multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services.

Our proposed rule contains no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

Interested persons may address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. et seq.) that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposal contains no collection-of-information requirements subject to the Paperwork Reduction Act, Pub. L. 96–511, 44 U.S.C. Chapter 35.

Federalism Implications

The rule proposed by this notice will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects for 14 CFR part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation proposes to amend 14 CFR part 255, Carrier-owned Computer Reservations Systems, as follows:

PART 255—[AMENDED]

1. The authority citation for part 255 continues to read as follows:

Authority: 49 U.S.C. 1301, 1302, 1324, 1381, 1502.

2. Section 255.12 is revised to read as follows:

§ 255.12 Termination.

Unless extended, these rules shall terminate on March 31, 2000.

Issued in Washington, DC on February 22, 1999, under authority delegated by 49 CFR 1.56a (h) 2.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–4780 Filed 2–25–99; 8:45 am]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 064–1064; FRL–6236–6]

Approval and Promulgation of Implementation Plans; State of Missouri; St. Louis Inspection and Maintenance (I/M) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the air pollution control State Implementation Plan (SIP) submitted by the state of Missouri. The revised SIP pertains to the St. Louis vehicle I/M program. These revisions require the implementation of an enhanced motor vehicle I/M program in the St. Louis metropolitan area, i.e., Jefferson, St. Louis, and St. Charles counties and St. Louis City. This proposal is being published to meet the EPA's statutory obligation under the Clean Air Act (CAA or the Act).

DATES: Comments must be received on or before March 29, 1999.

ADDRESSES: All comments should be addressed to Wayne Leidwanger at the Region VII address. Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region VII, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Stan Walker, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7494.

SUPPLEMENTARY INFORMATION:

I. What Is the Statutory Requirement?

The CAA, as amended in 1990, requires that certain ozone nonattainment areas adopt either ''basic'' or ''enhanced'' I/M programs, depending on the severity of the problem and the population of the area. An I/M program is a way to check whether the emission control system on a vehicle is working correctly and to repair those that are not. All new passenger cars and trucks sold in the United States must meet stringent pollution standards, but they can only retain this low pollution profile if the emission controls and the engine are functioning properly. I/M is designed to ensure that vehicles stay clean in actual customer use. Through periodic vehicle checks and required repairs for vehicles which fail the test, I/M encourages proper vehicle maintenance and discourages tampering with emission control devices.

Since the CAA's inception in 1970, Congress has directed the EPA to set national ambient air quality standards for the six most common air pollutants, one of which includes ozone. The CAA requires these standards to be set at levels that protect public health and welfare with an adequate margin of safety and without consideration of cost. These standards provide information to the American people about whether the air in their community is healthful. Also, the standards present state and local governments with the targets they must meet to achieve clean air. St. Louis is currently designated as a nonattainment area with respect to ozone, i.e., an area which has not achieved the air quality standard for ozone.

Moderate ozone nonattainment areas, e.g., St. Louis, fall under the ''basic'' I/M requirements. However, moderate areas such as St. Louis have the option of implementing an enhanced I/M program. The state of Missouri chose to implement an ''enhanced'' I/M program in St. Louis as part of its overall plan for achieving emission reductions to attain the one-hour ozone standard.

II. What Are the I/M requirements?

Missouri has developed its I/M program not only to meet the requirements of section 182(b)(4) of the CAA but also to meet the reasonable further progress requirements of section 182. Section 182(b)(1) of the CAA requires states, with nonattainment areas classified as moderate and above for ozone, to develop a plan to reduce area-wide volatile organic compound (VOC) emissions from a 1990 baseline by 15 percent. However, the Act prohibits credit toward the 15 percent reduction for correcting deficiencies in previously established basic I/M programs. Missouri decided to pursue an enhanced I/M program to help the state meet the 15 percent plan requirements.

Section 182(a)(2)(B) of the Act directed the EPA to publish updated guidance for state I/M programs, taking into consideration findings of the EPA's audits and investigations of these programs. Based on these requirements, the EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950), codified in 40 Code of Federal Regulations (CFR) 51.350–51.373.

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

The performance standard for basic I/M programs remains the same as it has been since the initial I/M policy was established in 1978, pursuant to the 1977 CAA Amendments.

