action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 96–NM–32–AD.

Applicability: Model F27 Mark 050, 100, 200, 300, 400, 600, and 700 series airplanes, equipped with Dowty Aerospace main landing gear (MLG) drag stay units (DSU) having part number (P/N) 200684001, 200261001, or 200485001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in drag stay unit of the main landing gear (MLG), which could result in reduced structural integrity or collapse of the MLG, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform an ultrasonic inspection to determine if a tube having part number (P/N) 200485300 with a straight bore, or a tube having P/N 200259300 with a change in section (stepped bore), is installed on the DSU's of the MLG, in accordance with Fokker Service Bulletin F27/32–167, dated November 19, 1993 (for Model F27 Mark 100, 200, 300, 400, 600, and 700 series airplanes), or Fokker Service Bulletin SBF50–32–029, dated February 11, 1994 (for Model F27 Mark 050 series airplanes), as applicable.

Note 2: Fokker Service Bulletin F27/32–167 references Dowty Service Bulletins 23–169B and 32–82W; and Fokker Service Bulletin SBF50–32–029 references Dowty Service Bulletin F50–32–50; as additional sources of service information for procedures to accomplish the actions specified in this AD.

(b) For all airplanes: If any tube having P/N 200485300 with a straight bore is found installed during the inspection required by paragraph (a) of this AD, prior to further flight, reidentify it in accordance with Fokker Service Bulletin F27/32–167, dated November 19, 1993 (for Model F27 Mark 100, 200, 300, 400, 600, and 700 series airplanes); or Fokker Service Bulletin SBF50–32–029, dated February 11, 1994 (for Model F27 Mark 050 series airplanes); as applicable.

(c) For Model F27 Mark 50 series airplanes: If any tube having P/N 200259300 with a change in section (stepped bore) is found installed during the inspection required by paragraph (a) of this AD, prior to further flight, replace the DSU with a new or serviceable DSU having P/N 200684004, in accordance with Fokker Service Bulletin SBF50–32–029, dated February 11, 1994.

(d) For F27 Mark 100, 200, 300, 400, 600, and 700 series airplanes: If any tube having P/N 200259300 with a change in section (stepped bore) is found installed during the inspection required by paragraph (a) of this AD, prior to further flight, re-identify the DSU in accordance with Fokker Service Bulletin F27/32–167, dated November 19, 1993. Following accomplishment of the re-identification, prior to further flight, perform an ultrasonic inspection to detect cracks in the re-identified DSU's, in accordance with that service bulletin.

(1) For airplanes equipped with any DSU re-identified as P/N 200684003, 200261003, or 200485003: If no crack is detected, no further action is required by this AD.

(2) For airplanes equipped with any DSU re-identified as P/N 200684002, 200261002, or 200485002: If no crack is detected, accomplish paragraph (c)(2)(i) and (c)(2)(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (d) of this AD thereafter at intervals not to exceed 1,500 flight cycles.

(ii) At the next MLG overhaul, but no later than 12,000 flight cycles after the effective date of this AD, rework and re-identify the DSU again, or replace the DSU with a re-identified DSU, in accordance with the service bulletin. Accomplishment of the rework and re-identification, or replacement constitutes terminating action for the repetitive inspection requirements of this AD.

(3) If any crack signal indication of any DSU tube is greater than or equal to 80 percent, prior to further flight, replace the DSU with a re-identified DSU, in accordance with the applicable service bulletin.

(4) If any crack signal indication of any DSU tube is greater than or equal to 1 percent but less than 80 percent, accomplish paragraph (d)(4)(i) and (d)(4(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (d) of this AD thereafter at intervals not to exceed 1,500 flight cycles.

(ii) At the next MLG overhaul, but no later than 12,000 flight cycles after the effective date of this AD, replace the DSU with a re-identified DSU, in accordance with the service bulletin. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 24, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–27924 Filed 10–30–96; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket 153, NJ23–1; FRL–5643–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional interim rule.

SUMMARY: EPA is proposing a conditional interim approval of a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This revision establishes and requires the implementation of a statewide enhanced inspection and maintenance (I/M) program. The intended effect of this action is to propose conditional interim approval of an I/M program proposed by the State, based upon the State's good faith estimate, which asserts that the State's network design provides emission reduction credits that

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 interim approval because the State's SIP revision is deficient with respect to the following requirements: test procedures, standards, and equipment, and performance standard modeling. If the State commits within 30 days of the publication of this document to correct the major deficiencies by dates certain as described below, and corrects the deficiencies by those dates, 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 EPA takes final action. In the event that the State fails to submit a commitment to correct all of the major deficiencies within 30 days after the publication of this document, then EPA is proposing in the alternative to disapprove the SIP revision. If the conditional interim approval is converted to a disapproval, EPA will notify the State by letter that the conditions have not been met and that the conditional interim approval has been converted to a disapproval.

DATES: Comments must be received on or before December 2, 1996.

ADDRESSES: Written comments on this proposed action may be addressed to: Regional Administrator, Attention: Air Programs Branch, Division of Environmental Planning and Protection, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are available for public inspection during normal business hours at the address shown above.

Electronic Availability: This document and EPA's technical support document are available at Region 2's site on the Internet's World Wide Web at: http://www.epa.gov/region02/air/sip/.

