

existing requirements under State or local law, and imposes no new Federal 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 13, 1996.

Patricia D. Hull,

Acting Regional Administrator.

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40 CFR Part 52

[PA091-4029b; FRL-5613-2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania: Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule.

SUMMARY: EPA is proposing a conditional interim approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Centre, Chester, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York Counties. The intended effect of this action is to propose conditional interim approval of an I/M program proposed by the Commonwealth, based upon the Commonwealth's good faith estimate, which asserts that the Commonwealth's network design credits are appropriate and the revision is otherwise in compliance with the Clean Air Act (CAA). This action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the CAA. EPA is proposing a conditional approval because the Commonwealth's SIP revision is deficient with respect to the following requirements of the CAA and/or EPA's I/M program regulatory

requirements: geographic coverage and program start dates, program evaluation, enhanced performance standard, test types, test procedures and emission standards, test equipment specifications and motorist compliance enforcement. If the Commonwealth commits within 30 days of this proposal to correct these deficiencies by a date certain within 1 year of the final interim ruling, and corrects the deficiencies by that date, then this interim approval shall expire pursuant to the NHSDA and section 110 of the CAA on the earlier of 18 months from final interim approval, or on the date of EPA action taking final full approval of this program. If such commitment is not made within 30 days, EPA proposes in the alternative to disapprove the SIP revision. If the Commonwealth does make a timely commitment but the conditions are not met by the specified date within 1 year, EPA proposes that this rulemaking will convert to a final disapproval. EPA will notify the Commonwealth by letter that the conditions have not been met and that the conditional approval has converted to a disapproval. Furthermore, EPA proposes that the Commonwealth's program must start by no later than November 15, 1997 in the five county Philadelphia and four county Pittsburgh areas and must start by no later than November 15, 1999 in the remaining 16 counties. EPA also proposes that if the Commonwealth fails to start its program as defined in this notice on this schedule, the approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent by EPA to the Commonwealth. Elsewhere in today's Federal Register, EPA has published an interim final determination to defer sanctions until either this conditional interim approval is converted to a disapproval, the interim approval lapses, the full SIP is approved or the full SIP is disapproved.

DATES: Comments must be received on or before November 4, 1996.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air

Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn (215) 566-2176, at the EPA Region III address above or via e-mail at bunker.kelly@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

A. Impact of the National Highway System Designation Act on the Design and Implementation of Enhanced Inspection and Maintenance Programs Under the Clean Air Act

The NHSDA establishes two key changes to the enhanced I/M rule requirements previously developed by EPA. Under the NHSDA, EPA cannot require States to adopt or implement centralized, test-only IM240 enhanced vehicle inspection and maintenance programs as a means of compliance with sections 182, 184 or 187 of the CAA. Also under the NHSDA, EPA cannot disapprove a State SIP revision, nor apply an automatic discount to a State SIP revision under sections 182, 184 or 187 of the CAA, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, the so-called "50% credit discount" that was established by the EPA's I/M Program Requirements Final Rule, (published November 5, 1992, and herein referred to as the I/M Rule) has been effectively replaced with a presumptive equivalency criteria, which places the emission reductions credits for decentralized networks on par with credit assumptions for centralized networks, based upon a State's good faith estimate of reductions as provided by the NHSDA and explained below in this section.

EPA's I/M Rule established many other criteria unrelated to network design or test type for States to use in designing enhanced I/M programs. All other elements of the I/M Rule, and the statutory requirements established in the CAA, continue to be required of those States submitting I/M SIP revisions under the NHSDA. The NHSDA specifically requires that these submittals must otherwise comply in all respects with the I/M Rule and the CAA.

The NHSDA also requires States to swiftly develop, submit, and begin implementation of these enhanced I/M programs, since the anticipated start-up dates developed under the CAA and EPA's rules have already been delayed. In requiring States to submit these plans

within 120 days of the NHSDA passage, in allowing these States to submit proposed regulations for this plan (which can be finalized and submitted to EPA during the interim period), by providing expiration of interim approval after 18 months and requiring final approval to be based on evaluation of data collected during operation of the program, it is clear that Congress intended for States to begin testing vehicles as soon as practicable.

Submission criteria described under the NHSDA allows for a State to submit proposed regulations for this interim program, provided that the State has all of the statutory authority necessary to carry out the program. Also, in proposing the interim credits for this program, States are required to make good faith estimates regarding the performance of their enhanced I/M program. Since these estimates are expected to be difficult to quantify, the State need only establish that the proposed credits claimed for the submission have a basis in fact. A good faith estimate of a State's program may be an estimate that is based on any of the following: the performance of any previous I/M program; the results of remote sensing or other roadside testing techniques; fleet and vehicle miles traveled (VMT) profiles; demographic studies; or other evidence which has relevance to the effectiveness or emissions reducing capabilities of an I/M program.

This action is being taken under the authority of both the NHSDA and section 110 of the CAA. Section 348 of the NHSDA expressly directs EPA to issue this interim approval for a period of 18 months, at which time the interim program will be evaluated in concert with the appropriate State agencies and EPA. At that time, the Conference Report on section 348 of the NHSDA states that it is expected that the proposed credits claimed by the State in its submittal, and the emissions reductions demonstrated through the program data may not match exactly. Therefore, the Conference Report suggests that EPA use the program data to appropriately adjust these credits on a program basis as demonstrated by the program data.

Furthermore, in taking action under section 110 of the CAA, it is appropriate to conditionally approve this submittal since there are some deficiencies with respect to CAA statutory and regulatory requirements (identified herein) that EPA believes must be and can be corrected by the State during the interim period.

B. Interim Approvals Under the NHSDA

The NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under the NHSDA. The NHSDA also directs EPA and the States to review the interim program results at the end of 18 months, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the State in its good faith effort to reflect the emissions reductions actually measured by the State during the program evaluation period. The NHSDA is clear that the interim approval shall last for only 18 months, and that the program evaluation is due to EPA by the end of that period. Therefore, EPA believes Congress intended for these programs to start-up as soon as possible, which EPA believes should be by November 15, 1997 at the latest, so that at least 6 months of operational program data can be collected to evaluate the interim program. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, that Congress recognized and attempted to mitigate any further delay with the start-up of this program. For the purposes of this program, "start-up" is defined as a fully operational program which has begun regular, mandatory inspections and repairs, using the final test strategy and covering each of a State's required areas. EPA proposes that if the State fails to start its program on this schedule, the conditional interim approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the State.

The program evaluation to be used by the State during the 18 month interim period must be acceptable to EPA. EPA anticipates that such a program evaluation process will be developed by the Environmental Council of States (ECOS) group that is convening now and that was organized for this purpose. EPA further anticipates that in addition to the interim, short term evaluation, the State will conduct a long term, ongoing evaluation of the I/M program as required in 40 CFR 51.353 and 51.366.

C. Process for Full Approvals of This Program Under the CAA

As per the NHSDA requirements, this interim rulemaking will expire on the earlier of 18 months from the date of final interim approval, or the date of final full approval. A full approval of the State's final I/M SIP revision (which will include the State's program evaluation and final adopted state regulations) is still necessary under

section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews the State's submitted program evaluation, final rulemaking on the State's full SIP revision will occur.

II. EPA's Analysis of Pennsylvania's Submittal

On March 22, 1996, the Pennsylvania Department of Environmental Protection submitted a revision to its SIP for an enhanced I/M program to qualify under the NHSDA. The revision was supplemented on June 27, 1996 and July 29, 1996. The revision consists of enabling legislation that will allow the state to implement the I/M program, proposed regulations, a description of the I/M program (including a modeling analysis and description of program features), and a good faith estimate that includes the Commonwealth's basis in fact for the emission reduction claim of the program. The Commonwealth's credit assumptions are based only on the application of the Commonwealth's own good faith estimate of the effectiveness of its decentralized test and repair program and do not consider the 50% credit discount for all portions of the program that are based on a test-and-repair network.

