

on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

**3. National Environmental Policy Act**

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

**4. Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

**5. Regulatory Flexibility Act**

The Department of the Interior has determined that this rule will not have a significant economic impact on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribe or State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe or State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

**6. Unfunded Mandates Reform Act**

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or private sector.

**List of Subjects in 30 CFR Part 944**

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 9, 1999.

**Russell F. Price,**

*Acting Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 944—UTAH**

1. The authority citation for Part 944 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 944.25 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 944.25 Approval of Utah abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
August 2, 1995	February 22, 1999	Utah Admin. R. 643–870–500; 643–874–100 and –110; 643–874–124 through –128; 643–874–130 through –132; 643–874–140 through –144; 643–874–150; 643–874–160; 643–875–120 through –200; 643–877–141; 643–879–141; 643–879–152.200, –153, and –154; 643–882–132; 643–884–150; and 643–886–232.240.

[FR Doc. 99–4242 Filed 2–19–99; 8:45 am]  
BILLING CODE 4310–05–M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**  
[IL175–1a; FRL–6232–7]

**Approval and Promulgation of Air Quality Implementation Plans; Illinois: Motor Vehicle Inspection and Maintenance**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the remaining portions of a vehicle inspection and maintenance (I/M) State Implementation Plan (SIP) revision submitted by the State of Illinois on June 29, 1995, which were conditionally approved by EPA on June 25, 1996. The final approval of the conditionally approved portions of the plan is based on the State's June 21, 1997, and December 9, 1998, submittals of additional documentation addressing

the requirements of EPA's conditional approval. This revision provides for the adoption and implementation of an enhanced I/M program in both the Chicago severe ozone nonattainment area and the East St. Louis moderate ozone nonattainment area.

**DATES:** This rule is effective on April 23, 1999, unless EPA receives adverse written comments by March 24, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comment should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State submittal are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Environmental Protection Specialist at (312) 886–6061.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO), and nitrogen oxide (NO<sub>x</sub>) emissions. The motor vehicle inspection and maintenance program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of nitrogen oxides (NO<sub>x</sub>) and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections

indicate that the steady growth in vehicle miles will continue.

Under the Clean Air Act (the Act), the EPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact the environment. This document deals with the third element of the strategy, vehicle inspection and maintenance, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by EPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The EPA projects that sophisticated I/M programs such as the one being approved in this rulemaking for Illinois will identify emission related problems and prompt the vehicle owner to obtain timely repairs thus reducing emissions. The Act requires that polluted cities adopt either a "basic" or "enhanced" I/M program, depending on the severity of the pollution and the population of the area. Moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs in Census-defined urbanized areas, fall under the "basic" I/M requirements. Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" I/M program covers more vehicles in operation in the fleet, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The Act directed EPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the performance standard. Naturally, the more effective the program the more

credit a State will get toward the emission reduction requirement. An effective program will help to offset emissions associated with growth in vehicle use and allow for industrial and/or commercial growth.

The EPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs for polluted areas. There are three major keys to an effective program:

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

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

On November 5, 1992 (57 FR 52950), EPA established a high-tech emission test for high-tech cars. This I/M test, known as the IM240 test, is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. The addition of the evaporative test increases the benefit even more and results in lower testing costs. In addition, EPA published changes to the I/M rule in the **Federal Register** on October 18, 1995, (60 FR 48029) in order to provide greater flexibility to States required to implement I/M programs.

## II. Background

The State of Illinois currently contains two ozone nonattainment areas which are required to implement I/M programs in accordance with the Act. The Chicago severe-17 ozone nonattainment area contains the Chicago, Aurora, Crystal Lake, Elgin, Joliet, and Round Lake Beach-McHenry urbanized areas. The Federal I/M rule

