(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compounds (VOC). Amended at 19 Ill. Reg. 11066, effective July 12, 1995.

[FR Doc. 96–6603 Filed 3–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[IN66–1–7289a; FRL–5439–6]

Approval and Promulgation of State Implementation Plan; Indiana; Clean-Fuel Fleet Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is giving full approval through a direct final action to a state implementation plan (SIP) revision request submitted on December 20, 1995, and February 14, 1996, by the State of Indiana for the purpose of establishing a Clean-Fuel Fleet Program (CFFP) in Lake and Porter Counties. Lake and Porter Counties are classified as severe nonattainment for ground-level ozone, commonly known as urban smog, and are required under the Clean Air Act (CAA) to attain the National Ambient Air Quality Standards (NAAQS) by 2007. The Indiana CFFP, which is also required by the CAA, is one of the control measures being implemented in these counties to reduce ozone precursor emissions in order to help attain the ozone standard. The Indiana CFFP requires that, beginning in Model Year (MY) 1998, a specified percentage of the new vehicles acquired by certain vehicle fleets operating in Lake and Porter Counties meet clean fuel vehicle (CFV) emissions standards, which are more stringent than current federal vehicle standards. Indiana expects that after the full phase-in of the CFFP, approximately 3500 fleet vehicles in Lake and Porter Counties will meet the CFV tailpipe standards.

DATES: This final rule is effective May 20, 1996 unless adverse comments are received by April 22, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of this submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 CAA, codified at 42 U.S.C. 7401–7671q. The CFFP is contained under Part C of Title II of the CAA, entitled ''Clean Fuel Vehicles.'' Part C was added to the CAA to establish two programs, a clean-fuel vehicle pilot program in the state of California (the California Pilot Test Program) and a federal CFFP in certain ozone and carbon monoxide (CO) nonattainment areas.

The CFFP will introduce lower polluting vehicles, CFVs, into centrally-fueled fleets by requiring covered fleet operators to include a specified percentage of CFVs in their new fleet purchases. The goal of the CFFP is to reduce emissions of non-methane organic gases (NMOG), oxides of nitrogen (NO_x), and CO through the introduction of CFVs into the covered areas. Both NMOG and NO_x are precursors of ozone and, in most areas, their reduction will reduce the concentration of ozone in covered ozone nonattainment areas. Reductions of vehicular CO emissions will reduce the concentration of CO in covered CO nonattainment areas.

Congress chose centrally-fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control that operators maintain over their fleets simplifies maintenance and refueling of these vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

Section 182(c)(4) of the CAA allows states to opt-out of the CFFP by submitting, for USEPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emission reductions in ozone producing and toxic air emissions as the CFFP. The USEPA may approve such a revision ''only if it consists exclusively of provisions other than those required under the [CAA] for the area.''

USEPA has promulgated rulemakings on March 1, 1993, December 9, 1993, and September 30, 1994, establishing emission standards for CFVs and criteria for state CFFPs (See 58 FR 11888, 58 FR 64679, and 59 FR 50042). These rules were codified in 40 CFR part 88.

II. Program Requirements

Unless a state chooses to opt-out of the CFFP under section 182(c)(4) of the CAA, section 246 of the CAA directs a state containing covered areas to revise its SIP, within 42 months after enactment of the CAA, to establish a CFFP. The CFFP shall require a specified percentage of all newly acquired vehicles of covered fleets, beginning with MY 1998 and thereafter, to be CFVs, and such vehicles shall use the fuel on which the vehicle was certified to be a CFV (or to use a fuel that will result in even fewer emissions than the fuel that was used for certification), when operating in the covered area.

III. State Submittal

The State of Indiana did not choose to opt-out of the CFFP pursuant to section 182(c)(4) of the CAA. On December 7, 1994, the Indiana Air Pollution Control Board (IAPCB) held a preliminary adoption hearing on a proposed rule to establish a CFFP program, and on October 4, 1995, the IAPCB adopted the rule. The rule became effective on January 18, 1996, and was published in the Indiana State Register on February 1, 1996. The Indiana Department of Environmental Management (IDEM) formally submitted the CFFP rule to USEPA on December 20, 1995, as a revision to the Indiana ozone SIP, and submitted an addendum which included the Secretary of State signature and the published rule on February 14, 1996.