FOR FURTHER INFORMATION CONTACT: Rudolph K. Kapichak, Mobile Source Team Leader, Air Programs Branch, Environmental Protection Agency, Region 2, 25th Floor, 290 Broadway, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

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

The National Highway System Designation Act of 1995 (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 section 182, 184 or 187 of the CAA. Also under the NHSDA, EPA cannot disapprove a state I/M SIP revision, nor apply an automatic discount to a state I/M SIP revision under section 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 percent 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 or the federal I/M regulation) has been effectively replaced with a presumptive equivalency criterion, which places the emission reduction 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. Therefore, the NHSDA specifically requires that these I/M SIP 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 I/M programs within 120 days of the NHSDA passage, and in allowing these states to submit proposed regulations within this time frame for these I/M programs (which can be finalized and submitted to EPA during the interim period), it is clear that Congress intended for states to begin testing vehicles as soon as practicable, now that the decentralized credit issue has been clarified and directly addressed by the NHSDA.

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 emission reduction credits for this program, states are required to make good faith estimates regarding the performance of their enhanced I/M programs. Since these estimates are expected to be difficult to quantify, the state need only provide that the proposed credits claimed for the submission have a basis in fact. A good faith estimate of a state's program may be 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. The Conference Report on section 348 of the NHSDA states that it is expected that the estimated emission reduction credits claimed by the state in its I/M SIP submittal, and the actual 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 the proposed emission reduction credits to reflect the emissions actually determined by the state during the program evaluation period.

Furthermore, EPA believes that in taking action under section 110 of the CAA, it is appropriate to grant a conditional interim approval to this submittal since there are some deficiencies with the submittal with respect to CAA statutory and regulatory requirements (identified herein) that EPA believes 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 this Act. This Act 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 at the end of that period. Therefore, EPA believes Congress intended for these programs to begin operating as soon as possible, which EPA believes should be at the latest, November 15, 1997, so that about six months of operational program data can be collected to evaluate the interim program. EPA further 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 enhanced I/M 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 has convened 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 by the I/M Rule in CFR 51.353 and 51.366.

C. Process for Final Approval of this Program under the CAA

As per the NHSDA requirements, this interim rulemaking will expire within 18 months of the date of publication of the conditional interim approval, or sooner if EPA takes action to approve the final SIP submittal prior to that date. A final 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 I/M SIP revision will occur.

II. EPA's Analysis of New Jersey's Submittal

On March 27, 1996, the New Jersey Department of Environmental Protection (DEP) submitted a revision to its State Implementation Plan (SIP) for an enhanced I/M program to qualify under the NHSDA. 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, and a good faith estimate that includes the State's basis in fact for emission reduction claims of the program. The State's credit assumptions were based upon the removal of the 50 percent credit discount for all portions of the program that are based on a test-and-repair network, and the application of the State's own estimate of the effectiveness of its decentralized test-and-repair program.

A. Analysis of the NHSDA Submittal Criteria

Transmittal Letter

On March 27, 1996, New Jersey submitted an enhanced I/M SIP revision to EPA, requesting action under the NHSDA and the CAA. The official submittal was made by Robert C. Shinn, Jr., Commissioner of the Department of Environmental Protection, the appropriate State official, and was addressed to Regional Administrator Jeanne M. Fox, the appropriate EPA official in the Region.

Enabling Legislation

New Jersey has legislation under the Federal Clean Air Mandate Compliance Act, Public Law 1995, Chapter 112, enabling the implementation of a hybrid, biennial I/M program.

Proposed Regulations

On May 6, 1996, New Jersey's proposed regulations appeared in the State Register in accordance with 40 CFR Part 51, establishing an enhanced I/M program. These regulations, which had been signed by DEP Commissioner Shinn on March 26, 1996, take advantage of additional flexibility granted by Congress in the NHSDA. They call for the continuation of a hybrid inspection program. The primary changes to the existing program are as follows:

- the program will require biennial inspection rather than annual inspection,
- a one-mode Acceleration Simulation Mode test (using a dynamometer) will replace the idle test for 1981 and newer vehicles,
- waivers will now be granted for 1981 and newer vehicles meeting the repair expenditure requirements, and
- motorist enforcement will be through revocation of the vehicle registration rather than a windshield sticker.

The State anticipates fully adopting regulations by early November 1996.

Program Description

New Jersey's hybrid I/M program will be operated on a statewide basis and is scheduled to begin operating 12 months after EPA's conditional interim approval of the I/M SIP revision submittal. During the 12 months preceding program start-up, New Jersey will operate a pilot version of the program on a voluntary basis. This will include approximately six test-only lanes (about 7 percent of existing lanes) and will be open to participation by test-and-repair facilities. Since this program will be voluntary, the State will solicit participation by offering a two-year certificate of compliance (sticker) to those motorists who choose and pass the new test. New Jersey hopes to use data from this demonstration program to evaluate the potential effectiveness of the full version of the program.

As required by NHSDA, New Jersey included in its submittal a description of elements that provide the basis for the test-and-repair program effectiveness claim.

Emission Reduction Claim and Basis for the Claim

New Jersey claims an 80 percent effectiveness from the test-and-repair portion of the program based on the following elements: increased auditing of test-and-repair facilities, specifications for the new emissions analyzer equipment, and implementation of the repair technician training and certification program.

