ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–33–1–7191; FRL–5837–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing a conditional approval of an I/M program proposed by the State, based upon the revision complying with the Clean Air Act (the Act). This action is taken under section 110 of the Act. The EPA is proposing a conditional approval because the State's SIP revision is lacking legislative authority needed for continuous implementation of the program.

If the State corrects this deficiency, then the State's I/M submittal will be fully approved into the SIP. If the condition is not met within one year, EPA proposes to disapprove the SIP revision. The EPA will notify the State by letter that the condition has not been met and that the conditional approval has converted to a disapproval. Furthermore, EPA is proposing that the State's program must start no later than January 1, 1999, in the I/M program area.

DATES: Comments must be received on or before July 9, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Compliance Division, 7290 Bluebonnet, 2nd Floor, Baton Rouge, Louisiana.

Louisiana Department of Environmental Quality Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana.

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

I. Background

On November 15, 1993, and in several later submittals, the State of Louisiana submitted plans for an I/M program in response to the requirements of the Act and Federal I/M rules promulgated on November 5, 1992. The Region made a determination that the plan was incomplete and issued a finding letter on February 22, 1994. This started both the sanction and Federal Implementation Plan clocks. The State worked toward correcting deficiencies in their submittal. On August 22, 1995, the State submitted a revised plan. The Region determined the plan to be administratively complete, thereby stopping the sanction clock. Several approvability issues (some legislative) remained to be resolved before the plan could be approved by the EPA. The Region worked with the Louisiana Department of Environmental Quality (LDEQ) to identify acceptable approaches on all approvability issues. At the same time, various states desired greater flexibility in implementing their I/M programs. In response to this desire, on September 18, 1995, EPA revised and finalized I/M rules which gave states much greater flexibility in implementing their I/M programs. One element of the I/M flexibility amendments included a provision for a new low enhanced performance standard which would allow for less stringent I/M programs if other required air quality goals were met. In response to the I/M flexibility rules and meetings with EPA, the State submitted its revisions to the SIP on May 30, 1996.

The Louisiana SIP revision was not submitted under the National Highway Systems Designation Act of 1995, nor are SIP credits taken for the I/M plan in the 15% Rate-of-Reduction Plan. The May 30, 1996, submittal addressed many of EPA's concerns, with the exception of the legislative constraints in the Louisiana I/M legal authority, which hindered expeditious implementation. The deficiency in the plan is a provision which requires the Louisiana Legislature to reauthorize the plan in 1997 and every other year thereafter, based on a determination whether the plan should proceed or continue with implementation. The EPA is proposing approval of the plan allowing the January 1, 1999, start date for reasons which are explained later in this action.

Furthermore, EPA believes that in taking action under section 110 of the Act, it is appropriate to propose granting a conditional approval to this submittal since there is a deficiency with respect to the Act's statutory and regulatory requirements (identified herein) that EPA believes can be corrected by the State during the following 12 months.

II. EPA's Analysis of Louisiana's Submittal

Louisiana submitted its revised I/M program to EPA Region 6 on August 18, 1995. It contained a SIP narrative, proposed emergency I/M Rules, and several appendices addressing the requirements of the I/M program. Another revision to the I/M SIP was received in the Region 6 office on December 27, 1995; it included finalized rules and responses to comments collected during the State's public comment period. A third revision with additional modeling and LDEQ's resolution responses to EPA's approvability issues was received on May 30, 1996. The submittals were intended to fulfill the requirements of the Act for the ozone nonattainment area of Louisiana which is required to implement an I/M program.

As outlined in the SIP revision of May 30, 1996, the additional program elements that the State intends to support include: (1) The LDEQ completing and signing a Memorandum of Understanding with the Department of Public Safety prior to the program implementation date to establish the details concerning responsibilities of both agencies in the administration of the vehicle I/M program, (2) the LDEQ performing mass emission testing on .1 percent of the vehicles in the program in accordance with CFR 51.353(c)(3), (3) the LDEQ revising the I/M rule (LAC 33:III.1917) prior to program start-up to allow for a minimum expenditure of $450 (with a CPI escalator) before a waiver may be obtained, and (4) the LDEQ providing a hot line service through its currently operating toll free number to assist repair technicians and answer questions regarding the program. The other comments and questions stated in our letter reflected a comparison of the revised Louisiana I/M SIP with the Federal I/M rules.

