Issued in Renton, Washington, on December 6, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31606 Filed 12–12–96; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–34–2–9644; FRL–5656–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule.

SUMMARY: EPA is proposing a conditional, interim approval of a State Implementation Plan (SIP) revision submitted by the State of Georgia. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale Counties. The intended effect of this action is to propose conditional interim approval of an I/M program proposed by the State, based upon the State's good faith estimate, which asserts that the State's network design credits are appropriate and the revision is otherwise in compliance with the Clean Air Act (CAA). This action is being taken under the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the CAA.

If the State commits within 30 days of this proposed conditional interim approval notice to correct the major deficiencies by dates certain as described below, then this proposed conditional approval shall expire pursuant to the NHSDA and section 110 of the CAA on the earlier of 18 months from final interim approval, or on the date of EPA takes final action on the states full I/M SIP. In the event that the State fails to submit a commitment to correct all of the major deficiencies within 30 days after the publication of this proposed conditional interim approval notice, then EPA is proposing in the alternative to dissaprove the SIP revision. If the State does make a timely commitment but the conditions are not met by the specified date within one year, EPA proposes that this proposed conditional interim approval will convert to final disapproval. If the conditional interim approval is converted to a disapproval, EPA will notify the State by letter that the conditions have not been met and that the conditional approval has converted to a disapproval.

DATES: Comments must be received on or before January 13, 1997.

ADDRESSES: Comments may be mailed to Benjamin Franco at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M St, SW, Washington, D.C. 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 100 Alabama St., SW, Atlanta, Georgia 30303.

Georgia Environmental Protection Division, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Benjamin Franco, Mobile Source and Community Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 100 Alabama St., SW Atlanta, Georgia 30303. The telephone number is 404/562–9039. Reference file GA 34–2–9644.

SUPPLEMENTARY INFORMATION:

I. Background

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

The National Highway System Designation Act of 1995 (NHSDA) establishes two key changes to the enhanced I/M rule requirements previously developed by EPA. Under the NHSDA, EPA cannot require states to adopt or implement centralized, test-only IM240 enhanced vehicle inspection and maintenance programs as a means of compliance with section 182, 184 or 187 of the CAA. Also under the NHSDA, EPA cannot disapprove a SIP revision, nor apply an automatic discount to a SIP revision under section 182, 184 or 187 of the CAA, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, the so-called 50% credit discount that was established by the EPA's I/M Program Requirements Final Rule, (published November 5, 1992, and herein referred to as the I/M Rule) has been effectively replaced with a presumptive equivalency criteria, which places the emission reductions credits for decentralized networks on par with credit assumptions for centralized networks, based upon a state's good faith estimate of reductions as provided by the NHSDA and explained below in this section.

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

The NHSDA also requires states to swiftly develop, submit, and begin implementation of these enhanced I/M programs, since the anticipated start-up dates developed under the CAA and EPA's rules have already been delayed. In requiring states to submit these plans within 120 days of the NHSDA passage, and in allowing these states to submit proposed regulations for this plan (which can be finalized and submitted to EPA during the interim period) it is clear that Congress intended for states to begin testing vehicles as soon as practicable, now that the decentralized credit issue has been clarified and directly addressed by the NHSDA.

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

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

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

B. Interim Approvals Under the NHSDA

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

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

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

As per the NHSDA requirements, this interim rulemaking will expire within 18 months of the final interim approval, or the date of final full approval. A full approval of the state's final I/M SIP revision (which will include the state's program evaluation and final adopted state regulations) is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews the state's submitted program evaluation, final rulemaking on the state's SIP revision will occur.

II. EPA's Analysis of Georgia's Submittal

On March 27, 1996, the Georgia Environmental Protection Division (GAEPD) submitted a revision to its State Implementation Plan (SIP) for an enhanced I/M program to qualify under the NHSDA. The revision consists of enabling legislation that will allow the State to implement the I/M program, proposed regulations, a description of the I/M program (including a modeling analysis and detailed description of program features), and a good faith estimate that includes the State's basis in fact for emission reductions claims. The State's credit assumptions were based upon the removal of the 50% credit discount for all portions of the program that are based on a test-and-repair network, and the application of the State's own good faith estimate of the effectiveness of its decentralized test and repair program. Georgia's credit assumption were based upon a remote sensing study performed by Georgia Tech. Subsequently, on June 17, 1996, GAEPD submitted amendments to the earlier SIP revisions.

