significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

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

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

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

Dated: November 30, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–32149 Filed 12–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–01–043–6991b; A–1–FRL–6918–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance program. The intended effect of this action is to reduce motor vehicle emissions through identification of high emitting vehicles and require repair of these high emitters. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before January 17, 2001.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, 11th floor, Boston, MA and Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

I. What action is EPA proposing today?
II. How can EPA propose approval of a draft plan?
III. What Rhode Island SIP revision is the topic of this action?
IV. What are the major items included in this state submittal?
V. What are the EPA requirements for approval of the Rhode Island inspection and maintenance program and how has the state addressed each?
VI. What emission reduction credit may Rhode Island assume in the interim until the EPA has information available to assign appropriate credit?
VII. What is EPA's proposed action on this submittal?
VIII. How can the public participate in this process?
IX. Administrative Requirements

I. What Action Is EPA Proposing Today?

We are proposing approval of the Rhode Island enhanced motor vehicle inspection and maintenance program SIP revision which was submitted in draft form on November 17, 2000.

II. How Can EPA Propose Approval of a Draft Plan?

EPA can propose approval of a SIP revision through a process called parallel processing. This process allows EPA to propose approval of a state SIP at the same time that the state is having its required public comment period. The public has the opportunity to review the State's proposed program, plus EPA's discussion in this notice of the non-regulatory program commitments Rhode Island must submit, for the purposes of commenting on this proposed SIP revision. If there are no substantive changes as a result of the state public hearing process, and if there are no substantive adverse comments in response to this notice that cause EPA to require changes in the program beyond the additions already discussed in this notice, EPA can go forward with a final rulemaking notice. If substantive changes are made or substantive adverse comments received that require a program change then EPA must repropose the revision for public comment.

III. What Rhode Island SIP Revision Is the Topic of This Action?

On November 17, 2000, Rhode Island Department of Environmental Management (DEM) submitted a draft revision to its SIP for motor vehicle inspection and maintenance. The revision will be the subject of a public hearing in Rhode Island on December 21, 2000. The SIP revision proposes to revise the Rhode Island SIP to add the enhanced motor vehicle inspection and maintenance program which is required by EPA's inspection and maintenance

regulation Title 40, Part 51—Subpart S—Requirements for Preparation, Adoption, and Submittal of Implementation Plans (I/M rule).

This approval will apply to the inspection and maintenance program which is now operating in the state and will not require any changes to the program beyond the non-regulatory program commitments described in the notice. The Rhode Island I/M program is operated statewide at licensed private garages which also perform required safety tests on vehicles. The test performed every two years on most vehicles is a 31 second dynamometer test. The test equipment is computerized and connected to a central computer. Enforcement is by windshield stickers, but will be changed to registration denial in January 2001.

IV. What Are the Major Items Included in This State Submittal?

The revision consists of a narrative description of the program, the Rhode Island Department of Environmental Management and Department of Motor Vehicles regulations, equipment and test specifications, legal authority, emission factor modeling, the vehicle inspection manual, the quality assurance and quality control plan, technician training information, and the technical proposal from Keating Technologies which includes a public awareness plan.

V. What Are the EPA Requirements for Approval of the Rhode Island Inspection and Maintenance Program and How Has the State Addressed Each?

We have reviewed the Rhode Island submittal to determine how it addresses all aspects of the Clean Air Act and EPA's I/M Rule. Below is a summary of how the Rhode Island submittal addresses each section of EPA's I/M rule:

Applicability—40 CFR 51.350

Sections 182(c)(3) and 184(b)(1)(A) of the Clean Air Act and 40 CFR 51.350(a) require all states in the Northeast Ozone Transport Region (OTR) which contain Metropolitan Statistical Areas (MSAs) or parts thereof with a population of 100,000 or more to implement an enhanced I/M program. Rhode Island is part of the OTR and contains the Providence-Pawtucket-Fall River CMSA or parts thereof with a population of 100,000 or more.