A. Analysis of the NHSDA Submittal Criteria

Transmittal Letter

On March 22, 1996, the Commonwealth of Pennsylvania submitted an enhanced I/M SIP revision to EPA, requesting action under the NHSDA and the CAA of 1990. On June 27, 1996 and July 29, 1996 supplements to the March 22, 1996 SIP revision were officially submitted to EPA. The official submittal of the March 22, 1996 revision and the supplements were made by the appropriate Commonwealth official, James M. Seif, Secretary, Pennsylvania Department of Environmental Protection, and were addressed to the appropriate EPA official in the EPA Region III office.

Enabling Legislation

The Commonwealth of Pennsylvania has legislation at 75 Pa.C.S. § 4706 enabling the implementation of an enhanced I/M program.

Proposed Regulations

On March 16, 1996, the Commonwealth of Pennsylvania proposed regulations in accordance with 40 CFR Part 51 establishing an enhanced I/M program. The Commonwealth anticipates finalizing these regulations in early 1997.

Program Description

The Commonwealth's proposed program includes annual testing of 1975 and newer gasoline powered light-duty vehicles (LDGV) and light-duty trucks 1 & 2 (LDGT1 & LDGT2) up to 9,000 pounds gross vehicle weight rating (GVWR) in a test and repair network, utilizing: (1) one-mode Acceleration Simulation Mode (ASM) (ASM5015 or equivalent) emission testing and evaporative pressure and purge testing in the five county Philadelphia area and two speed idle emission testing in the remaining twenty counties, (2) visual inspection of the catalytic converter, fuel inlet restrictor, PCV and EGR on 1981 and newer vehicles in all twenty-five I/M counties and (3) mandatory technician training and certification (TTC) in all twenty-five counties. The Commonwealth proposes to demonstrate that the pre-existing sticker enforcement mechanism is more effective than registration denial. The Commonwealth will contract out the quality control, quality assurance, data collection, data analysis and reporting, inspector training and certification, public outreach and on-road testing portions of the program.

Emission Reduction Claim and Basis for the Claim

As stated in the March 22, 1996 SIP submittal and in the June 27, 1996 supplement, the Commonwealth has claimed 100% credit for their test and repair network which is permitted under the interim approval process of NHSDA. The Commonwealth has 18 months from the date of the final interim approval to demonstrate and prove their claim.

The Commonwealth's good faith estimate claims the additional credit through the following measures:

1. increased oversight through covert and overt audits;
2. additional on-road testing through remote sensing;
3. use of the State Police for more visible enforcement;
4. ability to collect and analyze data instantaneously so that swift enforcement action can be taken; and
5. improvements to automate data input activities that removes opportunity for inspector error or abuse.

B. Analysis of the EPA I/M Regulation and CAA Requirements

EPA summarizes the requirements of the I/M rule as found in 40 CFR 51.350–51.373 and its analysis of the Commonwealth's submittal below. A more detailed analysis of the Commonwealth's submittal is contained in a Technical Support Document (TSD)

which is available from the Region III office, listed in the ADDRESSES section. Parties desiring additional details on the I/M rule are referred to 40 CFR 51.350–51.373.

As previously stated, the NHSDA left those elements of the I/M Rule that do not pertain to the network design or test type intact. Based upon EPA's review of Pennsylvania's submittal, EPA believes the Commonwealth has not complied with all aspects of the CAA and the I/M Rule. For certain sections of the I/M Rule or of the CAA identified below with which the Commonwealth has not yet fully complied, EPA proposes to conditionally approve the SIP if it receives a commitment from the Commonwealth to correct said deficiency. Before EPA can continue with the interim rulemaking process, the Commonwealth must make a commitment within 30 days of [insert publication date] to correct these major SIP elements by a date certain within 1 year of EPA interim approval. If the Commonwealth does not make this commitment, EPA proposes in the alternative to disapprove the Pennsylvania submittal. In addition, the Commonwealth must correct these major deficiencies by the date specified in the commitment or this proposed interim approval will convert to a disapproval under CAA section 110(k)(4).

EPA has also identified certain minor deficiencies in the SIP, which are itemized below. EPA has determined that delayed correction of these minor deficiencies will have a *de minimis* impact on the Commonwealth's ability to meet clean air goals. Therefore, the Commonwealth need not commit to correct these deficiencies in the short term, and EPA will not impose conditions on interim approval with respect to these deficiencies. The Commonwealth must correct these deficiencies during the 18 month term of the interim approval, as part of the fully adopted rules that the Commonwealth will submit to support full approval of its I/M SIP. So long as the Commonwealth corrects these minor deficiencies prior to final action on the Commonwealth's full I/M SIP, EPA concludes that failure to correct the deficiencies in the short term is *de minimis* and will not adversely affect EPA's ability to give interim approval to the proposed I/M program.

Applicability—40 CFR 51.350

Sections 182(c)(3) and 184(b)(1)(A) of the CAA and 40 CFR 51.350(a) require all states in the Ozone Transport Region (OTR) which contain Metropolitan Statistical Areas (MSAs) or parts thereof

with a population of 100,000 or more to implement an enhanced I/M program. Pennsylvania is part of the OTR and contains the following MSAs or parts thereof with a population of 100,000 or more: Allentown-Bethlehem, Altoona, Beaver, Erie, Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, Philadelphia, Pittsburgh-Beaver Valley, Reading, Scranton-Wilkes-Barre, Sharon, State College, Williamsport, and York. The Philadelphia area is classified as a severe ozone nonattainment area and also required to implement an enhanced I/M program as per section 182(c)(3) of the CAA and 40 CFR 51.350(2).

Under the requirements of the CAA, the following 33 counties in Pennsylvania (in which the above listed MSAs are located) would be subject to the enhanced I/M program requirements: Adams, Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Carbon, Centre, Chester, Columbia, Cumberland, Dauphin, Delaware, Erie, Fayette, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Monroe, Montgomery, Northampton, Perry, Philadelphia, Somerset, Washington, Westmoreland, Wyoming and York. However, under the federal I/M regulations, specifically 40 CFR 51.350(b), some rural counties having a population density of less than 200 persons per square mile based on the 1990 census can be excluded from program coverage provided that at least 50% of the MSA population is included in the program. The following eight counties in the Commonwealth qualify for the exemption discussed in 40 CFR 51.350(b) and are exempt from participation in the program: Adams, Carbon, Columbia, Fayette, Monroe, Perry, Somerset and Wyoming. Consequently, the I/M rule requires that the enhanced I/M program be implemented in 25 counties in the Commonwealth. The 25 counties are as follows: Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Centre, Chester, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York.

The Pennsylvania I/M legislative authority (referred to as 75 Pa.C.S. § 4706 throughout the remainder of this notice) provides the legal authority to establish the geographic boundaries for the program. The program boundaries listed in an appendix to the SIP include the 25 counties listed above and meet the federal I/M requirements under 40 CFR 51.350. However, 75 Pa.C.S. § 4706 states "this program shall be established

in all areas of this Commonwealth where the secretary certifies by publication in the *Pennsylvania Bulletin* that a system is required in order to comply with Federal law. Any area, counties, county or portion thereof certified to be in the program by the secretary must be mandated to be in the program by Federal law." 75 Pa.C.S. § 4706 requires "at least 60 days prior to the implementation of any enhanced emission inspection program developed under this subsection, the Secretary of Transportation shall certify by notice in the *Pennsylvania Bulletin* that an enhanced emission inspection program will commence". The Pennsylvania I/M proposed regulation, 67 Pa.Code § 177.22, states "the enhanced I/M program, as described in this chapter, will commence on a date designated by the Secretary by notice in the *Pennsylvania Bulletin*. The notice will provide affected motorists with at least 60 days notice". EPA, therefore, proposes to conditionally approve the Pennsylvania SIP based on receiving the Commonwealth's commitment to publish a notice in the *Pennsylvania Bulletin* by a date certain no later than September 15, 1997 which certifies the need for the I/M program and the geographic scope of the program. The geographic coverage certified in the notice must include the 25 counties listed above or EPA will consider the commitment not met and will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

The I/M rule requires that the state program shall not sunset until it is no longer necessary. EPA interprets the federal I/M rule as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. The Pennsylvania I/M regulation provides for the program to continue past the attainment dates for all applicable nonattainment areas in the Commonwealth and therefore meets the I/M rule for purposes of interim approval.