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

As previously stated, the NHSDA left those elements of the I/M Rule that do not pertain to network design or test type intact and specifically required compliance with all other provisions of the Act. Based upon EPA's review of New Jersey's submittal, EPA believes the State has not complied with all aspects of the NHSDA, the CAA and the I/M Rule. Therefore, EPA proposes to grant the I/M SIP revision conditional interim approval. Before EPA can continue with the interim rulemaking process, the State must make a commitment within 30 days of October

31, 1996 to correct the major deficiencies identified within this document by dates certain as described in this document. New Jersey's major deficiencies are described below.

Enhanced I/M Performance Standard Modeling

In order to determine whether the state I/M program meets the enhanced I/M performance standard, and is therefore approvable, the state must submit a modeling demonstration that the program achieves the required emission reductions by the relevant dates. New Jersey did not include all modeling assumptions in its submittal. Given that New Jersey plans to use a one-mode Acceleration Simulation Mode (ASM) test procedure, it is possible that final modeling assumptions would not be available for some time since an acceptable test procedure and emission reduction credits for this test have yet to be established. EPA and states interested in using ASM have been actively pursuing acceptable test procedures using one and two ASM modes.

Test Procedures, Standards and Equipment

Written test procedures and pass/fail standards and equipment specifications 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 document 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.

New Jersey's I/M program will be using a one-mode Acceleration Simulation Mode (ASM) emissions test for most of its fleet. New Jersey 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 the states' test procedures, specifications and standards will be released shortly. The State must finalize its test procedures, standards and equipment specifications well before testing begins.

The State must commit within 30 days of the publication date of this proposal to correct these major deficiencies by dates certain or this approval will convert to a disapproval under CAA section 110(k)(4). EPA proposes that the deficiency with regard to the enhanced performance standard modeling must be corrected within 12 months of EPA's conditional interim approval. Because the finalization of the test procedures, standards and equipment specifications is critical to ensuring that the program begins testing by the required date EPA proposes that this deficiency must be corrected no later than January 31, 1997. It is essential that the State submit final test procedures, standards and equipment specifications no later than this date because a significant lead time is necessary in order for the program to begin testing as planned.

EPA has also identified certain minor (de minimis) deficiencies in the I/M SIP revision, which include:

(1) Adequate tools and resources,
(2) Vehicle coverage,
(3) Quality control,
(4) Motorist compliance enforcement,
(5) Quality assurance,
(6) Data collection,
(7) Data analysis and reporting, and
(8) Public awareness and consumer protection.

EPA has determined that allowing the State a longer time to correct these minor deficiencies will have a de minimis impact on the State's ability to meet clean air goals. Therefore, the State need not commit to correct these minor deficiencies in the short term, and EPA will not impose conditions on the interim approval with respect to these minor deficiencies. However, the State must correct these minor deficiencies during the 18-month term of the interim approval, as part of the fully adopted rules that New Jersey will submit to support final approval of its I/M SIP revision. So long as the State corrects these minor deficiencies prior to final action on the State's I/M SIP revision, 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 Part 51.350(a) require all states with areas classified as serious or worse ozone nonattainment areas and all metropolitan statistical areas (MSAs) with 1980 populations greater than 100,000 in the Ozone Transport Region to implement an enhanced I/M program. The New Jersey portions of the New York-New Jersey-Long Island and the Philadelphia-Wilmington-Trenton consolidated metropolitan statistical areas are both classified as severe ozone nonattainment areas and are required to implement an enhanced I/M program as per section 182(c)(3) of the CAA and 40 CFR 51.350(2). The Atlantic City MSA and the Allentown-Bethlehem-Easton MSA, which includes one county in New Jersey, have 1980 populations greater than 100,000 and are required to implement an enhanced I/M program as per section 184(b)(1)(A) of the CAA and 40 CFR Part 51.350(a). In addition, section 187(a)(6) of the CAA requires moderate carbon monoxide (CO) nonattainment areas with design value carbon monoxide concentrations greater than 12.7 ppm to implement an enhanced I/M program. Bergen, Essex, Hudson, Union, and part of Passaic Counties comprise such an area in northern New Jersey.

New Jersey's I/M legislation provides the legal authority to establish a statewide program. The State's I/M SIP revision submittal identifies program boundaries as ''statewide'', therefore, EPA is proposing to find that the geographic applicability requirements are satisfied.

The federal I/M regulation requires that the state program shall not sunset until it is no longer necessary. EPA interprets the federal I/M regulation as stating that an I/M SIP that does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. New Jersey's I/M SIP revision includes regulations from both the DEP and the Department of Transportation (DOT) because the two departments share responsibilities for the program and have complementary legal authorities for the implementation of different aspects of the program. The DEP I/M regulations do not include a sunset date. However, the DOT regulations are statutorily bound to expire after five years. If the DOT regulations are not readopted after five years, the State would be unable to operate the I/M program in which case EPA would have reason to notify New Jersey of its failure to implement the program. However, in the past and as a matter of practice, DOT regulations are readopted prior to the expiration of the rules they replace. In light of this past practice, EPA is confident that this practice will continue. Therefore, EPA is not proposing to condition New Jersey's interim approval because of its inability to maintain the program as long as it is necessary to attain the applicable standards. The State's SIP submittal meets the applicability requirements of the federal I/M regulation for interim approvable.

