

# Committee Meeting

SENATE NATURAL RESOURCES, TRADE AND  
ECONOMIC DEVELOPMENT COMMITTEE

and

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE

"Implementation of the enhanced inspection  
and maintenance requirements of the  
Federal Clean Air Act"

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**LOCATION:** First Floor Conference Room  
Thomas Edison State College  
Trenton, New Jersey

**DATE:** October 6, 1994  
10:00 a.m.

## MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Joseph M. Kyrillos, Jr., Chair  
Senator Andrew R. Ciesla, Vice-Chair  
Senator Robert J. Martin  
Senator Gordon A. MacInnes  
Senator James E. McGreevey

## MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblywoman Maureen Ogden, Chair  
Assemblyman Steve Corodemus  
Assemblyman John E. Rooney  
Assemblywoman Barbara W. Wright  
Assemblyman Harry A. McEnroe



## ALSO PRESENT:

Kevill D. Duhon, George J. LeBlanc  
Office of Legislative Services  
Aides, Senate Committee

Jeffrey T. Climpson, Lucinda Tiajoloff  
Office of Legislative Services  
Aides, Assembly Committee

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SEPH M. KYRILLOS, JR.  
Chair

ANDREW R. CIESLA  
Vice-Chair

JOBERT J. MARTIN  
ORDON A. MACINNES  
JAMES E. MCGREEVEY



## New Jersey State Legislature

SENATE NATURAL RESOURCES, TRADE AND  
ECONOMIC DEVELOPMENT COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NJ 08625-0068

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NJ 08625-0068  
(609) 292-7676

MAUREEN OGDEN  
Chair

LEE SOLOMON  
Vice-Chair

STEVE CORODEMUS  
JOHN E. ROONEY  
BARBARA W. WRIGHT  
ANTHONY IMPREVEDUTO  
HARRY A. MCENROE

### JOINT COMMITTEE MEETING

TO: MEMBERS OF THE SENATE NATURAL RESOURCES, TRADE  
AND ECONOMIC DEVELOPMENT COMMITTEE

MEMBERS OF THE ASSEMBLY ENVIRONMENT AND  
ENERGY COMMITTEE

FROM: SENATOR JOSEPH M. KYRILLOS, JR., CHAIRMAN  
ASSEMBLYWOMAN MAUREEN OGDEN, CHAIR

SUBJECT: JOINT MEETING - October 6, 1994

*The public may address comments and questions to Kevil D. Duhon or George J. LeBlanc, SNT Committee Aides, or Jeffrey T. Climpson or Lucinda Tiajloff, AEN Committee Aides, or make bill status and scheduling inquiries to Elva Thomas, secretary, at (609) 292-7676.*

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The Senate Natural Resources, Trade and Economic Development Committee and the Assembly Environment and Energy Committee will hold a transcribed joint committee meeting on **Thursday, October 6, 1994 at 10:00 AM** in the first floor conference room at Thomas Edison State College, 101 West State Street, Trenton, NJ.

The committees will receive testimony from federal and State officials relating to those actions that the federal government is requiring New Jersey to undertake in order to implement the enhanced inspection and maintenance requirements of the federal Clean Air Act.

Issued 09/30/94

Assistive listening devices available upon 24 hours prior notice  
to the committee aide(s) listed above





# TABLE OF CONTENTS

|   | <u>Page</u> |
|---|-------------|
| Senator Robert E. Littell<br>District 24  | 6           |
| Senator Dick LaRossa<br>District 15   | 13          |
| William J. Muszynski<br>Deputy Regional Administrator<br>Region II<br>U.S. Environmental Protection Agency                                | 23          |
| Richard Wilson<br>Deputy Assistant Administrator<br>Air and Radiation<br>Office of Mobile Sources<br>U.S. Environmental Protection Agency | 30          |
| Eugene Tierney<br>Office of Mobile Sources<br>U.S. Environmental Protection Agency  | 41          |
| William Baker<br>New Jersey Department of<br>Environmental Protection   | 52          |
| Deborah T. Poritz<br>Attorney General<br>New Jersey Department of<br>Law and Public Safety  | 78          |
| Frank J. Wilson<br>Commissioner<br>New Jersey Department of<br>Transportation   | 78          |
| Robert C. Shinn, Jr.<br>Commissioner<br>New Jersey Department of<br>Environmental Protection  | 86          |
| C. Richard Kamin<br>Director<br>Division of Motor Vehicle Services<br>New Jersey Department of<br>Law and Public Safety                   | 95          |



## TABLE OF CONTENTS (continued)

### Page

Chris N. Salmi  
Manager  
Bureau of Air Quality Planning  
Office of Energy  
New Jersey Department of  
Environmental Protection

98

Stephen G. Carrellas  
New Jersey Chapter Coordinator  
National Motorists Association

132

James Sinclair  
First Vice President  
New Jersey Business and  
Industry Association

137

William Walsh  
Public Service Electric  
and Gas Company

138

Bruce Jones  
Bayway Refining Company

139

James E. Benton  
Executive Director  
New Jersey Petroleum Council

140

Eric DeGesero  
Associate Director  
Fuel Merchants Association  
of New Jersey

151

William C. Dell  
Director  
Regional Marketing  
Systems Control

153

Drew Kodjak, Esq.  
New Jersey Public Interest  
Research Group

161

Marie Curtis  
Executive Director  
New Jersey Environmental Lobby

161



## TABLE OF CONTENTS (continued)

### APPENDIX:

|   | <u>Page</u> |
|---|-------------|
| Letter addressed to<br>The Honorable Marge Roukema<br>from Senator Robert E. Littell                        | 1x          |
| Testimony submitted by<br>Commissioner Frank J. Wilson  | 2x          |
| Statement plus attachments<br>submitted by<br>Commissioner Robert C. Shinn, Jr.                             | 5x          |
| "Outline of Enhanced I/M<br>Agreement with EPA" submitted by<br>C. Richard Kamin                            | 14x         |
| "Breathing Room" plus attachments<br>submitted by Stephen G. Carrellas                                      | 27x         |
| Statement plus attachments<br>submitted by William C. Dell  | 41x         |
| Letter addressed to<br>The Honorable Christine Todd Whitman<br>plus attachments submitted by<br>Drew Kodjak | 54x         |
| Statement plus attachments<br>submitted by Marie Curtis   | 68x         |

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**SENATOR JOSEPH M. KYRILLOS, JR. (Senate Committee Chair):** Ladies and gentlemen, if I may have your attention please. This is a joint meeting of the Senate Natural Resources, Trade and Economic Development Committee and the Assembly Environment and Energy Committee.

May we have a roll call for the Senate Committee, please?

**MR. DUHON (Senate Committee Aide):** Senator McGreevey?

**SENATOR MCGREEVEY:** Here.

**MR. DUHON:** Senator MacInnes?

**SENATOR MACINNES:** Here.

**MR. DUHON:** Senator Ciesla?

**SENATOR CIESLA:** Here.

**MR. DUHON:** Senator Kyrillos?

**SENATOR KYRILLOS:** Here.

**ASSEMBLYWOMAN MAUREEN OGDEN (Assembly Committee Chair):** On our side, Lucinda, please.

**MS. TIAJOLOFF (Assembly Committee Aide):** Assemblyman Solomon? (no response) Assemblyman Corodemus?

**ASSEMBLYMAN CORODEMUS:** Here.

**MS. TIAJOLOFF:** Assemblyman Rooney?

**ASSEMBLYWOMAN OGDEN:** On his way.

**MS. TIAJOLOFF:** Assemblywoman Wright?

**ASSEMBLYWOMAN WRIGHT:** Here.

**MS. TIAJOLOFF:** Assemblyman Impreveduto? (no response) Assemblyman McEnroe?

**ASSEMBLYMAN MCENROE:** Here.

**MS. TIAJOLOFF:** Assemblywoman Ogden?

**ASSEMBLYWOMAN OGDEN:** Here.

**SENATOR KYRILLOS:** Okay. I have a short statement; I know Chairwoman Ogden does as well.

I would first like to welcome everyone to this Joint Committee meeting on the State's implementation of federally

mandated motor vehicle enhanced inspection and maintenance, or I/M requirement of the Clean Air Act.

As a State Senator, I must tell you that I am very frustrated by the issue that confronts us today. It goes without saying that everyone supports attempts to clean our air and ensure its quality for generations to come. The adverse effects of air pollution on human health are well-known within the scientific community.

For example, we know that ground level ozone, what we typically call "smog," can cause irritation of the upper respiratory tract, chronic coughing, diminished lung capacity, and pain while breathing. Carbon monoxide pollution from motor vehicles has been cited as being particularly harmful to persons with heart, lung, and circulatory ailments. We also recognize -- I recognize -- the leading role the Federal government must play in this issue, if significant progress is to be made in providing for cleaner air.

I don't dispute the Federal government's supremacy with respect to passing legislation that requires New Jersey and other states to take actions that will clean the environment. I also recognize that the Federal government, through the Congress and the various executive agencies, has the authority to condition grants of Federal funds upon compliance with Federal law.

However, what I do object to is the establishment of a grossly expensive Federal program without commensurate Federal funds, coupled with a complete lack of flexibility implementing the requirements of this program. The situation is no different than the situation here in Trenton. In fact, it is far worse than the State mandates that the Legislature has imposed on New Jersey municipalities.

The I/M requirement contained in the Clean Air Act consisted of two pages of text in a 1000-page bill. From that, the EPA has created 28 pages of administrative regulations



which provide for such measures as: covert spying on repair garages and a waiver provision which forces motorists who fail emissions tests to pay up to \$520 before they can register their cars. Failure to comply with these regulations could result in the loss of millions of dollars of Federal transportation aid to the State and denial of many air permits for stationary sources such as factories. If imposed, these sanctions would essentially bring the economy of the State to a standstill.

We in New Jersey are not alone in our concern over this issue. Legislators in Pennsylvania, Maine, Delaware, and now Vermont have all questioned the Federal government's approach to this issue.

If the I/M program is to be successful, the states must have the flexibility to deal with their specific concerns. California is not the same as Maine, and the Federal government should not treat them the same. Likewise, the concerns raised by neighboring states highlight the need for the Legislature to explore the problems that other states have faced implementing their I/M programs, and how we can implement a program in New Jersey that will successfully meet our own unique environmental and economic needs.

Let me close by saying that I support the broad goals of the Clean Air Act, but I do not want this to become an unworkable system. Nothing could be worse for the cause of environmental protection than a complete failure of the I/M program brought on by the intransigence of a Federal bureaucracy. If we must have this program, I want it to work in a rational manner that does not unduly burden the motorists of this State.

I hope the testimony that our Joint Committee receives today will outline how the Federal authorities and the State agencies intend to do this. I hope their plans are thoughtful, because a great deal is at stake for everyone in New Jersey.