requires the Chicago urbanized area to implement an enhanced I/M program. Since the I/M rule does not require enhanced I/M programs in severe urbanized areas with a Census population of less than 200,000, the remaining five cities in the Chicago nonattainment area were required to implement only a basic I/M program based on their 1990 Census-defined urbanized area populations. The East St. Louis moderate ozone nonattainment area (Metro-East) contains the Illinois portion of the St. Louis and Alton urbanized areas. Both areas were required to implement a Basic I/M program in the nonattainment area. On June 29, 1995, the Illinois Environmental Protection Agency (IEPA) submitted to EPA a SIP revision for the implementation of an enhanced I/M program to cover both the Chicago and the East St. Louis nonattainment areas. This submittal includes the Vehicle Emissions Inspection Law of 1995 (625 ILCS 5/13B) ("Inspection Law"), which became effective January 18, 1994. That statute provides authority for IEPA to implement an enhanced I/M program and meet EPA's requirements for such a program. The Inspection Law mandates enhanced I/M testing for the Metro-East and the Chicago ozone nonattainment areas. The Illinois Pollution Control Board (Board) is required by the Inspection Law to adopt the necessary vehicle emissions standards, and IEPA is required to adopt equipment requirements and all necessary procedures for the enhanced I/M testing program. The standards were required to be adopted as amendments to 35 Illinois Administrative Code 240 (Part 240), and the procedures adopted as amendments to 35 Illinois Administrative Code 276 (Part 276). The Illinois submittal of June 21, 1997 included two separate amendments to the Board I/M standards contained in Part 240 (Board docket numbers R94-19 and R94-20) effective on December 14, 1994 and December 12, 1994, respectively (18 Ill. Reg. 18228 (December 30, 1994), and 18 Ill. Reg. 18013 (December 23, 1994)). These amendments include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. For the Enhanced I/M Program, the IEPA adopted an initial set of amendments to Agency procedures contained in Part 276 and they became effective on June 14, 1996 (20 Ill. Reg. 8456). On April 22, 1996, IEPA submitted the State's Enhanced I/M Request-For-Proposal as part of the Illinois SIP submittal.

In a proposed rule published in the **Federal Register** on May 10, 1996 (61 FR 21405), EPA proposed to approve portions of the Illinois enhanced I/M submittal and to conditionally approve other portions. The public comment period for the May 10, 1996, notice of proposed rulemaking closed on June 10, 1996, and no comments were received. EPA published a final rule approving portions of the Illinois enhanced I/M submittal and conditionally approving other portions of the plan on July 25, 1996.

On June 21, 1997, the IEPA submitted the final enhanced I/M contract and supplemental information in support of the SIP as required by EPA's July 25, 1996 conditional approval of the Illinois plan. On December 9, 1998, the IEPA submitted recently adopted amendments to Part 240 ((22 Ill. Reg. 13723), effective July 13, 1998, and 22 Ill. Reg. 21120, effective July 13, 1998), and Part 276 ((22 Ill. Reg. 18867) effective September 28, 1998) as the final required elements in support of the SIP revision. The adopted Board and IEPA agency regulations and the legislation submitted by Illinois, change the existing program from a basic I/M program to a fully enhanced I/M program in both of Illinois' ozone nonattainment areas.

### III. EPA's Analysis of Illinois' Enhanced I/M Program

As discussed above, section 182 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 for those areas that were conditionally approved by EPA on July 25, 1996 and address whether the elements of the State's submittal comply with the Federal rule.

#### *Network Type and Program Evaluation* 40 CFR 51.353

Enhanced I/M programs shall be operated in a centralized test-only format, unless the State can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard. The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirements of the Act and the Federal I/M regulations. The SIP shall include details on the program evaluation and a schedule for submittal of biennial evaluation reports, data from a State monitored or administered mass emission test of at least 0.1 percent of

the vehicles subject to inspection each year, description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

The State legislative authority and the State I/M regulations provide for a centralized, test-only network. Illinois' centralized, test only network type is approvable. The submittal includes provisions for on-going program evaluation to satisfy the requirements of 40 CFR 51.353. Specifically, the State's submittal includes a schedule for program evaluations and methodologies by which this biennial program evaluation will be carried out, as required by 40 CFR 51.353. In addition, the State has committed to submit to EPA biennial program evaluation reports meeting the requirements of 40 CFR 51.353 starting at the end of the program's first biennial cycle in July 2001. EPA is approving this section of the Illinois enhanced I/M SIP.

#### *Vehicle Coverage* 40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and newer model year light duty vehicles and light duty trucks 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. Vehicles registered or required to be registered within the I/M program area boundaries, and fleets primarily operated within the I/M program area boundaries belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside the normal I/M program test facilities, if such alternatives are approved by IEPA, 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).