Enhanced I/M Performance Standard—40 CFR 51.351

In accordance with the CAA and the I/M rule, the enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network

type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Pennsylvania submittal the most current version was MOBILE5a. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both nitrogen oxides (NO_x) and hydrocarbons (HC).

The five county Philadelphia area, which includes the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia, must meet the high enhanced I/M performance standard for HC and NO_x. The five county Philadelphia area does not qualify to use the low enhanced or the OTR low enhanced I/M performance standards. The program design parameters used in the modeling found in the SIP submittal demonstrate that the five county Philadelphia area does meet the high enhanced I/M performance standard. However, the proposed I/M regulations do not contain all the same program design parameters found in the modeling in the SIP submittal.

EPA established an alternate, low enhanced I/M performance standard to provide flexibility for nonattainment areas that are required to implement enhanced I/M but which can meet the 1990 Clean Air Act emission reduction requirements for Reasonable Further Progress and attainment from other sources without the stringency of the high enhanced I/M performance standard (60 FR 48029). The Pittsburgh area, which includes the counties of Allegheny, Beaver, Washington and Westmoreland, qualifies for the low enhanced I/M performance standard but does not qualify for the OTR low enhanced performance standard. The program design parameters used in the modeling found in the SIP submittal demonstrate that the four county Pittsburgh area does meet the low enhanced I/M performance standard. However, the proposed I/M regulations do not contain all of the same program design parameters found in the modeling in the SIP submittal.

The Commonwealth's program demonstrates compliance with the low enhanced performance standard established in 40 CFR 51.351(g). That

section provides that states may select the low enhanced performance standard if they have an approved SIP for reasonable further progress in 1996, commonly known as a 15% reduction SIP. In fact, EPA approval of 15% plans has been delayed, and although EPA is preparing to take action on 15% plans in the near future, it is unlikely that EPA will have completed final action on most 15% plans prior to the time EPA believes it would be appropriate to give final interim approval to I/M programs under the NHSDA.

In enacting the NHSDA, Congress evidenced an intent to have states promptly implement I/M programs under interim approval status to gather the data necessary to support state claims of appropriate credit for alternative network designs. By providing that such programs must be submitted within a four month period, that EPA could approve I/M programs on an interim basis based only upon proposed regulations, and that such approvals would last only for an 18 month period, it is clear that Congress anticipated both that these programs would start quickly and that EPA would act quickly to give them interim approval.

Many states have designed a program to meet the low enhanced performance standard, and have included that program in their 15% plan submitted to EPA for approval. Such states anticipated that EPA would propose approval both of the I/M programs and the 15% plans on a similar schedule, and thus that the I/M programs would qualify for approval under the low performance standard. EPA does not believe it would be consistent with the intent of the NHSDA to delay action on interim I/M approvals until the agency has completed action on the corresponding 15% plans. Although EPA acknowledges that under its regulations full final approval of a low enhanced I/M program after the 18 month evaluation period would have to await approval of the corresponding 15% plan, EPA believes that in light of the NHSDA it can take final interim approval of such I/M plans provided that the agency has determined as an initial matter that some type of approval of the 15% plan is appropriate, and has issued some type of proposed approval of that 15% plan.

The Commonwealth has submitted a 15% plan for the Pittsburgh area which includes the low enhanced I/M program. EPA is currently reviewing that program and plans to propose action on it shortly. EPA here proposes to approve the I/M program as satisfying the low enhanced performance standard

provided that EPA does propose some type of approval of the 15% plan containing that program. Should EPA propose approval of the 15% plan, EPA will proceed to take final interim conditional approval action on the I/M plan. EPA proposes in the alternative that if the agency proposes instead to disapprove the 15% plan, EPA would then disapprove the I/M plan as well because the state would no longer be eligible to select the low enhanced performance standard under the terms of 51.351(g).

EPA established an alternate, OTR low enhanced I/M performance standard, in order to provide OTR qualifying areas the flexibility to implement a broader range of I/M programs (61 FR 39039). This standard is designed for states in the OTR which are required to implement enhanced I/M in areas that are designated and classified as attainment, marginal ozone nonattainment or moderate ozone nonattainment with a population of under 200,000. The remaining areas of the Pennsylvania I/M program other than the five county Philadelphia and four county Pittsburgh areas qualify for the OTR low enhanced performance standard. The program design parameters used in the modeling found in the SIP submittal demonstrate that the remaining areas meet the requirements of the OTR low enhanced I/M performance standard. However, the proposed I/M regulations do not contain the same program design parameters found in the modeling in the SIP submittal.

The Pennsylvania submittal includes the following program design parameters:

Network type—decentralized, test and repair, modeled claiming 100% emission reduction credits.

Start date—1997 for the five county Philadelphia and the four county Pittsburgh areas and 1999 for the remaining areas.

Test frequency—annual.

Model year/ vehicle type coverage—1975 and newer gasoline powered LDGV, LDGT1 & LDGT2.

Exhaust emission test type—one-mode ASM (ASM5015 or equivalent) in five county Philadelphia area and BAR90 two speed idle test in the remaining twenty counties; the one-mode ASM testing was modeled utilizing the credit assigned for ASM2 testing.

Emission standards—ASM: 0.8 gpm HC, 20.0 gpm CO, 2.0 gpm NO_x; 2 speed idle: 220 ppm HC, 1.2% CO, 999 ppm NO_x.

Emission control device—visual inspection of the catalytic converter,

fuel inlet restrictor, EGR and PCV on 1981 and newer vehicles in all 25 counties.

Evaporative system function checks—pressure and purge testing on 1981 and newer vehicles in five county Philadelphia area.

Stringency (pre-1981 failure rate)—20%.

Waiver rate—3% for all model years.

Compliance rate—96%.

Evaluation dates—July 1999, 2002 and 2005 for five county Philadelphia area and July 2000, 2003, 2006 and 2007 for twenty remaining counties.

Pennsylvania's modeling also included taking 100% credit for a mandatory technician training and certification (TTC) program in all twenty-five counties; however, Pennsylvania's proposed regulations does not provide for the TTC program.

Because the Pennsylvania proposed I/M regulations are not the same as the program design parameters in the modeling and the modeling takes credit for features not in the proposed regulation, EPA is proposing to find that the enhanced I/M performance standard requirements are satisfied based on the condition that the Commonwealth of Pennsylvania will submit to EPA within 12 months of the final interim ruling, the final Pennsylvania I/M regulations which reflect the program design parameters found in the modeling portion of the Pennsylvania I/M SIP.

EPA, therefore, proposes to conditionally approve the Pennsylvania SIP based on receiving within 30 days the Commonwealth's commitment to submit to EPA by a date certain within nine months of the final interim ruling the final Pennsylvania I/M regulations which reflect the program design parameters found in the modeling portion of the Pennsylvania I/M SIP. If this condition is not met EPA will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

The modeling demonstration was performed correctly, used local characteristics and demonstrated that the program design will meet the minimum enhanced I/M performance standard, expressed in gpm, for HC and NO_x for each milestone and for the attainment deadline. The emission levels achieved by Pennsylvania were modeled using MOBILE5a. However, Pennsylvania utilized the two-mode ASM (ASM2) credit matrix in that model because a one-mode ASM (ASM1) credit matrix had not been released by EPA. Pennsylvania will be required to repeat the demonstration if EPA provides the appropriate one-mode

ASM credit matrix as part of the MOBILE model.