Enhanced I/M Performance Standard—40 CFR 51.351

The federal I/M regulation requires that an 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 New Jersey I/M SIP revision submittal, the most current version was MOBILE5a__h. 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) as evaluated for the year 2002. In the case of carbon monoxide nonattainment areas, the performance standard must be met for CO as evaluated in the year 2002. The New Jersey submittal must meet the enhanced I/M performance standard for HC, NO_X, and CO in all applicable I/M areas in New Jersey.

New Jersey did not include all modeling assumptions in its submittal. The State acknowledges that this is the case and commits to submit them at a later date. Given that New Jersey plans to use a one-mode Acceleration Simulation Mode (ASM) test procedure, it is possible that final modeling assumptions would not be available for quite some time since an acceptable test procedure or emission reduction credits for this test have yet to be established. EPA and states interested in using ASM have been actively pursuing acceptable test procedures using one and two ASM modes.

New Jersey intends to phase in the pass/fail standards so that those during the initial cycles will not be as stringent as those the program will eventually use. If the State's final program analysis indicates that use of these standards will not generate the needed emission reductions in order for the State to meet the goals of its 15 percent plan, New Jersey may be required to use tighter standards, or implement other control strategies.

EPA is proposing conditional interim approval of the State program at this time consistent with the intent of the NHSDA that state I/M programs be promptly approved and implemented. EPA proposes that this approval be conditioned upon the requirement that the State conduct and submit the necessary modeling and demonstration that the program will meet the performance standard. The State must commit that the modeling and demonstration be submitted by a date certain within 12 months from conditional interim approval. If the State fails to submit this new modeling within 12 months, EPA proposes that the conditional interim approval will convert to a disapproval upon a letter from EPA indicating that the State has failed to submit the modeling and demonstration of compliance with the performance standard by the required date.

If the State cannot meet the enhanced I/M performance standard, the State may demonstrate 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 either a 15 percent reduction SIP or the 15 percent plan. In fact EPA approval of 15 percent plans has been delayed, and although EPA is preparing to take action on 15 percent plans in the near future, it is unlikely that EPA will have completed final action on most 15 percent plans prior to the time EPA believes it would be appropriate to give final or conditional interim approval to I/M programs under the NHSDA. In addition, New Jersey is currently reassessing its 15 percent plan to include the I/M program changes. This reassessment is to be based on the program as it is being implemented in November 1999. If the results indicate that the State will not achieve a 15 percent reduction in emissions, New Jersey may choose to either make I/M program improvements or add other provisions to its overall control plan.

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 design systems. 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 percent plan submitted to EPA for approval. Such states anticipated that EPA would propose approval both of the I/M programs and the 15 percent 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 percent plans. Although EPA acknowledges that under its regulations final approval of a low enhanced I/M program after the 18-month evaluation period would have to await approval of the corresponding 15 percent plan, EPA believes that in light of the NHSDA it can grant either final or conditional interim approval of such I/M plans provided that the Agency has determined as an initial matter that approval of the 15 percent plan is appropriate, and has issued a proposed approval of that 15 percent plan.

The State plans to submit a revised 15 percent plan. It is possible that New Jersey's proposed I/M program may fall short of the enhanced I/M performance standard but exceed the low enhanced performance standard. If this is the case and the emission reductions provided by the I/M program allow the State to fulfill the requirements of its 15 percent plan, then EPA will review the 15 percent plan and propose action on it shortly thereafter. Should EPA propose approval of the 15 percent plan, EPA will proceed to take conditional interim approval action on the I/M plan. EPA proposes in the alternative that if the Agency proposes instead to disapprove the 15 percent 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 40 CFR 51.351(g).

Network Type and Program Evaluation—40 CFR 51.353

The federal I/M regulation requires that enhanced programs shall include an ongoing evaluation to quantify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of

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

In order to determine whether the State I/M program meets the enhanced I/M performance standard, and is therefore approvable, it must submit modeling demonstrating that the program achieves the required emission reductions by the relevant dates. Because of delayed program start-up and program reconfiguration, the existing modeling used by the State 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 State will actually implement. EPA believes, based on the available modeling and its own extrapolation of expected emission reductions from the program, that the State program will meet the performance standard. The State must conduct new modeling using the actual program configuration and start dates 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.

EPA is proposing conditional interim approval of the State's program at this time consistent with the intent of the NHSDA that state I/M programs be promptly approved and implemented. EPA proposes that this approval be conditioned upon the requirement that the State commit to conduct and submit the necessary new modeling and demonstration that the program will meet the performance standard, by a date certain within 12 months from conditional interim approval. If the State fails to submit this new modeling within 12 months, EPA proposes that the conditional interim approval will convert to a disapproval upon a letter from EPA indicating that the State has failed to submit the modeling and demonstration of compliance with the performance standard by the required date.

In addition, the existing I/M Rule requires that the modeling demonstrate that the state 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.

New Jersey proposes to implement a hybrid enhanced I/M program, under which the State will maintain a system of centralized test-only stations and decentralized test-and-repair stations. Under the program, motorists will be able to choose where a vehicle is inspected. As part of the State's Request for Proposal (RFP), New Jersey requested that contractors submit alternative network designs that may be considered to be equal to or better than the State's proposed I/M program.

New Jersey commits to perform transient emissions inspection on 0.1 percent of the vehicle population to comply with the program evaluation aspects of the I/M Rule.

With the conditions described above, the State's submittal meets the network type and program evaluation requirements of the federal I/M regulation for interim approval.