Although Missouri has submitted an enhanced I/M program, the EPA is proposing at this time to act on the submittal with regard to compliance with the basic I/M requirements in section 182(b)(4) and 40 CFR part 51, subpart S, because those are the I/M requirements applicable to St. Louis. However, in order to assure the state develops an enhanced program for the other purposes mentioned above, the EPA's review also includes an analysis of the submission as it relates to requirements for enhanced I/M, because this will impact the credits which Missouri is projecting in its 15 percent rate-of-progress plan (ROPP).

III. What Is the Background on Missouri's Program?

On January 1, 1984, the state of Missouri implemented a basic motor vehicle I/M program in the St. Louis metropolitan area. The St. Louis program is currently decentralized and is jointly administered by the Missouri State Highway Patrol and the Missouri Department of Natural Resources (MDNR).

The EPA audited the St. Louis, Missouri, I/M program in 1985, 1987, and 1992. The audits found that the St. Louis I/M program experienced a significant shortfall in achieving the minimum required VOC emission reductions necessary for an acceptable basic I/M program. The I/M program is an important strategy toward achieving healthful air quality in St. Louis. To maximize progress toward that goal, the state of Missouri and the EPA believed the most effective approach would be to implement a centralized, test-only program that includes high-tech testing.

As discussed in the EPA's I/M rule, states such as Missouri were required to submit a SIP including a schedule, analysis, description, legal authority, and adequate evidence of funding and resources for program implementation discussed in § 51.372 (a)(1)–(a)(8). The SIP must correct any deficiencies in the current programs.

Missouri could not adopt corrections to program deficiencies without additional legal authority. Therefore, on May 13, 1994, the MDNR received legislative authority to correct the deficiencies in the current basic I/M program and to implement a more cost-effective, enhanced I/M program (Senate Bill 590). The Missouri Air Conservation Commission (MACC) adopted the plan to implement enhanced I/M program requirements in the St. Louis nonattainment area, and the state submitted this SIP on September 1, 1994.

Supplemental information was submitted by Missouri on May 25, 1995, with the 15 percent ROPP. On June 29, 1995, Missouri submitted additional documentation for the I/M SIP, and a permanent I/M rule was adopted by the MACC on July 27, 1995. However, during the 1995 legislative session, the Missouri legislature voted to delete I/M funding for operation of the centralized I/M program. Lack of I/M funding severely hindered Missouri's ability to develop several key aspects of the program. Consequently, on March 18, 1996, the EPA proposed to disapprove Missouri's I/M SIP submission, because the state's SIP did not meet the minimum requirement outlined in the EPA's I/M rule and no funding was available to implement the program. (See 61 FR 10962.)

During the 1997 legislative session, the Missouri legislators restored the funding for the I/M program. Therefore, on August 5, 1997, the MDNR submitted to EPA Region VII a SIP revision for St. Louis, Missouri's enhanced I/M program. The submittal included a letter from David Shorr, former Director of the MDNR, to Dennis Grams, Regional Administrator, requesting to amend the previous SIP to include the revisions. This revision provides a demonstration of adequate tools and resources, the primary reason for the proposed disapproval, and addresses other deficiencies outlined in the aforementioned disapproval notice. Additionally, on October 26, 1998, the state released a Request for Proposal (RFP) with the goal of attracting potential bidders to develop a contract to help Missouri meet the necessary I/M program requirements to supplement the SIP revision. On January 29, 1999, the state submitted the RFP as a supplement to the 1997 SIP.

Because the 1997 SIP and subsequent submittal address the most critical deficiencies in the original 1994 submittal, the EPA is proposing to conditionally approve this SIP revision as set forth below.

IV. What Are the Regulatory Requirements and How Does the State's Plan Meet Those Requirements?

As discussed above, sections 182(b)(4), 182(c)(3), 184(b)(1)(A), 187(a)(6), and 187(b)(1) of the Act require that states adopt and implement regulations for a basic or an enhanced I/M program in certain areas. The following sections of this document summarize the requirements of the Federal I/M regulations and address whether the elements of the state's submittal comply with the Federal rule. The specific requirements for I/M plan submissions are in 40 CFR part 51, subpart S, and a list of required elements are in 40 CFR 51.372. The EPA's decision for approval is solely based on the state's ability to meet the basic I/M requirements applicable to St. Louis, although the EPA has also reviewed the submittal for compliance with the requirements for an enhanced program, because the state ultimately wants to implement an enhanced program for emission reduction credit.

