

SUMMARY: This document contains final regulations regarding the payment of excess expenses incurred by a purchaser at a nonjudicial sale in connection with redemptions of real property by the United States. These regulations affect purchasers in connection with the redemption of real property.

EFFECTIVE DATE: June 2, 1995.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, (202) 622-3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These final regulations amend the Income Tax Regulations (26 CFR part 301) under section 7425 of the Internal Revenue Code (Code). The regulations impose a time limit within which a purchaser of real property at a nonjudicial sale may submit a claim for excess expenses to the United States when it is redeeming such real property. The United States will not consider any claim made after expiration of the time limits.

The IRS published a notice of proposed rulemaking in the **Federal Register** on May 23, 1994 (59 FR 26608) providing proposed rules under section 7425 of the Code. No public comments were received and accordingly, the final regulations adopt the proposed regulations with only technical changes.

Explanation of Provisions

Section 301.7425-4(b)(3)(ii) does not provide a specific time period within which the purchaser at a nonjudicial foreclosure sale may submit a claim for excess expenses after the redemption. These regulations clarify that claims for excess expenses must be submitted within the time periods specified in the regulations in order for the purchaser to be reimbursed.

The regulations establish a 15-day limit after a request is made by the district director for the purchaser at a nonjudicial sale or his or her successor in interest to furnish a written itemized statement of expenses in excess of income. Since excess expenses could be incurred after a district director's request, a purchaser who fails to submit a claim at this time may submit a claim within 30 days after the date of redemption. These limits will allow the purchaser a reasonable amount of time within which to determine the amount of any excess expenses and to submit a claim to the United States. After the expiration of the relevant time periods, the United States may distribute all surplus proceeds associated with the sale of the redeemed property unhindered by any possibility of a claim

for excess expenses made in the future when the surplus proceeds of sale are no longer available to satisfy such a claim. Adding time limits will also expedite the handling of redemption sales by earlier disposition of surplus proceeds of sale. Disputes concerning properly submitted claims will still be resolved by the United States within a reasonable time after the redemption period.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information. The principal author of these final regulations is Robert A. Walker, Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 301.7425-4, paragraph (b)(3)(ii) is amended by revising the third sentence and adding a fourth sentence to read as follows:

§ 301.7425-4 Discharge of liens; redemption by United States.

* * * * *

(b) * * *

(3) * * *

(ii) * * * If a purchaser or his or her successor in interest has failed to furnish the written itemized statement

within 15 days after the request therefor is made by the district director, or there is a disagreement as to the amount properly payable under paragraph (b)(1)(iii) of this section, or if there were additional excess expenses that were not claimed in the original itemized statement, the purchaser or his or her successor in interest may submit a written itemized statement to the district director within 30 days after the date of redemption. If the purchaser or his or her successor in interest fails to timely submit such a written itemized statement, no amount shall be payable for expenses in excess of income.

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Approved: April 27, 1995.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 95-13444 Filed 6-1-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC59-2-6942a; NC55-1-6497a; NC54-1-6496a: FRL-5207-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted on May 19, 1994, January 17, 1992, September 24, 1992 and August 5, 1994, by the State of North Carolina, through the North Carolina Department of Environmental Management (NCDEM). This revision modifies the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the areas of Charlotte, Raleigh/Durham, and Winston-Salem, North Carolina.

DATES: This final rule will be effective on July 17, 1995 unless adverse or critical comments are received by July 3, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Benjamin Franco at the EPA Regional office listed below.

Copies of the documents relative to this action are available for public inspection during normal business

hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and

Information Center (Air Docket), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Department of Environment, Health, and Natural Resources, P.O. Box 29535, Raleigh, North Carolina, 27626-0535.

FOR FURTHER INFORMATION CONTACT:

Benjamin Franco, Mobile Source Planning Unit, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555, extension 4211.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act as amended in 1990 (the Act) requires that most ozone nonattainment areas adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. The moderate ozone nonattainment areas, plus marginal ozone nonattainment areas with existing or previously required I/M programs, fall under the "basic" I/M requirements. Enhanced programs are required in serious, severe, and extreme ozone nonattainment areas with 1980 urbanized populations of 200,000 or more.