The EPA reviewed the State's submittal against the requirements contained in the Act and Federal I/M rules (40 CFR part 51, subpart S). The EPA also reviewed the State responses to comments which were in large part satisfactory to EPA. The major deficiency of continuing legislative authority outlined in this document can be corrected in the 1997 Louisiana legislative session. This deficiency is the current need for program reauthorization in odd-numbered years

starting with 1997. The State must correct this major deficiency within 12 months after the date of approval of the plan revision or this approval will automatically convert to a disapproval under the Act section 110(k)(4). The State must correct this deficiency during the 1997 Legislative Session to support full approval of its I/M SIP.

The following analysis addresses how the State intends to fulfill the requirements of the Federal I/M rules. This analysis assumes the State corrects the deficiency stated above. A more detailed analysis of the State submittals and a copy of EPA's comments on the plan are included in the Technical Support Document for this action and may be obtained from the EPA Region 6 office. A summary of the EPA's findings follows.

Section 51.350 Applicability

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

The Louisiana regulations specify that an I/M program will be implemented in the Baton Rouge ozone nonattainment area. A low enhanced I/M program will be implemented in Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge Parishes. The State meets the applicability requirements for a conditional approval.

Section 51.351–2 Low Enhanced I/M Performance Standard

The I/M program provided for in the SIP is required to meet a performance standard, either basic or enhanced as applicable. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met. Equivalency of emission levels needed to achieve the I/M program design in the SIP to those of the model program described in this section must be demonstrated using the most current version of EPA's mobile source emission model, or an alternative approved by the Administrator.

The approved 15% Rate-of-Progress Plan for this area can be met without an I/M program (published Tuesday, October 22, 1996, at 61 FR 54747). The State has submitted a modeling demonstration using the EPA computer model MOBILE5a showing that the low enhanced performance standard can be met in the Baton Rouge area. In order to meet the low enhanced standard, Louisiana included a complementary remote-sensing program for inspecting off-cycle vehicles. Projections of oxides of nitrogen (NO_x) emissions were not included in anticipation of EPA approval of NO_x waivers for Baton Rouge, which were approved on January 26, 1996 and February 27, 1996. Vehicles 25 years and older, and vehicles four years old and newer, will not be required to participate in the I/M program. The State is modeling with a test and repair program which assumes a 50 percent credit for network credits. The State meets the requirement for a low enhanced I/M performance standards for conditional approval.

Section 51.353 Network Type and Program Evaluation

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

The State will be implementing a decentralized test and repair program. The program includes an on-going evaluation process with results reported to EPA on a biennial basis in July, starting two years after the initial start of mandatory testing. Surveys assessing effectiveness, measured rates of tampering, and results of covert audits will be reported. In addition, the SIP commits to meet the ongoing program evaluation of mass emission testing of at least .1 percent of subject vehicles and reporting the results of such evaluation on a biennial basis. Resources and personnel for the program evaluation are described in the SIP. Legal authority, which is contained in the Louisiana Administrative Code (LAC 33:III, Chapter 19, Subchapter A), authorizes the LDEQ to implement the program and conduct the program evaluation. The State meets the requirement for network type and program evaluation for conditional approval.

Section 51.354 Adequate Tools and Resources

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

Louisiana R.S. 30:2054.B(8) authorizes the program to charge an emission inspection fee and a safety/anti-tampering inspection fee. If Intermodal Surface Transportation Efficiency Act funds are available, the emission fee will be $10. If not, the fee will be $20 biennially. The safety/anti-tampering fee will be $5. The SIP narrative also describes the budget, staffing support, and equipment needed to implement the program. The State has committed to employ and train 12 employees at the start of the program, beginning in 1999, and increase this to 15 employees in the year 2000. The State meets the requirement for adequate tools and resources for conditional approval.

Section 51.355 Test Frequency and Conveniencee

The SIP needs to describe the test schedule in detail, including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process. In addition, in enhanced I/M programs, test systems shall be designed to provide convenient service to motorists who are required to get their vehicles tested. The SIP needs to demonstrate the network of stations providing test services is sufficient to insure short waiting times to get a test and short driving distances.

The revised Louisiana I/M SIP commits to testing all designated vehicles that are between four and twenty-four years old. Inspections will be required biennially to correspond with vehicle registration. Private sales of vehicles more than two years old require vehicles to be tested before title transfer. In addition, at least 10 percent of the vehicle population will be subject to remote sensing. The program is decentralized and stations will adhere to regular inspection hours. The network of stations will consist of familiar locations where motorists

regularly receive other vehicle services. Louisiana R.S. 30:2054(B)(8) and LAC 33:III. Chapter 19. Subchapter A are the legal authority for implementation of the test frequency. The State meets the requirement for test frequency and convenience for conditional approval.