Before the EPA finding made on June 9, 1999 (64 FR 30911) that the 1-hour ozone standard was no longer applicable, the entire State of Rhode Island was also classified as a serious ozone nonattainment area. As such it was required to implement an enhanced I/M program per section 182(c)(3) of the CAA and 40 CFR 51.350(a)(2). On July 20, 2000 (65 FR 45181), EPA reinstated the applicability of the 1-hour ozone standard in all areas for which EPA had taken action determining that the standard no longer applied. The effective date of the reinstatement for Rhode Island is January 16, 2001, after which Rhode Island will once again be considered a serious ozone nonattainment area and again subject to the section 182(c) requirement to implement an enhanced I/M program.

Under the requirements of the Clean Air Act, all counties in Rhode Island are subject to I/M program requirements. The Rhode Island I/M regulation requires that the enhanced I/M program be implemented statewide. The I/M legislative authority Rhode Island General Law Chapter 31-38, Inspection of Motor Vehicles, and Chapter 31–47.1, Motor Vehicle Emissions Inspection Program, provide the legal authority to establish a statewide enhanced program. This part of the submittal meets the requirements of 40 CFR 51.350 of the federal I/M rule and is part of the basis for this proposed approval of the Rhode Island I/M SIP.

The federal I/M rule requires that the state program not terminate until it is no longer necessary. EPA interprets the federal rule as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. The Rhode Island submittal does not address the length of time the program will be in effect. The program must continue past the attainment dates for all applicable nonattainment areas in Rhode Island. In the absence of a sunset date, EPA interprets the SIP submittal as requiring the I/M program to continue indefinitely, and proposes to approve the program on this basis. Once approved, this unlimited term of the program will be federally enforceable as a requirement of the SIP.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard is established using local characteristics, such as vehicle age mix and local fuel controls, and the following model I/M program parameters: Network type, start date, test frequency, model year, vehicle type coverage, exhaust emission test type, emission standards, emission control device inspection, 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 Rhode Island submittal the most current version was MOBILE5b. Areas shall meet the performance standard in 2002 for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas or areas in the Ozone Transport Region, the performance standard must be met for both nitrogen oxides (NO_X) and hydrocarbons (HC). This Rhode Island submittal must meet the enhanced I/M performance standard for HC and NO_X throughout the state.

The 15 percent rate of progress (ROP) plan for Rhode Island which was approved in the **Federal Register** on December 8, 1998 (63 FR 67594) does not rely on I/M emission credits to meet the required reduction. This allows Rhode Island to meet the low enhanced I/M performance standard pursuant to 40 CFR 51.351(g).

The Rhode Island submittal includes the following program design parameters:

Network type—Test and repair
Start date—2000
Test frequency—biennial
Model year/ vehicle type coverage—most recent 25 years, light and heavy duty, gasoline
Exhaust emission test type—transient
Emission standards—1.2 HC, 20.0 CO, 3.0 NO_X
Emission control device check—yes
Evaporative system function checks—gas cap only
Stringency (pre-1981 failure rate)—N/A
Waiver rate—3%
Compliance rate—96%
Evaluation date(s)—2002 and 2004

Rhode Island has submitted modeling demonstrations using the EPA computer model MOBILE5b showing that the low enhanced performance standard reductions will be met in 2002 with the proposed state program. This demonstration assumed a 96% compliance rate, 3% waiver rate, and 75% of IM 240 credits. (See Section VI below for a discussion on interim emission reduction credit.)

Rhode Island's modeling shows that the program will meet the ''low enhanced I/M performance standard'' for HC, and NO_X by 2002. This part of the submittal meets the requirements of

40 CFR 51.351 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Network Type and Program Evaluation—40 CFR 51.353

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

Rhode Island has designed a test-and-repair network with dynamometer testing in a computer connected network. The program evaluation testing will consist of a NYTEST test conducted immediately after the RI2000 test on 350 randomly selected vehicles. In addition, annual remote sensing data from on-road testing will be compared with remote sensing data collected prior to the start of the program and for subsequent years to provide an alternative assessment method. EPA's regulations at 40 CFR 51.353 allow a state to submit a demonstration that a decentralized test-and-repair network achieves the level of credit, as compared to a centralized program, that a state is claiming for its program. Rhode Island is assembling data for a full demonstration of the efficacy of its test-and-repair network, some of which EPA has already received, and EPA is requiring Rhode Island to submit additional documentation before EPA finally approves this program. EPA is nevertheless prepared to propose full approval of Rhode Island's I/M program pending submittal of their demonstration. Rhode Island has submitted data concerning failure rate by model year upon which we will base our proposed approval and Rhode Island will be submitting data concerning actual waiver rates and station audit results which will be incorporated into the analysis before final approval. While absolute network effectiveness may not be known with this limited data, EPA believes that Rhode Island's network effectiveness demonstration meets the same standard applied to effectiveness demonstrations applied to other states under section 51.353. This element is part of the basis for proposed approval of the Rhode Island I/M SIP.

Adequate Tools and Resources—40 CFR 51.354

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

Rhode Island has provided for a dedicated fund to provide the additional resources, in addition to the resources assigned to the existing safety program, needed to implement the program. A portion of the fee goes directly to the contractor ($13.00) and part of it goes to the state ($2.00) to support the program. Rhode Island submitted a breakdown of funds and full time employees for the Department of Motor Vehicles (DMV) and DEM to operate the program. These resources along with the contractor resources appear to be adequate to meet these needs. An annual budget estimate is included in Section 6 of the submittal. This part of the submittal meets the requirements of 40 CFR 51.354 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard 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.

The Rhode Island program provides biennial testing in a test-and-repair network. The test-and-repair structure of the program and approximately 350 test stations are expected to provide customer convenience. The contract specifies criteria to provide convenient locations throughout the state. Legal authority is provided in 31–47.1–3 of The General Laws of Rhode Island. The performance standard is achieved with this biennial format. This part of the submittal meets the requirements of 40 CFR 51.355 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds GVWR, and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in the same type of test network as other vehicles in the state, according to the requirements of 40 CFR 51.353(a).

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 analysis of the program's potential emission reduction.

The Rhode Island program tests light duty gasoline vehicles less than 25 years old. The mobile modeling contains a model year profile provided by the state for the Rhode Island vehicles included in the program. Legal authority is provided in Section 31–47.1–3 of the

General Laws of Rhode Island and section 1.2, Applicability, of Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1. Exemptions are also specified in this regulation and have been addressed in the modeling. Rhode Island is not significantly impacted by vehicles outside the program area, since the Rhode Island program is implemented statewide and each surrounding state (*i.e.*, Connecticut and Massachusetts) is implementing a statewide enhanced I/M program. This part of the submittal meets the requirements of 40 CFR 51.356 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Federally owned vehicles operated in Rhode Island are required to meet the same requirements as Rhode Island registered vehicles. However, EPA is not requiring states to implement 40 CFR 51.356(a)(4) dealing with federal installations within I/M areas at this time. The Department of Justice has recommended to EPA that this regulation be revised since it appears to grant states authority to regulate federal installations in circumstances where the federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this new rule is final. Therefore, for these reasons, EPA is not proposing approval or disapproval of the specific requirements which apply to federal facilities at this time.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA documents entitled ''High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications,'' EPA–AA–EPSD–IM–93–1, dated April 1994 and ''Acceleration Simulation Mode Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications,'' EPA–AA–RSPD–IM–96–2, dated July 1996.

Rhode Island will use the RI2000 test (BAR31 test with NYTEST equipment). Test procedures and standards are specified in: (1) Section 9 and Appendix A, Equipment and Test Specifications, of the November 17, 2000 SIP submittal; (2) section 1.4, Rhode Island Vehicle Inspection Program Procedures, and section 1.5, Emission Standards and Criteria, of Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1; and (3) Air Pollution Control Regulation No. 34, Rhode Island Motor Vehicle Inspection/Maintenance Program. This part of the submittal meets the requirements of 40 CFR 51.357 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Test Equipment—40 CFR 51.358

Computerized test systems are required 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.

The specifications for the computerized test equipment to be used in the program are included in Appendix A, Equipment and Test Specifications, of the November 17, 2000 SIP submittal. This part of the submittal meets the requirements of 40 CFR 51.358 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Quality Control—40 CFR 51.359

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

Rhode Island's November 17, 2000 SIP submittal includes provisions which describe and establish quality control measures for the emission measurement equipment, and record keeping requirements in Section 12, Quality Assurance/Quality Control, and Appendix I, QA/QC Plan. This part of the submittal meets the requirements of 40 CFR 51.359 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

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 allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

Rhode Island has chosen to allow cost waivers and compliance via diagnostic inspection. The Rhode Island waiver requirements are described in section 13 of the submittal and will require $450 plus CPI adjusted cost waiver. After January 1, 2001, $450 must be spent on appropriate repairs and the amount will subsequently be adjusted to account for CPI changes by January 1, 2004. Only repairs performed by a registered repair technician can be credited toward a waiver. Section 1.9 of Rhode Island Motor Vehicle Safety and Emissions Control Regulation No.1 specifies waiver requirements including requirements that creditable cost of repairs shall not include costs covered by warranty or tampering reversal, and must be made by a Certified Inspection Repair Technician. The submittal assumes a maximum 3% waiver rate and a commitment to revise the SIP if it is exceeded. Rhode Island submitted these waiver provisions for the purpose of addressing the waiver provisions of EPA's I/M rule. This element of the submittal is part of the basis for proposed approval of the Rhode Island I/M SIP.

Motorist Compliance Enforcement—40 CFR 51.361

The federal 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, which was operating prior to passage of the 1990 Clean Air Act Amendments, and it can be demonstrated that the alternative has

been more effective than registration denial. The SIP 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.

Section 14 of the submittal explains enforcement procedures for the program. Legal authority is contained Rhode Island General Law Chapter 31–47.1, Motor Vehicle Emissions Inspection Program. Registration denial will start January, 2001, and will be in effect before final EPA action on the I/M SIP is taken. The data base will be maintained by the contractor and tied in with the Department of Motor Vehicles database. Section 1.4.2, Registration, of Rhode Island Motor Vehicle Safety and Emissions Control Regulation No.1 specifies registration denial requirements starting January 1, 2001. Rhode Island used a 96% compliance rate for modeling purposes, but did not commit to this rate. The final submittal must have a commitment to maintain 96% compliance rate in practice. This part of the submittal meets the requirements of 40 CFR 51.361 of the federal I/M rule except for the absence of the commitment to maintain a 96% compliance rate in the program. This commitment must be submitted prior to final action by EPA.

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 SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program.

The contract between the state and the program provider details the coordination of data between the workstation and DMV to enforce, audit and evaluate this requirement. However, the submittal does not address training, auditing, and oversight of the DMV functions of the enforcement program. This documentation must be submitted prior to final EPA action on the SIP. This part of the submittal meets the requirements of 40 CFR 51.362 of the federal I/M rule with the exception of DMV training, auditing, and oversight functions, which must be submitted prior to final action by EPA.

Quality Assurance—40 CFR 51.363

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

The quality assurance program is described in Section 12, Quality Assurance/Quality Control, and Appendix I, QA/QC Plan, of the submittal. This element of the submittal is part of the basis for proposed approval of the Rhode Island I/M SIP.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

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 which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits, unless constitutionally prohibited. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP 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.

Section 15 of the submittal, Enforcement—Program Manager, AIRS, and Inspectors, describes provisions for enforcement against stations and inspectors. Sufficient resources have been provided to enforce the program and are addressed in the resources section. The contractor may disconnect inspection stations from the computer system without a prior hearing if there is a problem with calibration or if the station is suspected of conducting improper inspections. The contract terms provide for penalties against the contractor. In addition, section 31–47.1–9 of the General Laws of Rhode Island provides for fines and civil penalties of up to $1,000 fine or imprisonment for up to 30 days or both for violations. This part of the submittal meets the requirements of 40 CFR 51.364 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

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.

The Rhode Island SIP provides a commitment to meet all of the data collection requirements and has listed all the required data which will be collected in Section 16, Data Collection, of the state submittal. Data collection for quality control is addressed in Appendix I, QA/QC plan, of the submittal. This part of the submittal meets the requirements of 40 CFR 51.365 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

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.

Section 17 of the submittal addresses data analysis and reporting procedures and are supported in the contract. This part of the submittal meets all of the requirements of 40 CFR 51.366 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

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.

Section 1.14, Authorization and Certification, of Rhode Island Motor Vehicle Safety and Emissions Control Regulation No.1 requires training and certification of inspectors. The contractor is required to train and test inspectors with the appropriate curriculum as specified in the federal I/M rule. The training manual and an example test are included in Appendix I, QA/QC Plan, of the submittal. This part of the submittal meets the requirements of 40 CFR 51.367 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Public Information and Consumer Protection—40 CFR 51.368

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

Section 19, Public Information and Consumer Protection, of the submittal and Section 3 of the contractor's RFP response contain a detailed public awareness plan for the 7 years of the contract. Consumer protection will be provided through the public awareness plan and a challenge test program. This part of the submittal meets the requirements of 40 CFR 51.368 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the federal regulation, and a description of the repair technician training resources available in the community.

As described in Section 20, Improving Repair Effectiveness, of the submittal, Rhode Island will be providing subsidized mechanic training through a CMAQ grant, a diagnostic center, and a technician performance evaluation and monitoring system. This part of the submittal meets the requirements of 40 CFR 51.369 of the federal I/M rule and is part of the basis for proposed approval of the Rhode Island I/M SIP.

Compliance with Recall Notices—40 CFR 51.370

The federal 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.

EPA will adopt regulations to require submittal of this information by manufacturers to develop a database to support this requirement. The Rhode Island I/M SIP commits to ensuring compliance with EPA I/M recall rules when they are finalized. This part of the I/M rule will be reevaluated after EPA adopts the needed rule.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area.

The Rhode Island SIP submittal describes an on-road testing program which is a requirement of the program contract. The on-road testing program meets the minimum testing requirements of the federal I/M rule.

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

The Rhode Island program started mandatory testing on January 1, 2000 in accordance with the terms of the contract. Although this is beyond the start date specified in EPA's I/M rule, that date has already passed and it is now impossible to start by that date. The program has now started and EPA believes it is appropriate to approve this currently operating program.

VI. What Emission Reduction Credit May Rhode Island Assume in the Interim Until the EPA Has Information Available To Assign Appropriate Credit?

Rhode Island and Massachusetts use the same testing equipment and testing cycle. Specifically the New York state test equipment (NYTEST), and the BAR31 test cycle. In EPA's supplementary proposed rule on the Massachusetts I/M SIP published on November 30, 1999 (64 FR 66829), EPA stated that there was no data available at the time to assign the exact emission reduction credit for the combination of test type and equipment that Massachusetts was implementing (*i.e.*, a 31 second transient test utilizing the BAR 31 trace and NYTEST equipment). We did state that, even if one makes extremely conservative assumptions about the efficacy of the Massachusetts test, EPA's mobile modeling shows that the I/M program demonstrates compliance with EPA's performance standard for a low enhanced program. This is also the case for Rhode Island. We also acknowledged that Massachusetts will conduct necessary comparison testing to determine the appropriate emission reduction for SIP credit using the combination of the BAR 31 transient trace with NYTEST equipment. Rhode Island will be able to utilize this same information to establish more accurate emission reduction credits for future SIP planning by Rhode Island.

Rhode Island is at this time using 75% of IM240 credit for future planning. Based on recent information on the NYTEST system, EPA believes this is a reasonable assumption. EPA has evaluated a test program which evaluated the difference in effectiveness between EPA's IM240 equipment and NYTEST equipment which is utilized by Rhode Island. This test program quantified the effectiveness of NYTEST and granted it 95% of the IM240 hydrocarbon (HC) reduction credit and 99% of the IM240 reduction credit for both carbon monoxide (CO) and nitrogen oxides (NO_X).

In November 25, 1996, EPA had quantified the BAR31 cycle currently run in Oregon (OR31) as receiving 90% of the IM240 HC credit and 95% of the IM240 CO and NO_X credit. Although the OR31 uses the same cycle as the RI2000 test, the OR31 employs IM240 equipment, which is more accurate than the BAR97 (NYTEST) equipment specified in the RI2000 test. Therefore, the credit afforded the RI2000 at this time needs to be slightly reduced to reflect this equipment discrepancy. The NYTEST equipment analysis taken in concert with the earlier information defining the relationship between OR31 and IM240 cycles results in the Agency agreeing, based on our best engineering judgment, that the level of credit Rhode Island is assuming (75% of IM240) from the I/M program for future air quality planning appears currently to be acceptable. Therefore, EPA is proposing to approve this interim level of credit for planning purposes.

Once the comparison study results are available from the Massachusetts study, EPA will establish appropriate credit for the BAR31 test done on NYTEST equipment. If the emission reduction credits assigned do not meet or exceed

the credit assumed by Rhode Island, Rhode Island and EPA will take appropriate action to correct any SIP shortfall in any SIP demonstrations that may rely on credit from the I/M program.

VII. What Is EPA's Proposed Action on This Submittal?

EPA's review of this material indicates that with the exception of three nonregulatory items, the submittal addresses the requirements of the I/M rule. EPA is proposing to approve the Rhode Island SIP revision for enhanced motor vehicle inspection and maintenance, which was submitted on November 17, 2000. Prior to EPA taking final action, however, Rhode Island must include in its final submittal: (1) A commitment to maintain a 96% compliance rate (or revise the SIP accordingly), (2) the appropriate enforcement oversight provisions for the DMV, and 3) a demonstration of the performance of its test-and-repair network. Additionally, we are also proposing approval of an interim level of emission reduction credit for the inspection and maintenance program that can be utilized by Rhode Island for SIP planning. If the state fails to submit the required items in its final SIP submittal, EPA proposes to grant only a limited approval of the program. In this case, the I/M SIP would be approved as a SIP strengthening measure, and not approved as meeting the CAA requirements for an enhanced I/M program.

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.

VIII. How Can the Public Participate in This Process?

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA-New England office listed in the *Addresses* section of this notice.

Interested parties are encouraged to participate in the concurrent state process by presenting oral or written testimony at Rhode Island's December 21, 2000 public hearing, at 10 am in Conference Room ''C'' at One Capitol Hill, Providence, RI. Written comments will be accepted until 12 noon on December 22, 2000 at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

IX Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as addressing Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: December 12, 2000.

Mindy S. Lubber,

Regional Administrator, EPA—New England.

[FR Doc. 00–32236 Filed 12–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–6919–1]

Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources for Large Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to amend final rules.

SUMMARY: Section 129 of the Clean Air Act (CAA) directs us to develop new source performance standards (NSPS) and emission guidelines (EG) for municipal waste combustors (MWC). The final NSPS and EG limit periods of startup, shutdown, or malfunction to 3 hours per occurrence. Recently, it has come to our attention that there are a few types of malfunction which require shutdown, but, because of the nature of the malfunction and ensuing safety concerns, require longer than 3 hours for shutdown of the MWC. This notice