The December 20, 1995, and February 14, 1996, submittals contains the following new rules:

326 Indiana Air Code (IAC) 19–3 Clean Fuel Fleet Vehicles

19–3–1	Applicability
19–3–2	Definitions
19–3–3	General purchase requirements
19–3–4	Banking and trading of credits

19–3–5 Registration and recordkeeping requirements
19–3–6 Exemptions from transportation control measures
19–3–7 Violations

IV. USEPA's Analysis of the State's Clean Fuel Fleet Program

USEPA has reviewed the State's submittal for consistency with the requirements of USEPA regulations at 40 CFR Part 88. A summary of USEPA's analysis is provided below.

A. Covered Areas

The SIP revision needs to list those areas where the CFFP will be implemented, as required by section 246(a)(2) of the CAA. In Indiana, the applicable areas defined by section 246(a)(2) are Lake and Porter Counties.

Section 19–3–1 defines the CFFP's covered area as Lake and Porter Counties. These are the same counties as required by the CAA.

B. Definitions

Sections 241(1) through (7) of the CAA, and 40 CFR 88.302–94, define specific terms that are to be used in state CFFP regulations.

Section 19–3–2 contains definitions of the terms used by Indiana in the CFFP rule. The revision's definitions are consistent with section 241(1) through (7) of the CAA as well as 40 CFR Part 88.302–94.

C. Fleet Applicability

Section 246(b) requires that the SIP revision's provisions for compliance with the CFFP apply to ''covered fleet operators.'' The definition of ''covered fleet operator,'' as provided for in 40 CFR 88.302–94, can be broken down into the following criteria which the SIP revision must include in order to determine which fleet operators are ''covered fleet operators:''

(a) The fleet operator is a person (individual, business, agency, etc;) who owns, operates, leases, or otherwise controls ten or more fleet vehicles. Vehicles leased for less than 120 days are exempt from this criteria.

(b) At least ten of those fleet vehicles are in a vehicle class which is required by the CAA to be covered in the program. These vehicle classes are light-duty vehicles and light-duty trucks (LDVs and LDTs) less than 8,500 pounds Gross Vehicle Weight Rating (GVWR) and heavy-duty trucks (HDTs) less than 26,000 pounds GVWR.

(c) At least ten of those vehicles are not exempt from the program. Section 241(5) of the CAA exempts motor vehicles held for lease or rental (without a driver) to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, and nonroad vehicles (including farm and construction vehicles).

(d) At least ten of those vehicles operate in the covered area. All fleet vehicles which are garaged in the covered area are considered to ''operate in the covered area.'' In addition, 40 CFR 88.302–94 provides that fleet vehicles that operate in, but are garaged outside, the covered area be included in the CFFP. This means that fleet vehicles garaged outside the Lake and Porter Counties but nonetheless operated in those counties are applicable to the CFFP rules.

(e) At least ten of those vehicles can be centrally fueled 100 percent of the time. ''Can be centrally fueled,'' as defined in 40 CFR 88.302–94, means the sum of those vehicles that are centrally fueled and those vehicles that are capable of being centrally fueled. Fleet vehicles are ''centrally fueled'' when they are fueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the covered fleet operator. Location, as defined in 40 CFR 88.302–94(3), means any building structure, facility, or installation which; is owned or operated by a person, or is under the control of a person; is located on one or more contiguous properties and contains or could contain a fueling pump or pumps for the use of the vehicles owned or controlled by that person. Any vehicle under normal operation which is garaged at a personal residence that is, in fact, centrally fueled 100 percent of the time shall be considered to be ''centrally fueled'' for applicability purposes.

On the other hand, a fleet vehicle that is ''capable of being centrally fueled'' is one which could be refueled 100 percent of the time at a location that is owned, operated, or controlled by the covered fleet operator, or is under contract with the fleet operator. Fleet vehicles garaged at a personal residence would not be considered being ''capable of being centrally fueled'' for applicability purposes. A state must, in its SIP revision, provide a methodology to be used in determining how many fleet vehicles are capable of being centrally fueled, subject to USEPA approval.

Section 19–3–1 and 19–3–2 of the Indiana rule contain all the necessary components for determining covered fleet operator applicability as described above. Further, the rule states in subsection 19–3–2(4) that the determination of ''capable of being centrally fueled'' shall be made by using USEPA's recommended method provided on December 9, 1993 (58 FR 64684), as amended on September 30, 1994 (59 FR 50068). This method includes requiring covered fleet operators which control vehicles which are not centrally fueled 100 percent of the time to develop trip profiles which indicate the refueling patterns of those vehicles. These trip profiles will, in turn, be used to calculate the number of vehicles in the fleet which are capable of being centrally fueled.