In order to determine whether the Commonwealth's I/M program meets the performance standard, the Commonwealth needed to submit modeling of its program to reflect that it met the performance standard. Because of delayed program start up and program reconfiguration, the existing modeling used by the Commonwealth to demonstrate compliance with the performance standard is no longer accurate, as it is based on start up and phase-in of testing and cut-points that do not reflect the current program configuration or start dates that the Commonwealth will actually implement. EPA believes, based on the available modeling, analysis of program elements in the SIP submittals and EPA's own extrapolation of expected emission reductions from the program, that the delayed program start up, as compared to that start up which was modeled by the Commonwealth, will not jeopardize the Commonwealth's ability to meet the performance standard. However, the Commonwealth must conduct new modeling using the actual program configuration to verify that the performance standard will in fact be met. For example, phase-in cutpoints corresponding to the test-type and correct program start up dates should be included in the new modeling.

The Commonwealth must conduct and submit the necessary new modeling and demonstration that the program will meet the performance standard within one year from final conditional interim approval. If the Commonwealth fails to submit this new modeling within one year, EPA proposes that the conditional interim approval will convert to a disapproval upon a letter from EPA indicating that the Commonwealth has failed to timely submit the modeling and demonstration of compliance with the performance standard.

In addition, the existing I/M rules require that the modeling demonstrate that the Commonwealth program has met the performance standard by fixed evaluation dates. The first such date is January 1, 2000. However, few state programs will be able to demonstrate compliance with the performance standard by that date as a result of delays in program start up and phase-in of testing requirements. EPA believes that based on the provisions of the NHSDA, the evaluation dates in the current I/M rule have been superseded. Congress provided in the NHSDA for state development of I/M programs that would start significantly later than the start dates in the current I/M rule.

Consistent with congressional intent, such programs by definition will not achieve full compliance with the performance standard by the beginning of 2000.

As explained above, EPA has concluded that the NHSDA superseded the start date requirements of the I/M rule, but that states should still be required to start their programs as soon as possible, which EPA has determined would be by November 15, 1997. Therefore, EPA believes that pursuant to the NHSDA, the initial evaluation date should be January 1, 2002. This evaluation date will allow states to fully implement their I/M programs and complete one cycle of testing at full cut points in order to demonstrate compliance with the performance standard.

Network Type and Program Evaluation—40 CFR 51.353

The enhanced program must 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 CAA and the I/M rule. The SIP must include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports, data from a state monitored or administered mass emission transient test of at least 0.1% of the vehicles subject to inspection each year, a description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

Both 75 Pa.C.S. § 4706 and the Commonwealth's proposed I/M regulation provide for a decentralized, test and repair network. The Commonwealth has claimed 100% effectiveness for its test and repair network.

In its SIP, the Commonwealth has committed to conducting one-mode ASM (ASM5015 or equivalent) or BAR90 2 speed idle testing in order to evaluate the program under the long term program demonstration. This does not comply with the evaluation protocol set by EPA in 40 CFR 51.353(c). The Environmental Council of States (ECOS) has formed a committee to develop an evaluation protocol to be used by states in order to evaluate program effectiveness. ECOS has agreed that the states must follow the long term program evaluation found in 40 CFR 51.353. 40 CFR 51.353 requires mass emission transient testing (METT) be performed on 0.1% of the subject fleet each year. The submittal also fails to commit to the other program evaluation

elements as specified in 40 CFR 51.353(b)(1) and (c).

EPA, therefore, proposes to conditionally approve the Pennsylvania SIP based on receiving the Commonwealth's commitment within 30 days to submit to EPA by a date certain within nine months of the final interim ruling, the final Pennsylvania I/M regulation which requires METT be performed on 0.1% of the subject fleet each year as per 40 CFR 51.353 (c)(3) and meets the program evaluation elements as specified in 40 CFR 51.353(b)(1) and (c). If this condition is not met EPA will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

Adequate Tools and Resources—40 CFR 51.354

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

According to Pennsylvania, the Pennsylvania State Constitution currently prohibits monies received from test fees or any other fees received to be deposited in a proprietary account. The Pennsylvania Department of Transportation (PADOT), which implements the I/M program, has no means to fund the I/M program and must rely on future uncommitted annual appropriations from the General Assembly. The I/M rules allow for this funding method if, as in Pennsylvania, doing otherwise would be a violation of the State Constitution. The submittal demonstrates that sufficient funds have been currently appropriated to meet program operation requirements.

The SIP fails to detail the number of personnel and equipment dedicated to the quality assurance program, data collection, data analysis, program

administration, enforcement, public education and assistance, on-road testing and other necessary functions, because a majority of these functions will be performed by a contractor and the Commonwealth has not released the request for proposals to address these program areas. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

Thus, the Commonwealth's submittal meets the adequate tools and resources requirements of the I/M rule for purposes of interim approval.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard in the I/M rule assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP must describe the test year selection scheme, how the test frequency is integrated into the enforcement process and must include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program must be designed to provide convenient service to the motorist and regular testing hours.

Pennsylvania's proposed enhanced I/M regulation provides for an annual test frequency. The Commonwealth has submitted modeling that demonstrates that the performance standard is met using the annual test frequency. 75 Pa.C.S. § 4706 and the Commonwealth's proposed I/M regulation provide the legal authority to implement and enforce the annual test frequency. The Pennsylvania submittal meets the test frequency and convenience requirements of the I/M rules for purposes of interim approval.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds 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 and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities if such alternatives are approved by the program administration, but shall be

subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in the same type of test network as other vehicles in the State, according to the requirements of 40 CFR § 51.353(a). Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the State or local I/M area.

The I/M rule 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. Such exemptions shall be accounted for in the emissions reduction analysis.

The Pennsylvania enhanced I/M program requires coverage of all 1975 and newer gasoline powered LDGV, LDGT1 and LDGT2 up to 9,000 pounds GVWR which are registered or required to be registered in the I/M program area. As of the date of the SIP submittal, 5.9 million vehicles will be subject to enhanced I/M testing. The Commonwealth's regulation does not currently include vehicles operating on all fuel types but Pennsylvania commits to adding the required testing of these vehicles once EPA promulgates regulations on alternative fueled vehicle I/M testing. 75 Pa.

C.S. § 4706 and the proposed Pennsylvania I/M regulation provide the legal authority to implement and enforce the vehicle coverage. This level of coverage is currently approvable because it provides the necessary emission reductions to meet the performance standard.

Pennsylvania's program provides that fleets with 15 or more vehicles can be inspected at a certified fleet inspection station. The Commonwealth's plan for testing fleet vehicles requires the vehicles to be subject to the same test requirements using the same quality control standards as non-fleet vehicles, according to the requirements of 40 CFR § 51.353(a). The fleet program is acceptable and meets the requirements of the I/M rule. The Commonwealth's regulation requires vehicles which are operated on Federal installations located within an I/M program area to be tested, regardless of whether the vehicles are registered in the state or local I/M area.

The Commonwealth's regulation provides for no special exemptions for vehicle coverage.

The definition of light duty truck in the definitions section of Pennsylvania's proposed I/M regulation does not provide for coverage up to 9,000 pounds GVWR and conflicts with the modeling parameters found in the SIP. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

Thus, the Pennsylvania submittal meets the vehicle coverage requirements of the I/M rule for purposes of interim approval.

Test Procedures and Standards—40 CFR § 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR § 51.357 and in the EPA documents entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA-AA-EPSD-IM-93-1, dated April 1994 and "Acceleration Simulation Mode Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA-AA-RSPD-IM-96-2, dated July 1996. The I/M rule also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be subject to the requirements of 40 CFR 51.357(d).