The 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 mandates 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 on November 5, 1992 (57 FR 52950, codified at 40 Code of Federal Regulations (CFR) 51.350-51.373).

The I/M regulation establishes minimum performance standards for basic 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 standards; 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. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act.

The State of North Carolina contains the Raleigh/Durham and Winston-Salem urbanized areas which were recently redesignated to attainment for ozone, and Charlotte which is designated nonattainment for ozone and classified as moderate. A redesignation request for the Charlotte nonattainment area was submitted by the State on November 12, 1993, with supplementary information provided on December 15, 1994. It is currently being reviewed by EPA. Section 51.372(b)(2) of the Federal I/M regulation (codified at 40 CFR 51.372(b)(2)) required affected states to submit full I/M SIP revisions that met the requirements of the Act to EPA by November 15, 1993.

On August 5, 1994, NCDEM submitted a complete SIP revision of the I/M program. This submittal includes new and revised regulations adopted by the North Carolina Department of Motor Vehicles (NCDMV) and the North Carolina Department of Environmental Management (NCDEM) and documentation addressing required portions of the Federal I/M rule.

Also, on May 19, 1993, January 17, 1992, and September 24, 1992, the State of North Carolina, through NCDEM submitted to EPA a revised SIP for the areas of Charlotte, Raleigh/Durham, and Winston-Salem. These submittals included revisions to Regulation .1002, Applicability; Regulation .1004, Emission Standards; Regulation .1005, Measurement and Enforcement. Regulation .1002 was adopted by the Environmental Management Commission, on May 12, 1994, and became effective on July 1, 1994. Regulation .1004 was adopted on May 14, 1993, and became effective June 1, 1993. These regulations changed the I/M program from a carbon monoxide

program to an ozone/carbon monoxide program. Also, NCDEM expanded the I/M program coverage. EPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350-51.373 and its analysis of the state submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992, **Federal Register** notice (57 FR 52950) or 40 CFR 51.350-51.373.

II. EPA's Analysis of the North Carolina, Basic I/M Program

As discussed above, section 182(a)(2)(B) of the Act requires that states adopt and implement updated regulations for I/M programs in moderate and above ozone nonattainment areas. The following sections of this notice summarize the requirements of the Federal I/M regulations and address whether the elements of the State's submittal comply with the Federal rule.

Applicability—40 CFR 51.350

Section 182(b)(4) of the Act and 40 CFR 51.350(a)(4) require that any area classified as moderate ozone nonattainment and not required to implement enhanced I/M under 40 CFR 51.350(a)(1) shall implement basic I/M in the 1990 Census-defined urbanized nonattainment area. The urbanized portion of the Charlotte nonattainment area includes sections of Mecklenburg, Gaston, Cabarrus, and Union Counties. The urbanized portion of Winston-Salem includes sections of Guilford and Forsyth Counties. The urbanized portion of Raleigh/Durham includes sections of Wake, Durham, and Orange Counties. The population distribution of these counties is such that the program exceeds the minimum required I/M coverage area. The North Carolina submittal contains the legal authority and regulations necessary for the NCDEM to establish the program boundaries and operate a basic I/M program. The program boundaries described in the North Carolina submittal meet the Federal I/M requirements under § 51.350 and are approvable.

The Federal I/M regulation requires that state programs shall not lapse prior to the time they are no longer needed. EPA believes that a program that does not lapse prior to the attainment deadline for each applicable area would meet this requirement. The attainment date for the Charlotte ozone nonattainment area is November 15, 1996, and the North Carolina I/M regulation contained in the North Carolina submittal does not establish an

I/M program sunset date. This section is approvable.