D. Clean-Fuel Vehicles (CFVs)

Section 241(7) of the CAA defines a CFV to mean a vehicle in a class or category of vehicles that has been certified to meet for any model year the applicable CFV standards. 40 CFR 88.104–94 and 40 CFR 88.105–94 establish three categories of increasingly stringent CFV standards, which are referred to as low-emission vehicle (LEV) standards, ultra low-emission vehicle (ULEV) standards, and zero-emission vehicle (ZEV) standards.

Section 19–3–2(7) of the Indiana rule defines a CFV as a vehicle certified as a LEV, ULEV, or ZEV when it is operating on the clean fuel for which the vehicle was certified as a clean fuel vehicle, meeting the emissions standards applicable to such a vehicle promulgated September 30, 1994 at 59 FR 50042. The standards specified in the rule are the same as those established in 40 CFR 88.104–94 and 40 CFR.105–94.

E. Percentage Requirements

Section 246(b) of the CAA provides that the SIP revision require that at least a specified percentage of all new covered fleet vehicles in MY 1998 and thereafter purchased by each covered fleet operator shall be CFVs, and that these CFVs shall use the clean fuel or fuels for which they were certified to operate on when operating in the covered area.

''New covered fleet vehicle,'' for purposes of this requirement, means a vehicle that has not been previously controlled by the current purchaser, regardless of the MY, except as follows: vehicles that were manufactured before the start of MY 1998 for such vehicle's weight class, vehicles transferred due to the purchase of a company not previously controlled by the purchaser or due to a consolidation of business operations, vehicles transferred as part of an employee transfer, or vehicles transferred for seasonal requirements, that is, less than 120 days (See 40 CFR

88.302–94). This definition of new covered fleet vehicle is distinct from the definition of new vehicle as it applies to manufacturer certification, including the certification of vehicle to clean fuel standards.

Further, section 246(b) of the CAA provides the following table detailing the phase-in of the specified percentage requirements, which must be included in the SIP revision:

Vehicle type	MY 1998 (percent)	MY 1999 (percent)	MY 2000 (percent)
LDTs up to 6000 lbs. GVWR and LDVs	30	50	70
HDTs above 8,500 lbs. GVWR but below 26,000 lbs. GVWR	50	50	50

As an alternative to purchasing CFVs to meet the purchase requirement, section 246 allows fleet operators to redeem CFFP credits instead (the CFFP credit provisions are described in further detail below). Also, section 247 provides that new or existing vehicles owned or purchased by the fleet can be converted to meet CFV standards, if the conversions were made according to requirements promulgated at 40 CFR 88.306. (See September 30, 1994, at 59 FR 50042).

Finally, section 246(d) of the CAA requires that the choice of CFVs and clean fuels shall be at the discretion of the covered fleet operators.

The Indiana rule correctly incorporates all of the above required percentage purchase requirements which will be placed upon covered fleet operators. It also includes the three ways listed above to comply with the purchase requirement. Section 19–3–3(d) of the Indiana rule provides that the fleet operator shall decide which CFVs and fuels to use in order to comply with the purchase requirement. Section 19–3–3(f) requires that CFVs used to meet purchase requirements or generate credits shall operate at all times on the fuel for which they were certified as CFVs in Lake and Porter Counties. Finally, the rule requires at section 3(b) that CFV conversions must be done in accordance with the requirements for CFV conversions contained in 59 FR 50042, September 30, 1994.

G. Credit Program

Section 246(f) of the CAA and 40 CFR 88.304–94 require states to implement a credit program as part of their CFFPs. Briefly, the CFFP credit program establishes a market-based mechanism that allows fleet owners some flexibility in complying with the CFFP purchase requirement. The regulations under 40 CFR 88.304–94 require CFFPs to allow fleet operators to generate credits in any of the following ways: (1) by the purchase of more CFVs than the minimum required by a CFFP; (2) by the purchase of CFVs which meet more stringent emission standards than the minimum required by the CFFP; (3) by the purchase of CFVs otherwise exempt from the CFFP; and (4) by the purchase of CFVs before MY 1998.

40 CFR 88.304–94 further states that the credits generated may be used by a covered fleet operator to satisfy the purchase requirements of a CFFP or may be traded by one covered fleet operator to another, provided the credits were generated, traded, and used by operators located in the same nonattainment area. Lake and Porter Counties are in the same ozone nonattainment area as the Chicago area (as codified in 40 CFR 81.314 and 40 CFR 81.315), so that fleet operators covered under the Indiana CFFP can trade credits with fleet operators covered under the Illinois CFFP for the Chicago area portion of the ozone nonattainment area, and vice versa. Certain restrictions on the trading of the credits between classes must be observed. The credits do not depreciate with time and are to be freely traded without interference by the State.