Section 51.356 Vehicle Coverage

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

The revised Louisiana I/M SIP includes coverage of 1968 and newer light-duty vehicles and light and heavy-duty trucks registered or required to be registered in the I/M program area, including fleets. In addition, vehicles which are operated on Federal installations, or are stationed in the I/M program area but display Federal or other political division license plates are subject to inspection. Subject vehicles will be identified through the Department of Motor Vehicle database and from lists supplied by Federal facilities identifying stationed vehicles. The State statute allows exemption from the program for motorcycles, mobile equipment, fire engines, antique vehicles, heavy trucks, electric vehicles, golf carts, off-road vehicles, and vehicles displaying apportioned license plates. An estimated 475,000 vehicles from all the required groups combined will be subject to inspection. Legal authority for vehicle coverage is contained in the Louisiana I/M rule. The State meets the requirement for vehicle coverage for conditional approval.

Section 51.357 Test Procedures and Standards

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

Vehicles tested in the program shall be subject to a two speed idle test. Idle test procedures shall meet requirements in Appendix B of the Federal I/M rule. Idle test emission standards are contained in the SIP modeling analysis and are consistent with the Federal I/M rule. In addition, the SIP states that vehicles shall receive a gas cap integrity test in accordance with EPA procedures. Test procedures and standards are established in Louisiana Air Regulations, LAC 33:III, Chapter 19, Subchapter A. The State meets the requirement for test procedures and standards for conditional approval.

Section 51.358 Test Equipment.

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

The revised Louisiana I/M SIP states that all test equipment specifications will be consistent with that described in 40 CFR part 51, subpart S. In addition, the gas cap integrity test will be in accordance with EPA equipment specifications. The State meets the requirement for test equipment for conditional approval.

Section 51.359 Quality Control

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

The revised Louisiana I/M SIP states that the quality control procedures will be conducted in accordance with the Federal I/M rule Appendix A. These requirements will help ensure that equipment calibrations are properly performed and recorded while maintaining compliance document security. Equipment manufacturers' quality control procedures, periodic maintenance schedules, and calibration procedures will be performed to ensure proper operation of the test equipment. The State meets the requirement for quality control for conditional approval.

Section 51.360 Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that committed to in the SIP, or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP needs to include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

Cost limits for the minimum expenditure waiver will be $450 adjusted annually in accordance with the Clean Air Act and Federal I/M rules. The revised Louisiana I/M program includes waiver rates of 3 percent of initially failed vehicles. These waiver rates are used in the modeling demonstration. The LDEQ commits in the SIP that if the waiver rates are higher than estimated, the State will take corrective action to address the deficiency. The SIP describes three types of waivers the State will allow. These include a minimum expenditure waiver, economic hardship waiver, and a waiver for vehicles unavailable for inspection. Vehicles unavailable for inspection are subject vehicles that are stationed outside the program area and cannot be easily returned for inspection when registration renewal is due. These vehicle owners must present proof of such stationing (military orders, school registration, or other acceptable documentation) to the administrative authority. Documentation must be presented to receive a time extension for renewal if the vehicle is stationed in an area with no I/M program. If the vehicle is stationed in an area with an I/M program, a reciprocal emissions test is required so that vehicle complies with the requirements of that area. The waiver issuance criteria and procedures used will be consistent with those required in the Federal I/M Rule. Issuing authority and the waiver criteria, including the minimum expenditure requirements, are contained in the Louisiana I/M rule. The State meets the waivers and compliance via diagnostic inspection requirement for conditional approval.

Section 51.361 Motorist Compliance Enforcement

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this

section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other subject vehicles, *e.g.*, those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism shall be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The State has chosen to enforce the I/M program with registration denial, suspension or revocation of registration, impoundment and cancellation of license plates and mandatory monetary penalties. The motorist compliance enforcement program will be handled cooperatively by the Department of Public Safety and Corrections (DPSC), local law enforcement agencies, and the LDEQ. There are no classes of on-road exempt vehicles. Fleet vehicles will be allowed to conduct self-testing provided that they meet the required equipment standards, are certified by the administrative authority, and tests are performed in accordance with established inspection procedures. Motorists operating vehicles in the I/M areas with an expired or invalid registration will be subject to penalties and/or citations by local and state law enforcement officials. The SIP anticipates a compliance rate of 96 percent through cooperation with the DPSC. The legal authority to implement and enforce the program is included in the Louisiana statutes and regulations cited in the SIP. The State meets the requirement for motorist compliance enforcement for conditional approval.