With that, let me turn the microphone over to my colleague and friend, Assemblywoman Maureen Ogden.

ASSEMBLYWOMAN OGDEN: Thank you very much, Joe.

I believe this joint meeting of the Senate Committee and the Assembly Committee is a visual sign of the importance of this issue -- stricter emission testing to improve our air quality. I would like to not only thank the Committee members who are here this morning, but I would like to thank all of you who are here in the audience, some of whom have come a great distance to participate in the discussion of this issue.

Clearly, as Joe has already said -- and I believe we all feel this -- our aim is to adopt a program that will be as efficient as possible with the least inconvenience to the driving public, but, above all, needs to be environmentally sound.

Now, we are aware that New Jersey is just about last of the 22 states, including the District of Columbia. Most of the states adopted programs in the two previous years -- in '93 and early '94 -- but we are also aware now that many of the states that did adopt these programs, in the past couple of years, are now repealing or altering their programs. The more I read in the literature and the more I talk to people, I wonder why, when it is universally accepted that 10 percent create more than 50 percent of the pollution -- why will 90 percent have to go through a time-consuming, costly program?

If we were to tune up the 10 percent, and that would reduce the pollution by 50 percent, which I believe would put us where we want to be in terms of the EPA requirements-- My question is: Why can't we target the 10 percent through remote sensing of all cars and schedule testing of the older cars? We are aware that a rather extensive program has been done recently out in Sacramento, where more than a million cars have been tested through remote sensing, and that the results of that study are going to be available in a few weeks.

I have many questions regarding the program the EPA is mandating that we adopt. I will ask them as we go along in the testimony today.

I would just like to conclude by saying, as an environmentalist, I am very concerned about the backlash that we are liable to see from the general public if New Jersey adopts a costly, inconvenient program, when everyone believes there is a better way. There is no doubt that we have to improve our air quality. We are all committed to that. But it has to be done as effectively and efficiently as possible.

I would like to ask the members of the Committee if they would like to make comments at this time, on the Assembly side, or if they would like to wait?

ASSEMBLYWOMAN WRIGHT: Just two points: One is, certainly I support your consideration of remote sensing. It clearly does offer an alternative. I think we just experienced an exercise in the Federal government where we were focusing on 15 percent of the problem, when the other 85 percent was not a problem. So I think your point is, let's fix the part that is broken, and not use scarce resources inappropriately.

Thank you, Madam Chairman.

SENATOR KYRILLOS: Thank you.

Members of the Senate Committee, comments at the outset? Senator McGreevey?

SENATOR MCGREEVEY: Senator and Madam Chairwoman, I recognize the mandate that was placed before us under the rubric of the Clean Air Act Amendments of 1990. I think the entire Legislature needs to be gravely concerned regarding the equitable application of the Act, particularly for working, middle-class families, who simply cannot afford the most modern and convenient vehicle.

Clearly, as we go forward during the course of this meeting, I am particularly concerned regarding not only the level of testing set forth for two- and four-year-old cars, as

opposed to older cars, but the apparent distinction in the availability to utilize private inspection centers. I think, most importantly, we need to apply the amendments in a fair and equitable manner to ensure that all the citizens of the State of New Jersey have access to similar benefits.

SENATOR KYRILLOS: Thank you, Senator McGreevey.

With that, let me introduce two of our colleagues from the Senate, Senator Bob Littell and Senator Dick LaRossa.

Senator Littell, Chairman of the Senate Budget & Appropriations Committee, has had some strong opinions on this subject, I am told. We welcome you here today, Senator.

SENATOR ROBERT E. LITTELL: Thank you, Chairmen Kyrillos and Ogden, and members of the Joint Committee.

I do have strong feelings about this, and I have been outspoken about it. I will continue to do that. I think most people know that on most issues I am relatively mild and calm. On this one, I get very exercised and distressed, because, after all, this is a representative government that we are involved in, and as representatives of the people in our districts, we need to be mindful of how something like this is going to impact on them. After all, we are caretakers here running their government. It is not our government alone; it is their government.

I can tell you, I have talked to a lot of people, and people are really upset about this. I have had a lot of mail; I have had a lot of phone calls. For the most part, people support my effort to fight this issue,

I am here today to ask you to join with me in this fight to stop the implementation of certain Federal regulations that will implement the Federal Clean Air Act. The EPA's I/M 240 system is a failed system, and instead of admitting that the system is not working and returning to the drawing board, the Federal government is attempting to punish any state that

refuses to implement their failed system. That is akin to selling snake oil, as far as I am concerned.

The Clean Air regulations will end New Jersey's economic recovery, cause businesses to flee New Jersey and other northeastern states for western and southern sections of the country, bring our economic recovery and increased prosperity to an end, and will cost \$700 million.

As Chairman of the Senate Budget & Appropriations Committee, as long as I am in that seat, I will guarantee you that I will not approve, personally, five cents for this project, because it doesn't work, it is a failed system. We somehow have to get that message out to the public.

Other states that have joined the fight are Maine and Delaware, for example. They have suspended implementation of the EPA's I/M 240 inspection system, citing results that were way below the EPA's predictions. In Maine, they started the system on July 1, and two months later the Governor ordered the system shut down. The system, as far as the public was concerned, was a disaster. The fact of the matter is, in spite of the audit done by the EPA, which has a credibility problem in my mind-- The audit said that everything was hunky-dory, but the public doesn't think it is hunky-dory. Everybody you talk to in Maine will tell you that. Pick up the phone and call some of your friends up there and ask them.

The system had some other problems at start-up. They admit that they should have spent more time educating the public. They should have spent more time having the company train their employees, who were ill-prepared to run the system, so I am told. The problems with the test equipment are: "If you brought your car in and the engine was hot, you would get one result; if you brought it in and it was cold, you would get a different result. If you took it to one lane and tested it, and took it to another lane and tested it, the standard was

different." That is a quote to me from a high official in the State of Maine. That is not something that I dreamed up.

They suspended the start-up of their system until March 1, and therefore, have not been issued any sanctions at the present time. But the public in Maine is very suspicious about the prospects of starting up the system. It is running on a volunteer basis, on a very limited basis right now, and, frankly, the citizens of Maine feel like they have been duped.

We are looking at a system -- just in case anyone here doesn't know -- that puts a car up on a dynamometer -- rollers -- runs the car at 0 to 50 miles an hour over a period of time, and tracks its performance on a computer. If they fail, or they miss matching the computer as they go up and down the speed limits, they have to stop and start the process all over again. Of course, they have to raise up the hood and they have to hook on certain devices. It takes time. The EPA will tell you-- In their testimony over here at the Masonic Lodge, they testified that it could be as little as three minutes. That is not factual; that is not the way it works. As a matter of fact, it doesn't work effectively. It doesn't work efficiently. There are mistakes, and it does cause long delays and long lines.

In the case of failures, you get to take your car to a repair shop and get it repaired. If you spend up to \$450, even if it doesn't pass the test, they will give you a certificate for two years -- even though it doesn't pass the test. Is that lunacy? I mean, they are saying the car shouldn't be on the road, and then they are willing to allow you to spend \$450 of your hard-earned money. Even if that doesn't repair the fault, you can then have a certificate for two years, and stay on the road for two more years. That's wonderful. That is a very ingenious idea.

Well, let me tell you: The people who are going to get failed are the people who have older cars, who live in

inner cities. The people we are trying to help the most in this State are going to be the people who are going to be out of luck, because they won't have a car to get to work. Most of the jobs are now out in the suburbs. There is no mass transit to bring those people from the inner cities to the jobs. Therefore, we are going to have a worse societal problem than we are having now.

Very frankly, if the people who drive those kinds of older cars had \$450, they would put it toward buying a newer old car. They don't have \$450 to spend repairing their cars. The problem is, they are struggling to get ahead. They are not driving an older car because they think it is fun to pollute the air. They are not driving it because they like having an old car. They are driving it because that is what they can afford.

I think we have to be mindful of that. We are the representatives of their government. If we stick them with this bill, there is going to be hell to pay.

Now, let's talk about the State of Delaware. The State of Delaware has a system that they are designing, and the Governor, Governor Carper, who in Congress voted for the Clean Air Act, ordered that it be shut down, that they stop it. The reason he ordered that it be shut down is because the I/M 240 modeling plans showed that instead of taking 12 tons a day out of the air, that it would only take 2.8 tons out of the air. He said -- the person who spoke to me and gave me these facts and figures -- that that is not effective at all. It is not cost-effective, and they are not about to spend \$10 million to \$20 million of an investment in the State of Delaware to put a system in that is not cost-effective.

To meet that attainment, they are going to attempt to reach a 15 percent attainment by other methods -- other means. A gas tank pressure test will save twice as much as the I/M 240

system. It will only take about two minutes, and is certainly a lot less expensive.

Now, in the case of Maine and Delaware, there were no sanctions. But the Pennsylvania Legislature, by a majority vote in both Houses -- by a substantial majority vote in both Houses -- voted to end and suspend the implementation of the I/m 240. Now, after all, those are elected representatives, as we are, and they are just carrying out the will of their people.

Guess what? Mr. Kostmayer, a former Congressman who is now a Regional Director for the EPA, said, "I will punish Pennsylvania a billion dollars worth if they do that." Well, who is he to punish Pennsylvania? Now, if he wants to make a recommendation to Congress that Congress punish Pennsylvania a billion dollars because they are not complying, and Congress wants to put it up for a vote, and all the members of Congress want to vote up or down whether Pennsylvania ought to be denied a billion dollars, I could live with that. But I can't live with a guy like Mr. Kostmayer deciding on his own that he is going to punish the State of Pennsylvania, or that someone is going to punish New Jersey. If they want to punish us, they are going to have to go through me, because I'll tell you, I am going to fight them every step of the way, and I urge you to do the same.

We cannot tolerate bureaucrats handing out punishment. I don't care what the law says, I say it is unconstitutional. Put it to a vote in Congress, and let the members of Congress stand up and say, "Okay, New Jersey, okay, Pennsylvania, we are going to punish you." Put it to a vote and let's see where that goes. Let's find out what it is all about.

In Vermont-- The General Assembly in Vermont has refused to adopt the program. Are they going to punish Vermont now too? How about other states. Virginia has been sanctioned and been told that they are not going to get certain Federal



dollars. What kind of nonsense is this? We created the Federal government. They didn't create us. We created the Federal government. They don't have any right to punish us. That is a lot of nonsense. These guys are off the charts; they are out of control; and it is up to us to stop them.

SENATOR KYRILLOS: Senator Littell, let me interject, if I may. I know you can go on and on. You have thought a lot about this subject. But we want to get to Senator LaRossa and others who are here to testify.

SENATOR LITTELL: I have almost concluded, Senator Kyrillos, if you don't mind.