Adequate Tools and Resources—40 CFR 51.354

The federal I/M regulation requires the state to demonstrate that adequate funding for the program is available. A portion of the test fee or a 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 the state or local general fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The I/M SIP revision shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The I/M SIP revision 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.

In its revised I/M SIP revision submittal, New Jersey indicates that $25 million in Capital Funds have been dedicated to upgrade the central DMV computer system. New Jersey also plans to use any other source of funding that is made available for auditing and program oversight. The State also indicates that the DEP's funding request will fully fund the DEP's responsibilities in the 1997 budget year. Since the State has not indicated how the I/M program will be funded past the 1997 budget year, the State must confirm its plan for funding the enhanced I/M program throughout its duration by submitting supplemental information to EPA prior to the end of the 18-month interim period.

The State's 1995 I/M SIP revision submittal indicated that under legislative authority, an amount of $11.50 from each vehicle registration fee will be deposited in the ''Motor Vehicle Inspection Program Fund.'' This fund may also receive funds from licensing fees and enforcement fines. This fund will be utilized for implementing, administrating, evaluating, auditing and enforcing the I/M program. The State must confirm that these funds will be available for the program functions described above.

The DMV anticipates requiring a staffing level of 172 full time employees for the operation of the enhanced I/M program. The State must confirm that this level of funding and personnel will be adequate to allow the program to operate unhindered until it is no longer necessary. Alternatives to this approach would be acceptable, if the State can demonstrate that adequate funding can be maintained in some other fashion.

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

Test Frequency and Convenience—40 CFR 51.355

The federal I/M regulation establishes an enhanced I/M performance standard

that assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

New Jersey proposes a biennial test frequency. Legal authority is contained in the I/M SIP revision submittal. Vehicles that violate this requirement will have registrations denied or revoked. New Jersey intends to make use of existing inspection stations. Some outdated stations may be closed and new stations constructed to supplement the inspection stations that will have the new equipment installed. Standards will be developed by New Jersey to keep the wait times below 30 minutes. Incentives will be provided to shorten the wait times to 15 minutes.

The New Jersey submittal meets the test frequency and convenience requirements of the federal I/M regulation for interim approvable.

Vehicle Coverage—40 CFR 51.356

The federal I/M regulation establishes a performance standard for enhanced I/M programs that is based on coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries 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 federal I/M regulation requires that the SIP shall include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption. Such exemptions shall be accounted for in the emissions reduction analysis.

The New Jersey enhanced I/M program requires all model years of light and heavy duty gasoline-fueled vehicles to undergo some form of emissions inspection. The SIP submittal indicates that, as of 1994, 4,830,771 vehicles will be included in the I/M program. New Jersey proposes to exempt diesel vehicles, motorcycles, historic vehicles, collector vehicles, farm equipment and machinery, traction equipment, fire trucks greater than 10,000 pounds GVWR, in-transit construction equipment and military tactical vehicles operated on federal installations within the State. Fleet vehicles primarily operated in the State but registered in other program areas will be identified and may be inspected in New Jersey. Vehicles registered in New Jersey but primarily operated in another program area are required to be inspected in New Jersey.

The State's draft request for proposal (RFP) indicates that fleet vehicles registered in the State or primarily operated in the State are required to participate in the enhanced I/M program. Fleet vehicles may be inspected at a test-only facility or private inspection facility. Owners or lessees of fleet vehicles may apply to become a licensed private inspection facility for self inspections. Fleet vehicles which fail two consecutive initial emissions tests are required to be inspected at a test-only facility following the second initial test.

New Jersey's RFP has not been finalized. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Test Procedures and Standards—40 CFR 51.357

The federal I/M regulation requires that 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 document 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 federal I/M regulation 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 § 51.357(d).

New Jersey's proposed rules require that all test procedures and standards for the chassis model year and type will be applied to vehicles with switched engines. New Jersey's proposed I/M rules do not allow vehicles to switch to a fuel type for which there is no certified configuration. New Jersey's I/M program will be using a one-mode Acceleration Simulation Mode (ASM) emissions test for most of its fleet. New Jersey 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 states' test procedures, specifications and standards will be released shortly.

In light of the anticipated release of these test procedures and standards in the near future and their importance to the implementation of the program, EPA believes that it is not appropriate to proceed to conditional interim approval prior to the submittal of the current version of the procedures and standards. Therefore, New Jersey must submit the current version of its procedures and standards to EPA within 30 days of publication of this document.

Within 30 days of the publication of this notice New Jersey must submit both the current version of its test procedures and standards for a one-mode ASM test and a commitment to submit final test procedures and standards by a date certain which is no later than January 31, 1997. It is essential that the State submit final test procedures and standards no later than this date because a significant lead time is necessary in order for the program to begin testing as planned. If the State does not submit the latest draft of the test procedures and standards within 30 days of the publication of this notice or the State fails to commit within 30 days to submit approvable final test procedures and standards for the one-mode ASM test as specified above, then EPA proposes in the alternative to disapprove the New

Jersey I/M SIP. If the State commits to submit the final procedures and standards but these conditions are not met, EPA will issue a letter to the State indicating that the conditional interim approval has been converted to a disapproval.

Test Equipment—40 CFR 51.358

The federal I/M regulation requires computerized test systems for performing any measurement on subject vehicles. The federal I/M regulation 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.