A. Analysis of the NHSDA Submittal Criteria

Transmittal Letter

On March 27, 1996, Georgia submitted an enhanced I/M SIP revision to EPA, requesting action under the NHSDA of 1995 and the CAA of 1990. A subsequent submittal amending the I/M program was submitted to EPA on June 17, 1996. The official submittal was made by the appropriate State official, Harold Reheis of the Georgia EPD, and was addressed to the appropriate EPA official, John Hankinson, the Regional Administrator.

Enabling Legislation

The State of Georgia has legislation in Chapter 391–3–10 and 391–3–20 enabling the implementation of a hybrid program consisting of the use of a two speed idle exhaust emission test and an Accelerated Simulation Mode (ASM) exhaust emission test.

Proposed Regulations

On August 16, 1995, the State of Georgia, proposed regulations in accordance with 40 CFR part 51, establishing an enhanced I/M program. The State adopted, under emergency rule, Chapter 39–3–20, Rules for Enhanced Inspection and Maintenance, on May 29, 1996. This rule was permanently adopted by Georgia on August 26, 1996. Also, Chapter 391–3–10, Rules for Inspection and Maintenance, was adopted on June 24, 1996.

Program Description

The Georgia program is a decentralized hybrid program consisting of an Acceleration Simulation Mode test for older vehicles, and a 2 speed idle test for newer vehicles. All vehicles will receive a gas cap pressure integrity test. The primary compliance mechanism is registration denial. Newer vehicles are those with a designated model year which is of the current test year and up to five years older than the current test year. Older vehicles are those more than five years older than the current test year and through the 1975 model year. Stations may be either test-only or test-and-repair. Fleets are allowed to self test. Vehicles that are 10 or more years old, driven less than 5000 miles per year, and owned by persons aged 65 years or older are exempt from testing, as are antique or collector cars or trucks 25 years old or older. The Management Contractor will be responsible for quality control, quality assurance, program oversight, and outreach. The idle test portion of the program was expanded to all 13 metro Atlanta nonattainment counties on October 1, 1996. ASM testing will begin on July 1, 1997.

Emission Reduction Claim and Basis for the Claim

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

As previously stated, the NHSDA left those elements of the I/M Rule that do not pertain to network design or test type intact. Based upon EPA's review of Georgia's submittal, EPA believes the State has not complied with all aspects of the NHSDA, the CAA and the I/M Rule. For those sections of the I/M Rule, or of the CAA identified below, with which the State has not yet fully complied, EPA proposes to conditionally approve the SIP if it receives a commitment from the State to correct said deficiency. Before EPA can continue with the interim rulemaking process, the State must make a commitment within 30 days of December 13, 1996 to correct these major SIP elements by a date certain within one year of interim approval. If the State does not make this commitment, EPA proposes in the alternative to disapprove the State submittal. The State must correct these major deficiencies by the date specified in the commitment or this proposed approval will convert to a disapproval under CAA section 110(k)(4).

Applicability—40 CFR 51.350

The Atlanta area is classified as a serious ozone nonattainment area and also required to implement an enhanced I/M program as per section 182(c)(3) of the CAA and 40 CFR 51.350(2).

Under the requirements of the Clean Air Act, the following counties in Georgia are subject to the enhanced I/M program requirements: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.

The Georgia I/M legislative authority provides the legal authority to establish the geographic boundaries. The program boundaries are listed in Chapter 391–3–20–0.32-.02. EPA is proposing to find that the geographic applicability requirements are satisfied. The federal I/M regulation requires that the state program shall not sunset until it is no longer necessary.

EPA interprets the federal regulation as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. The Georgia I/M regulation provides for the program to continue past the attainment dates for all applicable nonattainment areas in the Georgia.

The State submission meets the Applicability requirements of the Federal I/M regulation for interim approval.

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

The Georgia submittal includes the following program design parameters:

Network type—Hybrid, consisting of a test and repair program and a test only program, modeled as test-only for 100% emission reduction credit.

Start date—1982.

Test frequency—Biennial.

Model year/vehicle type coverage—1975/LDGV, LDGT1, LDGT2.

Exhaust emission test type—ASM for vehicles seven years old back to 1975, 2-speed idle for newest six model years.