Pennsylvania has proposed an one-mode ASM (ASM5015 or equivalent) exhaust testing with evaporative system pressure and purge testing in the five county Philadelphia area. Pennsylvania is considering opting for the two-mode ASM test instead of the one-mode ASM test. Pennsylvania has been working with other states and the equipment manufacturers, in coordination with EPA, to develop their own procedures, specifications and standards for one and two-mode ASM testing. It is anticipated that these test procedures, specifications and standards will be released in late August 1996. Two speed idle exhaust testing will be required in the remaining 20 counties. A visual emission control inspection for the presence of the catalytic converter, fuel inlet restrictor, PCV and EGR valve on 1981 and newer model year vehicles will be required in all 25 counties.

The Commonwealth's proposed regulation does not include a description of a test procedure which is acceptable to both the Commonwealth and EPA for two speed idle and one-

mode ASM testing, for evaporative system pressure and purge testing and for a visual emission control device inspection. The Commonwealth's proposed regulation does not establish HC, CO, and CO₂ pass/fail exhaust standards for the two speed idle test procedure and one-mode ASM test procedure. The Commonwealth regulation does not establish evaporative purge and pressure test standards which conform to EPA established standards. The final Pennsylvania I/M regulation must include the test procedures and emission standards for these items. The July 29, 1996 supplement submitted by Pennsylvania provides a commitment to include the test procedures for the 2 speed idle test and the one-mode ASM (ASM5015 or equivalent) in the final regulation; however, the Commonwealth fails to commit to test procedures for evaporative system pressure and purge tests and visual emission control device inspections.

Pennsylvania's proposed regulation does not provide phase-in emission standards for one-mode ASM testing or two speed idle testing. EPA anticipates that the Commonwealth will provide for phase-in emission standards in the final state regulation. The final emission standards must be implemented at the beginning of the second test cycle so that the Commonwealth can obtain the full emission reduction program credit prior to the first program evaluation date. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Commonwealth's regulation also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be tested in the same manner as other subject vehicles.

EPA must receive the test procedures, specifications and standards before EPA can go forward with a final interim ruling. In light of the anticipated release of these test procedures, specifications and standards in late August 1996, the Commonwealth must submit the procedures, specifications and standards to EPA within 30 days of the proposed interim ruling.

If, within 30 days of the proposed interim ruling, the Commonwealth of Pennsylvania submits to EPA test procedures and standards for one-mode ASM (or two-mode ASM if the Commonwealth opts for two-mode ASM) and two speed idle testing which are acceptable to EPA, then EPA proposes to conditionally approve the Pennsylvania SIP based on receiving within 30 days of this proposed rule the

Commonwealth's commitment to submit to EPA by a date certain within twelve months of the final interim ruling, the final Pennsylvania I/M regulation which includes test procedures and emission standards which are acceptable to both the Commonwealth and EPA for the two speed idle test, one-mode ASM test (or two-mode ASM test), evaporative system purge and pressure tests and the visual emission control device inspection (referred to collectively in the remainder of this section of the notice as "test procedures and standards"). If within 30 days of the proposed interim ruling the submittal requirement is not met or the state fails to commit within 30 days to submit final regulations which incorporate the "test procedures and emission standards" which are acceptable to both the Commonwealth and EPA by a date certain within twelve months from the final interim ruling then this notice proposes in the alternative to disapprove the Pennsylvania I/M SIP. If the condition to submit the final regulations which incorporate the "test procedures and emission standards" which are acceptable to both the Commonwealth and EPA is not met by a date certain within twelve months from the final interim ruling EPA will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

Test Equipment—40 CFR § 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The I/M rule requires 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.

The Commonwealth's submittal contains the written technical specifications for the two speed idle test equipment but does not contain equipment specifications for the one-mode ASM (ASM5015 or equivalent) and the pressure and purge test equipment. Pennsylvania has been working with other States and the equipment manufacturers, in coordination with EPA, to develop their own procedures, equipment specifications and standards for one and two-mode ASM testing. It is anticipated that these test procedures, equipment specifications and standards will be released in late August 1996.

Pennsylvania must submit ASM equipment specifications once they have been established. The proposed regulation does require the use of computerized test systems.

EPA must receive the test procedures, equipment specifications and standards before EPA can go forward with a final interim ruling. In light of the anticipated release of these test procedures, equipment specifications and standards in late August 1996, the Commonwealth must submit the procedures, equipment specifications and standards to EPA within 30 days of the proposed interim ruling.

If, within 30 days of the proposed interim ruling, the Commonwealth of Pennsylvania submits to EPA equipment specifications for one-mode ASM (or two-mode ASM if the Commonwealth opts for two-mode ASM) testing which are acceptable to EPA, then EPA proposes to conditionally approve the Pennsylvania SIP based on receiving within 30 days of this proposed rule the Commonwealth's commitment to submit to EPA by a date certain within twelve months of the final interim ruling, the final Pennsylvania I/M regulation which includes test equipment specifications which are acceptable to both the Commonwealth and EPA for the one-mode ASM test (or two-mode ASM test) and evaporative system purge and pressure tests. If within 30 days of the proposed interim ruling the submittal requirement is not met or the state fails to commit within 30 days to submit final regulations which incorporate the equipment specifications which are acceptable to both the Commonwealth and EPA for the one-mode ASM test (or two-mode ASM test) and evaporative system purge and pressure tests by a date certain within twelve months from the final interim ruling then this notice proposes in the alternative to disapprove the Pennsylvania I/M SIP. If the condition to submit the final regulations which incorporate the equipment specifications which are acceptable to both the Commonwealth and EPA for the one-mode ASM test (or two-mode ASM test) and evaporative system purge and pressure tests is not met by a date certain within nine months from the final interim ruling, EPA will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

The proposed Pennsylvania regulation requires a data link system between the Commonwealth and each emission station; however it is not a real time data link. A real time data link is required as per 40 CFR § 51.358(b)(2).

This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

Quality Control—40 CFR § 51.359

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

The Commonwealth's proposed regulation and the SIP submittal contain information which describe and establish quality control measures for all the emission measurement equipment except for one-mode ASM (or two-mode ASM if the Commonwealth opts for it). Recordkeeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements are included in the submittal. The Commonwealth intends to contract with a private vendor who will develop and implement, consistent with the proposed state regulations, the quality control requirements. The failure to provide quality control requirements for one-mode ASM (or two-mode ASM if the Commonwealth opts for it) is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Commonwealth's submittal meets the quality control requirements of the I/M rule for purposes of interim approval.

Waivers and Compliance Via Diagnostic Inspection—40 CFR § 51.360

The I/M rule allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For 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 to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The I/M rule allows for compliance via a diagnostic inspection after failing a retest on

emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

75 Pa.C.S. § 4706 and the Pennsylvania proposed I/M regulation provide the necessary authority to issue waivers, set and adjust cost limits, administer and enforce the waiver system, and set a \$450 cost limit and allow for an annual adjustment of the cost limit to reflect the change in the CPI as compared to the CPI in 1989. The Pennsylvania proposed I/M regulation includes provisions which address waiver criteria and procedures, including cost limits, tampering and warranty related repairs, quality control and administration.

The Commonwealth has set a 3% maximum waiver rate, as a percentage of failed vehicles, for both pre-1981 and 1981 and later vehicles. The Commonwealth has committed to, as per 40 CFR § 51.360, corrective actions to be taken if the waiver rate exceeds 3%. This waiver rate has been used in the performance standard modeling demonstration.

The Commonwealth's proposed regulation allows emission inspection stations to issue waivers. The I/M rule, 40 CFR § 51.360(c)(1), only allows the State or a single contractor to issue waivers. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the waiver requirements of the I/M rule for purposes of interim approval.

Motorist Compliance Enforcements—40 CFR § 51.361

The I/M rule requires that compliance shall 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. An enhanced I/M area may use either sticker-based enforcement programs or computer-matching programs if either of these programs were used in the existing program, which was operating prior to passage of the 1990 Clean Air Act Amendments, and it can be demonstrated that the alternative has been more effective than registration denial. Currently the I/M rule does not provide this alternative for newly implementing enhanced areas, including newly subject areas in a state with an I/M program in another part of the state. In a separate action expected to be taken shortly, EPA intends to take direct final action to amend 40 CFR § 51.361 to allow in the alternative, the

use of more effective pre-existing motorist compliance enforcement mechanism anywhere within a State. EPA proposes to approve Pennsylvania's use of sticker enforcement throughout the state, based on the state's demonstration of effectiveness described below, provided that EPA takes final action on this amendment prior to final approval of the Pennsylvania program.