New Jersey has been working with other states and the equipment manufacturers, in coordination with EPA, to develop their own, specifications for one- and two-mode ASM testing. It is anticipated that the states' test procedures, specifications and standards will be released shortly.

In light of the anticipated release of the specifications in the near future and their importance to the implementation of the program, EPA believes that it is not appropriate to proceed to conditional interim approval prior to the submittal of the current version of the equipment specifications. Therefore, New Jersey must submit the current version of its equipment specifications to EPA within 30 days of the publication of this document.

Within 30 days of the publication of this notice, New Jersey must submit both the current version of its test equipment specifications for a one-mode ASM test and a commitment to submit final test equipment specifications by a date certain which is no later than January 31, 1997. It is essential that the State submit final test equipment specifications no later than this date because a significant lead time is necessary in order for the program to begin testing as planned. If the State does not submit the latest draft of the test equipment specifications within 30 days of the publication of this notice or the State fails to commit within 30 days to submit approvable final test equipment specifications for the one-mode ASM test as specified above, then EPA proposes in the alternative to disapprove the New Jersey I/M SIP. If the State commits to submit the final equipment specifications but these conditions are not met, EPA will issue a letter to the State indicating that the conditional interim approval has been converted to a disapproval.

Quality Control—40 CFR 51.359

The federal I/M regulation requires that states implement quality control measures that will insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

New Jersey's draft RFP contains quality control measures for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. This portion of the New Jersey submittal complies with the quality control requirements set forth in the federal I/M regulation. However, questions remain as to the details of the one-mode ASM test as stated in the Test Procedures and Standards section of this notice. In addition, a draft RFP cannot be accepted to comply with all requirements of this section. The final RFP should be forwarded to EPA upon completion. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allow a motorist to comply without meeting the applicable test standards. 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 federal I/M regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The I/M SIP revision 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 I/M SIP revision.

New Jersey has requested that EPA delay the implementation of the $450 waiver plus CPI adjustment requirement until the year 2000. The State proposes to phase-in the waiver by allowing 1981 and newer vehicles a $200 waiver limit. No waivers will be granted to pre-1981 vehicles since New Jersey will require that these vehicles only pass the idle test. Owners applying for a waiver may include proof of qualifying repairs that were made up to 60 days prior to the inspection date.

EPA is proposing to approve the State's request to extend the deadline for the full implementation of the cost waiver including the CPI adjustment until January 1, 2000. This will allow the State to complete one full cycle of testing with the $200 cost waiver and will also allow the State to complete a full cycle of testing with the full $450 plus the annual CPI adjustment made retroactively to 1989 cost waiver before January 1, 2002 which is the performance standard modeling evaluation date. EPA believes, that consistent with its interpretation that the start dates and evaluation dates have been extended by approximately two years by the NHSDA, the full implementation of the waiver can also be extended by two years.

The New Jersey submittal meets the waiver and compliance via diagnostic inspection requirements of the federal I/M regulation for interim approval.

Motorist Compliance Enforcement—40 CFR 51.361

The federal I/M regulation 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 that was operating prior to passage of the CAA, and it can be demonstrated that the alternative has been more effective than registration denial. The I/M SIP revision shall 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.

New Jersey proposed a system of registration revocation for motorist compliance enforcement. The DMV has statutory authority under N.J.S.A. 39:5–30 and 39:3–5 to deny or revoke motor vehicle registration. New Jersey intends

to use a registration revocation enforcement program that will be backed up by the use of windshield stickers and computer matching of vehicle and motorist information. The method proposed by the State is as effective as a registration denial system because the ultimate enforcement mechanism is the revocation or denial of the vehicle registration. On August 6, 1996, New Jersey supplemented the March 27, 1996 submittal with a flow chart outlining the registration revocation process. In its final submittal of adopted regulations, the State should include a detailed description of how the registration revocation process will be applied. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The I/M 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.

New Jersey proposes to use an electronic data capture system facilitated by bar coding of critical vehicle information that will allow cross-referencing of test results. The quality control provisions of this program will be implemented by members of the New Jersey DOT, DEP, and State and local police officials. This section of the New Jersey submittal meets the requirements of the federal I/M regulation for interim approval.

Quality Assurance—40 CFR 51.363

The federal I/M regulation requires that an ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the enhanced I/M 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.

In New Jersey's draft RFP, a description of the quality assurance program is given. DEP and DOT will perform performance audits, record audits, and equipment audits in accordance with the requirements of the federal I/M regulation.

The State's RFP is still in draft form. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

The federal I/M regulation requires that enforcement against licensed stations, contractors and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures that 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 I/M SIP revision. 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 I/M SIP revision shall 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.

New Jersey submitted State regulations published on October 2, 1995, which include a penalty schedule as required under this section of the I/M Rule. The State's regulations provide for up to lifetime suspensions of inspection licenses for most major violations. The regulations also describe administrative and judicial procedures with respect to the enforcement of this portion of the program. As a result, EPA finds that this section of the New Jersey submittal meets the requirements of the federal I/M regulation for 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 federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.359.