Applicability—40 CFR 51.350

The EPA requires that the state demonstrate that (1) the program covers all portions of the nonattainment area required to have an I/M program and (2) the state submittal contains adequate legal authority. Senate Bill 590 effective August 28, 1994, and Missouri rule 10 CSR 10–5.380 establish the program boundaries for Missouri's enhanced I/M program. Three counties in Missouri (Jefferson, St. Charles, and St. Louis) and St. Louis City are required to implement basic I/M programs in the St. Louis nonattainment area. Thus, this portion of the SIP is approvable.

I/M Performance Standard—40 CFR 51.351 and 51.352

Section 51.351 contains the performance standard for enhanced I/M programs, and § 51.352 contains the performance standard for basic I/M programs. In accord with the Federal I/M rule, Missouri's I/M program is designed and will be implemented to meet the minimum basic performance standard which is expressed as emission levels in area-wide average grams per mile for certain pollutants. The emission levels adopted by the state were properly modeled using MOBILE5a.

However, the state has made several recent changes to the design of the program. For example, based on the RFP, Missouri is expected to exempt up to 40 percent of the fleet using a combination of clean-screening techniques, such as remote sensing, vehicle emission profiling, and model year exemptions. Missouri must submit a mobile source calculation which includes the latest design parameters and revise its regulation to reflect the clean-screening component and other exemptions before the EPA can conclude that the state program meets the performance standard. Therefore, the EPA is proposing to approve this portion of the SIP with final approval contingent on the state revising the MOBILE model to reflect the remote sensing devices (RSD) component, verifying that the program still meets applicable performance standards, and submitting a revised regulation reflecting the clean-screening component. The aforementioned provisions must be submitted as a SIP revision before the EPA takes final action on this proposal.

Network Type and Program Evaluation—40 CFR 51.353

As required by Federal regulation, enhanced I/M programs must be operated in a centralized, test-only format, unless the state can demonstrate that a decentralized program is equally as effective in achieving the enhanced performance standards. In addition, enhanced programs shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirement of the CAA.

Basic programs can be centralized, decentralized, or hybrid at the state's discretion but must demonstrate that the program meets or exceeds the emission reductions as described in § 51.352.

Missouri has the legal authority (Senate Bill 590) to implement a centralized, test-only network to meet the Federal requirements. In addition, the program exceeds emission reduction requirements for basic programs. Therefore, this portion of the SIP is approvable with regard to the basic program.

Missouri provides a discussion in the SIP and the RFP pertaining to program evaluation. The SIP shows the random evaluation program will monitor 0.1 percent of 1971 and later model year vehicles. Vehicles selected for the program evaluation will be chosen to reflect the mixed fleet in the area. The SIP includes a discussion regarding program evaluation and includes a schedule for submittal of biennial evaluation reports from state-monitored or administered mass emission tests of at least 0.1 percent of the vehicles subject to inspection each year. Therefore, this portion of the SIP is approvable.

Adequate Tools and Resources—40 CFR 51.354

As required by Federal regulation, Missouri's SIP includes a detailed budget plan that describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP also details the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance, and other necessary functions. The description of funding and resources is adequate for purposes of § 51.354. Section 51.372 requires the state to demonstrate that adequate funding is available to meet the requirements described in this section. The SIP does meet the Federal requirements for evidence of adequate tools and resources under §§ 51.372 and 51.354.

Test Frequency and Convenience—40 CFR 51.355

The basic and enhanced I/M performance standards assume an annual test frequency; however, other schedules may be approved if the performance standard is achieved. Missouri's enhanced I/M regulation provides for a biennial test frequency which still meets Federal requirements. The Missouri legislation provides the legal authority to implement the biennial program, and the state I/M regulation provides for enforcement of the biennial test frequency.

The Missouri submittal meets the test frequency requirements for the basic program.