Section 19–3–4 establishes rules for acquiring, trading and redeeming credits under the Indiana CFFP credit program according to regulations established in 40 CFR 88.304–94. The rule under 19–3–4(d)(4) requires credits for LDV and HDV to be kept separate. Trading of credits between the LDV and LDT subclasses is permitted. However, trading is not allowed between the HDV class and LDV/LDT class, or between HDV subclasses in an upward direction. These limitations and restrictions are consistent with those specified in section 246(f)(2) of the CAA. Moreover, section 19–3–4(a)(11) specifies that CFVs used to meet the purchase requirements or to generate purchase credits for a fleet operator cannot be used to satisfy additional purchase requirements or generate additional purchase credits for any other fleet operator, even if the latter operator purchases or acquires those CFVs from the former. Section 19–3–4(e) of the Indiana rule includes tables which set forth the amount of credit granted for the various ways of meeting the purchasing requirements explained above. These tables are identical to Tables C94–1.1, C94–1.2, C94–1.3, C94–4.1, C94–4.2, and C94–4.3 of 40 CFR Part 88, Subpart C.

Finally, the rule specifies that each fleet operator submit an annual report to IDEM which indicates the number of credits sold, traded, or purchased during the previous year and the number of credits proposed to be used by the operator to satisfy purchase requirements for that year.

H. Fuel Use

40 CFR 88.304–94(b)(3) requires that the fuel on which a dual fuel/flexible fuel CFV was certified must be used at all times when the vehicle is in the covered area.

Section 19–3–3(f) requires that any CFV acquired to meet the purchase requirements of the CFFP or to generate credits must be operated, while in the covered area, on the fuel or power source for which it was certified by USEPA to meet applicable emission standards.

It should be noted that the definition of ''clean alternative fuel'' under section 241(2) of the CAA does not designate particular fuels as fuels that vehicles must use in order to be considered CFVs. Rather, for purposes of the CFFP, ''clean alternative fuel,'' is defined under section 241(2) of the CAA as meaning any fuel or power source used in a CFV that complies with the standards and requirements applicable to such vehicle under the CFFP when using such fuel or power sources. In other words, when a vehicle model is certified to meet CFV emission standards, the fuel type the vehicle model used to achieve those standards is considered the ''clean alternative fuel.''

A CFV can operate on any fuel, including gasoline, as long as the vehicle's manufacturer received a certificate from the USEPA for that vehicle model confirming that it meets the particular CFV emission standard when using that fuel. The type of fuel or power source on which a CFV will operate on will be determined only by what fuel the CFV has been certified to use.

I. Fuel Availability:

Section 246(e) of the CAA requires the SIP revision to require fuel providers to

make clean alternative fuel available to the covered fleets at central locations.

Because fuel providers in Lake and Porter Counties are already required by USEPA to make reformulated gasoline available, and USEPA expects that many CFVs in MY 1998 will be certified to operate on reformulated gasoline, USEPA believes that section 246(e) is satisfied for purposes of the Indiana CFFP.

J. Consultation

Section 246(a)(4) of the CAA requires that the SIP revision must be developed in consultation with fleet operators, vehicle manufacturers, fuel producers, distributors of motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values, and other relevant factors.

On October 14, 1994, before the IAPCB preliminarily adopted the CFFP, IDEM sent a letter, addressed to 250 representatives of fleet operators and fuel providers expected to be affected by the Indiana CFFP, which described the program, solicited comment on the proposed rule, invited the representatives to participate with IDEM in the program's development, and invited them to attend the IAPCB preliminary adoption hearing.

On August 31, 1995, before the IAPCB adopted the CFFP, IDEM sent a letter to these same representatives inviting them to attend an informational session where IDEM and the regulated community could meet together to discuss the CFFP and be given further opportunity to comment on the rule. This meeting was held in Portage, Indiana on September 20, 1995.

K. Recordkeeping and Monitoring

USEPA recommends that the State include recordkeeping provisions in its CFFP that require fleet operators to register with the State in advance of MY 1998 in order to provide information to be used to determine their covered status, require annual reports from covered fleet operators indicating annual fleet acquisitions, fuel use, and credit generation/redemption to determine compliance, and require covered and noncovered fleet operators to submit periodic reports indicating covered status (See 58 FR at 64679, December 9, 1993).

Section 19–3–5 provides for recordkeeping and reporting requirements as described above. In addition, 19–3–5 requires that information required in the annual report, as well as routine maintenance records for all vehicles, shall be maintained by the covered fleet operator for compliance audit purposes. Monthly odometer readings, fuel economy information, and fuel usage for dual fuel or flexible-fuel vehicles also need to be kept, as well as copies of converted vehicle certification for all converted clean-fuel vehicles. CFVs shall at all times be accompanied by certification that they are CFVs.