Basic I/M Performance Standard—40 CFR 51.352

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

The North Carolina submittal includes the following program design parameters:

Network type—decentralized, test and repair
 Start date—1991
 Test frequency—annual
 Model year coverage—1975 and later
 Vehicle type coverage—light and heavy duty gasoline powered vehicles
 Emission test—Idle
 Emission standards—1.2 percent CO, 220 ppm HC
 Emission control device—Catalytic converter, air injection system, PCV valve, unleaded gas restrictor, EGR, thermostatic air control, fuel evaporation control, and oxygen sensor.
 Stringency (pre-1981 failure rate)—20 percent
 Waiver rate (pre-81/81 and newer)—5 percent
 Compliance rate—95 percent
 Evaluation date(s)—January 1, 1997.

The North Carolina program design parameters meet the Federal I/M regulations and are approvable.

The emission levels achieved by the State, for each area, were modeled using

MOBILE5a. The modeling demonstration was performed correctly, used local characteristics and demonstrated that the program design will exceed the minimum basic I/M performance standard, expressed in gpm, for VOCs and NO_x for each milestone and for the attainment deadline. The modeling demonstration is approvable.

Network Type and Program Evaluation—40 CFR 51.353

Basic I/M programs can be operated in a centralized test-only format, in a decentralized test and repair, or in any hybrid version as long as states can demonstrate that the selected program is effective in achieving the basic I/M performance standard. The NCDEM will administer a decentralized test and repair I/M program in the areas of Raleigh/Durham, Winston-Salem, and Charlotte. The enhanced program evaluation requirements of this section do not pertain to these areas as it is a basic I/M program. The network type is approvable.

Adequate Tools and Resources—40 CFR 51.354

The Federal regulation requires states to demonstrate that adequate funding of the program is available. A portion of the test fee or separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if demonstrated that the funding can be maintained. Reliance on funding from a state or local General Fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The North Carolina program is funded by a portion of the inspection fee that is dedicated to the program, and is divided among North Carolina Department of Motor Vehicles (NCDMV) and NCDEM. The NCDEM portion of the vehicle inspection fee is credited to the I/M Air Pollution Control Account. The NCDMV uses their portion to fund the enforcement part of the program. A detailed budget is included in the SIP for both groups. The submittal demonstrates that sufficient funds,

equipment and personnel have been appropriated to meet program operation requirements. The State's submittal meets the adequate tools and resources requirements set forth in the Federal I/M regulations.

Test Frequency and Convenience—40 CFR 51.355

The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

The North Carolina I/M regulation provides for an annual test frequency for all covered vehicles. A vehicle is assigned a test month. An emission sticker is placed on the vehicle's windshield, reminding the owner of the testing date. Vehicles not in compliance can be fined by the state police or NCDMV. In addition, the NCDMV is establishing a computer matching system in order to identify vehicles that are late in getting an emission test. Owner's identified through computer matching with more than four months of non-compliance will be fined \$100 if the vehicle is a pre-81, \$250 if it is a 1981 or newer vehicle, and the registration may be revoked. This section is approvable.

Vehicle Coverage—40 CFR 51.356

The performance standard for basic I/M programs assumes coverage of all 1968 and later model year light duty vehicles (LDV) and light duty trucks (LDT) up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements of 40 CFR 51.353(a). Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the state or local I/M area.

The Federal I/M regulation requires that the SIP shall include the legal authority or rule necessary to

implement and enforce the vehicle coverage requirement, 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, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption.

The North Carolina I/M regulation require all 1975 and later model year gasoline powered vehicles up to 8,500 pounds gross vehicle weight registered in the I/M area to take an emission test. Non-gasoline powered vehicles, motorcycles, current model year vehicles, and vehicles of 1974 model year and older are exempted from this rule. Vehicles older than 1968 are required to undergo a tampering check as part of the state-wide safety inspection required on all vehicles. NCDMV will use a computer matching procedure in order to identify vehicles that should undergo testing. Fleet vehicles are subject to the program if registered in or primarily operated in a designated I/M county. Fleet owners are allowed to self-inspect their vehicles. Federally owned vehicles and vehicles operating in a federal installation located in an I/M county are subject to the testing requirements. The North Carolina's plan for testing fleet vehicles is acceptable and meets the requirements of the Federal I/M regulation.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA document entitled "Recommended I/M Short Test Procedures For the 1990's: Six Alternatives."