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 Illinois Vehicle Inspection Law of 1995 requires coverage of all 1968 and newer vehicles registered or required to be registered in the I/M program area, except those vehicles which run on diesel or exclusively by electricity. The modeling demonstration submitted with the SIP includes vehicle coverage of light-duty gasoline vehicles (LDGV), light-duty gasoline trucks 1 (LDGT1), and light-duty gasoline trucks 2 (LDGT2). The Illinois legislation provides the legal authority to implement and enforce the vehicle coverage. This level of coverage is approvable because it provides the necessary emission reductions. The State's June 21, 1997, SIP submittal adequately addresses fleet testing requirements. The State described the extent of the exemption's impact, in accordance with 40 CFR 51.356 and therefore EPA is approving this section of the State submittal.

#### *Test Procedures and Standards* 40 CFR 51.357

Written test procedures and pass/fail standards are required to be established and followed for each model year and vehicle type included in the program. Federal test procedures and standards are found in 40 CFR 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Equipment Standards, Quality Control Requirements, and Equipment Specifications", EPA-AA-EPSPD-IM-93-1, finalized in April, 1994 and revised June 1996 and March 1998. 625 ILCS 5/13B provides the State the authority to establish test procedures according to the needs of the program. The Illinois submittal includes I/M regulations adopted by the Board ((R94-19, and R94-20, and R98-24) effective December 14, 1994, December 12, 1994, and July 13, 1998, respectively), which include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. In 1996, Illinois EPA adopted some administrative rules to implement many aspects of the Enhanced I/M program, and these became effective on June 14, 1996 (amendments to 35 Illinois Administrative Code 276 (20 Ill. Reg. 8456) ("Part 276")). IEPA adopted the remaining necessary amendments to these rules this fall, and they have an effectiveness date of September 28, 1998 (22 Ill. Reg. 18867). Therefore, EPA is approving this section of the SIP based on IEPA's submittal of December 9, 1998 of the adopted and effective amendments to the Part 240 Board rules, and the Part 276 IEPA rules.

*Test Equipment 40 CFR 51.358*

The Federal regulation requires computerized test systems for performing any measurement on subject vehicles. The Federal I/M regulations require that the State SIP submittal 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.

625 ILCS 5/13B provides the general authority for the State to establish the designation of official test equipment and testing procedures. The Illinois submittal also includes I/M regulations which include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. IEPA has addressed the requirements of this section in Chapter 4 (Technical Requirements) and Chapter 5 (Administrative Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal. EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed contract addressing the requirements of 40 CFR 51.358.

*Quality Control 40 CFR 51.359*

Quality control measures shall ensure that emission measurement equipment are calibrated and maintained properly, and that inspection, calibration records and control charts are accurately created, recorded and maintained. The Illinois submittal contains general legal authority in 625 ILCS 5/13B which requires IEPA to establish an enhanced program containing procedures to assure the correct operation, maintenance and calibration of test equipment, and also procedures for certifying test results and for reporting and maintaining relevant data and records. EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed contract addressing the quality control requirements of 40 CFR 51.359 in Chapter 4 (Technical Requirements) and Chapter 5 (Administrative Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal.

*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 legal authority for the implementation of an I/M program is found in 625 ILCS 5/13B. This statute provides the authority necessary to develop and implement the enforcement program oversight element of the I/M program. The Office of the Secretary of State (SOS) will continue to enforce the Vehicle Emission Inspection Law of 1995, which requires SOS to "suspend either the driving privileges or the vehicle registration or both, of any vehicle owner who has not complied with this chapter" (625 ILCS 5/13B-55). EPA is approving this portion of the State's plan based on the State's June 21, 1997, submittal of the final signed I/M contract addressing the requirements of 40 CFR 51.362.

*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. The Illinois submittal contains a general provision under 625 ILCS 5/13B which requires that the State I/M program provide for procedures to assure the correct operation, maintenance, and calibration of test equipment. Illinois will continue to implement its ongoing quality assurance program to discover, correct and prevent fraud, waste and abuse in the enhanced I/M program. The program will include both covert and overt performance audits of the inspectors, audits of the stations and inspection records, equipment audits, and formal training of all state I/M enforcement officials and auditors. Chapter 4 (Technical Requirements) and Chapter 5 (Administrative Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal contain numerous provisions which will enable IEPA to continue this program. EPA is approving this portion of the State's plan based on IEPA's June 21, 1997, submittal of the final signed I/M contract addressing the requirements of this section.