In addition, the SIP must provide information concerning the enforcement process, legal authority to implement and enforce the program, and a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

The Commonwealth proposes to use their pre-existing sticker enforcement mechanism in all 25 counties. The Commonwealth proposes to demonstrate that its existing sticker enforcement program is more effective than registration denial. Pennsylvania's proposed I/M regulation provides the legal authority to implement a sticker enforcement system. The Pennsylvania SIP commits to a compliance rate of 96% which was used in the performance standard modeling demonstration. EPA proposes to conditionally approve the Pennsylvania SIP based on receiving within 30 days from this notice a commitment from the Commonwealth to submit by a date certain no later than November 15, 1997, a demonstration that meets the requirements of 40 CFR § 51.361(b) (1) and (2) and demonstrates that the Pennsylvania's existing sticker enforcement system is more effective than registration denial enforcement. The demonstration must be received by EPA no later than November 15, 1997 because November 15, 1997 is the date by which the Pennsylvania enhanced I/M program must begin testing and EPA believes that the demonstration must be complete and submitted to EPA by the time testing is required to begin.

Motorist Compliance Enforcement Program Oversight—40 CFR § 51.362

The I/M rule 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 Pennsylvania SIP contains a commitment to contract with a private

vendor which will develop a manual which addresses the quality assurance, quality control and information management of the motorist compliance enforcement oversight program. The submittal does not include the request for proposals (RFP) that adequately addresses how the private vendor will comply with the motorist compliance enforcement program oversight requirements. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

Quality Assurance—40 CFR § 51.363

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

The Pennsylvania submittal contains a commitment to contract with a private vendor who will be charged with developing a quality assurance program that meets all requirements of 40 CFR 51.363.

Performance audits of inspectors will consist of both covert and overt audits.

The submittal does not include a RFP that adequately addresses how the private vendor will comply with 40 CFR 51.363, does not include a procedures manual which adequately addresses the quality assurance program and does not require annual auditing of the quality assurance auditors as per 40 CFR 51.363(d)(2). These are minor deficiencies and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the quality assurance requirements of the I/M rule for purposes of interim approval.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations, contractors and inspectors must include swift, sure, effective, and consistent penalties for violation of program requirements. The I/M rule requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP.

State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits, unless constitutionally prohibited. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP must describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases and the resources and sources of those resources which will support this function.

The Pennsylvania submittal includes the legal authority to establish and impose penalties against stations and inspectors. The penalty schedules for inspectors and stations which are found in the Commonwealth's proposed regulation meet the I/M rule requirements and are approvable. The Commonwealth's July 27, 1996 supplement to the SIP revision states that the Commonwealth auditor has the authority to temporarily suspend station and inspector licenses or certificates immediately upon finding a violation. The submittal includes descriptions of administrative and judicial procedures relevant to the enforcement process which meet the I/M rule and are approvable.

The SIP does not include provisions to maintain and submit to EPA records of all warnings, civil fines, suspensions, revocations, violations and penalties against inspectors and stations. This is a minor deficiency and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the enforcement against contractors, stations and inspectors requirements of the I/M rule for purposes of interim approval.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The I/M rule 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 submittal states that the Commonwealth's data collection will be implemented by a private vendor and will be in accordance with 40 CFR §§ 51.365 and 51.366. The submittal also commits to gather and report the results of the quality control checks

required under 40 CFR § 51.359. The submittal does not include a RFP that adequately addresses how the private vendor will comply with 40 CFR §§ 51.365 and 51.366. This is a minor deficiency which must be corrected by submitting the portion of the RFP which adequately addresses data collection as part of the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the data collection requirements of the I/M rule for purposes of interim approval.

Data Analysis and Reporting—40 CFR § 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the state and EPA. The I/M rule 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 of each year and shall provide statistics for the period of January to December of the previous year. In addition, a biennial report must be submitted to EPA which adequately 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.

The Pennsylvania I/M SIP states that data analysis and reporting will be implemented by a private vendor and provides a commitment that the reports submitted to EPA will provide summary data and other information as required under 40 CFR § 51.366. The Commonwealth commits to submit annual reports on test data, quality assurance and quality control to EPA by July of the subsequent year. A commitment to submit a biennial report to EPA which adequately addresses reporting requirements set forth in 40 CFR § 51.366(e) is also included in the SIP.

The submittal does not include an RFP that adequately addresses how the private vendor will comply with 40 CFR § 51.366. This is a minor deficiency which must be corrected by submitting the portion of the RFP which adequately addresses data analysis and reporting as part of the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the data analysis and reporting requirements of the I/M rule for purposes of interim approval.

Inspector Training and Licensing or Certification—40 CFR § 51.367

The I/M rule requires all inspectors to be formally trained and licensed or certified to perform inspections.

The Pennsylvania I/M regulation requires all inspectors to receive formal training, be certified by the PADOT and renew the certification every two years. The Commonwealth will hire a private vendor to implement the inspector training and certification program. The Commonwealth's proposed I/M regulation includes a description of the information covered in the training program, a requirement for both written and hands-on testing and a description of the certification process. However, the SIP fails to include requirements that the inspectors are to complete a refresher training course or pass a comprehensive skill examination prior to being recertified and does not include a commitment that the Commonwealth will monitor and evaluate the inspector training program delivery. These are minor deficiencies and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the inspector training and licensing or certification requirements of the I/M rule for purposes of interim approval.

Public Information and Consumer Protection—40 CFR § 51.368

The I/M rule requires the SIP to include public information and consumer protection programs.

The Commonwealth will hire a private vendor to implement the public information program which educates the public on I/M, state and federal I/M rules, air quality and the role of motor vehicles in the air pollution problem, and other items as described in the I/M rule. The submittal does not include an RFP that adequately addresses how the private vendor will comply with the public information requirements of 40 CFR § 51.368. This is a minor deficiency which must be corrected by submitting the portion of the RFP which adequately addresses the public information program as part of the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the public information and consumer protection requirements of the I/M rule for purposes of interim approval.

Improving Repair Effectiveness—40 CFR § 51.369

Effective repairs are the key to achieving program goals. The I/M rule requires states to take steps to ensure

that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the I/M rule, and a description of the repair technician training resources available in the community.

The Pennsylvania SIP requires the implementation of a technical assistance program. The Commonwealth will hire a private vendor to implement a technician hotline service. The Commonwealth will periodically inform the repair facilities of changes in the program, training courses, and common repair problems. The Commonwealth's proposed regulation provides for the establishment and implementation of a repair technician training program which, at a minimum, covers the four types of training described in 40 CFR 51.369(c).

The SIP does not include provisions that meet the requirements of 40 CFR 51.368(a) and 51.369(b) for a repair facility performance monitoring program plan and for providing the motorist with diagnostic information based on the particular portions of the test that failed. These are minor deficiencies and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the improving repair effectiveness requirements of I/M rule for purposes of interim approval.

Compliance with Recall Notices—40 CFR 51.370

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

75 Pa.C.S. § 4706 and the Commonwealth's proposed I/M regulation provide the legal authority to require owners to comply with emission related recalls before completing the emission test. The SIP includes procedures to be used to incorporate national database recall information into either the data collection contractors database or directly to the emission inspection station. The submittal includes a commitment to submit an annual report to EPA which includes the recall related information as required in 40 CFR 51.370(c).

The Pennsylvania submittal meets the recall compliance requirements of the I/M rule for purposes of interim approval.