Vehicle Coverage—40 CFR 51.356

The performance standards for enhanced I/M programs assume coverage of all 1968 and later model year light-duty vehicles (LDV) and light-duty trucks (LDT) up to 8500 pounds gross vehicle weight rating (GVWR) and includes vehicles operating on all fuel types. The performance standard for basic programs covers the same vehicles with the exception of LDTs. Other levels of coverage may be approved if the necessary emission reductions are achieved. Missouri's submittal includes:

1. Legal authority necessary to implement and enforce the vehicle coverage requirement.
2. A detailed description of the number and types of vehicles to be covered by the program.
3. A plan for how those vehicles are identified, including vehicles that are routinely operated in the area but may not be registered in the area.
4. A description of any special exemptions, including the percentage and number of vehicles to be affected by the exemption.

Missouri's enhanced I/M legislation requires coverage of all 1971 and newer LDVs and LDTs up to 8500 pounds GVWR registered or required to be registered in the I/M program area. As of the date of the submittal, approximately 1,361,000 vehicles will be subject to enhanced I/M testing. The Missouri I/M regulation provides the regulatory authority to implement and enforce the vehicle coverage. Missouri will implement a clean-screen component as a means to cover up to approximately 40 percent of the vehicle fleet as described in the RFP. As discussed previously in this section, Missouri is allowed to use a level of coverage different from the prescribed I/M rule provided the program continues to achieve the necessary emission reductions.

Missouri is authorized in its enabling legislation to impose fleet-testing requirements and requirements for special exemptions by Federal I/M requirements. Fleet testing will be conducted at official, test-only stations. Some fleets may opt to have I/M testing equipment installed at the fleet-testing facility that will be operated and maintained by the contractor at the fleet owner's expense (and connected to the on-line data system). Fleet programs are required to undergo the same testing requirements and quality assurance procedures as other subject vehicles. The state's plan for testing fleet vehicles is acceptable and meets the requirements of the Federal I/M regulation.

We note that the state may ultimately need to revise its program in light of the EPA's developing policy document with regard to Federal fleets. However, the EPA believes that this issue does not affect the current approvability of the program. The EPA is not requiring states to implement 40 CFR 51.356(a)(4) dealing with Federal installations within I/M areas at this time. The Department of Justice has recommended to the EPA that this regulation be revised since it appears to grant states authority to regulate Federal installations in circumstances where the Federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. The EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this new rule is final.

The state regulation includes some special exemptions for a portion of the vehicle fleet which are detailed in the technical support document.

This level of coverage appears to be approvable because the overall program design meets the performance standards. However, the clean-screening program is not reflected in the previous SIP and could change the number of exemptions plus the level of coverage. Thus, the SIP will only meet the requirements of this section when Missouri accounts for the clean-screening exemptions. Missouri will be required to submit a revised vehicle coverage element before the EPA takes final action on this proposal.

Test Procedures and Standards—40 CFR 51.357

The Federal rule requires Missouri to have written test procedures and pass/fail standards to be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA document entitled ''High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications,'' EPA–400–F–92–001, dated July 20, 1998.

The state's I/M regulation, Missouri rule 10 CSR 10–5.380, includes a description of the test procedures for a transient, idle, evaporative-system purge; evaporative-system pressure testing; and for a visual emission control device inspection. These test procedures conform to the EPA-approved test procedures and are approvable.

The state regulation provides for start-up standards during the first two years of program implementation. However, details of how the program start-up will be accomplished are not included, and the SIP submittal indicates they will be provided by the contractor. The RFP provides the structure for the contractor to provide the necessary details when their bids are submitted. The EPA expects the details to be provided in the signed contract. Therefore, the EPA proposes to approve this portion of the SIP if the state submits satisfactory details of the program start-up, consistent with the parameters in the RFP, prior to final action on this proposal.

Test Equipment—40 CFR 51.358

As required by Federal law, the state submittal contains the written technical specifications for all test equipment to be used in the program. The specifications require the use of computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems that meet the applicable Federal I/M regulations and are approvable. The SIP meets the requirements of this section.

Quality Control—40 CFR 51.359

In accord with the Federal requirements, the state submittal addresses the quality control provisions outlined in the I/M rule. The state will require the contractor to develop procedures, a specifications manual, and state-approved regulations that describe and establish quality control measures for the emission measurement equipment. Also, the contractor will be required to comply with the recordkeeping requirements and quality control measures. The state will be required to maintain the security of all documents used to establish compliance with the inspection requirements.

The contractor will also develop a procedures manual to help the station operator, lane operator, waiver inspector, and computer operator by outlining their responsibilities.

This portion of the submittal complies with the quality control requirements set forth in the Federal I/M regulation and is approvable.

Waivers and Compliance via Diagnostic Inspection—40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements, that allow a motorist to comply without meeting the applicable test standards. Basic I/M programs must require a minimum expenditure of $75 for pre-1981 vehicles; $200 for 1981 and later vehicles shall be spent in order to qualify for a waiver. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared with the CPI for 1989, is required to qualify for a waiver.

As required, Senate Bill 590 provides legislative authority to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. The Missouri legislation sets a $75 waiver cost limit for 1980 and older model year vehicles, a $200 waiver cost limit for 1981 through 1996 model year vehicles, and $450 waiver cost limits for 1997 and newer model year vehicles. The state statute allows these amounts to be adjusted after December 2000 to be consistent with applicable EPA requirements for an enhanced I/M program. Thus, the state regulations do not currently include an annual adjustment of the cost limit to reflect the change in the CPI as compared with the CPI in 1989. However, because Missouri elected to opt up to an enhanced program, they are only required to meet or exceed the basic I/M requirements. The program, as outlined, meets the Federal requirement for the basic program; therefore, this portion is approvable.

The state submitted a revision to the SIP submittal regarding the waiver requirements on November 13, 1997. Missouri regulations include provisions that address waiver criteria and procedures, including cost limits, tampering and warranty-related repairs, quality control, and administration. These provisions meet the Federal requirements for a basic program. The state regulation requires repairs for 1981 and newer model year vehicles to be performed by a recognized repair technician. The state regulation does allow for compliance via diagnostic inspection and the policies and procedures outlined in the submittal to meet Federal I/M regulations (for enhanced I/M areas only). The SIP sets a maximum waiver rate and describes corrective action that would be taken if the waiver rate exceeds that committed to in the SIP. The SIP meets this portion of the regulation and is acceptable.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulation requires that compliance will be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. Senate Bill 590 provides the legal authority to operate a registration denial system. The Missouri SIP commits to a compliance rate of 96 percent which was used in the

performance standard modeling demonstration and is approvable. The submittal includes detailed information concerning the registration denial enforcement process, the identification of agencies responsible for performing each applicable activity, and a plan for testing fleet vehicles. In addition, the SIP commits to an enforcement level to be used for modeling purposes. Therefore, this portion of the SIP is approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

In accord with Federal regulation, Missouri's SIP includes regulations, procedure manuals, supporting documents describing how the enforcement program oversight will be quality-controlled and quality-assured, and the establishment of an information management system. Senate Bill 590 provides authority to enforce against persons who misrepresent themselves as an official emission inspection station; anyone who knowingly manufactures, conveys, or possesses any counterfeit documents; and anyone who knowingly operates a motor vehicle without displaying a valid emission inspection sticker. However, the state submittal lacks details of how the information management system will be implemented. As indicated in the SIP, requirements of this section depend on participation from the Missouri Department of Revenue (MDOR) and the assigned contractor. The state has a Memorandum of Understanding with MDOR and an RFP outlining the duties of the contractor to meet the requirements of this section. Several aspects of the section will be negotiated between the MDOR and the contractor.

The SIP, however, lacks written procedures for personnel engaged in I/M document handling and processing, such as registration clerks or personnel involved in sticker dispensing and waiver processing, as well as written procedures for the auditing of their performance. Additionally, the SIP needs to include procedures for follow-up validity checks on out-of-area or exemption-triggering registration changes. Also, the SIP must include procedures for:

1. Disciplining, retraining, or removing enforcement personnel who deviate from established requirements.

2. Defranchising, revoking, or otherwise discontinuing the activity of the entity issuing registrations (in the case of non-government entities that process registrations).

The RFP provides sufficient details necessary for the EPA to propose approval of the section. Full approval is contingent on the state submitting additional detail as described above prior to final action on this proposal.