*Enforcement Against Contractors, Stations and Inspectors 40 CFR 51.364*

Enforcement against licensed stations or contractors and inspectors shall

include swift, sure, 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 should 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. The Illinois submittal includes the legal authority to establish and impose penalties against station, contractors, and inspectors. In addition, Chapter 6 (Implementation) of the enhanced I/M RFP and the contractor's Technical Proposal contain detailed provisions addressing the requirements of this section, including specific monetary penalties established for violation of program rules and procedures. EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed I/M contract addressing such requirements.

*Data Collection 40 CFR 51.365*

In order to manage, evaluate, and enforce the program requirements, an effective I/M program requires accurate data collection. 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. The Illinois submittal contains a general provision under 625 ILCS 5/13B which requires that the State I/M program provide for procedures for certifying test results and for reporting and maintaining relevant data and records. In addition, Chapter 4 (Technical Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal requires that the contractor submit to IEPA, on a monthly basis, a file containing detailed data for each vehicle test transaction conducted. The data collection requirements specified in the final contract meet those specified in 40 CFR 51.365. EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed I/M contract addressing the requirements of this section.

*Data Analysis and Reporting 40 CFR 51.366*

Data analysis and reporting are required in order to monitor and evaluate the program by the State and

EPA. The Federal I/M rule requires annual reports to be submitted to EPA that provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July of each year and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA that addresses changes in the program design, regulations, legal authority, program procedures, any weaknesses in the program found during the previous two year period and how these problems will be or were corrected. Chapter 4 (Technical Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal contains the necessary provisions addressing the requirements of this section.

EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed contract addressing the data analysis and reporting requirements of 40 CFR 51.366.

*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 conduct inspections. 625 ILCS 5/13B requires all inspectors to be certified by IEPA after successfully completing a course of training and successfully passing a written test. Chapter 4 (Technical Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal requires the contractor to develop a detailed Management Plan for the implementation and operation of the contracted elements of the Illinois enhanced I/M program. The Management Plan must include as part of its elements, a description of the Personnel Training and Certification Program as described in the I/M contract. The final contract requires the Contractor to establish and operate an on-going program to train and certify contractor and IEPA personnel. EPA is approving this section of the SIP based on the State's June 21, 1997, submittal of the final signed I/M contract addressing such requirements.

*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. The submittal needs to include a public information program, which educates the public on I/M, State, and Federal regulations, air quality, the contribution

of motor vehicles to the air pollution problem, and other items as described in the Federal rule. A consumer protection program, which includes provisions for a challenge mechanism, protection of whistle blowers and assistance to motorists in obtaining warranty covered repair, also needs to be addressed. IEPA has prepared a comprehensive public information program meeting the requirements of this section. The Enhanced I/M contractor will be responsible for developing and implementing the majority of the public information program according to the Enhanced I/M contract. Chapter 5 of the Enhanced I/M Contract requires the contractor to assist IEPA to inform motorists of the need for emission testing and the benefits derived from regular maintenance of their vehicles, and cooperate in distributing public information brochures and/or leaflets to motorists in the inspection lanes. EPA is approving this section of the Illinois plan.

*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 should 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 Enhanced I/M Contract contains provisions for the contractor to develop a "Repair Industry Plan" that will be developed and coordinated with IEPA to assist the industry, especially during the beginning of the operating phase of the Enhanced I/M program. The contractor will provide direct mailings providing information on available training and certification. The contractor will also prepare and distribute to the industry, on a quarterly basis, a newsletter focusing on emissions-related repair procedures, unusual or anomalous vehicles, and other information related to diffusing beneficial repair information. The contractor has also made arrangements for the repair industry to receive key repair information from a third-party contractor for a fee. This telephone service hotline will provide a variety of repair information and will be linked to the Contractor's computer system to allow real-time access to test record

information. EPA is approving this section of the Illinois plan.

*Compliance With Recall Notices 40 CFR 51.370*

States are required to establish a method to ensure that vehicles subject to enhanced I/M and that are included in either a voluntary emissions recall as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to section 207(c) of the Act, receive the required repairs prior to completing the emission test or renewing the vehicle registration. 625 ILCS 5/13B provides the legal authority to require owners to comply with emission related recalls before completing the emission test. The Illinois RFP requires that the contractor provide and maintain as part of the data handling system a means to identify vehicles with unresolved emissions recalls based upon the data provided by EPA. At a minimum, the Contractor and IEPA will have the capability to store, retrieve, and update recall data that consists of the vehicle identification number, the number of the recall campaign, and the date that the repairs were performed. The system is to be capable of interactively updating vehicle and/or recall database records based upon information supplied by vehicle owners indicating that required repairs have been made. The system will also be capable of updating appropriate records based upon updated data provided by EPA. EPA is approving this section of the Illinois plan.