SENATOR KYRILLOS: Go ahead. I wanted to ask you a question, and then--

SENATOR LITTELL: Oh, you want to ask me a question? Go right ahead.

SENATOR KYRILLOS: Go ahead, conclude your remarks. I apologize.

SENATOR LITTELL: All right. I want you to know that this plan will cost the State of New Jersey, I am told, \$700 million. That is a lot of money. We don't have it. We face budget problems right now. Seven hundred million dollars won't do a thing to clean up the air. There is no guarantee that this system will work. There is no guarantee that once your car gets a certified approval and drives off the ramp, that five or ten minutes later, or an hour later, or a week later, or a month later, that something in that car won't malfunction to cause it to spew out noxious gases.

Let me ask you this, Senator Kyrillos: How many cars do you think will fail in your district on a weekly basis? Have you got any idea?

SENATOR KYRILLOS: Unfortunately, I talked to Director Kamin yesterday, and I do have an idea.

SENATOR LITTELL: How many is it?

SENATOR KYRILLOS: It is a high number.

SENATOR LITTELL: How many is it?

SENATOR KYRILLOS: Well, the Director is correcting what he tells me-- We figure about 200, Senator Littell. That is a lot--

SENATOR LITTELL: Two hundred? Is that every week, or just one week?

SENATOR KYRILLOS: That's a lot of cars.

SENATOR LITTELL: Is that every week that you are going to fail 200?

SENATOR KYRILLOS: Probably more than in your Sussex County district, I expect.

SENATOR LITTELL: Yes, you bet. Those people are going to be parked on your front step.

I can tell you that I sent a letter to every member of the New Jersey congressional delegation, telling them to get involved. This is their problem. They created the problem. It is up to them to fight with us to bring this to some kind of reasonable conclusion.

I think the members of Congress in this State owe it to the public to get involved and to put a stop to this; to say: "Time out. We are not ready to go forward with this thing. We are not ready to allow our State to spend \$700 million that it doesn't have. And we are not about to let them be punished or sanctioned."

Thank you very much. I appreciate your attention and your courtesy. I have newspaper articles here that would show you all of the backup information that I testified to. I can tell you that it is not a pretty picture.

SENATOR KYRILLOS: Senator Littell, thank you very much. You know, I have tremendous personal regard for you. I agree with much of what you have just said. I applaud you for being the first to reach out to the State's congressional delegation and begin to hold their feet to the fire. I suspect we won't have any members of Congress here today to explain

their vote on the 1990 Clean Air Act. We all know what kind of legislation can get passed quickly in an election year. I suspect that many members didn't know the consequences of the very broad legislation they wrote.

You are concerned, Senator Littell, about money this will cost the motoring public and the State Treasury over time. On the other hand, there is the threat of sanctions. While we deal with the congressional delegation and perhaps the Federal bureaucracy in trying to change this, in fighting this, there are those who say, "Let's get our plans in place to avoid these sanctions, which may be much higher than the dollar side on the other side of the ledger for implementing this program. In fact, with the two for one offset, we could conceivably shut down this economy."

There are those in this room who are very concerned about that and take it seriously. As the Chairman of a Budget Committee, how would you react to that, sir?

SENATOR LITTELL: I would tell you, Senator Kyrillos, that any elected political figure -- Senator, Assemblyman, Governor, and as a result of the Governor, her administration -- who buys into this failed plan, is going to get skinned alive politically. I can't put it any clearer than that.

SENATOR KYRILLOS: Thank you, Senator.

Senator LaRossa.

**S E N A T O R   D I C K   L a R O S S A:** Thank you, Mr. Chairman and Chairwoman.

There is not a lot-- There are a couple of things I can add to what Senator Littell said, but the first thing is, quite frankly, I agree with him 100 percent. This is an issue where, on going to the wall, he is going to have a few people standing alongside of him, and I will be one of them.

You raised the question and the issue of sanctions. Quite frankly, we created the Federal government. When the Federal government starts talking about sanctions being leveled

against the State of New Jersey and other states in a very two-word sound bite, it doesn't border on, but it is flat out environmental extortion. I, for one, am not going to allow any governmental agency to sit and extort me, my leadership, and the members of this Legislature, let alone the people I am representing.

One of the things that Senator Littell brought up was talking about the kinds of problems that are going to be created in a lot of the urban centers, which, in fact, is where a lot of the air quality problems exist. But the difficulty is, in order to clean the air, at whose expense is it being done? If, in fact, the sanctions create an idea of environmental extortion -- let me use a phrase that has been used politically for a long time, which, quite frankly, I find very distasteful-- But the bottom line is, I quite frankly think that the implementation of this plan is going to border on a racist policy, because it is the people who are the poor and the moderate-income members of this State who are going to be impacted the worst. As Senator Littell said, they don't have \$450 to go out and repair these cars. It is absolutely ludicrous to say that you can spend up to \$450, and after you have spent the money, then say you can still be out on the street with it.

We could probably take this half a billion dollars that these lunatics are asking us to spend and put more buses on the street with New Jersey Transit, and give everybody free transportation for the seven or eight months that the fuel and this problem exist, and probably save a whole heck of a lot more money, because that would enhance our mass transportation system as well.

But I think this entire policy is a classic example of, "Don't confuse me with any facts. My mind is made up." Maybe the original idea of the Clean Air bill was a good idea,

and it was obviously well-intentioned. But obviously its implementation is a system and a policy that has gone totally awry.

As Senator Littell indicated before, the list in the Northeast at this point: Maine is on hold; Delaware is on hold; Vermont is on hold. Virginia flat out refuses to put any system in place. They have already been called up on sanction. Governor Allen down there said, "Fine, keep your money." Part of the reason is, until these other states begin to come together, we are going to force the EPA to come up with some rational, reasonable policy, because right now it is totally unreasonable and totally irrational.

One other thing: Pennsylvania, our neighbor to the immediate west, passed legislation within the last couple of months to repeal Pennsylvania's implementation of their plan. They passed it with a veto override majority in both Houses. So if Governor Casey does, in fact, veto that bill, they have the votes to override it, because it passed with substantially more than a veto override majority in both Houses.

As Senator Littell said, it is, in fact, already an unworkable system. The estimate that I have been able to glean in terms of the cost of \$750 million, is that it is on the low end. It is on the conservative side. Most of the numbers I keep hearing are running closer to a billion dollars. And of course, you are going to hear numbers flying all over the place today. The question is: When you have that much confusion, how could anyone move forward on a plan where, quite frankly, nobody knows what the truth is? When you have that many people lining up with that many different opinions, it means that somebody is either not telling you the truth, or they are incompetent, or they have just not done their homework.

It is a system where you can't prove that any outcome is going to benefit the citizens and taxpayers of the State of New Jersey.

The other question I have to raise, as well, is: In terms of the impact on the pollution, with regard to the mobile sources-- You know, this is all mobile sources. My understanding in reading the legislation and reading the documentation is, we are talking about 28 percent of the pollution in New Jersey coming from mobile sources. That is not just cars. That's trains, buses, planes, motorboats, lawn mowers, motorcycles -- not just cars. When you only go and attack cars, it is going to drop down into the low 20s.

So I would like to have someone explain to us why we keep going after the automobile alone, because no less a source, if I may -- and I will provide copies to the Committee -- than The Wall Street Journal, Wednesday, August 17, 1994-- If I may share just a couple of lines out of this article, "The Cost of a Cleaner Car," it says, "Technically, auto makers and regulators are approaching the limits as to how much cleaner vehicles can be made to run. Since the first emissions standards went into effect in 1968, emissions from cars have been cut by more than 90 percent to just one pound of smog-causing hydrocarbons for every 1000 miles in 1993. Under the California stiff Clean Air Rules enacted in 1990, the low emission vehicle program that is to be cut another 90 percent to one pound for every 10,000 miles by 1997-- That is less than the amount of hydrocarbons an oak tree exhales in a year.

Maybe we should just cut down all the oak trees. That would take care of an awful lot of pollution. The Smokey Mountains are the Smokey Mountains because of the carbon monoxide the trees are giving off. That is about how ridiculous and asinine the things are that are being looked at -- sources -- and we are not taking everything into consideration. We seem to be coming up with punitive measures for people who, in fact, can least afford it.

So if cars are polluting less than an oak tree, as I said, maybe we are going after the wrong source.

One of the last things I have to say is, there is an absolutely ridiculous fantasy called oxigenated fuel. It is very fine. I was coming in this morning in the car and I was listening to people talk about the problems they have because of dizziness, faintness, and so on. Apparently, some firms have actually done testing on how to cure the symptoms. You are going to love what the cure is. The cure to overcome the lightheadedness and dizziness in the symptoms, or if, in fact, the person passes out, to administer CPR and get them exposed to fresh air. I think that might tell you just where we are going with this.

So the question is, who benefits? It is amazing. When oil was at \$32 a barrel, the cost of gasoline in the State of New Jersey was somewhere between \$1.10 and \$1.25. The cost of oil, right now, is \$16 a barrel, and guess what the cost of gasoline is? Right where it was when it was almost double in cost. For those of you who are not old enough to have been driving 15 years ago, remember, the labels on the side of a gas pump say, "Only to be used as a motor fuel. Contains lead." It is amazing. That got changed a few years later, so they put sulphur into the fuel in terms of the additive. Now we are going into whatever it is, trimethylbutyl-- Any word that is that long that you can't pronounce it or remember it, you know, it has to be that somebody is trying to hide something. Okay?

The bottom line is, we keep changing the additive in order to maintain the price. So who benefits? Is it the oil companies, or the companies that make all of the testing equipment, or the lobbyists who are out there promoting whatever they are lobbying for, or is it the engineers trying to come up with more ways to clean the air, when, in fact, they are not really looking at a source point solution in the first place?

Again, it just simply has to be some kind of a scam. It is an unfunded Federal mandate. As I said before, who

benefits? If, in fact, all the things we are doing, everything from oxygenating fuel to inspection systems that have absolutely no documented proof that they work-- You know, I don't think the motoring public, or any public is going to mind paying for something that works. The bottom line is, nobody knows. If you want to take that kind of a chance, you have a better shot in buying a Lottery ticket and winning the Pick 6, and trust me, I know what the odds are on winning that one.

Thank you, Mr. Chairman.

SENATOR KYRILLOS: Thank you, Senator.

ASSEMBLYWOMAN OGDEN: Steve?

ASSEMBLYMAN CORODEMUS: Senator Littell, I have heard you testify twice on this before our Committee. I know you have strong emotions about the value in the taxpayers' money invested in this system.

Putting the value aspect aside, the bottom line-- You are involved with the budget. The bottom line: What is at risk for the State of New Jersey, as far as the tooling up costs, so to speak, for compliance with this program versus loss of Federal revenues, which is being threatened by EPA?

SENATOR LITTELL: Assemblyman, I would tell you that that is an unknown. The threats are that they will take away all of our \$550 million in highway funds. If that were to happen and our congressional delegation let it happen, I think there would be a civil war in this State. We probably would advocate to the citizens of this State that they quit sending their money to Washington, where they are not doing a very good job managing it anyway.

ASSEMBLYWOMAN OGDEN: John, and then Barbara.

ASSEMBLYMAN ROONEY: Okay. I want to apologize for being late. Actually, I had an auto emission problem on the way down. I picked up my car at the dealership. Driving down the Turnpike, I saw the "check engine" light come on. I pulled off. I checked everything on it. I noticed that my oil gauge



-- the dip stick was out. I put it back in and I checked the oil. I called the dealership and said, "Do I really have to come back?" He said, "That is your emission light. That is telling you that there is something wrong. It is an emission problem in your engine." What it was was that the oil was actually leaking out of the engine. I had a sensor problem. He said, "Your sensor is picking up some sort of an emission problem."

So I appreciate what you said about emissions, and the cars of today are having their own diagnostics. This car is four years old, and it still has the diagnostic in there.

Senator LaRossa, you took the words out of my mouth. Last year, I held hearings, as Chairman of the Energy and Hazardous Materials Committee, on that very issue -- I think it is NTBFs -- that they are substituting in the gasoline today. The oxygenated fuel, they call it, which actually doesn't give you any oxygen, as you said. What it does give you is formaldehyde. So we are trading carbon monoxide to take care of the ozone layer, and we are basically making our people -- our drivers in this State-- We are making them sick. We are making them breathe formaldehyde. This is, again, compliments of our great EPA.

Now, we have actually seen -- and we are doing it again-- The gasoline companies are now putting oxygenated fuel in for the winter, but during the summer we saw a very serious reduction, a good reduction, in the amount of carbon monoxide that was put into the air. So we don't really need oxygenated fuel, and we certainly don't need what it gives us.

We are talking about the money we may lose from the Federal government. I have a suggestion: Why don't we say to the people of New Jersey, "Don't send in your Federal tax returns to the IRS. Send them to the State of New Jersey," and we will give them whatever percentages we are getting back

now. If it is 16 percent, or whatever, we will give them that amount. Let's do that. It is a radical suggestion, but this is the nonsense that is coming down from the Federal government.

The \$700 million-- Maybe for the poor people in those districts we should buy them new cars, because it certainly would be more economical than this system.

The other thing I think Senator Littell left out from the last hearing was that I believe the failure rate on these cars is about 60 percent -- on the system is about 60 percent.

SENATOR LITTELL: Thirty percent.

ASSEMBLYMAN ROONEY: Thirty percent? I'm sorry. Thirty percent, and then they shut it down.

SENATOR LITTELL: They are projecting for New Jersey 30 percent.

ASSEMBLYMAN ROONEY: Well, no, I am talking about the actual failure of the system itself. It is going to be out of action about 60 percent of the time.

SENATOR LITTELL: Oh, yes, I'm sorry. I thought you were talking about the number of vehicles that--

ASSEMBLYMAN ROONEY: No. They have a pretty high mortality rate. They fail about 60 percent of the time, and then they just pass through all the vehicles that come through. That is not logical.

So as far as I am concerned, I told you at the last meeting, and I will tell you again, I don't have to hear the EPA or the DEP. There is no way in the world that I would ever support this particular system.

Thank you.

SENATOR LaROSSA: Assemblyman, just in terms of your comments, the results, and the Senator's results, one of the reasons that Maine discontinued their system was because when they were sending cars through different inspection stations, the same car, with absolutely no change, going through seven different inspection stations, was coming out with seven

different results. Now, that is certainly a system that is consistent.

The other question is: As you know, the administration and the Legislature are working on a thing called tort reform. I would love to be-- I wish I were an attorney, because I would love to have the first case of the person who gets poisoned, passes out at the wheel from oxygenated fuel and gets in a car wreck, and see what it is going to cost the State of New Jersey to settle that lawsuit.

ASSEMBLYWOMAN OGDEN: Barbara?

ASSEMBLYWOMAN WRIGHT: Senator Littell, we were here listening in July for four or five hours on this issue. Some of the same points are being brought up again today. I wonder what your proposal is for an alternative? Have you moved into what your thinking is as to some of the things as Assemblyman Rooney and I talked about, such as it would be less costly, perhaps, to buy new cars for many people than it would be to have to put in a system such as this? At least we would have something productive to show for it.

What do you think we need to be doing? I think we are ready to take an action to move on in this situation, rather than to continue to deliberate over it.

SENATOR LITTELL: Assemblywoman Wright, I think the first solution is to actively pursue and get the New Jersey congressional delegation totally involved; sit down with them, this Legislature, this Governor, and the administration that is responsible for turning out the Clean Air Act in this State, and talk about what those alternatives are. But until Congress gets involved, it is their law, they are the ones who jammed this down people's throats, and they are the ones who are going to have to answer for it. They need to sit down with us and talk to us about what the alternatives are.

In Delaware, they scrapped the I/M 240 plan and are using a pressure test -- or are going to use a pressure test in

their centralized motor vehicle inspection system, which obviously isn't anywhere near as extensive as ours. That system will take about two minutes. It is relatively inexpensive to install, they tell me, and it will reach a 15 percent attainment, which they claim will satisfy their needs.

Now, I am giving you this as I got it.

ASSEMBLYWOMAN WRIGHT: I hear you.

SENATOR LITTELL: I don't know all of the technical answers. Some of the technical people in our departments might refute that, but that is what I have been told. I think you need to contact your congressional representative and tell him you want to sit down and talk about this collectively. They are all part of it, and I think we need to talk to them.

SENATOR KYRILLOS: Members of the Senate Committee, questions? (no response)

Thank you very much, Senators, for your comments.

SENATOR LITTELL: Thank you.

SENATOR LaROSSA: Thank you.

SENATOR LITTELL: I have copies of the letter I wrote to the Congressmen. Please pass some of them out.

SENATOR KYRILLOS: Thank you, Senator Littell.

Senator Littell is going to distribute letters -- copies of a letter he sent to the State congressional delegation.

ASSEMBLYWOMAN OGDEN: At this time, we would like to call the Federal representatives, the EPA representatives who are here this morning: William J. Muszynski, Deputy Regional Administrator for Region II; Richard Wilson, Deputy Assistant Administrator for Air and Radiation, Office of Mobile Sources; and Gene Tierney, EPA, Office of Mobile Sources.

We will hope that since you have been here hearing the comments that have been made by Committee members and the two previous Senators, that you will have answers to many, if not all of the issues that were brought up.

W I L L I A M   J .   M U S Z Y N S K I: Thank you for giving us this opportunity to meet with you today to discuss the State's motor vehicle emissions testing program.

Let me just make some brief opening remarks, and then we will answer any questions that you may have.

ASSEMBLYWOMAN OGDEN: Is the microphone on, or--

SENATOR KYRILLOS: It is the lower-- The smaller of the microphones is the one that amplifies.

MR. MUSZYNSKI: Okay. How's that? Is that better?

ASSEMBLYWOMAN OGDEN: Can everyone in the back hear?  
(affirmative response)

MR. MUSZYNSKI: We thank you for giving us the opportunity to discuss the State's motor vehicle emissions testing program, and the Federal program also.

Let me make some brief remarks, starting with the fact that obviously, we are all dealing with an issue of significant public health concern. Every summer, 7 million people in New Jersey, and 40 million people throughout the Northeast, are forced to breathe air containing concentrations of ozone pollution which are harmful to their health. During this summer, ozone quality was actually better than in past years. However, it still had health standard violations on at least seven separate days across a wide berth of the State.

For decades now, we have been fighting this problem with, I think, considerable success. But, recognizing that we still had a long way to go and that our rate of progress was too slow, Congress amended the Clean Air Act in 1990 to provide states with both a more realistic time frame for attainment and with more prescriptive measures and approaches for getting there. For places such as New Jersey, where the air quality classification is either Severe I or Severe II, Congress assigned attainment dates of 2005 and 2007, respectively.

In these areas, states were required, among other things, to have in place by November 1993 a program to achieve

a 15 percent reduction of the emissions of volatile organic compounds, and to have in place by November 1994 a program providing for enough emissions reductions in precursor pollutants to attain the standards by the specified dates. Congress further required that each state take all necessary measures to ensure that emissions from sources in one state do not prevent or interfere with the timely attainment of standards in the other state. For this purpose, Congress established the Northeast Ozone Transport Commission so that northeastern states would have a forum for working together to seek solutions to their long-standing air pollution problems.

The Clean Air Act made the Federal government responsible for certain measures, such as new automobile emission standards. However, the states are responsible for adopting the majority of the measures needed to attain the health standards. In recognition of the effectiveness of an enhanced I/M program in controlling emissions from motor vehicles, the Act mandates that all urbanized areas in the 12 Northeast states and the District of Columbia which comprise the Ozone Transport Region implement an enhanced I/M program. Other controls specifically required by the Act include additional controls on stationary sources and the sale of cleaner gasoline. Enhanced I/M provides large and cost-effective reductions in emissions of both VOCs and nitrogen oxides. Today, each ton of VOC reduced from stationary sources costs an estimated \$3000 to \$20,000. By contrast, reducing VOC emissions from an effective enhanced I/M program costs about \$500 per ton. Additionally, enhanced I/M provides these benefits in the short term so that its impact on cleaning the air is felt immediately.

Air quality modeling studies to date show that to reach attainment, New Jersey and other states in the Northeast will have to reduce emissions of VOCs by at least 25 percent and emissions of nitrogen oxides by approximately 75 percent.

This amount of reduction will require that New Jersey seriously consider all possible ways to reduce emissions of ozone precursors. Even if it were not required as a matter of law, there is no single control strategy that has the potential to move forward toward healthful air quality as much as an enhanced I/M program.

Up until now, I have spoken in general terms. Now I would like to focus on New Jersey. Last November, the State submitted a 15 percent reduction plan that was complete in most respects, except that the enhanced I/M program in the plan was not fully adopted and New Jersey had a small shortfall in identifying reductions in VOCs. Though progress has been made in formulating the State's I/M program, it is still not fully adopted. This is significant in that, in the latest version of the 15 percent plan which we have seen, New Jersey calculates emission reductions from enhanced I/M of 90 tons per day of VOCs. This represents about 41 percent of the total emission reductions needed to meet the 15 percent emission reduction requirement. Consequently, it is clear that further delay in adopting the enhanced I/M program will undermine New Jersey's ability to demonstrate continued progress toward attainment, putting EPA in the position of possibly disapproving New Jersey's 15 percent plan.

Since so much of the State's strategy is riding on the I/M program, let me outline some of what is required under Federal regulations. First and foremost, whatever program is implemented must meet EPA's performance standard. All statutory authority and regulatory requirements needed for the implementation of the program must be present. The program is also required to have inspected at least 15 percent of the total fleet during 1995, and to have inspected 100 percent of the fleet by January 1, 1997.

However, because of New Jersey's failure to have in place a fully adopted enhanced I/M program, EPA made a finding--

ASSEMBLYWOMAN OGDEN: Excuse me. Apparently, the people in the back cannot hear you. Maybe the microphone being closer--

MR. MUSZYNSKI: --of incompleteness on February 2, 1994. This put the State on notice that it needs to have fully adopted regulations and the legislative changes required to implement an approvable program by August 2, 1995, 18 months from the incompleteness finding. Failing this, EPA is required by law to institute the first of two mandatory sanctions, followed by a second sanction by February 2, 1996, if New Jersey still has not made a full submittal. Since EPA has no discretion in implementing sanctions, New Jersey would, in effect, be bringing the sanctions upon itself.

The first sanction is the requirement that new or expanding sources obtain emission offsets at a rate of two to one. For example, a source seeking to emit 25 tons per year would have to obtain 50 tons of emission reductions from other sources in order to do so. The second sanction is a cutoff of Federal highway funds, which would virtually stop all highway construction in the State.

Our February 2, 1994 letter also informed the State that EPA was making a protective finding with respect to the conformity status of the State's transportation improvement program and its long-range plans. This finding will lapse on February 2, 1995, unless an approvable 15 percent plan is submitted. If this failure to submit occurs, the only transportation projects that could proceed after that date would be those on the list that had completed their environmental reviews prior to that date. It should be noted that EPA used its discretion to extend this date from November 15, 1994 to February 2, 1995 for New Jersey. However, if at any time prior to February 2, 1995 we determine that New Jersey is failing to continue to make progress on I/M, we may lift this "protective finding." Lifting this finding would lock the



current transportation plans in place and advance the date for the lapse of the plans and programs to November 15, 1994.

While I/M programs are excellent for achieving cost-effective emission reductions, these programs can become burdensome if improperly designed. New Jersey's program was once considered the standard for the nation, but it failed to maintain performance, and was found to be subsequently deficient in a number of EPA audits.

The public, too, obviously has had its problems related to long waiting lines at the State-run stations. This is not a problem that is inherent in the I/M systems, but is in most aspects unique to New Jersey.

The Clean Air Act requires centralized programs with annual inspections, unless the State can show that decentralized and/or biennial programs can produce results that meet the performance standard. EPA's implementing guidelines say that well-designed biennial programs can meet the performance standard in a very cost-effective manner. On the other hand, considerable experience -- much of it in New Jersey -- shows that programs that use decentralized test and repair centers achieve only about 50 percent of the emission reductions achieved by programs that use test-only centralized stations.

Our negotiations with New Jersey focused primarily on two issues:

- 1) how to maximize the number of vehicles that can be handled in private inspection -- test and repair -- centers while meeting the performance standard, and

- 2) how to address the chronic delays experienced at New Jersey's State-run lanes.

To achieve these goals, New Jersey plans to submit a program that allows cars four years old or newer to be inspected in private test-and-repair inspection centers and older cars to be inspected in State-operated test-only lanes.

We have also agreed that temporarily we can allow the switch to a less time-consuming, but less effective test whenever waiting times become too long. This feature should provide some operational flexibility through January 1, 1997.

We are satisfied that we have found a program configuration that will address New Jersey's concerns and at the same time meet the performance standard of the Clean Air Act. However, in reaching this agreement on a program which meets EPA's minimum requirements, the State has concluded that the I/M program will provide about eight tons per day less of emission reductions than estimated in the State's initial 15 percent plan. Now, in addition to submitting the enhanced I/M program, the State will have to submit additional control measures to make up this shortfall.

While our agreement with the State of New Jersey addresses only certain aspects of the new I/M program, we will continue to work with the State to ensure an approvable program. As indicated, the State is still required to submit all the items required by EPA's I/M rule, including:

- \* regulations outlining all aspects of the program, and
- \* legislation for enforcement and funding of the program.

I further wish to remind everybody that the reductions provided for by the State's 15 percent plan, together with the federally sponsored control strategies will not be enough to meet the 25 percent emissions reduction in VOCs and 75 percent emissions reductions in NOx needed to attain the standard. The attainment plan required to be submitted in November 1994 must provide for additional reductions in emissions from stationary and/or mobile sources to achieve attainment in accordance with the law.

This completes my opening remarks. I will be happy to answer any of your questions.

ASSEMBLYWOMAN OGDEN: Are there others who are going to speak?

MR. MUSZYNSKI: No.

ASSEMBLYWOMAN OGDEN: Okay.

ASSEMBLYWOMAN WRIGHT: Madam Chair?

ASSEMBLYWOMAN OGDEN: Yes.

ASSEMBLYWOMAN WRIGHT: I just have a process question: I am trying to figure out why the Federal government is appearing before us giving us exactly the same testimony that they gave us in July, which we all heard and have copies of. I am questioning what we are hoping to gain from this process.

SENATOR KYRILLOS: If I may interrupt for a second, I have been told there is a problem in the back of the room; that if there is a doctor or a nurse here, someone may need one. I think probably there is a telephone call being made.

With that announcement, I think we can all--

Assemblywoman Wright is here, as it happens. I am sorry for the interruption .

ASSEMBLYMAN ROONEY: It must be the oxygenated fuel.

SENATOR KYRILLOS: The Joint Committee will take a 10-minute recess. Hopefully, we will return at 11:20.

(RECESS)

AFTER RECESS:

SENATOR KYRILLOS: Go ahead, Maureen.

ASSEMBLYWOMAN OGDEN: Okay.

We would like to begin again now. Can everyone in the back hear me? I am not quite sure which microphone we are supposed to be talking into. Is it this one? (affirmative response)

The young lady fainted, and then had, fortunately, a minor laceration just above her eye. She is conscious and seems to be all right. She is being attended by a member of our Committee who is a nurse, but they are waiting for the first aid squad to come.

We thought it would be appropriate at this time to continue.

Mr. Muszynski, we have heard from the previous two Senators talking about the other State programs. I wonder if you would give us an update at this point in terms of Maine, for instance, Pennsylvania, Vermont, Virginia -- and, I think, maybe Georgia and Louisiana. They were not mentioned, but I believe those states are all saying that they are not going to adopt this program as EPA appears to be requiring.

MR. MUSZYNSKI: I am going to let Dick Wilson, who is the Deputy Assistant Administrator for Air and Radiation Programs in Washington, do that.

I neglected to introduce Bill Baker, who is a Branch Chief in our program here in New York, who is sitting to my right.

ASSEMBLYWOMAN OGDEN: I think you need to use the microphone-- Is that the one-- People in the back can't hear.

R I C H A R D W I L S O N: I guess a couple of comments on the status of other states.

First of all, there are 23 states that are required, as is New Jersey, to have what is called an "enhanced I/M program." Other states with lesser pollution problems are required to have a program, but it does not need to be quite as sophisticated.

You have heard about three, four, or five states out of the 23 that have raised issues recently. I will go through a discussion of them, but I will just say the bulk of the states are proceeding ahead to implement programs. Maine -- which I will talk about in a second -- had decided to start

their program up early. They did it in July, and I will get to a few of the problems they had in a second. But the rest of the states, the bulk, are starting early next year. Texas, Maryland, Arizona, and other states will be starting up in January. So there will be a lot of these programs going. Arizona already has an enhanced I/M lane that they are running cars through, although they are not failing cars with it right now. However, they are gaining experience with the program.

The bulk of the states that are required to do the program are moving ahead to put it in place in a timely manner. There have been a few problems. Vermont was mentioned. It is now the first state to have sanctions under the 1990 Clean Air Act Amendments in place. They failed to adopt the required enhanced program. It is even more complicated in Vermont, because Burlington is in attainment, but it is part of this whole Ozone Transport Region in the Northeast, so they are required to have a program. They did not pass the necessary legislation. Early last month, the automatic sanctions under the Clean Air Act did go into effect in Burlington, Vermont, as a result of that.

Maine, as I mentioned, started up their program early. It had some start-up problems, largely unrelated to the new I/M 240 test program. They had some computer outages, some problems with only accepting cash as payment for the test fee, and a few other problems that caused some lines in the beginning. That problem was enhanced by the fact that the public became very concerned over the fact that they had an expanded coverage for the program, and were using the extra emission reductions achieved from that expanded coverage. They were covering more area than they were required to, in order to allow a paper mill in the local vicinity to expand and create more emissions as a result of that expansion.

That created a large public uproar, the result of which was that Maine decided to back up its program a little

bit and go into a voluntary mode for a few months. Testing is continuing. We did an audit about a month after the program started up and found that they had, in fact, solved all the bugs that were in the basic testing program to begin with. The testing program seems to be working smoothly again. In February, they will start the program up in a mandatory way. Right now, people have a strong incentive to bring their cars in voluntarily. They are going to have to get tested later on, and the fee is cheaper now during this voluntary period than it will be later on.

The Pennsylvania legislature, as was mentioned earlier, recently took action to stop moving ahead with their program. The Governor has said that he intends to veto that legislation. That is the latest story from Pennsylvania. As far as I know, they are continuing to move ahead and implement their program next year.

Virginia: Actually, we had a meeting with them yesterday, and plan another meeting next week. They have some ideas for what is called a "hybrid program," similar to what we worked through with the State of New Jersey. We will be working with them over the next several weeks to see if we can't resolve the issues in Virginia and get a program moving there, too.

That is a quick run-through of where we are with the other states. It is a new program. It has some controversy. People are concerned, because it does affect all of the public. Most states are moving ahead with the program, and we are trying to work as closely as we can with all states to make sure that these programs work as smoothly as possible, and that the public gets the air pollution betterments they are expected to get.

Bill just mentioned that I forgot to mention Delaware. Delaware recently sent us a letter indicating that they were going to go ahead with a lesser program, one that

does not meet our enhanced performance standard, because their view was that that was all they needed to meet the attainment requirements, the 15 percent reduction requirements in the statute. Our Administrator, Carol Browner, sent the Governor a letter yesterday. I brought a copy, which I will be happy to give to you. The letter explained to the Governor of Delaware the requirements of the statute, much as Bill Muszynski went through this morning, and the fact that their latest proposal would not be acceptable in terms of meeting the requirements of the Clean Air Act.

We are again in discussions with Delaware to make sure that they are ready to proceed with a program that will get the air pollution reductions they need.

That is a quick summary of where we are.

ASSEMBLYWOMAN OGDEN: On the other hand, as I understand, Delaware has found that the testing they are going to do -- the fuel pressure -- to be almost twice as effective as what is being proposed under I/M. So there is going to be that disagreement between what the DEP in Delaware says and what the EPA says.

MR. WILSON: Fuel pressure is part of all the enhanced testing, including that which you are planning here in New Jersey. It is a very cost-effective part of the test. There is no question about that. We agree. If there are problems with the fuel system, you can check for it pretty cheaply and easily, and the repairs -- broken hoses and the like -- tend to be relatively cheap, too. So it is a very, very cost-effective part of the program. But the rest of the program is cost-effective, too. Delaware was arguing that that was all they needed; they did not need the sophisticated dynamometer testing. Unfortunately, the statute requires them to have an enhanced program. We think it is going to be a very cost-effective way for them to get the emission reductions they need in Delaware.

Again, getting these kinds of reductions from any other approach -- typically, now states are looking at controlling small businesses more, because most of the large sources have been controlled over the years -- tends to be much less cost-effective, much more expensive per ton of pollution removed than the I/M program. It is about \$500 a ton for even the sophisticated I/M programs. The typical control now is in the range of \$10,000 a ton, several times the cost of this program. So if states do not do this program not only does it bump them up against the requirements of the statute, but it tends to really put even a more costly program on their small industries in the state.

ASSEMBLYWOMAN OGDEN: As was pointed out earlier, I do not believe that very many, if any, members of Congress knew what they were voting for with the Clean Air Act Amendments of 1990 in terms of this program.

Two key problems I have: One, why are we targeting 100 percent of the population when we are really talking about 10 percent of the cars causing more than 50 percent of the problem? You know, why don't we gear a program to the 50 percent, at least initially?

Secondly, when we have technology, either almost here or just around the corner with the remote sensing-- I understand remote sensing, for instance, does not detect, at this point, the nitrogen oxides, but the on-board diagnostics which are going to almost mean, in a few years, that you wouldn't even have to have the testing. Why are you asking the states to commit untold millions of dollars, making all the motoring public absolutely irate, charging them a lot more than they are currently charged, and having them take more time? It just seems as though we are trying to institute a program that is going to be a white elephant within a few years.

So, does it make sense to go in this direction? I find it very hard to see how it does make any sense.



MR. WILSON: Well, you mentioned a couple different approaches. We are big fans of the remote sensing concept. It is being tested in a number of states. California has a major program to look at how much more effective their program can be with remote sensing added to it. You mentioned some of the downsides of remote sensing. It is a quick snapshot of the vehicle going by. It is not measuring nitrogen oxide jet. It can't measure evaporative emissions. It can only tell what the vehicle is doing the instant it is going by. It does not look at a typical trip, and therefore, will miss a lot of vehicles that have problems.

The vehicles it does find tend to be problem vehicles, so, in that sense, it is very helpful. It doesn't catch all of the vehicles. In fact--

ASSEMBLYWOMAN OGDEN: But there are also car owners who tamper with their cars with the emissions control, so therefore, they are missed in the planned inspection.

MR. WILSON: That's right, and that is the kind of area where remote sensing can really help, both by catching the vehicles that are tampered with, and hopefully holding down the rate of tampering, because people know there is a chance that they are likely to get caught. So we are big fans of remote sensing. It isn't yet a replacement, and it does not appear that it would be a replacement for a full I/M program.

Similarly, on on-board diagnostics, one of the gentlemen mentioned his problems coming in this morning. There are on-board diagnostic systems, sort of simple ones, on many cars now, and they are going to become much more sophisticated over the next few years. We are very hopeful that in the long run, that will also be a good program, and perhaps I/M programs will not have to do much more than look at what is in the computer on the car and see whether there are any problems.

Unfortunately, that is several years off before those systems on cars are very sophisticated, and then even longer

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before the bulk of the cars in the fleet actually have those systems on them. So it is not a near-term solution to states needing to meet the Clean Air Act healthy air deadlines that are coming through in the next few years.

ASSEMBLYWOMAN OGDEN: I just want to ask one more technical question here before I turn it over to Senator Kyrillos: You said they have made a protective finding concerning the conformity of the State's transportation plan with the requirements of the Clean Air Act. What is a protective finding, and does EPA have any discretion in extending it past the February 2, 1995 date?

MR. WILSON: Essentially, the protective finding allowed the conformity plans to be modified and changed during the period that the finding stays in place, which is right now through February 2, 1995. That is the limit of the discretion that we had. That discretion, for instance, was not exercised in New York, because their plans and their submissions had not been as far along at that time as New Jersey's. So, for instance, in their case, it runs out this November. That is basically the limit of our discretion. It was granted, in essence, or used, because the State program was far along and advanced, and at the time we believed the State program to just, in a sense, be in its final stages of putting the legislative and regulations' packages through the processes and for submission.

ASSEMBLYWOMAN OGDEN: So you could extend it, you have the authority?

MR. WILSON: No, not beyond February '95 without the final plan -- the 15 percent plan being complete. If the I/M plan is not, in a sense-- If the regulations and the statute are not in place, then the 15 percent program will not be complete.

ASSEMBLYWOMAN OGDEN: Mr. Chairman?

SENATOR KYRILLOS: Thank you, Assemblywoman Ogden.

ASSEMBLYMAN MCENROE: May I ask a question?

ASSEMBLYWOMAN OGDEN: Well, first Senator Kyrillos, and then we will go to the members.

SENATOR KYRILLOS: I want to follow up on the Assemblywoman's question about the protective finding and transportation funding. Did I hear you say that the finding for New York State expires, if you will, this November?

MR. WILSON: That's right, for their conformity plans.

SENATOR KYRILLOS: So what will that mean for the State of New York?

MR. WILSON: Essentially, if they do not get their program--

SENATOR KYRILLOS: I am talking about November 1994.

ASSEMBLYWOMAN OGDEN: Next month.

MR. WILSON: Right, next month. If they do not get their-- I think it is November 15?

MR. MUSZYNSKI: Yes.

MR. WILSON: If they do not get their plan to us, complete, then the conformity plans they have -- any project that is on that-- They can't modify that plan. So, in effect, they cannot update it. Those plans are generally updated and modified every year to take into account the new projects, the progress of projects on those lists, the completion of either plans or specifications, the completion of environmental reviews, etc. So the projects that are on the existing list and have their environmental reviews completed can move forward, but no other projects can be added. The plan cannot be amended.

SENATOR KYRILLOS: What is the date that they have to get their plans to you by realistically, in order to avoid that November deadline -- next week, yesterday?

MR. WILSON: They have to get a complete plan to us by November 15.

SENATOR KYRILLOS: By November 15. How much money is involved? I mean how many Federal dollars to New York State are going to be frozen, if you will, if they do not get that plan to you by November 15?

MR. WILSON: It is difficult to say without knowing the exact status of their conformity plans.

SENATOR KYRILLOS: And you do not intend to show any flexibility to New York, for example, whatsoever? Our date, as everybody knows, is February. No flexibility?

MR. WILSON: It is not a question of us showing flexibility. It is a question of whether we have the ability to show the flexibility. The statute and the regulation do not provide the agency that flexibility. Whatever flexibility we have had, we believe we have been exercising as we worked with states to get these plans approved.

SENATOR KYRILLOS: I understand that you are required to carry out the law as it was written. You do not write the law. Our Attorney General and our Commissioners of Transportation and Environment will come before us very soon and say they have no choice, because if we don't implement this plan, we will lose \$500 million in transportation funds. We will shut down the economy of the State because of the two for one offset for factory, or plant expansion.

Does anyone in the quarters of the EPA, either in New York or Washington, think that maybe, because we are going to freeze-frame New York next month, New Jersey is next to follow; Vermont has sanctions in place already; other states, perhaps Pennsylvania, will be next on the chopping block, so to speak, that we are going to shut down all transportation infrastructure improvement in the entire Northeast portion of the United States? Maybe we ought to make some recommendations to the Administrator to go to a Cabinet meeting and recommend some changes to what seems to be a very rigid law.

We might as well cut to the chase on this.

MR. WILSON: Again, Senator, the bulk of the states are moving forward with these programs. In fact, Mr. Tierney reminded me that I ought to go through it. Five states -- Kentucky, Ohio, Arizona, Missouri, and Michigan -- were not required to do an enhanced I/M program, but opted to do it. They are moving forward to implement it, because they thought it was a very cost-effective way of achieving clean air in their states, and it posed less of a burden on their industrial base than not doing it. So not only are the states that are required to do it largely moving forward, but other states have opted to do it that are not required.

After those programs come in and begin operation, that is going to be-- You know, those states that felt that they met their requirements are also, obviously, putting pressure on us from the other side of treating everybody fairly. The rules of the game, in a sense, were laid out in the statute, and the bulk of the people are moving forward with those programs. That is not to say that programs are not controversial, but that is kind of the way the rules were laid down, as Mr. Muszynski went through. We have very little flexibility in some of these areas.

SENATOR KYRILLOS: I don't think that controversy is the issue. We implement controversial programs all the time. What we are talking about is the potential for unachievability and unworkability. You know, Wyoming can implement their program. They have about the same amount of people as my home county, Monmouth County. We have more highway miles in this State than any state in the nation, and the densest population. I think we are the only State that has to implement this program statewide.

You did mention some other populous states -- Michigan-- I forget the others that you mentioned. What do you think will happen? I realize you were looking at this heretofore from a very technical standpoint. You are reading

the law as it is written. You are trying to implement it theoretically. But when Michigan motorists have to live through the system in '95 or '96-- In New Jersey, if we implement this, if one-third of the people fail the test and have to spend upward of \$500 or more to get their cars registered, how do you think this program nationwide will fare? What do you think the members of Congress will hear when they go back home to their districts? Do we then jeopardize all the broad goals of the Clean Air Act, because I don't know that the people will stand for it?

MR. WILSON: Well, were that many people required to spend \$500 to pass the test, I think you may be right. That certainly-- We have run 15,000 cars through various alternative I/M programs, including the enhanced program that is the basis for our performance standard. Most of the repairs required by the cars that fail are well under \$100. I would say the average is, maybe, \$50 to \$100. They tend to be relatively simple repairs, from fixing a hose on the evaporative control system, to replacing a gas cap, to maybe an oxygen sensor in the vehicle. Most of the problems are relatively simple ones that don't come anywhere close to the \$450 limit.

While we are on the \$450, I heard a few comments earlier that were a little confused on the issue. The Congress established a requirement that states that half of the required cars be repaired at least up to \$450. The states are free to not allow any waivers. In fact, California's approach to the program is to not allow any waivers, and they are looking at various alternative ways of providing either funding assistance or incentives for people who own older cars who cannot afford to fix the cars to be able to either repair the car or buy another car that does not have a problem. But the waiver rate is a minimal requirement in the statute. States are certainly

free to assure that nobody drives a car that has emission problems.