Quality Assurance—40 CFR 51.363

According to the Federal I/M rule, an ongoing quality assurance program must be implemented to discover, correct, and prevent fraud, waste, and abuse in the program. The Missouri submittal includes a quality assurance program that includes regulations and procedures describing methods for reviewing inspector records, performing equipment audits, and providing formal training to all state enforcement officials. Performance audits of inspectors will consist of both covert and overt audits. Senate Bill 590 provides authority to conduct audits of the inspection stations and requires the stations to furnish reports and forms that MDNR deems necessary to evaluate the program adequately.

The SIP states the contractor will be responsible for portions of the oversight and enforcement provisions. For example, the contractor is to be responsible for developing the interactive software that would allow real-time access to all test station information. In addition, the state needs to ensure that there are a sufficient number of covert vehicles to allow frequent rotation to prevent detection by station personnel.

The SIP and the RFP detail the quality assurance program and procedures. Many of the specific details regarding how the state will meet the aforementioned requirement are expected to be provided by the contractor. Therefore, the EPA is proposing to approve this portion of the SIP. Full approval is contingent on the state revising its SIP to address the previously discussed items for this program element prior to final action on this proposal.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

As required by Federal regulation, the Missouri submittal includes the legal authority to establish and to impose penalties against stations, contractors, and inspectors. The state I/M regulation, legislation, and RFP include penalty provisions for stations, contractors, and inspectors. Enforcement against registered stations or contractors and inspectors will include swift, sure, effective, and consistent penalties for violation of program requirements. The state submittal establishes minimum penalties for violations of program rules and procedures that can be imposed against stations, contractors, and inspectors. These penalties will be administered through the contract. The state I/M regulation gives the state auditor the authority to temporarily suspend station and inspector registrations immediately upon finding a violation. Therefore, the EPA is proposing to approve this portion of the SIP provided the state submits a signed contract containing the penalty provisions described in the SIP submitted prior to final action on this proposal.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment, as required under 40 CFR 51.359. The SIP outlines many functions to be carried out by the contractor. The EPA is proposing to approve this portion of the SIP provided the state submits the signed contract as a SIP revision prior to final action on this proposal.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluating the program by the state and the EPA. The Federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control, and enforcement. These reports are to be submitted by July and will provide statistics during January to December of the previous year. A biennial report must be submitted to the EPA that addresses changes in program design, regulations, legal authority, program procedures, and any weaknesses in the program found during the two-year period and how these problems will be or were corrected. Missouri outlines the requirement for the contractors that appear to meet all of these Federal requirements. The SIP also commits to address all the items listed in § 51.366.

The RFP details the functions the contractor is expected to fulfill. Thus, the EPA expects the state will meet the requirements of this section when the contract is signed. As noted earlier, procedures for data collection, analysis, and reporting are critical and must be in place prior to start-up. Therefore, the EPA believes that in order to fully approve this element, the state must submit a contract detailing these

provisions consistent with the RFP prior to final action on this proposal.

Inspector Training and Licensing or Certification—40 CFR 51.366

The Federal I/M regulation requires all inspectors to be formally trained and registered to perform inspections. The narrative in the submittal states that all inspectors are to receive formal training, be registered by MDNR or the operating contractor, and renew the registration every two years. As required in the I/M rule, Missouri provides a description of the training program and commits to require the contractor to develop a program that meets the requirements outlined in this section of the rule.

The RFP, however, details the functions the contractor is expected to fulfill, such as developing and maintaining a procedural training manual. In addition, the contractor is responsible for administering a certification test requiring inspectors to receive a minimum score of 80 percent. The RFP states that the contractor will prepare and submit the training manuals and other training program details after the contract is awarded. Thus, the EPA expects the state will meet the requirements of this section. The EPA cannot fully approve this portion of the SIP until the state and the contractor fulfill the aforementioned requirements. The state must address this provision prior to the EPA taking final action on the SIP.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include public information and consumer protection programs. State legislation requires Missouri to provide a public information program which educates the public on I/M, state, and Federal regulations; air quality and the role of motor vehicles in the air pollution problem; and other items as described in the Federal rule.

The RFP requires the contractor, in conjunction with the state, to develop a public information program. Besides educating the public about I/M, the state provides assistance to the motorist in obtaining warranty-covered repairs. However, the state needs to provide a consumer protection program to include provisions for a challenge mechanism, protection of whistle-blowers, and assistance to the motorist in obtaining warranty-covered repairs. With the exception of the aforementioned consumer protection requirements, the public information requirement is adequate and does meet Federal requirements. Since the consumer protection program contained in the SIP is not complete, the EPA is proposing to approve this portion of the SIP contingent on the state fully meeting the aforementioned requirements prior to final action on this proposal.

Improving Repair Effectiveness—40 CFR 51.369

Effective repair work is 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 lacks 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 RFP provides a discussion of the repair effectiveness program. Many of the functions will be fulfilled by the contractor. As described in the RFP, the selected contractor will establish a hotline to assist repair technicians and track the performance of repair facilities. In addition, the contractor will establish a toll-free hotline that will supply information on wait times, station locations, and general inspection and waiver information. The EPA expects the state will meet the requirements of this section once the contract is issued. However, the EPA cannot fully approve this portion of the SIP until the state and the selected contractor fulfill the aforementioned requirements. Therefore, the EPA is proposing to approve this portion of the SIP contingent on the state submitting a signed contract prior to final action on this rulemaking.

Compliance with Recall Notices—40 CFR 51.370

The CAA and Federal regulations require states to establish methods to ensure that vehicles subject to I/M programs are included in an emission-related recall program. Vehicle owners must receive the required repairs before completing the emission test or renewing the vehicle registration.

The Missouri regulation provides the legal authority to require owners to comply with emission-related recalls before completing the emission test or renewing the vehicle registration. The submittal includes a commitment to submit an annual report to the EPA that includes the information as required in 40 CFR 51.370(c). Missouri state inspection or registration database and quality control methods will help ensure recall repairs are properly documented and tracked. Therefore, this portion of the SIP is approvable.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas only. The use of either RSD or roadside pullovers, including tailpipe emission testing, can be used to meet the Federal regulations. Enabling authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements are contained in Missouri's legislation.

The on-road testing requirements are optional for basic programs. Therefore, this item is not relevant to the EPA's proposed action with respect to the basic I/M requirement.

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

The Federal regulation requires enhanced I/M programs to be implemented in accord with 40 CFR 51.372–51.373. The Missouri submittal included the final state I/M regulation, an RFP detailing program elements, and legislative authority to implement the program. The SIP lacks the contractor's proposal, the signed contract between the state and the contractor, and procedural documents. These latter documents must be submitted prior to final approval.

Section 51.372 requires states to demonstrate that adequate funding of the program is available. Section 51.372(a)(8) requires that the SIP contain evidence of adequate funding and resources to implement and continue operation of all aspects of the program. Funding needs to be available to accommodate personnel and equipment resources necessary to operate the program.

The SIP indicates capital improvements of land, buildings, and inspection equipment are expected to be funded through a combination of revenue bonds and Federal funds. Currently, Missouri has proved that these funding sources are or will be available.

The test fee or separately assessed per vehicle fee is to be collected, placed in a dedicated fund, and used to finance the program. Adequate funding will be available to begin and operate the program.

Overall, Missouri's SIP has a detailed plan demonstrating that there are adequate funding sources available to carry out program requirements. The SIP has a detailed description of the equipment to be used to facilitate program implementation.

Finally, although the SIP lacks a definitive start date, the RFP indicates that the program should begin by April 2000. The EPA expects that commitment to an actual start date, consistent with the schedule in the RFP, will be established when the contract is signed and that the state will submit the actual start date with the other submissions identified in this document. Based on the description in the SIP submittal of the activities which must be accomplished prior to program start-up, the EPA believes that the projected start date of April 2000 would be as expeditious as practicable and that the program is not deficient because of the projected start date. (It is EPA policy that once the start date in the regulations has passed, SIPs are approvable if programs start as expeditiously as practicable.) Nevertheless, given that corrections to the basic program should have been implemented by January 1, 1994, the EPA is proposing to conditionally approve this SIP pursuant to section 110(k)(3) of the Act to ensure expeditious implementation. The EPA's conditional approval of the SIP would last until April 30, 2000. If the state does not begin implementation of the program by this date, the conditional approval would convert to a disapproval after a findings letter is sent to the state. This is an implied condition under the EPA's general approval authority of 110(k)(3), not an explicit condition due to regulatory deficiency under 110(k)(4). Therefore, it will not automatically convert to a disapproval but will only convert after the EPA transmits a findings letter to the state indicating that the program has not started.