*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 percent 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. 625 ILCS 5/13B requires on-road testing through the use of remote sensing devices. The SIP submittal requires the use of RSD to test at least 0.5 percent of the subject fleet per year in the I/M program area. Chapter 4 (Technical Requirements) of the Enhanced I/M RFP and the contractor's Technical Proposal requires that the Contractor develop and maintain written on-road inspection procedures to be approved by IEPA. In addition, the Contractor is to provide and maintain as part of the system on-

road testing information containing vehicle and test results obtained from the on-road testing program. The Contractor will be responsible for evaluating all on-road emission data, including linking emissions data with vehicle database records. EPA is approving this section of the Illinois plan.

#### IV. Final Rulemaking Action

EPA is approving the sections addressed above as a revision to the Illinois SIP for an enhanced I/M program. The sections discussed in this notice were conditionally approved on July 25, 1996, and EPA is approving them based on the State's June 21, 1997, and December 9, 1998, submittal of the final signed I/M contract and additional documentation addressing the requirements of EPA's conditional approval.

The EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State Plan should adverse written comments be filed. This rule will be effective without further notice unless the Agency receives relevant adverse written comment by March 24, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. 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 April 23, 1999.

#### V. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

##### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their

concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

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

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

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a 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. EPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

##### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), 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 annual 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. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated

annual 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 pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen oxide, Ozone, Volatile organic compounds.

Dated: January 28, 1999.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(147) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(147) On June 21, 1997, and December 9, 1998, the State of Illinois submitted regulations adopted by the Illinois Pollution Control Board and the Illinois Environmental Protection Agency and legislation adopted by the General Assembly and signed by the Governor related to Illinois' vehicle inspection and maintenance (I/M) program. The purpose of these submittals was to change the existing program from a basic I/M program to a fully enhanced I/M program. These changes modify the program in both the Chicago and Saint Louis (Illinois Portion) Ozone nonattainment areas.

#### (i) Incorporation by reference.

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter k: Emission Standards and Limitations for Mobile sources, Part 240 Mobile Sources, Except for Section 240. Table C. Adopted at 22 *Ill. Reg.* 13723, effective July 13, 1998.

(B) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter k: Emission Standards and Limitations for Mobile sources, Part 240 Mobile Sources, Section 240. Table C. Corrected at 22 *Ill. Reg.* 21120, effective July 13, 1998.

(C) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter II: Environmental Protection Agency, Part 276 Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions. Amended at 22 *Ill. Reg.* 18867, effective September 28, 1998.

#### (ii) Other materials.

(A) Transmittal letters dated June 21, 1997, and December 9, 1998.

(B) Public Act 90-475, effective August 17, 1997. This Act amends the Illinois Environmental Protection Act by changing Sections 3.32, 3.78, 21, and 22.15 and adding Sections 3.78a and 22.38.

#### § 52.726 [Revised]

3. Section 52.726 is revised by removing and reserving paragraph (m). [FR Doc. 99-3520 Filed 2-19-99; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 70

[WY-001a; FRL-6234-3]

#### Clean Air Act Full Approval of Operating Permit Program; Approval of Expansion of State Program Under Section 112(I); State of Wyoming

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is promulgating full approval of the Operating Permit Program submitted by the State of Wyoming. Wyoming's operating permit program was submitted for the purpose of meeting the federal Clean Air Act directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. EPA is also approving the expansion of Wyoming's program for receiving delegation of section 112 standards to include non-part 70 sources.

**DATES:** This direct final rule is effective on April 23, 1999 without further notice, unless EPA receives adverse comment by March 24, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule did not take effect.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Wyoming Department of Environmental Quality, 122 W. 25th Street, Cheyenne, WY 82002.

**FOR FURTHER INFORMATION CONTACT:** Patricia Reisbeck, EPA, Region 8, (303) 312-6435.

**SUPPLEMENTARY INFORMATION:**