The State's I/M submittal includes a description of the test procedures used in the North Carolina I/M program. These test procedures conform to EPA approved test procedures and are approvable. The North Carolina I/M regulation establishes hydrocarbon (HC) and carbon monoxide (CO) pass/fail exhaust standards for all test procedures for each applicable model year and vehicle type. The exhaust standards and test methods adopted by the State conform to EPA established standards and are approvable.

Test Equipment—40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The Federal I/M regulation requires that state SIP submittals include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

Appendix G of the North Carolina SIP establishes the type of exhaust analyzers that meet the BAR90 performance specifications. These specifications require the use of computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems. This section is approvable.

Quality Control—40 CFR 51.359

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

Appendix G provides the calibration procedures and system checks that must be conducted by the inspection station. The SIP also contains the quality control requirements for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. A special software encryption algorithm codes the "Inspection Number" field on the test form and can not be duplicated without access to the source code. Under a Memorandum of Understanding between NCDMV and NCDEM, NCDMV is in charge of overt and covert audits of the inspection stations, and inspectors. NCDEM, in turn, quality assures NCDMV's enforcement program. This portion of the North Carolina submittal complies with the quality control requirements set forth in the Federal I/M regulation and is approvable.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For basic I/M programs, an expenditure of at least \$75 for pre-81 vehicles and \$200 for 1981 and later vehicles in repairs, is required in order to qualify for a waiver. Waivers can only

be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The Federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that contained in the SIP.

North Carolina is committed to a waiver rate of 5%. In case the waiver rate exceeds this percentage, the State will take corrective actions to lower the rate. North Carolina issues only repair waivers. North Carolina's Regulation 20-183.5 sets a \$75 cost limit for pre-81 vehicles and \$200 for 1981 and newer vehicles. The regulation includes provisions which address waiver criteria and procedures, including cost limits, tampering and warranty related repairs, quality control and administration. Any vehicle owner requesting a waiver must submit the vehicle for review at a NCDMV office. A vehicle repair form must be submitted by the owner at that time, verifying the repairs. This section is approvable.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulation requires that compliance shall be ensured through the denial of motor vehicle registration in I/M programs. However, a basic area may use an alternative enforcement mechanism if it demonstrates that the alternative will be as effective as registration denial. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

The NCDMV uses a sticker-enforcement system. The SIP contains a detailed description of the enforcement process. Any owner failing to obtain a certificate of compliance by the end of the assigned month will be subject to a penalty. If caught without a valid sticker, the vehicle owner will be given a \$50.00 ticket. Also, NCDMV is in process of establishing a computer-matching system. The system will identify owners that are a month late in renewing their sticker, and the owner

will be notified by letter. If a second letter is sent out and the owner doesn't inspect the vehicle, a \$100 penalty is assessed on a pre-1981 vehicle or a \$250 penalty is assessed for a 1981 or newer vehicle. After four months of noncompliance, DMV will revoke the vehicle's registration. NCDMV and NCDEM will change the enforcement system to registration denial by October 1, 1996. North Carolina commits to a 95% compliance rate, and this number was used in their modeling demonstration. This portion of the North Carolina submittal meets the Federal requirements and is approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program.

The North Carolina program will be audited every quarter by NCDEM. These audits will insure that NCDMV is performing the enforcement portion of the I/M program at an acceptable level. NC has established a database system that tracks NCDMV's enforcement record, and the number of vehicles tested. This section is approvable.

Quality Assurance—40 CFR 51.363

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

The North Carolina submittal includes a quality assurance program which describes details and procedures for auditing inspectors, station records, and equipment. NCDMV has developed a performance audit program. NCDMV's inspectors will perform inspections of testing station inspectors and testing equipment. These include overt and covert audits and remote observation of inspection personnel performing testing.