Section 51.362 Motorist Compliance Enforcement Program Oversight

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

The Louisiana I/M SIP provides for regular auditing of its enforcement efforts and for following effective management practices, including adjustments to improve the program when necessary. The program oversight and information management activities listed in the SIP narrative include procedures for I/M document handling and processing, audit procedures, procedures for dealing with motorists and inspection facilities suspected of violating program rules, an on-line telecommunication network to support the State's oversight and management requirements, and an I/M database which will be compared to the registration database to determine program effectiveness. The State meets the motorist compliance enforcement program oversight requirement for conditional approval.

Section 51.363 Quality Assurance

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

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

Section 51.364 Enforcement Against Contractors, Stations and Inspectors

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the State Attorney General needs to furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In States without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

In the revised Louisiana I/M SIP the State may assess penalties in its enforcement against stations and inspectors. A penalty schedule is included in the Louisiana I/M rule. The SIP describes the enforcement process. Quality Assurance Officers have immediate suspension authority. The legal authority for Louisiana to asses penalties is located in the Environmental Quality Act and Louisiana Air Quality Regulation, LAC 33:III, Chapter 19, Subchapter A. The authority for DPSC to deny application for license or revoke or suspend an outstanding certificate of any inspection station or the certificate of any person to inspect vehicles is found in the same citations. The State meets the requirement for enforcement against contractors, stations and inspectors for conditional approval.

Section 51.365–6 Data Collection, Analysis and Reporting

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

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

Section 51.367 Inspector Training and Licensing or Certification

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

The revised Louisiana I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. The SIP describes this program including hands-on testing. Inspector licenses or certificates will expire two years after issuance. All inspectors must be certified to inspect vehicles in the Louisiana I/M program. The State meets the inspector training and licensing or certification requirement for conditional approval.

Section 51.368 Public Information and Consumer Protection

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

The revised Louisiana I/M SIP commits to the establishment of an ongoing public awareness plan addressing the significance of the air quality problem, the requirements of Federal and state law, the role of motor vehicles in the air quality problem, the needs for and benefits of an inspection program, the ways to maintain a vehicle in low-emission condition , how to find a qualified repair technician, and the requirements of the I/M program. The SIP states that motorists will be offered general repair information including a list of repair facilities, information on the results of the repairs by repair facilities in the area, diagnostic information and warranty information. The SIP also describes consumer protection provisions which include challenge/referee facilities, oversight of the program through the use of audits, and whistle blower protection. The State meets the public information and consumer protection requirement for conditional approval.

Section 51.369 Improving Repair Effectiveness

The SIP needs to include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of the Federal I/M rule, and a description of the repair technician training resources available in the community.

The revised Louisiana I/M SIP includes a description of the technical assistance plan, repair industry performance monitoring plan, repair technician training assessment, and recognized repair technician requirements. The State will regularly inform repair facilities regarding changes to the inspection program, training course schedules, common problems and potential solutions for particular engine families, diagnostic tips, repair, and other technical assistance issues. The LDEQ will also provide a toll-free technical assistance hotline to assist repair technicians and answer questions from the public. Repair facility performance monitoring statistics will be available to motorists whose vehicles fail the I/M test. The State will also ensure that adequate repair technician training resources are available to the repair community. The State meets the requirement for improving repair effectiveness for conditional approval.

Section 51.370 Compliance With Recall Notices

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

The revised Louisiana I/M SIP commits to cooperating with the EPA in assisting motorists with vehicle recall issues. Additional rulemaking by EPA is needed before the State will be able to implement this provision. The State meets the requirement for compliance with recall notices for conditional approval.

Section 51.371 On-Road Testing

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

The revised Louisiana I/M SIP includes a description of its on-road testing program. The State is planning to use remote sensing as a complement to their two speed idle test. The State has committed to cover 0.5 percent of the EPA required subject vehicles. The legal authority to conduct and enforce on-road testing is in La. R.S.30:2054(B)(8). On-road testing emission reduction credits are being used to meet the performance standard. The State meets the on-road testing requirement for conditional approval.

