all of the criteria of the EPA Checklist. AAC R18-2-1011 describes the data collected during an inspection which forms the basis for issuance of a "Vehicle Inspection Report." Arizona is currently collecting all data required for both basic and enhanced I/M programs.

#### *15. Data Analysis and Reporting Section 51.366*

SIP submittals are to include information on how States will incorporate data analysis and reporting into their I/M programs. Reports should provide information regarding the types of program activities performed and their final outcomes, including summary statistics and effectiveness evaluations of the enforcement mechanism, the quality assurance system, the quality control program, and the testing element. Arizona has committed to provide test, quality control and enforcement reports as specified in this section and applicable to I/M programs. The contract with the independent contractor reflects requirements to collect data necessary for ADEQ to make these submittals.

#### *16. Inspector Training and Licensing or Certification Section 51.367*

All inspectors involved in I/M programs must receive formal training and be licensed or certified to perform inspections. SIP submittals must include a description of the training program, the written and practical examinations and the licensing or certification process. Lane inspectors

are employed and trained by the independent contractor. AAC R18-2-1016 authorizes ADEQ to license vehicle inspectors and provides minimum standards for licensure. ADEQ is authorized to suspend, revoke or refuse to renew any inspector license. The contract between ADEQ and the independent contractor allows ADEQ to require training of inspectors consistent with the requirements of 40 CFR 51.363. ADEQ monitors the training program conducted by the contractor and performs on-site overt audits to verify inspector proficiency, consistent with EPA's I/M rule.

#### *17. Public Information and Consumer Protection Section 51.368*

SIP submittals must include a plan for informing the public on an ongoing basis, throughout the life of the I/M program, of the air quality program, the requirements of federal and state law, the role of motor vehicles in the air quality problem, and the need for and benefits of an inspection program. In addition, the submittal must describe procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M program.

ADEQ, in conjunction with its independent contractor, conducts a public awareness program which complies with the requirements of 40 CFR 51.368. Information on the air quality problem, the role of motor vehicles, and I/M requirements is contained in a brochure mailed with registration or re-registration documentation to all affected motorists. The independent contractor produces a "Repair Industry Performance Report" which identifies by repair site, the number of vehicles undergoing repairs and the overall pass rate of vehicles repaired at that facility.

#### *18. Improving Repair Effectiveness Section 51.369*

The State of Arizona provides the technical assistance requirements of both EPA's basic and enhanced I/M rule. ADEQ provides newsletters and special purpose mailings to inform the repair industry of program changes, common problems, and opportunities for training. In addition, ADEQ provides newsletters published by the Coalition for Safer, Cleaner Vehicles to repair industry personnel in the Maricopa nonattainment area. ADEQ employs referee technicians at each ADEQ-operated waiver facility who provide diagnostic assistance to the repair industry.

The State currently provides repair technician training which focuses on

causes of emissions failures in computer controlled closed-loop vehicles, effective diagnoses and repair. The training also provides information on Arizona's I/M program. ADEQ provides these courses on an as-needed basis, with a minimum of two courses in Phoenix and one course in Tucson each month. Technicians are tested at the conclusion of the course, and successful candidates are either certified as a trained technician or licensed as a fleet technician. In order to retain certification or licensure, technicians must take and pass the examination annually.

#### *19. Compliance With Recall Notices Section 51.370*

The I/M rule requires States to establish methods to ensure that vehicles subject to enhanced I/M and that are included in either a "Voluntary Emissions Recall" as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to section 207(c) of the Act, receive the required repairs. Arizona has committed to comply with section 51.370 when the Agency provides the State with manufacturer recall and unresolved vehicle recall data.

#### *20. On-Road Testing Section 51.371*

Because Arizona is "opting-up" to an enhanced I/M program, the State is not required to implement this section. However, Arizona's regulation, AAC R18-2-1015 requires the State to begin on-road testing in January 1995 in Area A only. A minimum of six remote sensing units will be used throughout the nonattainment area. Arizona's SIP submittal states that this measure provides an incremental benefit over the existing I/M and anti-tampering program by increasing compliance with the I/M program and reducing the incidence of vehicle tampering. AAC R18-2-1015 also includes: That a vehicle shall not have a waiver on record; an emissions test that is required pursuant to a remote sensing identification shall be performed at a state station pursuant to R18-2-1006 and shall not require payment of any test fee unless the test can be used for the purpose of complying with registration or re-registration requirements; failure of an emissions test that is required pursuant to a remote sensing identification shall require the vehicle to be repaired or to receive a waiver from any emission standards not complied with within 30 days of the test to avoid suspension of registration; and one reinspection shall also be free as provided in R18-2-1012(D). A full description of Arizona's remote sensing

is in their request for proposal (RFP) located in the docket.

**21. State Implementation Plan Submissions Section 51.372 and Implementation Deadlines Section 51.373**

Arizona is currently implementing an annual basic I/M and an enhanced I/M program. The November 1994 I/M SIP submittal is fully approvable and includes all elements meeting EPA's I/M regulations (e.g., an analysis of the emission level targets meeting both basic and enhanced I/M performance standard, passage of enabling statutory and legal authority, and regulations).

**V. EPA Analysis of the Arizona I/M Program Submittal**

A complete EPA analysis of the program submittal is detailed in the Agency's technical support document (TSD) which is available in the docket. A copy of the TSD can be obtained by contacting the person listed in the ADDRESSES portion of this notice. The TSD summarizes the requirements of the federal I/M regulations and addresses whether the elements of the State's submittal comply with the federal rule. Interested parties are encouraged to examine the TSD for additional detailed information about the Arizona I/M program.

**VI. EPA Action**

In determining the approvability of an I/M SIP submittal, EPA must evaluate the SIP for consistency with the requirements of CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

EPA has evaluated the submitted SIP and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, Arizona's SIP revision, *Basic and Enhanced I/M Vehicle Emissions Inspection/Maintenance (I/M) Program Implemented in Ozone and Carbon Monoxide Nonattainment Areas of Arizona* is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

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

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment 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 July 7, 1995, unless, within 30 days of its publication, 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 notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate 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 July 7, 1995.

**VII. Regulatory Process**

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 population of less than 50,000.

SIP approvals under sections 110 and 301(a) 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. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2). The OMB has exempted this action from review under Executive Order 12866.

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

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

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

Dated: April 5, 1995.

**John Wise,**

*Acting Regional Administrator.*

40 CFR part 52 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 D—Arizona**

2. Section 52.120 is amended by adding paragraph (c)(75) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(75) Program elements submitted on November 14, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(I) Basic and Enhanced Inspection and Maintenance Vehicle Emissions Program. Adopted on September 15, 1994.

\* \* \* \* \*

[FR Doc. 95-10814 Filed 5-5-95; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 271**

[FRL-5203-7]

**Tennessee; Final Authorization of Revisions to State Hazardous Waste Management Program**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** Tennessee has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revisions consist of the provisions contained in rules promulgated between July 1, 1986, and June 30, 1993, otherwise known as Non-HSWA Clusters III, V, VI, HSWA Cluster II, and RCRA Clusters I-III. These requirements are listed in Section