Covert audits are required to use a range of vehicles which have been set to fail the inspection test. NCDEM will evaluate NCDMV performance, and is in charge of developing all manuals and program specifications. NCDEM's and NCDMV's quality assurance programs meets the Federal I/M regulation requirements and are approvable.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations or contractors, and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP shall 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 the resources and sources of those resources which will support this function.

The North Carolina submittal includes the legal authority to establish and impose penalties against stations, contractors and inspectors. The North Carolina enforcement program is staffed by NCDMV officers and immediate action and prosecution is taken when needed. NCDMV officers have the authority to shut down analyzers that are not working properly, and can issue citations against inspectors and testing facilities. A penalty schedule is included in the submittal. The North Carolina I/M program meets the requirements of this section and is approvable.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.359.

Appendix G specifies the information contained on the inspection form. Appendix G requires the collection of data, and subsequent analysis, on each individual test conducted and describes the type of data to be collected. The type of test data collected meets the Federal I/M regulation requirements and is approvable. The submittal also commits to gather and report the results of the quality control checks required under 40 CFR 51.359 and is approvable.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the states and EPA. The Federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports will be submitted quarterly.

The North Carolina I/M program provides for the analysis and reporting of data for the testing program, quality assurance program, quality control program and the enforcement program. The type of data to be analyzed and reported meets the Federal I/M regulation requirements and is approvable. North Carolina commits to submit quarterly reports on these programs to EPA. This section is approvable.

Inspector Training and Licensing or Certification—40 CFR 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections. The North Carolina I/M regulation requires all inspectors to receive formal training, be certified, and renew the certification every four years. The inspector must attend a training course and pass an examination with at least a score of 80%. The SIP meets the Federal I/M regulation requirements for inspector training and certification and is approvable.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include a public information and consumer protection program. NCDMV will operate a toll free number which provides information concerning the I/M program, and warranty information. This number must be posted in all testing stations and visible to the customer. Also, NCDEM and NCDMV developed a brochure that contains general program information, car care tips and information concerning

emissions warranty. The public information and consumer protection programs contained in the SIP submittal meet the Federal regulations and are approvable.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and a description of the repair technician training resources available in the community.

The North Carolina I/M program provides for a mechanics "help line" regarding vehicle repair. The "help line" is intended to provide service in three areas: providing emissions repair technical assistance, assist in locating replacement parts for emissions devices, and to answer questions related to the legality of engine-switching and changes to exhaust system configurations. Also, various technical colleges in the State offer emission controls training. The repair effectiveness program described in the SIP meets the Federal regulation and is approvable.

Compliance with Recall Notices—40 CFR 51.370

The Federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in an emission related recall receive the required repairs prior to completing the emission test or renewing the vehicle registration.

The North Carolina's nonattainment areas are classified as moderate and therefore not subject to this provision.

On-road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the Federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

Even though North Carolina's nonattainment areas are classified as

moderate and therefore not subject to this provision, NCDEM has purchased a RSD and will conduct surveys with it.

State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372-373

The Federal regulation requires decentralized basic I/M programs to be fully implemented by January 1, 1994. The North Carolina I/M program has been in operation since 1983 as a carbon monoxide program. Starting in 1991, the I/M program started failing vehicles for the hydrocarbon standard. The changes required by the CAA as amended in 1990 were phased in the I/M program areas between 1991-1993. The SIP meets the SIP submission and implementation deadline requirements set forth in the Federal I/M regulation.

EPA's review of the material indicates that the State has adopted a basic I/M program in accordance with the requirements of the Act. EPA is approving the North Carolina SIP revision for all basic I/M programs in North Carolina, which were submitted on August 5, 1994, July 19, 1993, January 17, 1992, and September 24, 1992.

Final Action

The EPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse public comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on August 1, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be discussed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period for this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 1, 1995.