Section 51.372 State Implementation Plan Submissions

Under section 51.372(a)(6) of the Federal I/M rule, the SIP submittal should include legal authority for I/M program operation until such time as it is no longer necessary. Legal authority in the revised Louisiana SIP is limited to reauthorization by the State Legislature in odd-numbered years starting in 1997. The EPA considers this a major deficiency in the SIP. A change in this legal authorization will be necessary before this I/M SIP becomes fully approvable.

The revised Louisiana I/M SIP commits to revising the I/M SIP as new regulations are promulgated, including the provision for revision as onboard diagnostic checks become available. In addition, the SIP commits to having all agreements with the DPSC in place prior to start up, and to have instituted other changes as were previously stated. The only issue left unresolved is adequate funding through authorization by the legislature. The issue of adequate funding does not prevent the State from meeting the requirement for state implementation plan submissions in this conditional approval.

Section 51.373 Implementation Deadlines

The original Federal I/M rule had a January 1995 start date requirement, as well as subsequent start dates for special circumstances. In response to states' requests for greater flexibility in implementing I/M programs the National Highway System Designation Act specified a start date of November 15, 1997. Then in a narrower application, a January 1, 1999, start date was designated as a result of providing greater flexibility in Ozone Transport Regions (OTR) (61 FR 39034, July 25, 1996). The OTRs would normally be exempt from I/M program requirements except for their location within the OTR. The January 1, 1999, start date allows the affected areas to meet the performance standard by the Act's attainment and reasonable further progress deadlines, including the end of 1999 for serious ozone nonattainment areas. The EPA received no public comment regarding the 1999 start date in that document. In a somewhat similar situation, the Baton Rouge serious ozone nonattainment area does not need an I/M program to achieve its 15% Rate-of-

Progress Plan requirements and reasonable further progress requirements except that section 110 of the Act requires that serious ozone nonattainment areas implement I/M programs. Program credits are used only to demonstrate the performance standard. In addition the mobile source portion of the Baton Rouge area's emissions inventory is less than 20 percent.

The revised Louisiana I/M SIP commits to implementing all requirements related to the I/M program by January 1, 1999, or as soon as practicable thereafter. A January 1999 start date allows the Louisiana program to meet the low-enhanced performance standard evaluation date of January 1, 2000, as required in § 51.351(h)(11). The State meets the implementation deadlines requirement for conditional approval.

III. Discussion for Rulemaking Action

A. Concluding Statement of Conditional Approval

The EPA's review of this material indicates that it meets the minimum requirements of the Act and Federal I/M rules with the exceptions of the deficiency explained in this proposal. Based upon the discussion contained in the previous analysis sections and technical support document, EPA concludes the State's submittal represents an acceptable approach to the I/M requirements and meets the requirements for conditional approval. Therefore, EPA is proposing a conditional approval of the Louisiana I/M SIP revision which was submitted on August 18, 1995, December 27, 1995, and May 30, 1996. The EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

B. Explanation of the Approval

At the end of the 12-month period, the approval status for this program will automatically convert to a disapproval pursuant to section 110(k) of the Act, unless continuous I/M program funding is authorized by the State legislature. The EPA expects that this program will start by January 1, 1999. If the State fails to start the program by January 1, 1999, EPA will be forced to make a finding of nonimplementation of the State's SIP. In addition, a final Memorandum of Understanding with the DPSC needs to be submitted to EPA prior to the January 1, 1999, start date. If this memorandum is not submitted within one year of this approval, EPA will consider this nonimplementation as well.

IV. Proposed Action

The EPA is proposing to grant conditional approval of the State's submission contingent upon the State obtaining all of the additional authority needed to implement the program outlined in the revised SIP. The EPA proposes that if the State fails to obtain the needed additional legal authority, the approval will convert to a disapproval after a letter is sent notifying the State of the conversion to disapproval.

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

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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. *See* 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.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the Act 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the conditional approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental

relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 30, 1997.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 97–14984 Filed 6–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA 13–6–6121; WA 55–7130; and WA 57–7132; FRL–5837–2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA invites public comment on its proposed approval of parts of three revisions to the State of Washington Implementation Plan (SIP). These revisions were submitted by the Washington Department of Ecology (Washington) to address the attainment of the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO) in the Spokane, Washington urbanized area.

DATES: Comments must be received in writing and postmarked on or before July 9, 1997.