In New Jersey's 1995 I/M SIP revision submittal, the State indicated it will collect data to distinguish complying and noncomplying vehicles and inspection facilities. For each vehicle tested, New Jersey will require collection of data as outlined in the federal I/M regulation. Results of the visual inspection of the catalytic converter, gas cap, evaporative system, and the pressure and purge test will also be provided. Results of quality control checks will be reported and identified by station number, system number, date and start time. Additionally, New Jersey is awaiting guidance from ECOS on the data collection requirements for the short term program evaluation. New Jersey's data collection procedure is not yet finalized. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

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 federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA which 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.

New Jersey, in its draft RFP, requires the contractor to provide the information to the State in order to meet the requirements of the federal I/M regulation. The State commits to submitting these reports to EPA by July of each year for data collected January to December of the previous year.

The State's RFP is not completed. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Inspector Training and Licensing or Certification—40 CFR 51.367

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

The State's I/M SIP revision submittal requires inspectors to be trained by the contractor or subcontractor and licensed by the DMV. Trainees will be required to pass both a written and a hands-on test in order to be licensed.

This element of New Jersey's SIP submittal meets the requirements of the federal I/M regulation for interim approval.

Public Information and Consumer Protection—40 CFR 51.368

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

At least three months prior to I/M program implementation, New Jersey will inform the motoring public on the environmental benefits and requirements of the program. As indicated in the draft RFP, the State, through a contractor, will continue a public awareness program throughout the contract life of seven years. Motorists that fail the emissions test will receive statistics on the repair facilities in the area.

New Jersey's proposed I/M program provides for motorists to be informed of program requirements and protected from potential abuses by inspectors and/or stations. The State's submittal indicates that a public information program will be undertaken prior to program commencement; however, it does not include a description of the activities planned. Based on the unfavorable reaction the public had at the start of other states' programs, public awareness is a crucial element of the program. This is a minor deficiency and must be corrected in the State's final I/M SIP revision submitted at the end of the 18-month interim period.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are key to achieving program goals. The federal I/M regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The I/M 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 in the federal I/M regulation, and a description of the repair technician training resources available in the community.

The State is developing an Emission Technician Education Plan to improve the skills of the current and future technicians. The State will utilize the Automotive Service Excellence (ASE) L1 exam as the final examination for the training program after taking a course on New Jersey-specific enhanced I/M requirements. Performance monitoring will be performed in accordance with the requirements of the federal I/M regulation. Motorists that fail the initial test will be given a summary of the performance of individual repair facilities in order to help the motorist to select a repair facility that has demonstrated the ability to effectively repair failing vehicles. The State's submittal meets the repair effectiveness requirements of the federal I/M regulation for interim approval.

Compliance With Recall Notices—40 CFR 51.370

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

In its I/M submittal the State requires motorists to obtain recall repairs in order to complete the inspection process. Motorists will be notified at the inspection station of any outstanding recalls. The State commits to providing an annual report providing information on recall compliance. The State's submittal meets the recall notice requirements of the federal I/M regulation for interim approval.

On-road Testing—40 CFR 51.371

The federal I/M regulation requires on-road testing in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the federal I/M regulation. The I/M program must include on-road testing of 0.5 percent of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

New Jersey proposes to utilize RSD to identify high emitters for roadside pullovers. Testing will be conducted on 20,000 vehicles each cycle. The RSD program will be conducted in two phases. Phase I will be utilized for fleet characterization and data collection. The data also will be used to develop a correlation between RSD results and results from the enhanced I/M test. The RSD cutpoints will also be determined. These cutpoints are not required to be the same as the cutpoints established for the enhanced I/M emissions test since RSD will identify only gross emitters. Phase II of the program will require vehicles that fail the test to have an off-cycle emission inspection within 30 days.

The State's submittal meets the on-road testing requirements of the federal I/M regulation for interim approval.

State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372–51.373

These sections of the federal I/M regulations require that the state outline program milestones and provide an implementation schedule.

New Jersey's I/M SIP revision submittal contains the proposed enhanced I/M program regulations. However, the State should review its 1995 I/M SIP revision submittal and its revised 1996 SIP submittal to eliminate any inconsistencies between the submittals. Final equipment specifications have not been developed. The RFP is in draft form as of the date of this notice. Licensing and certification of inspectors will be performed prior to the start of the program in 1997. Mandatory testing is scheduled to begin in 12 months after conditional interim approval. Full stringency cutpoints are proposed to be implemented in January 2000. With the conditions noted above, the State's submittal includes the relevant program requirements of the federal I/M regulation for interim approval.

III. Discussion for Rulemaking Action

Today's notice of proposed conditional interim approval begins a 30-day time period for the State to make a commitment to EPA to correct the major deficiencies of the I/M SIP revision that EPA has identified, by dates certain as described in this notice. These major deficiencies are:

Enhanced I/M Performance Standard Modeling

In order to determine whether the state I/M program meets the enhanced I/M performance standard, and is therefore approvable, states must submit modeling demonstrating that the program achieves the required emission reductions by the relevant dates. New Jersey did not include all modeling assumptions in its submittal. Given that New Jersey plans to use a one-mode Acceleration Simulation Mode (ASM) test procedure, it is possible that final modeling assumptions would not be

available for some time since an acceptable test procedure or emission reduction credits for this test have yet to be established. EPA and states interested in using ASM have been actively pursuing acceptable test procedures using one and two ASM modes.

Test Procedures, Standards and Equipment

Written test procedures and pass/fail standards and equipment specifications 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 document 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.