L. Enforcement

40 CFR 88.304–94(b)(ii) requires that each CFFP SIP revision stipulate the specific mechanism by which the CFFP will be administered and enforced.

IDEM will oversee compliance and enforcement with this rule, and will hire contractors to review the annual recordkeeping reports to assure the regulatory requirements of the Indiana CFFP are being met.

The Indiana Code (IC) 13–7–13–1, states that any person who violates any provision of IC 13–1–1, IC 13–1–3, or IC 13–1–11, or any regulation or standard adopted by one (1) of the boards (i.e., IAPCB), or who violates any determination, permit, or order made or issued by the commissioner (of IDEM) pursuant to IC 13–1–1, or IC 13–1–3, is liable for a civil penalty not to exceed twenty-five thousand dollars per day of any violation. Because this submittal is a regulation adopted by the IAPCB, a violation of which subjects the violator to penalties under IC 13–7–13–1, and because a violation of the ozone SIP would also subject a violator to enforcement under section 113 of the CAA by USEPA, USEPA finds that the submittal contains sufficient enforcement penalties for approval. In addition, IDEM has submitted a civil penalty policy document which accounts for various factors in the assessment of an appropriate civil penalty for noncompliance with IAPCB rules, among them, the severity of the violation, intent of the violator, and frequency of violations. USEPA finds these criteria sufficient to deter non-compliance.

M. Transportation Control Measure Exemptions

40 CFR 88.307–94(a) requires states to exempt any CFV required by law to participate in a CFFP from temporal-based (e.g., time-of-day or day-of-week) transportation control measures (TCM) existing for air quality reasons as long as the exemption does not create a clear and direct safety hazard. In the case of high occupancy vehicle (HOV) lanes, this exemption only applies to CFVs that are certified by USEPA to be inherently low-emitting vehicles (ILEV) pursuant to 40 CFR 88.313–93.

Section 19–3–6 stipulates that CFVs shall receive TCM exemptions from time-of-day, day-of-the-week, day-of-the-month, or other similar time-based restrictions. Further, ILEVs shall be exempt from mechanisms designed to reduce air pollution from motor vehicles by limiting their use in certain areas, air quality related parking restrictions, and HOV lane restrictions.

N. Conclusion

The USEPA has reviewed the Indiana CFFP SIP revision submitted to the USEPA as described above. The materials contained in the SIP revision represent an acceptable approach to the CFFP requirements and meet the criteria required for approvability. The USEPA therefore approves Indiana's CFFP SIP submittal. With this action, USEPA incorporates Indiana's CFFP SIP revision into the SIP, making it federally enforceable.

Procedural Background

A. Direct Final Action

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on May 20, 1996, unless USEPA receives adverse or critical comments by April 22, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on May 20, 1996.

B. Executive Order 12866

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

exempted this regulatory action from Executive Order 12866 review.

C. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

D. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This final rule only approves the incorporation of existing state rules into the SIP and imposes no additional requirements. This rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year. USEPA, therefore, has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Furthermore, because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments.

E. Regulatory Flexibility

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

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

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. 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, Hydrocarbons, Incorporation by reference, Ozone, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 29, 1996.

Valdas V. Adamkus,

Regional Administrator.

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. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(104) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(104) On December 20, 1995, and February 14, 1996, Indiana submitted a Clean-Fuel Fleet Program for Lake and Porter Counties as a revision to the State Implementation Plan.

(i) Incorporation by reference. 326 Indiana Administrative Code 19–3 Clean Fuel Fleet Vehicles, Sections 1 through 7. Adopted by the Indiana Air Pollution Control Board October 4, 1995. Signed by the Secretary of State December 19, 1995. Effective January 18, 1996. Published at Indiana Register, Volume 19, Number 5, February 1, 1996.

[FR Doc. 96–6597 Filed 3–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MA–19–1–6648a; A–1–FRL–5436–3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Massachusetts' revised 310 CMR 7.12, ''Inspection Certificate, Record Keeping and Reporting'' and incorporating it into Massachusetts' SIP. EPA received revisions to the Massachusetts SIP revising 310 CMR 7.12 on three separate occasions however, EPA is addressing all three submissions in this action. These revisions to 310 CMR 7.12 streamline and clarify the permitting process and address the Clean Air Act's emission statement program requirement. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective May 20, 1996, unless, notice is received by April 22, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment