TABLE 100.35T01–033.—SECTOR ENFORCEMENT SCHEDULE—Continued

Date	Sector	Time	Status
July 7, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 8, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 9, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 10, 1995	ALL SECTORS	ALL DAY	OPEN.

(d) *Special local regulations.*

(1) Commander, U.S. Coast Guard Forces Long Island Sound reserves the right to delay, modify, or cancel any marine event within the regulated area as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in a closed sector of the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander. Spectator vessels are required to remain out of all closed sectors within the regulated area, in accordance with the established enforcement schedule. Commercial towing vessels will not be allowed to operate in any closed sector unless expressly authorized by the patrol commander.

(3) Vessels awaiting passage through the regulated area will be required to wait outside established sectors when closed. A Coast Guard patrol vessel will be stationed along each boundary of the closed sectors. Vessels will not be allowed to transit, enter, cross, or remain in sectors when closed.

(4) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Forces Long Island Sound or the designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is effective from 8 a.m. Thursday, July 1, 1995, to 8 p.m. Monday, July 10, 1995, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice in the **Federal Register**.

Dated: April 18, 1995.

J. L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–10537 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–5199–3]

Notice of Open Meeting of the Negotiated Rulemaking Advisory Committee for Small Nonroad Engine Regulations

AGENCY: Environmental Protection Agency.

ACTION: FACA committee meeting—negotiated rulemaking on small nonroad engine regulations.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the next meeting of the Advisory Committee to negotiate a rule to reduce air emissions from small nonroad engines. Small nonroad engines are engines which are spark ignited gasoline engines less than 25 horsepower. The meeting is open to the public without advance registration. Agenda items for the meeting include reports from the task groups and discussions of the emissions standard and standard structure.

DATES: The committee will meet on May 22, 1995 from 10:00 a.m. to 6:00 p.m., and on May 23, 1995 from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The location of the meeting will be the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, MI 48108; phone: (313) 995–5900.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Lisa Snapp, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, Michigan 48105, (313) 668–4200. Persons needing further information on committee procedural matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5495, or the Committee's facilitators, Lucy Moore or John Folk-Williams, Western Network, 616 Don Gaspar, Santa Fe, New Mexico, 87501, (505) 982–9805.

Dated: April 21, 1995.

Deborah Dalton,

Designated Federal Official.

[FR Doc. 95–10511 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 51

[FRL–5196–5]

Inspection/Maintenance Flexibility Amendments

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes revisions to the motor vehicle Inspection/Maintenance (I/M) Program Requirements. EPA announced its intent to amend the I/M Program Requirements in December 1994 and held stakeholders' meetings on January 24, 1995 and January 31, 1995. This proposed action would create a second, less stringent enhanced I/M performance standard that could be used in areas that can demonstrate an ability to meet the 1990 Clean Air Act deadlines for Reasonable Further Progress and attainment while implementing an I/M program that falls below the originally promulgated enhanced I/M performance standard.

Because the new low enhanced I/M performance standard eliminates the need for the special enhanced performance standard for El Paso, Texas, this proposed action would repeal that special performance standard. This proposed action would also revise the high enhanced I/M performance standard to include a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks from model years 1968 to 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks from model years 1972 through 1983, inclusive. The low enhanced performance standard contains similar requirements, which are necessary to ensure full compliance with the Clean Air Act's requirement that all federal performance standards for enhanced I/M programs be based upon a model program that includes, at a minimum, two inspections per subject vehicle: an emission inspection and a visual inspection. This proposed action would also change the waiver cost requirements by: Extending the deadline for implementing the minimum expenditure to qualify for a waiver specified in the Clean Air Act; allowing the application of pre-inspection repairs toward meeting the waiver expenditure requirements under limited circumstances; allowing repairs of primary emission control components performed by non-technicians to apply toward the waiver cost requirement; and removing the bar against issuing hardship exemptions more than once per vehicle lifetime. This proposal also solicits public comment on whether or not EPA should include revised regulatory language in its final rulemaking which change the population cutoff for basic I/M from 50,000 persons to 200,000 persons. Lastly, this proposal would make clarifying amendments to the I/M requirements for areas undergoing redesignation.

DATES: Written comments on this proposal must be received no later than May 15, 1995. A public hearing is scheduled for May 17, 1995.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–95–08. It is requested that a duplicate copy be submitted to Eugene J. Tierney at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall S.W., Washington, DC 20460. The public hearing will be held at the National Fuel and Vehicle Emission Laboratory at 2565 Plymouth Road, Ann Arbor, Michigan, Conference Rooms C&D from 10:00 a.m. through 3:00 p.m. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

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II. Summary of Proposal

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992 (40 CFR part 51) rules related to plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule, see 57 FR 52950). EPA is proposing today to revise this rule to provide greater flexibility to states required to implement I/M programs.

Section 182 of the Act was prescriptive regarding the various elements that are required as part of an enhanced I/M performance standard. It also required that EPA provide states with flexibility in meeting the requirement for enhanced or basic I/M programs. States have requested additional flexibility in two areas: the timing of the Act's mandated minimum expenditure required to qualify for a waiver and a lower performance standard for areas that do not need an enhanced I/M program as effective as the one EPA adopted in 1992 to meet the Act's Reasonable Further Progress and attainment demonstration requirements. (These two programs are hereafter referred to as low enhanced and high enhanced performance standards, respectively.)

EPA is today proposing to establish an alternate, low enhanced I/M performance standard for those areas that can meet the Act's requirements for Reasonable Further Progress and attainment of either the carbon monoxide (CO) and/or ozone ambient air quality standards without the benefits of the high enhanced I/M performance standard. This low enhanced performance standard is designed for areas that are required to implement enhanced I/M but do not have a major mobile source component to the air quality problem or can obtain adequate emission reductions from other sources to meet the 15% VOC emission reduction requirement and demonstrate attainment. With respect to states in the northeast ozone transport region (OTR), EPA believes that the low enhanced performance standard will provide needed reductions but still offers greater flexibility. Areas within the Northeast OTR are still subject to the enhanced I/M requirement and OTR states are required to submit plans for their nonattainment areas. However EPA believes that the states are in the best position to make decisions about the emphasis placed upon individual strategies within their borders as long as emission reduction opportunities needed for timely attainment are not irrevocably lost. Moreover, with respect to interstate pollution within the OTR, EPA has just oulined a phased attainment-process among states contributing to or affected by transport. See memorandum of March 2, 1995 from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled ''Ozone Attainment Demonstrations'' (available in the docket for this rulemaking). The desired outcome of that process is to reach consensus on the additional regionwide and national emission reductions needed to bring all areas in the OTR into attainment. EPA believes that the interstate consultative process provides the best forum for ascertaining and requiring those necessary additional emission reductions. The low enhanced performance standard meets the Act's requirement that it be based on centralized, annual testing of light duty cars and trucks, and checks for tampering and exhaust emissions. Nevertheless, this standard can be met with a comprehensive decentralized, test-and-repair program.

EPA is also proposing modifications to the requirements related to waivers. EPA is proposing to extend the deadline

for the full implementation of the minimum expenditure required to be eligible for a waiver for both basic and enhanced I/M programs until January 1998. This will allow states additional time to phase-in the higher expenditures required by the Act and the I/M rule. In the interim, a state can establish any minimum expenditure it chooses, as long as it accounts for the higher waiver rates that will occur between now and 1998 in its emission inventory forecasts in the Reasonable Further Progress plan.

EPA is proposing to allow states to include qualified repair cost expenditures that occur within 60 days of the initial test toward meeting the minimum waiver expenditure. EPA also proposes to delete language from the November 5, 1992 I/M rule barring motorists from qualifying for more than one hardship exemption during the lifetime of a vehicle.

Pursuant to the opinion of the Court of Appeals for the District of Columbia Circuit, *Natural Resource Defense Council* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994), EPA is proposing today to revise the enhanced I/M performance standard to correct the omission of a visual check on pre-1984 vehicles in the high enhanced performance standard. EPA is proposing to include in the high enhanced performance standard a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks of model year 1968 through 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks of model year 1972 through 1983, inclusive. According to EPA's current guidance for estimating emission reductions from I/M programs, this change should not significantly increase the overall emission reduction requirements that must be met by states as they design programs to meet the enhanced I/M performance standard.

EPA is also requesting comment on whether or not it should change the minimum population cutoff for basic I/M programs. Currently, for areas outside an ozone transport region, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with 1990 Census-defined population of 50,000 or more. EPA is considering the possibility of including revised regulatory language in the final rulemaking that would increase this minimum threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M and would provide states further flexibility in meeting their Clean Air Act goals.

At the I/M Stakeholders meetings of January 24 and 31, 1995, EPA indicated its intent to establish additional I/M credits for the use of remote sensing. These credits will be published in a guidance document, similar to the one in which credits for retest-based hybrid programs. ASM2 testing, and mechanic training and certification were published. EPA intends to base these credits on data from the California I/M Pilot Program in Sacramento, since this is the most comprehensive study on remote sensing to date. The agency is interested in obtaining all available information on remote sensing. Therefore, EPA is requesting comments from anyone with data on the effectiveness remote sensing and on ways it might be used to supplement I/M programs.

Finally, EPA is proposing to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. On January 5, 1995, EPA published a final amendment to the I/M rule to address this issue (60 FR 1738). The rule was not completely clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation automatically requires the implementation or upgrade of an I/M program. EPA believes that, in the event of a violation, a state should have the flexibility to select whichever contingency measures are best suited to correcting the problem to bring the area to attainment as quickly as possible. The rule would continue to require, however, that such an upgraded basic I/M program be among the contingency measures from which the state will choose. Changes to remove extraneous language related to the requirements for an implementation schedule are being proposed, as well.

III. Authority

Authority for the action proposed in this notice is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*).

IV. Background of the Proposed Amendments

The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into the most current version of EPA's mobile source emission factor model (hereafter referred to as the MOBILE model), these features produce a target emission factor (emissions per mile of vehicle travel) which a state's proposed program must not exceed to be deemed minimally acceptable for purposes of state implementation plan (SIP) approval. This combination of features, however, does not constitute a recommended program design. For example, while the enhanced I/M performance standard, as required by the Act, includes annual vehicle inspections, EPA does not require or even recommend that state programs actually adopt annual testing. In fact, EPA has found biennial testing to be significantly less expensive while only marginally less effective at reducing fleet-wide vehicle emissions. This marginal loss in benefit can be easily accommodated by strengthening some other aspects of the program, for example, by increasing vehicle coverage, or increasing the number or stringency of the tests conducted on selected classes of vehicles. The use of the performance standard approach allows EPA to meet Congress's dual statutory requirements that the EPA develop a performance standard based on certain statutory features and that the standard provide states with maximum flexibility to design I/M programs to meet local needs.

A. Visual Inspections

During the Fall of 1992, the National Resources Defense Council (NRDC) filed three separate lawsuits against EPA in the Court of Appeals for the District of Columbia Circuit, challenging various aspects of EPA's policy on committal-based State Implementation Plans (SIP) and the I/M rule. Among other things, NRDC maintained that the enhanced I/M performance standard had been purposely weakened to justify a shift away from the statutory presumption of annual testing to EPA's preferred alternative, biennial testing. NRDC maintained that this was achieved by exempting older vehicles from the high-tech tailpipe test known as the IM240, visual inspections, and evaporative system checks. In responding to NRDC's claims, EPA maintained that it set the enhanced performance standard strict enough to net significant emission reductions while also being lenient enough to provide states with ''continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer,'' as required by section 182(a)(2)(B)(ii) of the Act.

In its May 6, 1994 ruling, the Court of Appeals found that, ''each of the parties wins some and loses some on this issue.'' *NRDC* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994). Agreeing with EPA, the court found that the Act did not require

EPA to set the most stringent annual performance standard possible. Nevertheless, the Court also agreed with NRDC's contention that the Act required EPA to establish an enhanced I/M performance standard that is ''the product of two different kinds of testing,'' including a visual and an emission test. Since EPA's current enhanced I/M performance standard only includes one test, a steady-state, idle-based tailpipe test, on vehicle model years 1968 through 1983 and does not require a visual inspection of those cars, the Court found that the current standard falls short of complying with the letter of the Act for those model years.

To correct this oversight, EPA is today proposing to amend the high enhanced I/M performance standard to include a minimum of two inspections per subject vehicle. Currently, the only vehicles included in the high enhanced I/M performance standard that are not covered by both tests are light-duty vehicles and light-duty trucks from model years 1968 through 1983. EPA therefore proposes to amend the current high enhanced I/M performance standard to include a visual inspection for the PCV valve on 1968 through 1971 light-duty vehicles and light-duty trucks up to 8,500 pounds Gross Vehicle Weight Rating (GVWR) and a visual inspection of the EGR valve on model year 1972 through 1983 light-duty vehicles and light-duty trucks. Tampering surveys have shown that these emission control devices are tampered or inadequately maintained. A visual check can identify such problems and emission reductions can occur on individual cars as a result of repairs to these devices.

B. Enhanced Performance Standards

The Court of Appeals ruling on the issue of performance standard stringency also clarifies EPA's authority to establish any enhanced I/M performance standard it deems reasonable, provided it incorporates the minimally required elements set forth by Congress in the Act. By requiring enhanced I/M, Congress gave states one mechanism to meet the required 15% reduction of VOC emissions and demonstrate attainment. Today, EPA is proposing to give states greater flexibility in choosing the enhanced I/M program which will work best with the 15% VOC emission reduction plan. States may elect to implement low enhanced I/M, or any program between low and high enhanced I/M, if that is all they need to meet the 15% VOC emission reduction requirement and attainment demonstration. EPA believes it is reasonable to require lower reductions from enhanced I/M where greater reductions are not needed to reduce VOC emissions by 15% or for attainment.

EPA maintains that the Act in no way bars it from establishing more than one enhanced I/M performance standard. EPA believes that precedent exists for the adoption of multiple enhanced I/M performance standards, tailored to the unique needs of certain areas, and points to the case of El Paso, Texas, for which a separate, enhanced I/M performance standard already exists [40 CFR Part 51.351(e)], as evidence of this interpretation. Today, EPA proposes to repeal § 51.351(e) which establishes the El Paso performance standard because the new low enhanced performance standard eliminates the need for that special enhanced performance standard.

C. Waivers

EPA also believes Section 182 (3)(C) of the Act provides flexibility in its waiver requirement, by not specifying a deadline by which such limits are to be fully implemented and determinative in the granting of waivers. To get the full emission reduction potential of an I/M program element, the statutory waiver requirement must be in full effect at least one full inspection cycle prior to evaluation (so that all subject vehicles will be held to that standard and found to comply). Since compliance with the performance standard is based on a modeling demonstration comparing the state's program to the performance standard using an initial evaluation date of January 1, 2000 for ozone nonattainment areas, and January 1, 2001 for carbon monoxide (CO) nonattainment areas, EPA believes it is possible to postpone full implementation of the enhanced I/M waiver requirements at least January 1, 1998 without jeopardizing the ability of states to meet the relevant enhanced I/M performance standards. EPA requests comment on whether this or a later date would be appropriate. EPA also requests comments as to the timing of application of the CPI adjustment in relation to the phase-in of the full waiver requirements.

Adoption of a January 1, 1998 date for full implementation of the waiver requirement would provide states with the continued flexibility necessary to allow for biennial testing. Furthermore, postponing full implementation of the waiver requirement provides the short term regulatory relief states have been requesting since passage of the Act, while at the same time allowing states to meet the long-term Clean Air Act goals. As mentioned previously, EPA requests comments on the need for and implications of postponing full implementation of the waiver requirements to a date beyond January 1, 1998. EPA hopes that states will use any additional time to develop programs to assist vehicle owners in fully repairing their vehicles; for example, by subsidizing or co-funding repairs out of revenues collected in any of a number of possible ways.

Today's proposed action would also allow motorists to apply the cost of pre-inspection repair of primary emission control devices toward meeting the minimum waiver expenditure requirement provided the repairs were made within 60 days of the inspection. When repairs correct obvious emission control problems, EPA believes it is appropriate to credit repair costs toward minimum waiver expenditures, provided the repairs occur shortly prior to testing.

Today's proposed action would limit the non-technician repairs that can be applied toward waiver limits to repairs of primary emission control components only. However, today's action also removes the language limiting application of non-technician repairs toward waiver expenditure requirements to pre-1980 model year vehicles. The result is that a non-technician repair to a primary emission control component may be applied toward the waiver expenditure requirement for any model year vehicle. EPA does not believe there is reason to distinguish between model years for non-technician repairs to primary emission controls. EPA believes it is appropriate to maintain the distinction for other types of repairs since these are not easily diagnosed or performed the way a missing catalyst, for example, may be diagnosed and repaired.

Today's action proposes to remove the language from the I/M rule which limits hardship extensions to one time in the lifetime of a vehicle. EPA believes it is in the interest of fairness to remove this limitation, especially in the case of used car buyers who may otherwise be deprived of the opportunity for such an extension because this ''right'' was already exercised by a previous owner. Instead, the proposed action would allow a vehicle that has already received a time extension and subsequently passed the applicable test standards to be eligible for another time extension. While EPA acknowledges that there is a potential for minuscule emission reduction losses as a result of changing this limitation, EPA believes that any potential abuses will be accounted for by the existing requirements that all such extensions be tracked by the state,

that the state commit to a maximum waiver limit as part of its SIP for modeling purposes, and that the state commit to program modifications should the actual waiver rate exceed that committed to in the SIP.

D. Redesignation

Today's action proposes to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. EPA believes these changes are necessary because the amendments to the I/M rule addressing redesignation, which were published on January 5, 1995 (60 FR 1738), were not clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation of the standard automatically requires the state to implement or upgrade an I/M program. If a violation or other air quality problem occurs, EPA believes that the state should have the flexibility to select the contingency measure(s) that will most quickly correct the problem and bring the area to attainment.

Today's proposed action also clarifies the timing of SIP submissions and program implementation in areas that select I/M to correct the air quality problem. SIPs must be submitted 18 months after EPA notifies the state that a violation has occurred and programs must be implemented 24 months after the date of notification. No particular date is specified as to when a state must make a selection, but clearly the selection must be made in time to submit a plan by the 18 month point and implement by the 24 month point.

E. Population Requirements

Under current EPA regulations, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with a 1990 Census-defined population of 50,000 or more. Today's proposal solicits public comment on whether revised regulatory language should be included in the final rulemaking to increase the minimum population threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M. This potential revision is proposed to grant states further flexibility in designing I/M programs to meet local needs, and to allow some areas with a population of less than 200,000 and without existing I/M programs to opt-out of I/M completely. Should public comment favor, or at least not overwhelmingly oppose, such a revision, EPA hereby proposes to set the urbanized area population threshold at 200,000 or more based on the 1990 Census. Under this proposed change, any area outside an ozone transport region classified as moderate ozone or carbon monoxide nonattainment would be required to implement a basic I/M program if its 1990 Census-defined population was equal to or exceeded 200,000. EPA believes that this change is authorized by the Act because Section 182 requires implementation in all moderate ozone nonattainment areas only of the program contained in pre-1990 guidance, which limited basic I/M applicability to areas with a population of 200,000 or more. EPA requests comments on whether this proposed change would have any implications on the states continued participation in the Northeast Ozone Transport Region.

V. Discussion of Major Issues

A. Emission Impact of the Proposed Amendments

The proposed low enhanced I/M performance standard was modeled using MOBILE5a and national average values for vehicle age mix, mileage accumulation, and other area and fleet related variables. Compared to a no I/M case, the proposed low enhanced performance standard yields a VOC emission reduction of about 9.3%, and a NOx emission reduction of about 1.5%, assuming an evaluation date of January 1, 2000; assuming a January 1, 2001 evaluation date, the low enhanced performance standard produces a CO emission reduction of about 14.2% compared to the no-I/M case. The low enhanced performance standard yields a 45% greater reduction in VOC emissions than the basic performance standard. Specifically, the basic performance standard programs yields a minimum VOC reduction of 6.4% compared to the minimum 9.3% reduction from the low enhanced standard.

The proposed low enhanced I/M performance standard would allow ozone nonattainment states to adopt a biennial decentralized, test-and-repair program that included idle tailpipe testing, full visual checks, and pressure testing of the evaporative emission control system on all gasoline powered vehicles. For areas needing to meet the Act's requirements for CO, the proposed low enhanced I/M performance standard can be met using a biennial, decentralized test and repair program including two-speed tailpipe testing and full visual checks on all gasoline powered vehicles in conjunction with a comprehensive training or certification program for vehicle repair technicians. If these CO areas also have an ozone requirement, pressure testing will need to be added to the scenario. Alternatively, if test-only, IM240, purge and pressure testing are adopted, states would be able to meet the new, low enhanced standard while exempting large portions of either the oldest or newest vehicles from the test.

The changes in the waiver criteria (e.g., the lower minimum expenditure for the interim years preceding 1998) could reduce emission reduction benefits achieved by I/M programs, depending on the degree to which particular states lower the minimum expenditure in the short term. If states establish lower minimum expenditures, waiver rates will be higher than under the $450 standard. Instead of waiver rates on the order of 3% of failed vehicles in enhanced programs, waiver rates could be as high as 20% or more if states were to lower the minimum to $100-$150. Prior to 1998, the first milestone that states have to meet is the Act's 15% reduction in VOC emissions by November 15, 1996. In states that require only a lower expenditure, the higher waiver rates will lower benefits for this milestone. This loss in emission reduction needs to be accounted for in calculating 15% plan benefits. As a result, states may have to increase emission reductions from other sources, such as stationary sources, to make up for the loss.

B. Impact on Existing and Future I/M Programs

Only states that choose to utilize the proposed flexibility will be affected by today's proposal. Modifications to a state's I/M program as a result of this rule change may require a SIP revision, if a plan has already been approved. Each case is likely to be different, depending upon the magnitude of the change. It is important to note that today's proposed flexibility in no way increases the existing burden on states. States that currently comply, or are in the process of complying, with the existing I/M rule would only be affected by today's rule if they so choose. Today's proposed amendments represent opportunities for those states that can meet the criteria set forth in today's proposal; under no circumstances are these proposed opportunities to be construed as mandatory obligations.

VI. Economic Costs and Benefits

Today's proposed revisions provide states additional flexibility that lessens rather than increases the potential burden on states. Furthermore, states are

under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's proposal.

VII. Public Participation

A. Comments and the Public Docket

EPA desires full public participation in arriving at final decisions in this Rulemaking action. EPA solicits comments on all aspects of this proposal from all parties. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the Air Docket, Docket No. A–95–08.

B. Public Hearing

If a hearing is requested, anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing to schedule those wishing to present testimony who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis following the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advanced copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This will give EPA staff adequate time to review such material before the hearing. Such advanced copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 15 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–95–08 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VIII. Administrative Requirements

A. Administrative Designation

It has been determined that these proposed amendments to the I/M rule is a significant regulatory action under the terms of Executive Order 12866 and are therefore subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950).

However, it does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no information requirements in this proposed/final rule which require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this proposal will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. A small government jurisdiction is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' This certification is based on the fact that the I/M areas impacted by the proposed rulemaking do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' Furthermore, the impact created by the proposed action does not increase the pre-existing burden which this proposal seeks to amend.

D. 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 where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective 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 impacted by the rule.

To the extent that the rules being proposed by this action would impose mandate as defined in Section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this proposed rule is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 18, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 740l–7671q.

2. Section 51.351 is amended by revising paragraphs (a) and (b), by removing and reserving paragraph (e), and by adding paragraphs (f) and (g) to read as follows:

§ 51.351 Enhanced I/M performance standards.

(a) Enhanced I/M programs shall 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), achieved from highway mobile sources as a result of the program. 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 or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. 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 subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section.

(b) *On-road testing.* The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraphs (f) and (g) of this section. Specific requirements are listed in § 51.371 of this subpart.

* * * * *

(e) [Reserved].

* * * * *

(f) *High Enhanced Performance Standard.* Except as provided in paragraph (g) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and later vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) *Exhaust emission test type.* Transient mass-emission testing on 1986 and later model year vehicles using the IM240 driving cycle, two-speed testing (as described in appendix B of this subpart S) of 1981–1985 vehicles, and idle testing (as described in appendix B of this subpart S) of pre-1981 vehicles is assumed.

(7) *Emission standards.* (i) Emission standards for 1986 through 1993 model year light duty vehicles, and 1994 and 1995 light-duty vehicles not meeting Tier 1 emission standards, of 0.80 gpm hydrocarbons (HC), 20 gpm CO, and 2.0 gpm NOx;

(ii) Emission standards for 1986 through 1993 light duty trucks less than 6000 pounds gross vehicle weight rating (GVWR), and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NOx;

(iii) Emission standards for 1986 through 1993 light duty trucks greater than 6000 pounds GVWR, and 1994 and 1995 trucks not meeting the Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NOx;

(iv) Emission standards for 1994 and later light duty vehicles meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 1.4 gpm NO_X;

(v) Emission standards for 1994 and later light duty trucks under 6000 pounds GVWR and meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 2.0 gpm NO_X;

(vi) Emission standards for 1994 and later light duty trucks greater than 6000 pounds GVWR and meeting Tier 1 emission standards of 0.80 gpm, 15 gpm CO and 2.5 gpm NO_X;

(vii) Emission standards for 1981–1985 model year vehicles of 1.2% CO, and 220 gpm HC for the idle, two-speed tests and loaded steady-state tests (as described in appendix B of this subpart S); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S); and

(ix) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S).

(8) *Emission control device inspections.* (i) Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(ii) Visual inspection of the positive crankcase ventilation valve on 1968 through 1971 model years, inclusive, and of the exhaust gas recirculation valve on 1972 through 1983 model year vehicles, inclusive.

(9) *Evaporative system function checks.* Evaporative system integrity (pressure) test on 1983 and later model year vehicles and an evaporative system transient purge test on 1986 and later model year vehicles.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

(g) *Alternate Low Enhanced I/M Performance Standard.* An area either not subject to or able to meet the requirements of the Clean Air Act Amendments of 1990 for Reasonable Further Progress in 1996 and thereafter, and the relevant deadlines for attainment of the ambient air quality standards for ozone and CO without an enhanced I/M program meeting the performance standard described in paragraph (f) of this section, may select the alternate low enhanced I/M performance standard described below in lieu of the standard described in paragraph (f). The program elements for this alternate low enhanced I/M performance standard are:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and newer vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds GVWR.

(6) *Exhaust emission test type.* Idle testing of all covered vehicles (as described in Appendix B of Subpart S).

(7) *Emission standards.* Those specified in 40 CFR Part 85, Subpart W.

(8) *Emission control device inspections.* Visual inspection of the positive crankcase ventilation valve on all 1968 through 1971 model year vehicles, inclusive, and of the exhaust gas recirculation valve on all 1972 and newer model year vehicles.

(9) *Evaporative system function checks.* None.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

3. Section 51.360 is amended by revising the introductory text and paragraph (a)(1), *(a)(5), (a)(6), (a)(7) introductory text, (a)(7)(ii), (a)(9) and (b) to read as follows:*

§ 51.360 Waivers and compliance via diagnostic inspection.

The program may allow 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, as long as the prescribed criteria described below are met.

(a) * * *

(1) Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed. Qualifying repairs include repairs of primary emission control components performed within 60 days of the test date.

* * * * *

(5) General repairs shall be performed by a recognized repair technician (i.e., one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair) in order to qualify for a waiver. I/M programs may allow repairs of primary emission control components performed by non-technicians (e.g., owners) *to apply toward the waiver limit.*

(6) In basic programs, a minimum of $75 for pre-81 vehicles and $200 for 1981 and newer vehicles shall be spent in order to qualify for a waiver. These model year cutoffs and the associated dollar limits must be in full effect no later than January 1, 1998. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the basic I/M performance standard.

(7) Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least $450 in repairs to qualify for a waiver. The I/M program shall provide that the $450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard.

* * * * *

(ii) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used. The first Consumer Price Index adjustment to the minimum $450 waiver expenditure shall go into effect on January 1, 1998.

* * * * *

(9) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met. After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle shall be tracked and reported by the program.

(b) *Compliance via diagnostic inspection.* Vehicles subject to a transient IM240 emission test at the cutpoints established in §§ 51.351 (f)(7) and (g)(7) of this subpart may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the I/M agency or a contractor to the I/M agency show that no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to approval by the Administrator.

* * * * *

4. Section 51.372 is amended by revising paragraph (c) introductory text, (c)(3) and (c)(4), and paragraph (e) to read as follows:

§ 51.372. State implementation plan submissions.

* * * * *

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under Sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

* * * * *

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or CO standard or other air quality problem, in accordance with the provisions of the maintenance plan.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones. The schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart. Schedule milestones shall be listed in months from the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Unless the state, in accordance with the provisions of the maintenance plan, chooses not to implement I/M, it must submit a SIP revision containing an I/M program no more than 18 months after notification by EPA.

* * * * *

(e) *SIP submittals to correct violations.* SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in § 51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect in within 24 months of the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

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40 CFR Part 70

[ND–001; FRL–5199–8]

Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; State of North Dakota

AGENCY: Environmental protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the State of North Dakota for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the alternative, EPA proposes disapproval of the North Dakota Operating Permits Program if the corrective action necessary for final interim PROGRAM approval is not