EPA is approving this revision to the North Carolina SIP for a basic I/M program. The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The

Agency has determined that this action conforms with those requirements.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 1, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, or tribal governments in the aggregate.

EPA's final action does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act, upon the State. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments, or upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. For these reasons, EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and Recordkeeping requirements.

Dated: May 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 S—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(80) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(80) Modifications to the existing basic I/M program in North Carolina submitted on July 19, 1993, January 17, 1992, and September 24, 1992. Addition of regulations .1001 through .1005 establishes the I/M program.

(i) Incorporation by reference.

(A) Regulation .1001 and .1003, effective on December 1, 1982.

(B) Regulation .1002 effective on July 1, 1994.

(C) Regulation .1004 effective on July 1, 1993.

(D) Regulation .1005 effective on April 1, 1991.

(E) Specification for the North Carolina Analyzer System adopted December 12, 1991.

(ii) Other material. None.

[FR Doc. 95-13462 Filed 6-1-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WA22-1-6362; FRL-5214-2]

Approval and Promulgation of State Implementation Plans: Washington Approval of Section 112(l) Authority; Operating Permits; Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving in part and disapproving in part, numerous revisions to the State of Washington Implementation Plan submitted to EPA by the Director of the Washington Department of Ecology (WDOE) on March 8, 1994. The revisions were submitted in accordance with the requirements of section 110 and part D of the Clean Air Act (hereinafter the Act). EPA is taking no action on a number of provisions which are unrelated to the purposes of the implementation plan. EPA is also approving certain WDOE rules under the authority of section 112(l) of the Act in order to recognize conditions and limitations established pursuant to these rules as Federally enforceable.

EFFECTIVE DATE: This action will be effective on June 2, 1995.

ADDRESSES: Copies of the State's request and other information supporting today's action are available for inspection during normal business hours at the following locations: EPA, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington, Department of Ecology, 4550 Third Avenue SE, Lacey, Washington 98504

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460, as well as the above addresses.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Permit Programs

Manager, EPA, Air & Radiation Branch (AT-082), Seattle, Washington 98101, (206) 553-4253.

SUPPLEMENTARY INFORMATION:

I. Background

The Washington Department of Ecology (WDOE) amended its Part D NSR rules on August 20, 1993 and submitted them to EPA on March 8, 1994 as a revision to the Washington SIP. The WDOE also amended several other provisions of its current rules for air pollution sources and submitted them to EPA on March 8, 1994 as a revision to the Washington SIP. On September 29, 1994, the Director of the WDOE submitted an official application to obtain approval for Title V permitting authorities (with the exception of the Puget Sound Air Pollution Control Agency (PSAPCA) and the Southwest Air Pollution Control Agency (SWAPCA)) in the State of Washington to implement and enforce the statewide rules for "Controls for New Sources of Toxic Air Pollutants" (WAC 173-460) as an interim program to implement section 112(g) of the Act. The Director of the WDOE also submitted an official application on behalf of the PSAPCA and SWAPCA to obtain approval for those local agencies to implement and enforce their own rules (portions of PSAPCA Regulations I and III and SWAPCA Regulation 460) for new sources of toxic air pollutants as interim programs to implement section 112(g) of the Act.

On February 22, 1995 (60 FR 9802), EPA proposed to approve in part and disapprove in part, numerous revisions to the State of Washington Implementation Plan. EPA proposed to take no action on a number of provisions which are unrelated to the purposes of the implementation plan. EPA also proposed to approve certain WDOE rules, and certain rules of the Puget Sound Air Pollution Control Agency (PSAPCA) and Southwest Air Pollution Control Authority (SWAPCA), under the authority of section 112(l) of the Act, in order to recognize conditions and limitations established pursuant to these rules as Federally enforceable.

On May 8, 1995, WDOE officially withdrew its request for approval of the State and local agency rules submitted September 29, 1994 as an interim program for implementing section 112(g) of the Act. WDOE also withdrew two provisions of WAC 173-400 which were included in its March 8, 1994 SIP submittal.