ADDRESSES: Written comments should be addressed to Montel Livingston, SIP Manager, Office of Air Quality, M/S OAQ–107, EPA Region 10, Docket #s WA 13–6–6121; WA 57–7132; and WA 55–7130, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of Washington's submittals are available for public review during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, M/S OAQ–107, 1200 Sixth Avenue, Seattle, Washington 98101; Washington Department of Ecology, Attention: Tami Dahlgren, Olympia, Washington 98504–7600, telephone (360) 407–6830; and the Spokane County Air Pollution Control Authority, West 1101 College, Suite 403, Spokane, Washington 99201, telephone (509) 456–4727.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth of the EPA Region 10 Office of Air Quality at (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 1993, Washington submitted a SIP revision (Docket # WA 13–6–6121) consisting of a plan for the attainment and subsequent maintenance of the CO NAAQS for the Spokane area. This included a demonstration of attainment of the CO NAAQS and provisions for forecasting and tracking vehicle miles traveled (VMT) in the Spokane area, with contingency measures to be implemented if any estimate of actual VMT in the nonattainment area, or any updated forecast of VMT contained in an annual report for any year prior to attainment, exceeds the number predicted in the most recent VMT forecast. Also included were provisions which have been superseded by subsequent SIP revisions: Reasonably Available Control Measures for residential wood combustion; Reasonably Available Control Technology for point sources; New Source Review; Vehicle Emission Inspection and Maintenance Program; oxygenated fuels; and transportation conformity. On September 14, 1993, Washington submitted a revision to the January 22, 1993, SIP submittal consisting of the 1990 base year emissions inventory and the 1995 projected year emissions inventory. Washington also submitted, on September 29, 1995, a 1993 updated (periodic) emissions inventory for the Spokane area, to meet the requirement of section 187(a)(5) of the CAA for periodic inventories.

On April 30, 1996, Washington submitted a SIP revision (Docket # WA 57–7132) consisting of revisions to the previously submitted vehicle emission estimates portion of the 1990 base year emissions inventory and of the 1995 projected year inventory; the emissions budget; VMT estimates and forecasts; and the attainment demonstration. This revision also added a contingency measure (3.5% oxygenated fuel) for failure to attain the NAAQS.

On April 30, 1996, Washington also submitted a SIP revision (Docket # WA 55–7130) consisting of the removal of two transportation control measures (TCMs) which had previously been approved by EPA on March 22, 1982, as part of the 1982 Spokane CO SIP.

The implementation plan revisions were submitted by Washington to satisfy certain federal requirements for an approvable nonattainment area CO SIP for the Spokane nonattainment area in the State of Washington. EPA is proposing to approve parts of the submitted revisions and deferring action on several other parts of those revisions. Other parts are not being addressed in this action because they have been superseded by subsequent revisions and were or will be addressed in separate actions. The rationales for the approvals and deferrals of action are set forth in this notice. Additional information is available at the address indicated above.

II. Review of State Submittal

A. Emissions Inventories (Base Year and Periodic)

Under section 187(a)(1) of the CAA, for moderate CO nonattainment areas, states are required to submit a base year CO inventory that represents actual emissions in the CO season by November 15, 1992. Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The base year for the inventory is 1990. Stationary point, stationary area, on-road mobile, and non-road mobile sources of CO are included in the inventory. This inventory addresses actual CO emissions for the area during the peak CO season, which reflects the months when peak CO air quality concentrations occur. In Spokane, the peak CO season is October through December. All required sources were included in the inventory. Stationary sources with emissions of 50 tons or greater per year were included in the point source category. Stationary sources with emissions less than 50 tons per year were included in the area source category. The following list presents a summary of the 1990 CO peak season daily emissions estimates in tons per winter day by source category: *Point Sources:* 76.98 tons per day; *Area Sources:* 58.69 tons per day; *Mobile On-Road Sources:* 271.54 tons per day; *Mobile Non-Road Sources:* 16.18 tons per day; *Total Sources:* 423.39 tons per day. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Washington also submitted a 1995 Projected Year Emission Inventory. This inventory incorporates growth factors for population, households, and employments. For one of the point sources, the 1995 inventory used the 1990 emission figure, although a decrease in emissions had been estimated for 1995. For another of the point sources, emissions from 1991 were used, adjusted to 1995 using Bureau of Economic Analysis industry growth rates. For residential wood combustion, a household growth factor