The EPA is also considering an alternative, in which the EPA would grant full approval of this SIP (provided the state corrects all of the previously identified deficiencies prior to final rulemaking). Under this approach, the state would still be obligated to start up the program by the date specified in the contract which the EPA believes should be no later than April 30, 2000. If the state then fails to begin the program by that date, the EPA would issue a finding under section 179(a)(4) of the Act that the state had failed to implement this SIP element and possibly also a SIP call to correct the SIP under 110(k)(5). The EPA solicits comments on this approach as an alternative to conditional approval.

In the case of either a finding that the condition had not been met or that the state had failed to implement the SIP, under section 179(a)(2) the EPA must apply one of the sanctions set forth in section 179(b) within 18 months of such finding. Section 179(b) provides two sanctions available to the Administrator: imposition of emission offset requirements and limitations on highway funding. In the EPA's August 4, 1994, final sanctions rule (see 59 FR 39832), the sequence of mandatory sanctions for findings and disapprovals made pursuant to section 179 of the CAA was finalized. This rulemaking states that the emission offset sanction applies in an area 18 months from the date when the EPA makes a finding under section 179(a) with regard to that area. Furthermore, the highway funding restrictions apply in an area six months following application of the offset sanction. This nondiscretionary process for imposing and lifting sanctions is set forth at 40 CFR 52.31.

V. What Is the EPA's Conclusion and Proposed Action?

The EPA's review of the material indicates that the state has adopted the substance of an adequate I/M program in accordance with the requirements of the Act. The EPA is proposing to conditionally approve the Missouri SIP revision for the St. Louis I/M program which was submitted on August 5, 1997, with the single condition that the program must begin operation by April 30, 2000, and provided the state submits no later than November 1999 a revised SIP, including a signed contract, which addresses the following items:

1. Start date for testing vehicles.
2. Details of the start-up for the first two years (§ 51.357).
3. Enforcement provisions against contractors, stations, and inspectors (§ 51.364).
4. Provisions for data collection (§ 51.365), analysis, and reporting (§ 51.366).
5. Inspector training, certification, and licensing requirements (§ 51.366).
6. Revised emission reduction estimates and vehicle coverage taking into account the clean-screening provisions (§§ 51.351, 51.352, and 51.356).
7. Revised regulations reflecting the clean-screening provisions (§§ 51.351 and 51.352).
8. Procedures for program oversight including document handling and processing, audits, registration changes, disciplinary actions, and enforcement action involving non-government entities (§ 51.362).
9. Corrections to the quality assurance program to address real-time access to test station information and sufficient covert vehicles (§ 51.363).
10. Consumer protection program (§ 51.368).
11. Technical assistance program including performance monitoring requirements and repair technician training resources (§ 51.369).

The EPA believes that allowing the state until November 1999 to address these remaining deficiencies provides adequate time for the state to adopt and submit a revised SIP. If the revisions address the issues outlined in this document without significant deviation from the descriptions of the program in the RFP and as described in this document and the technical support document, the EPA is proposing to proceed with final conditional approval of the I/M program. The EPA may repropose action on a portion of the I/M program if the state makes a submission which deviates significantly from these parameters or provides significant new data not previously made publicly available, to the extent necessary to ensure adequate public notice and opportunity for comment. Finally, if the state fails to make a complete submission by November, the EPA will not take final action on this proposal but rather will proceed with a proposed disapproval of the I/M SIP. The EPA solicits comments on this proposed action.

VI. Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. E.O. 12875

Under E.O. 12875, *Enhancing the Intergovernmental Partnership,* the 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 or the EPA consults with those governments. If the EPA complies by consulting, E.O. 12875 requires the EPA to provide to the OMB a description of the extent of the EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires the 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. E.O. 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 the 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 is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, *Consultation and Coordination with Indian Tribal Governments,* the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, E.O. 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. 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 generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities, because SIP approvals under Section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the 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, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action 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 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: February 17, 1999.

Dennis Grams,

Regional Administrator, Region VII.

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