Emission standards—ASM: .8 g/mile HC, 15.0 g/mile CO, 2.0 g/mile NO_x. 2-speed idle: 220 ppm HC, 1.2 ppm CO, and 999 ppm NO_x.

Emission control device—Visual inspections of catalyst.

Evaporative system function checks—gas cap pressure test.

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

Waiver rate—3% for all model years.

Compliance rate—97%.

Evaluation dates—January 2000.

The Georgia program design parameters meet the federal I/M regulations and are approvable.

The State program demonstrates compliance with the low enhanced performance standard established in 40 CFR 51.351(g). That section provides that states may select the low enhanced performance standard if they have an approved SIP for reasonable further progress in 1996, commonly known as a 15 percent reduction SIP. In fact EPA approval of 15 percent plans has been delayed, and although EPA is preparing to take action on 15 percent plans in the near future, it is unlikely that EPA will have completed final action on most 15 percent plans prior to the time EPA believes it would be appropriate to give final interim approval to I/M programs under the NHSDA.

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

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

Georgia has submitted a 15 percent plan which includes the low enhanced I/M program. EPA is currently reviewing that program and plans to

propose action on it shortly. EPA here proposes to approve the I/M program as satisfying the low enhanced performance standard provided that EPA does propose to approve the 15 percent plan containing that program. Should EPA propose approval of the 15 percent plan, EPA will proceed to take final interim approval action on the I/M plan. EPA proposes in the alternative that if the Agency proposes instead to disapprove the 15 percent plan, EPA would then disapprove the I/M plan as well because the State would no longer be eligible to select the low enhanced performance standard under the terms of 51.351(g).

The emission levels achieved by GAEPD were modeled using MOBILE5a and utilizing the ASM2 credit matrix in that model. The modeling demonstration was performed correctly, used local characteristics and demonstrated that the program design will meet the minimum enhanced I/M performance standard, expressed in gpm, for HC, and NOx, for each milestone and for the attainment deadline. In addition, the existing I/M rules require that the modeling demonstrate that the state program has met the performance standard by fixed evaluation dates. The first such date is January 1, 2000. However, few state programs will be able to demonstrate compliance with the performance standard by that date as a result of delays in program start up and phase in of testing requirements. EPA believes that based on the provisions of the NHSAD, the evaluation dates in the current I/M rule have been superseded. Congress provided in the NHSDA for programs that would start significantly later than the start dates in the current I/M rule. Consistent with Congressional intent, such programs by definition will not achieve full compliance with the performance standard by the beginning of 2000.

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

Georgia will be required to repeat the modeling demonstration if EPA provides the appropriate ASM1 credit matrix as part of the MOBILE model. The enhanced performance standard required for the Georgia program is 1.684 grams per mile for VOC and 1.968 grams per mile for NOx. The low enhanced performance standard required for the Georgia program is 2.254 grams per mile for VOC and 2.231 grams per mile for NOx. The model results for the Georgia I/M program are 2.002 grams per mile for VOC and 1.996 grams per mile for NOx. While the Georgia program falls below the enhanced I/M performance standard, it is above the low enhanced I/M performance standard. GAEPD will achieve additional emission reductions elsewhere, consistent with the requirements of the EPA flexibility rule creating the low enhanced standard. Georgia will implement a ban on all open-burning in addition to a 7.0 Reid Vapor Pressure program in order to achieve the necessary reductions.

The State submittal meets the Performance Standard requirements of the federal I/M regulation for interim approval.

Network Type and Program Evaluation—40 CFR 51.353

The enhanced program must include an ongoing evaluation to quantify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of the Act and the federal I/M regulation. The SIP must include details on the program evaluation and must 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. ECOS has formed a committee to develop an evaluation protocol to be used by states in order to evaluate program effectiveness. ECOS has recommended that states follow the evaluation procedure in EPA's Final I/M rule. In a letter dated October 2, 1996, the Georgia EPD committed to a program evaluation that will comply with both the ECOS recommendation and 40 CFR 51.353(c). EPA interprets this to mean the evaluation program shall consist, at a minimum, of those items described in 40 CFR 51.353(b)(1) and mass emission test data using the procedure specified in 40 CFR 51.357(a)(11), or any other transient, mass emission test procedure approved as equivalent, and evaporative system checks. The first of the required biennial reports will be provided to EPA by July 1, 1998, with subsequent reports on July 1 every second year following.

The network is composed of private and public testing stations. Public testing stations may be test-only or test and repair. Fleets are allowed to conduct tests on their own vehicles, and are considered private testing stations.

The Georgia submittal meets the Network Type and Program Evaluation requirements of the federal I/M regulation for interim approval.

Adequate Tools and Resources—40 CFR 51.354

The federal regulation requires the state 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.

Georgia requires quality assurance, data analysis and reporting, audits, and other oversight and management functions to be performed by the Management Contractor. A portion of the test fee will be used to pay the Management Contractor, and another portion will be paid to GAEPD to cover program oversight. The Management Contractor will receive $5.45 for each vehicle inspected at a public test station. GAEPD will receive $0.95 per vehicle inspected at a public test station in order to cover the cost of providing oversight and implementation of the program. The inspection fee at a fleet test station will be $8.40. The Management Contractor will receive $5.45 per vehicle inspected at a fleet testing station. GAEPD will receive $1.95 per vehicle inspected at a fleet test station in order to cover the cost of providing oversight and implementation of the program. The State constitution prohibits a dedicated fund for the operation of the program. The General Assembly will provide appropriations

equal to fees collected. The expected staff level at GAEPD will be approximately five persons. Most of the work will be done by the Management Contractor, therefore the State's primary function is to oversee contractor's operation. The Georgia submittal meets the Adequate Tools and Resources requirements set forth in the federal I/M regulations and is approvable.

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 Georgia I/M program will be a biennial program testing even model year vehicles in even test years, and testing odd model years in odd test years. Legislation was passed to allow for a 12-month registration period beginning in January 1, 1998. Currently, all vehicles are required to be registered in a four month period (January–April). Stations will be required to operate a minimum of 40 hours per week. As the program will operate on a decentralized basis, it is anticipated that there will be ample coverage in the I/M program.

The State submittal meets the Test Frequency and Convenience requirements of the federal I/M regulation for interim approval.

Vehicle Coverage—40 CFR 51.356

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

The federal I/M regulation requires that the SIP must include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions, including the percentage and number of vehicles to be impacted by the exemption. Such exemptions shall be accounted for in the emissions reduction analysis.

The Georgia program will cover 1975 and later model years light duty vehicles and light duty trucks weighing up to 8500 pounds gross vehicle weight rating (GVWR). Based on parking lot surveys, the current program compliance rate is estimated at 99 percent. GAEPD used 97 percent in its demonstration allowing for vehicles operating in but not registered in the program area, and for changes in the compliance rate as a result of the more stringent emission standards. Vehicles that are 10 years old, driven less than 5000 miles and owned by persons aged 65 or older are exempted from the test. The loss of credit due to this exemption was accounted for in the performance demonstration. The Georgia I/M program requires that federal fleets operating and registered in the covered area be tested. The Georgia submittal meets the Vehicle Coverage requirements of the federal I/M regulations for interim approvable.

Test Procedures and Standards—40 CFR 51.357

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

The Georgia I/M program will consist of a single mode ASM and two-speed idle test, and a gas cap integrity test. A visual emission control inspection for the presence of the catalytic converter on all 1975 and newer model year vehicles will be required. The ASM test will be conducted using a chassis dynamometer. Georgia has been working with other states and the equipment manufacturers, in coordination with EPA, to develop their own procedures, specifications and standards. Georgia, in the June 17, 1996 amendments, stated a two phase approach for the ASM portion of the program. They included a copy of the draft EPA ASM specifications and noted that due to the short time available to manufacturers, current specifications would be used to the maximum extent possible. They also noted that Phase I will only require the analyzer portion of ASM needed to perform the two speed idle testing and that the Phase II upgrade will include the hardware and software needed to perform ASM. It is anticipated that these test procedures, specifications and standards will be released in the near future. The 2 speed idle test procedure is one of the test methods described in EPA's ''Recommended I/M Short Test Procedures for the 1990's: Six Alternatives.'' All vehicles will receive a gas cap pressure integrity test. For 1996 and later vehicles, a check of the on-board diagnostic system to detect any emission control system problems will be performed. Georgia will use a form of phased in cutpoints while implementing the ASM portion of their enhanced I/M program. Less stringent phase in cutpoints will be utilized from the start of ASM testing, on July 1, 1997, till December 31, 1997. Final ASM cutpoints will be utilized after that time. The reason for this is two fold. One is to introduce ASM testing to the area. However, the primary reason is to encourage people to have their cars tested before they are required. This unique situation is due to the current four month registration window (January-April) in Georgia. However, Georgia will start a 12 month registration period beginning January 1, 1998. This is why final cutpoints will be implemented at that time. Georgia is hoping to encourage people to bring

their cars in after they have their 1997 registration (again, after January-April), but prior to the 1998 registration in order to more evenly distribute the testing load. The two-speed idle test will start with the final cutpoints and experience no phase in standards.

Georgia's submittal does not include a description of the final ASM test procedure which is acceptable to both Georgia and EPA for one-mode ASM testing and the gas cap integrity test. The Georgia submittal does not establish HC, CO, and CO_2 pass/fail exhaust standards for the one-mode ASM test procedure. The Georgia regulation does not establish gas cap integrity standards. The final Georgia I/M regulation must include the test procedures and emission standards for these items. The emission standards found in the final regulation must be identical to the standards found in the modeling in the March 27, 1996 SIP revision and the June 17, 1996 SIP supplement.

If the State: (a) commits within 30 days of this proposal, to correct these deficiencies by a date certain within one year of interim approval; and (b) corrects the deficiencies by that date, then this interim approval shall expire pursuant to the NHSDA on the earlier of 18-months from final interim approval, or on the date of EPA action taking final full approval of this program. If the commitment is not made within 30 days, EPA proposes in the alternative to disapprove the SIP revision. If the State does make a timely commitment but the conditions are not met by the date committed to, EPA proposes that this rulemaking will convert to a final disapproval. EPA will notify the State by letter that the conditions have not been met and that the conditional approval has converted to a disapproval.

The Georgia submittal does not meet the Test Procedures and Standards requirements of the federal I/M regulations and is not approvable. Georgia must commit to correct the deficiencies to enable EPA to conditionally approve the program.

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 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.

Georgia has proposed a hybrid program requiring subject vehicles to be tested with either a one-mode ASM exhaust test or a two speed idle test, depending upon the age of the vehicle, and all vehicles to be tested with a gas cap integrity test in the 13 county metro Atlanta area. Older vehicles would be subject to the ASM test while newer vehicles are subject to a two speed idle test. Georgia has been working with other states and the equipment manufacturers, in coordination with EPA, to develop their own procedures, specifications and standards for one mode ASM testing. As noted above, Georgia, in the June 17, 1996, amendments identified a two phase equipment specification. Phase I will allow manufacturers to produce an analyzer that perform the two speed idle test. Phase II will include the hardware and software needed to perform the ASM test. It is anticipated that these test procedures, specifications and standards will be released in the near future. In addition to the emission testing and gas cap integrity check, a visual emission control inspection for the presence of the catalytic converter on 1975 and newer model year vehicles will be required.

Georgia's regulation does not include a description of a final ASM test procedure. Georgia's submittal does not establish final equipment specifications for the one-mode ASM test procedure. The State regulation also does not establish gas cap integrity test specifications. The final Georgia I/M regulation must include the test procedures, equipment specifications and emission standards for these items.

If the State: (a) commits within 30 days of this proposal, to correct these deficiencies by a date certain within one year of interim approval; and (b) corrects the deficiencies by that date, then this interim approval shall expire pursuant to the NHSDA on the earlier of 18-months from final interim approval, or on the date of EPA action taking final full approval of this program. If the commitment is not made within 30 days, EPA proposes in the alternative to disapprove the SIP revision. If the State does make a timely commitment but the conditions are not met by the date committed to, EPA proposes that this rulemaking will convert to a final disapproval. EPA will notify the State by letter that the conditions have not been met and that the conditional approval has converted to a disapproval.

The Georgia submittal does not meet the Test Equipment requirements of the federal I/M regulations and is not approvable. Georgia must commit to correct the deficiencies to enable EPA to conditionally approve the program.

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.

Georgia commits to implement quality control measures for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. These measures are to be implemented by the Management Contractor as per the request for proposal, which was submitted as part of the SIP revision package. The Georgia submittal meets the Quality Control requirements of the federal I/M regulation for interim approval.

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.

Georgia will phase in the waiver requirements. Between October 1, 1996, and December 31, 1997, the waiver limit will be $200 for qualifying repairs. Starting January 1, 1998, the waiver rate will be $450 (with appropriate CPI adjustment). GAEPD established a waiver rate of 3 percent. If this waiver rate is exceeded, GAEPD will take corrective action to; (1) reduce the rate to 3 percent, (2) revise the SIP emission

reduction claimed to reflect the actual rate, or (3) make other program changes needed to ensure the emission reductions committed to in the SIP. The Georgia submittal meets the Waiver requirements of the federal I/M regulations for interim approval.

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. For newly implementing enhanced areas, there is no provision for enforcement alternatives in the CAA. 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.

Georgia uses registration denial as an enforcement mechanism. The Georgia SIP commits to a compliance rate of 97 percent which was used in the performance standard modeling demonstration. The Georgia submittal meets the Motorist Compliance Enforcement requirements of the federal I/M regulation for interim approval.

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 Georgia program requires the Management Contractor to analyze registration and inspection databases to ensure that all subject vehicles are presented for inspection. Registration and inspection databases will be completely automated. Cross checking of the two databases will be used to identify any vehicles which, by any means, obtain registration without complying with the inspection requirement, and to otherwise assess program effectiveness. The Georgia submittal meets the Motorist Compliance Enforcement program oversight provisions of the federal I/M regulation for interim approval.

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.

GAEPD included in their request for proposal (RFP) a requirement that quality control procedures which meet the requirements of the EPA rule be established by the Management Contractor. Additional quality control measures for the program will be established by GAEPD as part of its operations manual. These quality control requirements will apply to all testing stations regardless of the test. The Georgia submittal meets the Quality Control requirements of the federal I/M regulation for interim approval.

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, and 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.

GAEPD has the authority to penalize, suspend or revoke certification of inspectors and stations for violation of program regulations. The Management Contractor will promptly prepare recommendations for suspensions or other penalties whenever violations of program requirements are discovered as a result of overt and covert audits. GAEPD will maintain records of all program enforcement activity. The Georgia submittal meets the Enforcement Against Contractors, Stations and Inspectors requirements of the federal I/M regulation for interim approval.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.365.

The Georgia program requires the Management Contractor to collect and maintain all inspection and quality control data required by 40 CFR 51.365. The Georgia submittal meets the Data Collection requirements of the federal I/M regulation for interim approval.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the state and EPA. The 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 to EPA by July and shall provide statistics for the period of January to December of the previous year. A biennial management 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.

GAEPD will prepare annual reports containing summaries of test data, quality assurance and quality control activities and enforcement. GAEPD will submit the required biennial management report on July 1, 1998, and every year thereafter. The Georgia

submittal meets the Data Analysis and Reporting requirements of the federal I/M regulation for interim approval.

Inspector Training and Licensing or Certification—40 CFR 51.376

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

The Georgia program will require that all inspectors receive training and be certified by GAEPD. The Management Contractor will supply the training. GAEPD will monitor the training and testing of inspectors. Inspectors must pass with 80% correct answers. Inspectors will be required to take a refresher course after two years in order to renew the certification. The Georgia submittal meets the Inspector Training and Certification requirements of the federal I/M regulation for interim approval.

Public Information and Consumer Protection—40 CFR 51.368

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

The Georgia program requires the Management Contractor to develop a public information program. The Georgia Request for Proposal specifies that all requirements of this section must be met by the contractor. This program will include general information on the I/M program, information on repair facilities, and emission warranty coverage. In addition, the Management Contractor will provide a referee program for resolving complaints about the validity of tests. The Georgia submittal meets the Public Information and Consumer Protection requirements of the federal I/M regulation for interim approval.

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.

Georgia's repair effectiveness program includes an outreach program and a repair technician hotline. The Management Contractor will oversee this, and will be required to collect information on repair facilities. This information will be available for vehicle owners. The Management Contractor will be required to meet all components of 40 CFR 51.369. GAEPD has contracted with vocational-technical schools to provide an updated training program for repair technicians. The Georgia submittal meets the Improving Repair Effectiveness requirements of the federal I/M regulation for interim approval.

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 a emission related recall receive the required repairs prior to completing the emission test and/or renewing the vehicle registration.

The Georgia program requires that vehicle owners comply with emission recall notices issued after January 1, 1995. Vehicles which have not completed the recall requirements within six months after the initial notification will be required to obtain the recall repairs prior to obtaining a test. The Georgia submittal meets the Compliance Recall Notices requirements of the federal I/M regulation for interim approval.

On-Road Testing—40 CFR 51.371

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

The Georgia Institute of Technology, under contract with GAEPD, will test 0.5 percent of the subject fleet per year using remote sensing devices. Vehicles that fail will have to undergo a two-speed idle or ASM inspection, depending on the age of the vehicles. The Georgia submittal meets the on-road testing requirements of the federal I/M regulation for interim approval.

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

GAEPD has submitted a schedule that meets EPA approval. The State signed a contract on March 1996 with the Management Contractor, and the idle test program will be expanded to all 13 nonattainment counties on October 1, 1996. Starting July 1, 1997, the GAEPD will implement the ASM test.

III. Discussion for Rulemaking Action

Today's notice of proposed rulemaking begins a 30-day clock for the State to make a commitment to EPA to correct the major elements of the SIP that EPA considers deficient, by a date certain within one year of interim approval. These elements are: The submittal does not contain the necessary details of the final ASM program. Within 30 days, the State must make a commitment to EPA to correct these deficiencies by a date certain within one year of interim approval. If the State does not make such a commitment within 30 days, EPA today is proposing in the alternative that this SIP revision be disapproved.

If the State makes the commitment within 30 days, EPA's conditional approval of the plan will last until the date by which the State has committed to correct all of the deficiencies.

EPA expects that within this period the State will not only correct the deficiencies as committed to by the State, but that the State will also begin program start-up by November 15, 1997. If the State does not correct deficiencies and implement the interim program by November 15, 1997, EPA is proposing in this notice that the interim approval will convert to a disapproval after a finding letter is sent to the State.

IV. Explanation of the Interim Approval

At the end of the 18 month interim period, the approval status for this program will automatically lapse pursuant to the NHSDA. It is expected that the State will at that time be able to make a demonstration of the program's effectiveness using an appropriate evaluation criteria. As EPA expects that these programs will have started by November 15, 1997, the State will have approximately six months of program data that can be used for the demonstration, in accordance to the evaluation procedure agreed upon by ECOS. If the State fails to provide an adequate demonstration of the program's effectiveness to EPA within 18 months of the final interim rulemaking, the interim approval will lapse, and EPA will be forced to disapprove the State's permanent I/M SIP revision. If the State's program evaluation demonstrates a lesser amount of emission reductions actually realized than were claimed in the State's previous submittal, EPA will adjust the

State's credits accordingly, and use this information to act on the State's permanent I/M program.

V. Further Requirements for Permanent I/M SIP Approval

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

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

VI. EPA's Evaluation of the Interim Submittal

EPA's review of this material indicates that Georgia is deficient in providing the details of the final ASM procedures, standards and specification requirements. EPA is proposing a conditional, interim approval of the Georgia SIP revision for the Inspection and Maintenance Program, which was submitted on March 27, 1996. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing to conditionally approve this revision to the Georgia SIP for an enhanced I/M program based on certain conditions. The conditions for approvability are as follows: Georgia must submit the required final ASM and gas cap test details that are acceptable to EPA.

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.

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The 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).

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

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

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

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: November 12, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 96–31737 Filed 12–12–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[TX76–1–7324; FRL–5664–7]

Approval and Promulgation of Extension of Temporary Section 182(f) and Section 182(b) Exemption to the Nitrogen Oxides (NO_x) Control Requirements for the Houston/Galveston and Beaumont/Port Arthur Ozone Nonattainment Areas; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to extend the temporary exemption from the NO_x control requirements of sections 182(f) and 182(b) of the Clean Air Act (the Act) for the Houston/Galveston (HGA) and Beaumont/Port Arthur (BPA) ozone nonattainment areas. The State of Texas submitted a petition to EPA requesting the extension to permit additional time to complete Urban Airshed Modeling (UAM). A temporary NO_x exemption was granted by EPA because preliminary photochemical grid modeling shows that reductions in NO_x would be detrimental to attaining the National Ambient Air Quality Standards for ozone in these areas. Approval of the petition will extend the temporary exemption from the NO_x requirements for NO_x Reasonably Available Control Technology (RACT), New Source Review (NSR), Vehicle Inspection/