SENATOR KYRILLOS: You estimate that a third of the people in this State will fail the test initially. Do you have any idea as to the magnitude of the repair cost problem? In other words, how many people will have to pay \$400 or \$500? How many people will have to pay \$50 or \$75 out of that one-third that fails the test? Can you tell us that?

MR. WILSON: Mr. Tierney is just saying that based on all the testing we have done, we expected 3 percent or less of the people who failed to be around the \$450 mark or higher. So that is 3 percent of 33 percent, or whatever you mentioned. So it's a pretty small number of people who would be in that range.

SENATOR KYRILLOS: Now, the \$450 waiver is a one-time waiver. Is that correct?

EUGENE TIERNEY: Under Federal rules you can get a waiver in each cycle. So if you go and fail the test and you spent \$450, you can get a waiver. If two years later you come back and there are problems with your car, you can get another waiver if it takes another \$450 and it is still running. But it is going to be a very unusual circumstance.

SENATOR KYRILLOS: Do you have some numbers you can provide to the Committee -- not now, but afterward -- regarding repair estimates?

MR. TIERNEY: Repair costs? We would be happy to.

SENATOR KYRILLOS: Obviously that is a real concern for Senator LaRossa, for example, who represents the City of Trenton, where nearly the entire population, because they are older cars, will fail this test.

MR. WILSON: Sure. I should mention that also as a result of these 15,000 tests, what we concluded was that while people might have to pay 50 to 100 bucks to fix their cars, that in the end they will save that much and more, on average, in fuel economy savings. Again, you know, cars are failing to

pass the I/M test because they are not burning the fuel efficiently and it is going out the tailpipe or evaporating from their gas tanks. That is wasted energy. So fixing the problem with the car not only helps to clean the air, but it helps to make the car work more efficiently.

Now, unfortunately, most people don't keep track of their gas mileage and they don't count the fact that they save a few dollars every week over time, making up for the 100 bucks they had to shell out on any given day. But, in fact, our analysis suggests that people actually-- Either it doesn't cost them money, or they save money actually, because the repairs help fuel economy, as well as clean the air.

SENATOR KYRILLOS: Senator Ciesla asks -- and I think he is quite right -- if you have a synopsis of that study that bears that out. We would like to see it.

MR. WILSON: We would be happy to get you that.

SENATOR KYRILLOS: I just have one more question; then I will open it up to the other members, who I am sure have their own questions.

What is the situation in California right now? I am told that for some reason they have a slower time of it; they are able to do some studies that allow them to see what may work best for California. They do not have the kind of time crunch that we have here in New Jersey and throughout the Northeast. Is that so?

MR. WILSON: No. California has the exact same time constraints they have to meet as everybody else in the country, including New Jersey.

SENATOR KYRILLOS: Are their plans in place right now?

MR. WILSON: The basic agreement we had with California was, again, a hybrid program, similar to the one that we worked through with New Jersey, where newer vehicles would be allowed to go to what we call "test repair stations" on a simpler test. The older vehicles that were more likely to



have problems would go through the test only. Stations -- that is the base program that was in the agreement with California. California is looking at remote sensing and doing some pretty sophisticated test programs to see how much credit they can get for remote sensing, and then they will decide, if they can get a lot of credit, whether they will use that to increase the emission benefits of the program, reduce what they have to do to some of their industrial sources, or make other changes to their I/M program. But the basic concept is similar to the New Jersey one.

SENATOR KYRILLOS: Finally, with California, are they required to have a centralized system like the one we would have here in New Jersey, without private garages and inspection centers? I realize we will have that option potentially if we implement this program for cars four years old, or newer, but for all the other cars?

MR. WILSON: Will California have--

SENATOR KYRILLOS: Will California have the central inspection requirement that we would have here in New Jersey?

MR. WILSON: Again, the test only requirement-- We have a required central versus decentral, but test only is sort of the key, from our perspective. California would have to have the bulk of the cars going through a test-only system, yes. In fact -- as Mr. Tierney has reminded me -- they have already started putting those I/M 240 test-only lanes in place in California.

SENATOR KYRILLOS: So it would not be more decentralized than the system we are contemplating here?

MR. WILSON: No.

ASSEMBLYWOMAN OGDEN: Steve?

ASSEMBLYMAN CORODEMUS: Yes.

Gentlemen, the last time we had a meeting here with the Assembly Environment Committee -- I know, Bill, you were here, but I don't recall which other members were with you --

there was testimony to the effect that if there were no cars in the State of New Jersey, no smokestack industry, that we would not meet standards as required under the Act. I see you are smiling. Is that true, or is that not true?

MR. MUSZYNSKI: I think that has been discussed for a lot longer than last July when I was here. There is no question that New Jersey taking actions in and of itself, and if we didn't have the -- if the Transport states were not, in a sense, complying with the requirements, New Jersey could not meet its standards.

That is not a question, I don't think, that was recognized in the Clean Air Act. That is why the Ozone Transport Commission was put together. I think that Commission is working well and is cooperating in putting together these types of programs using the analyses -- sophisticated computer analyses to demonstrate what ozone precursors in one area affect another, and now reduction programs are necessary in one area to help the so-called "downwind" states.

So the answer to that is partially true, but the opposite is also true.

ASSEMBLYMAN CORODEMUS: Well, that is the context within which I meant that. I did not understand that in the simplistic state, what you meant with the Transport states. My concern is exactly with that, with the Transport states. Is it true that the Transport states, as far as New Jersey is concerned, largely come from the West? If that is true, which states are in compliance, so we can help to get the whole region into conformity with the goals?

MR. WILSON: Well, in terms of inspection maintenance programs, obviously-- Maryland is moving ahead to get their program in place. It will start up early next year.

ASSEMBLYMAN CORODEMUS: Is that the source of our ozone and carbon monoxide, or is it more Pennsylvania and Ohio?

MR. WILSON: Carbon monoxide, just to separate it, tends to be a localized problem. It is not in the transport area. But the smog -- the summer smog ozone -- is a transport problem. The source of the transport problem in the Northeast is not only all the states in the Northeast, but, as we are learning more and more, is probably some of the states even further west. The Ozone Transport Commission has -- as Bill mentioned -- been pretty aggressive in terms of dealing with this regionwide problem. They adopted an agreement to implement enhanced I/M. They adopted an agreement to implement reformulated gasoline. They have adopted agreements on stationary source controls and, most recently -- a couple of weeks ago -- reached an agreement on a major program to reduce nitrogen oxide emissions from power plants in the whole region, which we model. If this area goes ahead with its enhanced I/M programs, reformulated gasoline, this new NOx program, and the other things they have already adopted, it looks like the bulk of the region has a real good chance of coming into attainment with the air quality standards.

So we are real positive. Now, some help is going to be needed. In fact, we had meetings earlier this week in California where a bunch of the states were together, where states in the Northeast and states in the Midwest were talking about the need to start looking at power plant emission reductions in Ohio, in Illinois, and in some of the states west of this Ozone Transport Region, in order to help not only those states, but the ozone transport.

So there is a lot of that activity going on. Our modeling shows that if we are able to pull that off, we actually can achieve clean air here in New Jersey. I guess the immediate New York City area is the worst problem, but outside of that it looks very positive.

ASSEMBLYMAN CORODEMUS: The significant states at this time with ozone, for example, would they be Pennsylvania, Ohio, and other states to our immediate west?

MR. WILSON: Well, from a nitrogen oxide standpoint, it is mostly coal-burning power plants. They sort of follow the high river down, so it is, you know, Ohio, West Virginia, Illinois, and, to some extent, Indiana.

ASSEMBLYMAN CORODEMUS: You're saying that they are on-line as far as committing to agreements?

MR. WILSON: Well, again, the states that committed were the ones in the Ozone Transport Commission. So the main ones with coal-burning power plants are Maryland and Pennsylvania to the west here of New Jersey. They are both committed to an aggressive program. Now, we are working with them to get some of the western states committed.

ASSEMBLYMAN CORODEMUS: I just have one short question after this, Madam Chairman.

We also spoke about the potential of the ping-pong effect. A car goes through the testing facility, fails for an emissions type of problem, goes to the mechanic, and might be forced to go back and forth until the problem is corrected.

Has any thought been given to the actual technology to try to narrow the scope of repairs for the car owner?

MR. TIERNEY: There are several different approaches that the repair industry is working on and the EPA has been investigating for the last couple of years. The one that probably is most commonly known about at this time is something called the "RG-240," which is the repair grade I/M 240 equipment. This is a set of equipment that maybe a dedicated shop-- They can certainly afford to put it into their station -- into their repair facility and use it to qualitatively measure the emissions from the car when it first comes in, having failed the test-only test. Then, use it in the diagnostic process to help narrow the field of possible problems with the vehicle. Then, after the repairs are done, to help verify that the repairs were effective.

The other major strategy that we have been working with with the educational industry, the people who deliver training services to the repair industry, is better flow chart diagnostics and analysis. I might add, you do not need the RG-240 to fix cars effectively. You can do it if you have good training, if you have the kinds of tools you need to diagnose and repair a car with. I might add, they are a lot less expensive than an RG-240, where you are looking at something on the order of \$25,000 to \$30,000 for an RG-240 setup.

ASSEMBLYMAN CORODEMUS: But it is not possible right now, or with the testing equipment on the drawing board, that when you leave the testing facility, that you can walk away with some type of a list that this must be done, and this must be done to correct the problem, and if you do this, most likely you will come back and pass?

MR. TIERNEY: That is certainly possible. That is something that is not required in Federal guidelines, but some states are thinking about having that kind of a feature in their program. The sort of standard approach will generate some diagnostic information, but you could take that one step further and actually have, you know, a trained technician then take that information, look under the hood, do some more investigation in terms of diagnosis, and give the motorist more guidance about the kinds of things that would be needed.

I might say that that was sort of one of the start-up problems in Maine. They had never had an inspection program before in Maine, unlike New Jersey and many other states involved here. So the public was a bit at a loss in the beginning as to what to do now that their car failed the test.

ASSEMBLYMAN CORODEMUS: Thank you, Madam Chairman.

ASSEMBLYWOMAN OGDEN: One quick question I would like to bring up before we go to Assemblyman Rooney is: I understand the GAO -- the Governmental Accounting Office -- found 28 percent unreliability in terms of the I/M 240. In

other words, almost 30 percent of the time it did not work correctly. Would you like to comment on that?