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 I/M rule. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

Legal authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements is contained in 75 Pa.C.S. § 4706 and the Commonwealth's proposed I/M regulation. The SIP submittal requires the use of RSD or systematic roadside checks to test 20,000 vehicles per year in the I/M program area and will be implemented by a private vendor. A description of the program which includes test limits and criteria is found in the SIP.

The submittal does not contain sufficient information on resource allocations, methods of analyzing and reporting the results of the testing and information on staffing requirements for both the Commonwealth and the private vendor. These are minor deficiencies and must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period.

The Pennsylvania submittal meets the on-road testing requirements of the I/M rule for purposes of interim approval.

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

The Pennsylvania submittal included the Commonwealth's proposed I/M regulations, legislative authority to implement the program, a modeling demonstration showing that the program design meets the performance standard, evidence of adequate funding and resources to implement the program, and a discussion of each of the required program design elements.

75 Pa.C.S. § 4706 provides the legal authority to implement the program. However, 75 Pa.C.S. § 4706 states "this program shall be established in all areas of this Commonwealth where the secretary certifies by publication in the *Pennsylvania Bulletin* that a system is required in order to comply with Federal law. Any area, counties, county or portion thereof certified to be in the

program by the secretary must be mandated to be in the program by Federal law." 75 Pa.C.S. § 4706 requires "at least 60 days prior to the implementation of any enhanced emission inspection program developed under this subsection, the Secretary of Transportation shall certify by notice in the *Pennsylvania Bulletin* that an enhanced emission inspection program will commence". The Pennsylvania I/M proposed regulation, 67 Pa. Code § 177.22, states "the enhanced I/M program, as described in this chapter, will commence on a date designated by the Secretary by notice in the *Pennsylvania Bulletin*. The notice will provide affected motorists with at least 60 days notice". EPA, therefore, proposes to conditionally approve the Pennsylvania SIP based on receiving from the Commonwealth within 30 days of this notice a commitment to publish a notice in the *Pennsylvania Bulletin* by a date certain no later than September 15, 1997 certifying the start date for the I/M program so that the program for the five county Philadelphia and four county Pittsburgh areas can start no later than November 15, 1997 and so that the remaining 16 counties can start no later than November 15, 1999. If the Commonwealth does not meet the commitment, EPA will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

III. Discussion of Rulemaking Action

Today's notice of proposed rulemaking begins a 30 day clock for the Commonwealth to make a commitment to EPA to correct the major elements of the SIP that EPA considers deficient, by a date certain, within 1 year of interim approval. These elements are: geographic coverage and program start dates, program evaluation, enhanced performance standard, test types, test procedures and emission standards, test equipment specifications and motorist compliance enforcement. If the Commonwealth does not make such commitments within 30 days, EPA today is proposing in the alternative that this SIP revision be disapproved.

In an April 13, 1995 letter EPA notified Pennsylvania that the conditional approval of the Pennsylvania enhanced I/M SIP revision had been converted to a disapproval (60 FR 47084). The letter triggered the 18-month time clock for the mandatory application of sanctions under section 179(a) of the CAA. This 18-month sanction clock will expire on October 13, 1996 at which time 2:1 stationary sources offsets would be automatically imposed. In the Final Rules section of

today's Federal Register, 61 FR 51598, EPA has published an interim final determination to defer sanctions based on the determination that Pennsylvania has cured the SIP deficiency triggering the clock for the duration of EPA's rulemaking process on the I/M SIP revision. This interim determination will not stop the sanctions clock but will defer the implementation of sanctions until either the conditional interim approval is converted to a disapproval, the interim approval lapses, the full SIP is approved or the full SIP is disapproved.

If the Commonwealth makes the required commitments within 30 days, EPA's conditional approval of the plan will last until the date by which the Commonwealth has committed to cure all of the deficiencies. EPA expects that within this period the Commonwealth will not only correct the deficiencies as committed to by the Commonwealth, but that the Commonwealth will also begin program start-up no later than November 15, 1997 in the five county Philadelphia and four county Pittsburgh areas. If the Commonwealth does not correct deficiencies and implement the interim program in said areas by no later than November 15, 1997, EPA is proposing in this notice that the interim approval will convert to a disapproval upon a finding letter being sent by EPA to the Commonwealth.

IV. Explanation of the Interim Approval

At the end of the 18 month interim period, the approval status for this program will automatically lapse pursuant to the NHSDA. It is expected that the Commonwealth will make a demonstration of the program's effectiveness using an appropriate evaluation criteria. As EPA expects that the Pennsylvania I/M program will have started by no later than November 15, 1997, the Commonwealth will have approximately 6 months of program data that can be used for the demonstration. If the Commonwealth fails to provide a demonstration of the program's effectiveness to EPA within 18 months of the final interim rulemaking, the interim approval will lapse, and EPA will be forced to disapprove the Commonwealth's permanent I/M SIP revision. If the Commonwealth's program evaluation demonstrates a lesser amount of emission reductions actually realized than were claimed in the Commonwealth's previous submittal, EPA will adjust the Commonwealth's credits accordingly, and use this information to act on the

Commonwealth's permanent I/M program.

V. Further Requirements for Permanent I/M SIP Approval

At the end of the 18 month period, final approval of the Commonwealth's plan will be granted based upon the following criteria:

1. The Commonwealth has complied with all the conditions of its commitment to EPA,
2. EPA's review of the Commonwealth's program evaluation confirms that the appropriate amount of program credit was claimed by the Commonwealth and achieved with the interim program,
3. Final program regulations are submitted to EPA, and
4. The Commonwealth's I/M program meets all of the requirements of EPA's I/M rule, including those deficiencies identified herein as minor for purposes of interim approval.

VI. EPA's Evaluation of the Interim Submittal

EPA's review of the Commonwealth's submittal indicates that with satisfaction of the conditions described above, the Commonwealth will have adopted an enhanced I/M program in accordance with the requirements of the NHSDA. EPA is proposing conditional interim approval of the Pennsylvania SIP revision for an enhanced I/M program and the supplements to that revision submitted on June 27, 1996 and July 29, 1996. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final interim action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA is proposing conditional interim approval of this revision to the Pennsylvania SIP for an enhanced I/M program if a commitment is received from the Commonwealth within 30 days of the date of this proposal, to correct the identified deficiencies by a date certain within one year from the date of the final interim approval. The conditions for approvability are as follows:

- (1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Department of Transportation which certifies that the enhanced I/M program is required in order to comply with federal law, certifies the

geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A-1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program. The commencement date for the five county Philadelphia and four county Pittsburgh areas must be no later than November 15, 1997 and the commencement date for the remaining 16 counties must be no later than November 15, 1999;

- (2) The Commonwealth must submit to EPA as a SIP amendment by a date certain within twelve months of the final interim ruling, the final Pennsylvania I/M regulation which requires METT be performed on 0.1% of the subject fleet each year as per 40 CFR § 51.353(c)(3) and meets the program evaluation elements as specified in 40 CFR § 51.353(b)(1) & (c);

- (3) By a date certain no later than November 15, 1997, the Commonwealth must submit a demonstration to EPA as an amendment to the SIP that meets the requirements of 40 CFR § 51.361(b)(1) & (2) and demonstrates that Pennsylvania's existing sticker enforcement system is more effective than registration denial enforcement;

- (4) If, within 30 days of the proposed interim ruling, the Commonwealth of Pennsylvania submits to EPA test procedures, specifications and standards for one-mode ASM (or two-mode ASM if the Commonwealth opts for two-mode ASM) and two speed idle testing which are acceptable to EPA, then EPA proposes to conditionally approve the Pennsylvania SIP if the Commonwealth adopts and submits to EPA as a SIP amendment by a date certain within twelve months of the final interim ruling, the final Pennsylvania I/M regulation which requires and specifies (and reflects the modeling assumptions found in the March 22, 1996 submittal and July 29, 1996 supplement) the following:

exhaust & evaporative test types and procedures which are acceptable to both the Commonwealth and EPA, visual inspection for presence and tampering of emission control devices, equipment specifications which are acceptable to both the Commonwealth and EPA, emission standards for both exhaust and evaporative testing which are acceptable to both the Commonwealth and EPA, and a technician training and certification (TTC) program.