New Jersey's I/M program will be using a one-mode Acceleration Simulation Mode (ASM) emissions test for most of its fleet. New Jersey 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 states' test procedures, specifications and standards will be released shortly. EPA must receive the State's test procedures, standards and equipment specifications well before testing begins since finalization of these program elements is critical to the program beginning operation as planned.

Within 30 days of publication of this document, the State must make a commitment to EPA to correct these major deficiencies, by dates certain. In the case of the test procedures, standards and equipment specifications EPA is requiring that the State submit final versions of these materials by January 31, 1997. EPA believes that the State must finalize these elements far in advance of the planned start date for the program so that equipment may be purchased and installed and the program's start date is not jeopardized. In the case of the performance standard modeling, EPA is requiring that the State submit the required modeling no later than 12 months from the date of the publication of the notice of conditional interim approval. If the State does not make such a commitment within 30 days, EPA today is proposing in the alternative that this SIP revision be disapproved.

If EPA disapproves this submission or if the State does not correct the major deficiencies identified above and implement the interim program pursuant to section 110(k) so that the conditional interim approval converts to a disapproval, EPA, under section 179(a)(2), must apply one of the sanctions set forth in section 179(b) within 18 months of such disapproval or finding. Section 179(b) provides two sanctions available to the Administrator: highway funding and the imposition of emission offset requirements. In EPA's August 4, 1994 final sanctions rule, (See 59 FR 39832) the sequence of mandatory sanctions for findings and disapprovals made pursuant to section 179 of the CAA was finalized. This rulemaking states that the section 179(b)(2) offset sanction applies in an area 18 months from the date when the EPA makes a finding or a disapproval under section 179(a) with regard to that area. Furthermore, the section 179(b)(1) highway funding restrictions apply in an area six months following application of the offset sanction. This nondiscretionary process for imposing and lifting sanctions is set forth at 40 CFR 52.31.

If the State makes the commitment within 30 days, EPA's conditional interim approval of the plan will last until the date by which the State has committed to cure all of the major deficiencies. EPA expects that within this period the State will not only correct the major deficiencies as committed to by the State, but that the State will also begin program start-up by November 15, 1997. If the State does not correct the major deficiencies and begin the implementation of the program by the required dates, EPA is proposing in this document that the conditional interim approval will be converted to a disapproval after a finding letter is sent to the State.

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 State will at that time be able to make a demonstration of the program's effectiveness using an appropriate evaluation criteria. Since EPA expects that these programs will have started by November 15, 1997, the State will have at least six months of program data that can be used for the demonstration. If the State fails to provide a demonstration of the program's effectiveness to EPA within 18 months of the conditional interim approval, the interim approval will lapse, and EPA will be forced to disapprove the State's I/M SIP revision. If the State's program evaluation demonstrates a lesser amount of emission reductions actually realized than were claimed in the State's previous submittal, EPA will adjust the State's credits accordingly, and use this information to act on the State's final I/M program.

V. Further Requirements for Final I/M SIP Approval

At the end of the 18-month interim period, which is started by the conditional interim approval of the I/M SIP revision, final approval of the State's plan will be granted based upon the following criteria:

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

VI. EPA's Evaluation of the Interim Submittal

EPA is proposing a conditional interim approval of the New Jersey SIP revision for enhanced I/M, which was submitted on March 27, 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 subsequent action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing conditional interim approval of this revision to the New Jersey SIP for an enhanced I/M program based on certain conditions.

Major Deficiencies

(1) New Jersey must within 30 days of the publication of this notice: (1) Submit the current version of its one-mode ASM test procedures, standards and equipment specifications to EPA and (2) commit to submitting final test procedures, standards and equipment specifications to EPA by a date certain but no later than January 31, 1997.

(2) New Jersey must commit within 30 days of the publication of this notice to submit modeling results once acceptable test procedures and standards have been developed for one-mode ASM. This commitment must be fulfilled by a date certain but no later than 12 months after conditional interim approval.

Minor Deficiencies

(1) New Jersey must submit proof that adequate funding will be available throughout the life of the program.

(2) New Jersey must submit final requirements for inspection of fleet vehicles.

(3) New Jersey's quality control measures must be in accordance with the requirements set forth in 40 CFR 51.359.

(4) New Jersey must provide a detailed description of its motorist compliance enforcement program.

(5) New Jersey must provide a description of the procedures that will ensure program quality; such as audits, and training requirements.

(6) New Jersey must provide final program requirements for data collection.

(7) New Jersey must provide final procedures for analyzing and reporting program data.

(8) New Jersey must complete the public information program, including the repair station report card.

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

Administrative Requirements

Executive Order 12866

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

Regulatory Flexibility Act

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

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the 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, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act 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).

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

Unfunded Mandates

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

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves 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.

The Administrator's decision to approve or disapprove the 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 Part 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, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 18, 1996.

William J. Muszynski,

Deputy Regional Administrator.

[FR Doc. 96–27951 Filed 10–30–96; 8:45 am]

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40 CFR Part 52

[MD037–3008, MD037–3009; FRL–5642–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Conditional Approval.

SUMMARY: EPA is proposing conditional approval of a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the counties of Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, Queen Anne's, and Washington, and the City of Baltimore. The intended effect of this action is to propose conditional approval of the Maryland enhanced motor vehicle I/M program. EPA is proposing conditional approval because Maryland's SIP revision is deficient in