- (5) The Commonwealth must perform and submit the necessary new modeling and demonstration that the program will meet the performance standard, within one year from final conditional interim approval. If the Commonwealth fails to

submit this new modeling within one year, EPA proposes that the conditional interim approval will convert to a disapproval upon a letter from EPA indicating that the Commonwealth has failed to submit, timely, the modeling and demonstration of compliance with the performance standard.

The following minor deficiencies must be corrected in the final I/M SIP revision submitted by the end of the 18 month interim period:

(1) Detail the number of personnel and equipment dedicated to the quality assurance program, data collection, data analysis, program administration, enforcement, public education and assistance, on-road testing and other necessary functions as per 40 CFR § 51.354;

(2) The definition of light duty truck in the definitions section of the Pennsylvania I/M regulation must provide for coverage up to 9,000 pounds GVWR;

(3) The Pennsylvania I/M regulation must require implementation of the final full stringency emission standards at the beginning of the second test cycle so that the state can obtain the full emission reduction program credit prior to the first program evaluation date;

(4) The Pennsylvania I/M regulation must require a real time data link between the state or contractor and each emission inspection station as per 40 CFR 51.358(b)(2);

(5) Provide quality control requirements for one-mode ASM (or two-mode ASM if the Commonwealth opts for it);

(6) The Pennsylvania I/M regulation must only allow the Commonwealth or a single contractor to issue waivers as per 40 CFR 51.360(c)(1);

(7) The final I/M SIP submittal must include the RFP that adequately addresses how the private vendor will comply with the motorist compliance enforcement program oversight requirements as per 40 CFR 51.362;

(8) The final I/M SIP submittal must include the RFP that adequately addresses how the private vendor will comply with 40 CFR 51.363, a procedures manual which adequately addresses the quality assurance program and a requirement that annual auditing of the quality assurance auditors will occur as per 40 CFR 51.363(d)(2);

(9) The final I/M SIP submittal must include provisions to maintain and submit to EPA records of all warnings, civil fines, suspensions, revocations, violations and penalties against inspectors and stations as per 40 CFR 51.364;

(10) The final I/M SIP submittal must include a RFP that adequately addresses

how the private vendor will comply with 40 CFR 51.365 and 51.366;

(11) The Pennsylvania regulation must require that the inspectors complete a refresher training course or pass a comprehensive skill examination prior to being recertified and the final SIP revisions must include a commitment that the Commonwealth will monitor and evaluate the inspector training program delivery as per 40 CFR 51.367;

(12) The final I/M SIP submittal must include a RFP that adequately addresses how the private vendor will comply with the public information requirements of 40 CFR 51.368;

(13) The Pennsylvania I/M regulation must include provisions that meet the requirements of 40 CFR 51.368(a) and 51.369(b) for a repair facility performance monitoring program plan and for providing the motorist with diagnostic information based on the particular portions of the test that were failed; and

(14) The final I/M SIP submittal must contain sufficient information to adequately address the on-road test program resource allocations, methods of analyzing and reporting the results of the on-road testing and information on staffing requirements for both the Commonwealth and the private vendor for the on-road testing program.

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

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

SIP approvals under 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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a

flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

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 that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the 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 proposed/promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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 Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the Pennsylvania enhanced I/M SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Section 51.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401-7671q.

Dated: September 12, 1996.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 96-25398 Filed 10-2-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TX55-1-6879; FRL-5611-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule.

SUMMARY: The EPA is proposing a conditional interim approval of an I/M program proposed by the State, based upon the State's good faith estimate of emission reductions indicating that the State's network design credits are appropriate and the revision is otherwise in compliance with the Clean Air Act (the Act). This action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the Act. The EPA is proposing a conditional approval because the State's SIP revision is lacking legislative authority needed to implement certain elements of the program.

If the State corrects these deficiencies within 1 year of the final interim ruling, then this interim approval shall expire on the earlier of 18-months from final interim approval, or on the date of EPA action taking final full approval of this program. If the conditions are not met within 1 year, EPA proposes in the alternative to disapprove the SIP revision. The EPA will notify the State by letter that the conditions have not been met and that the conditional approval has converted to a disapproval. Furthermore, EPA proposes that the State's program must start no later than November 15, 1997 in all I/M program areas. The EPA also proposes that if the State fails to start its program as defined in this document, the approval granted under the provisions of the NHSDA will convert to a disapproval. The EPA will notify the State by letter that the approval has converted to a disapproval for failure to start the program according to the schedule.

The EPA is also proposing removal of the previously approved I/M program from the SIP which was approved on August 22, 1994.

DATES: Comments must be received on or before November 4, 1996.

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

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733.
Texas Natural Resource Conservation
Commission, 12100 Park 35 Circle,
Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Davis, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7584.

SUPPLEMENTARY INFORMATION:

I. Background

A. Previous State Submittal Under the 1990 Act

On November 12, 1993, and in several later submittals, the State of Texas made its submission of an I/M program which met the requirements of the Act and Federal I/M rule promulgated on November 5, 1992. This program was given final approval by EPA in a Federal Register notice dated August 22, 1994 (59 FR 43046-43048). The program was designed to be a test-only testing program with most vehicles receiving an I/M loaded mode transient emission test known as the IM240. The program was designed, developed and began operation in January 1995 before being halted by the Texas Legislature and Governor.

While EPA fully supported this program and believes it would have been very effective in reducing mobile source emissions if continued, various states including Texas desired greater flexibility in implementing their I/M programs. In response to this desire, on September 18, 1995, EPA revised and finalized I/M rules which gave states much greater flexibility in implementing their I/M programs. One element of the I/M flexibility amendments included a provision for a new low enhanced performance standard which would allow for less stringent I/M programs if other required air quality goals were met. Also, included in these rules was a provision that nonattainment areas with populations under 200,000 such as Beaumont/Port Arthur would not need

to implement an I/M program if other required air quality goals were met. In addition, on November 28, 1995, the NHSDA was signed which allowed even greater flexibility in I/M programs for states especially in the area of emission reduction estimates. The revised Texas I/M program, while meeting the minimum of Federal requirements (with the exceptions identified in this notice), represents a substantially less effective I/M program than the previously approved program.

B. Impact of the National Highway System Designation Act on the Design and Implementation of Inspection and Maintenance Programs under the Clean Air Act

The NHSDA establishes two key changes to the enhanced I/M rule requirements previously developed by EPA. Under the NHSDA, EPA cannot require states to adopt or implement centralized, test-only IM240 enhanced vehicle I/M programs as a means of compliance with section 182, 184 or 187 of the Act. Also under the NHSDA, EPA cannot disapprove a state SIP revision, nor apply an automatic discount to a state SIP revision under section 182, 184 or 187 of the Act, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, the so-called "50 percent credit discount" that was established by the EPA's I/M Program Requirements Final Rule, (published November 5, 1992, at 57 FR 52950, and herein referred to as the I/M Rule) has been effectively replaced with a presumptive equivalency criteria, which places the emission reductions credits for decentralized networks on par with credit assumptions for centralized networks, based upon a state's good faith estimate of reductions as provided by the NHSDA and explained below in this section.

EPA's I/M Rule established many other criteria unrelated to network design or test type for states to use in designing enhanced I/M programs. All other elements of the I/M Rule, and the statutory requirements established in the Act continue to be required of those states submitting I/M SIP revisions under the NHSDA, and the NHSDA requires that these submittals must otherwise comply in all respects with the I/M Rule and the Act.

The NHSDA also requires states to swiftly develop, submit, and begin implementation of these enhanced I/M programs, since the anticipated start-up dates developed under the Act and EPA's rules have already been delayed. In requiring states to submit these plans within 120 days of the NHSDA passage,