MR. WILSON: Yes, I would, because it is often misunderstood. What happened in those tests -- and they were early tests before we had made some changes to the program to make it much better than it was -- all the cars that ever failed were cars that should have failed. So never was a car that should have passed, failed. It is just that sometimes they were marginal cars. Cars, unfortunately, vary. Whether they are hot or cold, the emissions vary a little bit. So the trick on all these I/M tests-- I mean, if we are willing to invest the same day-long test that we do to the auto industry when they are certifying their new cars, you can make it much more stable. But as long as you want to do a quick test at an I/M lane, the trick is to get it as sophisticated as you can, find the cars that are problems, but not fail cars that really should pass. That means you have to up the standard a little bit to make sure, with the less sophisticated test, you are not false failing cars.

What the GAO program showed was that even with this test, which is much better than the existing test, sometimes you would pass a car that, in fact, if you had a more sophisticated test, you would fail. What was happening was that cars, at one point, would fail, and then another time they would pass. There was never a car that should have passed that was failed, as I said. So you never made the wrong decision. Sometimes you didn't catch as many as you would like. We have tried to improve the program since then, but this dynamometer program is much better in that regard than the idle tests and the other approaches that are being used today.

ASSEMBLYWOMAN OGDEN: So that 28 percent did not apply to the current dynamometers?

MR. WILSON: Well, the 28 percent does not apply to the current test, but even there it is true that in order to

make sure you don't fail anyone improperly, you are, in fact, going to pass some people who should fail. One of the major things we are trying to do with this program is do a whole lot better in that regard than we are able to do with the current idle testing program. The false failure rate there is very high now.

ASSEMBLYWOMAN OGDEN: We are going to rotate, we just decided, between the Senate and the Assembly.

SENATOR KYRILLOS: Senator MacInnes.

SENATOR MacINNES: Thank you, Mr. Chairman, for restoring First Amendment rights to the Senate side. I appreciate that.

I have a single question, but it has 15 parts. (laughter) If I may, Mr. Wilson, the Chairwoman asked you a two-part question: If 10 percent of the cars have 50 percent of the problems--

MR. WILSON: Oh, yes.

SENATOR MacINNES: --why can't we have a program that is directed first to the 10 percent, and exclude the 90 percent from the inconvenience, presumably, of dispensing the time of having to go through the process? I think you went on to answer the remote sensing question without answering this question.

MR. WILSON: Okay. I'm sorry.

SENATOR MacINNES: This was her question, not mine.

MR. WILSON: Okay. I don't know how you keep score in New Jersey.

First of all, the premise is a little bit off. It is probably more like 20 percent or 30 percent of the cars that are more than 50 percent of the problem. It varies by pollutants, so it is a little more complicated than it sounds.

But the problem is, we do not know how to pick those cars. They do not tend to be all old cars or all new cars, all red cars, or all GM cars. You know, it is just a hunk of the

cars at any given time have a problem and need to get fixed. We talked about remote sensing; we talked about on-board diagnostics and some ideas we have that, over time, may help us to do a better job of picking out what those cars were. Obviously, if we knew a way to do it short of making everybody go through a test every couple of years, that would be a whole lot more efficient way, but we just haven't figured it out yet.

SENATOR MacINNES: Okay. The second part of the first question is: You heard testimony from Senator Littell that, I think it was in the case of Maine, the predicted reductions in (indiscernible) pollutants versus the actual was-- There was a tremendous variance amounting to-- The actual reduction was something like 25 percent of the predicted based on the model you employed? I thought I heard that.

MR. WILSON: I think that was Delaware, but I am not---

SENATOR MacINNES: Fine, Delaware.

MR. WILSON: Delaware is arguing that with a lesser program they can achieve the bulk of the reductions they can with this enhanced program. We have not seen the analysis. We have the letter from the Governor, but we haven't seen any underlying analysis that presumably supports that claim. None of the database, not all the tests we have run, as I said, support that, although it is true that you get a lot of cheap reductions from things like evaporative testing. You still get a lot of cheap reductions by going beyond that and doing the dynamometer test.

I guess I can't answer until we see what Delaware is doing.

SENATOR MacINNES: If I may bring us back to New Jersey, if I characterize this incorrectly, I hope you will make sure the record is corrected. We had a plan which was preliminarily accepted last November that said, "This is how we are going to meet the goal that we have to meet." But that plan did not include some things that had to be done by way of



implementation. There had to be a show of progress at some point, and by February 2, 1994, you felt it was necessary to warn New Jersey that it was falling behind the schedule that had been set up in November, or whenever the original planning was proposed, and that because we had enough in place, the normal deadline was extended from November 15 to February 2, 1995. Is that a fair description of what we are talking about here?

MR. MUSZYNSKI: The time--

SENATOR MacINNES: You know, I can know too much or I can know too little, but let's get in the middle here.

MR. MUSZYNSKI: I would not suggest that you know too little. I would suggest that the time clocks that are ticking on the Clean Air Act are-- You would almost need a wall of them, because for each event almost, there is a new clock that may begin ticking or may stop ticking.

What I believe you are referring to is, when the plan came in, it still did not have the regulations that would implement the program the State needs to, in a sense, implement and enforce. It still did not have some legislation -- the legislative pieces for funding and for, I guess, the enforcement piece also. So those two pieces were still missing. We were told they were on the way. So that is why we used the discretion we had. But the November date you are referring to is one on the conformity plan that we gave some flexibility on.

In February, when I wrote the letter to the Governor, I basically started the clock. I had to start the clock, essentially, for the 18-month period, which means that if the total plan is not given to us by August 2, 1995, then the two for one offset sanctions come into play--

SENATOR MacINNES: Goes into play automatically.

MR. MUSZYNSKI: --automatically, and then six months later, the transportation sanctions begin.

SENATOR MacINNES: What is the February 2, 1995 deadline we are talking about then?

MR. MUSZYNSKI: That is for the conformity plan each state puts together when they are putting a transportation package together with the Department of Transportation for funding projects. They have to demonstrate, as part of the statute, that those projects are in conformance, and are not causing additional pollutions, etc. outside of the plan submitted by the states. That primarily refers to federally funded projects, although there are some local funded projects on that, too.

SENATOR MacINNES: Well, how far have we advanced since November of last year in terms of the regulations and legislation we need to implement the plan that was preliminarily accepted last November?

MR. MUSZYNSKI: I would like to say, "not very." I believe the agencies are working on the regulations and have drafted, for the most part, the regulations. I don't believe--

W I L L I A M B A K E R: DEPE--

MR. MUSZYNSKI: Maybe Bill can give you it more direct.

MR. BAKER: The DEPE -- DEP now -- has drafted regulations. I believe they have gone to hearing and we have commented on them. I don't know--

SENATOR MacINNES: Have you seen the drafted regulations?

MR. BAKER: Yes.

SENATOR MacINNES: You have seen them, and if they go through as drafted, they are okay.

MR. BAKER: Well, we have commented on them. As we pointed out, we found problems with the regulations.

SENATOR MacINNES: But they haven't published those regulations yet, have they? Well, we will find out from them, I guess.

MR. BAKER: Yes.

SENATOR MacINNES: That's better. How about the legislation?

MR. BAKER: We have not seen any proposed legislation.

SENATOR KYRILLOS: Senator, if I may interrupt-- The regulations will follow the legislation. DEP may have some draft regs that they have drawn up in case we pass a bill, but I don't think anyone on this panel has seen-- Maybe it's that DMV regs need to follow the bill.

Excuse me. Go ahead.

SENATOR MacINNES: In terms of the clock on the regulations and the legislation, since I am not sure of the difference between the conformity plan and your implementation plan, where we stand on that, when do we have to have the regulations and the legislation in place so that we can avoid the draconian and statutorily mandated solution in August of 1995? When do we have to have those regulations and the law in place to finance the plan?

MR. MUSZYNSKI: The plan has to be submitted by that date, which has to then include all of the pieces -- the legislation, the regulations, and everything attached to it.

SENATOR MacINNES: And that date is?

MR. MUSZYNSKI: That date is February 4, 1995.

SENATOR MacINNES: Do we have until February 1995, or whatever it is, to have the regulations and the legislation enacted, not just proposed, not just-- Is that right?

MR. BAKER: On the February date, the protective finding on conformity would be lifted. Now, what that means is that the transportation plan cannot be amended once that is lifted.

SENATOR MacINNES: All right, so--

MR. BAKER: If I may continue-- As long as there is a plan in place, that plan can continue until the next time it is supposed to be amended, which is usually a year from the previous amendment.

SENATOR MacINNES: So we need 100 percent of the plan in place -- that means the legislation has been signed and the regulations have been adopted -- in place by February 2, 1995, or any highway program -- any highway project that has not been approved for environmental impact cannot proceed after that date. Is that correct?

MR. MUSZYNSKI: That is correct.

SENATOR MacINNES: That number, as far as we know, is like-- That would affect something like \$500 million worth?

MR. MUSZYNSKI: Not necessarily.

SENATOR MacINNES: Oh.

MR. MUSZYNSKI: Again, February 2 you cannot amend your conformity plan, but if it is already on the plan, it could move forward with funding.

Let's presume you miss that date. The conformity plan is still in effect. Those projects that are on there and are listed and have their environmental statements approved keep getting funded. August 2, 1995 comes along, and you have still not done that. That is when the two for one offset sanctions come into play. February '96, the transportation-- Then there is no Federal funding.

SENATOR MacINNES: But the two for one starts in August. That does not lift the freeze on the other highway projects, right, because the highway projects are frozen--

MR. MUSZYNSKI: But it is only a freeze--

SENATOR MacINNES: --prospectively, and then the two for one--

MR. MUSZYNSKI: It is only a freeze to add new projects.

SENATOR MacINNES: Pardon me?

MR. MUSZYNSKI: It is only a freeze in February '95 to try to add new projects to the conformity list.

SENATOR MacINNES: If you don't have any environmental impact studies approved by February 2, 1995, those projects can't go forward either. Right?

MR. MUSZYNSKI: That is correct.

MR. WILSON: That's right.

SENATOR MacINNES: So you freeze new projects and those that have already been started where you have not finished an environmental impact study.

MR. MUSZYNSKI: That is correct.

MR. WILSON: Senator, if I may just add one thing: With the inspection maintenance program, in particular, that is a program that is not going to start up once you pass the legislation. You have to pass the legislation so the State can move ahead to put it in place, and it is going to take a number of months to do that.

If you are going to have a program after you pass the legislation that meets the requirements of the statute, which is 30 percent of the testing done in 1995 and the whole program up and running full board January 1, 1996, I mean, you have to back up from those days when that program has to be up and running also in terms of thinking about when you need to get moving in terms of implementing the program, and I don't think you have very much time if you are going to meet those deadlines.

SENATOR MacINNES: So the February 2, 1995 deadline should not be a source of relaxation for the administration of the legislation?

MR. WILSON: I think even then it is going to be hard to have a program up and fully running less than a year later.

SENATOR MacINNES: Have you reviewed legislation from the administration that is required to comply with this plan?

MR. MUSZYNSKI: We haven't seen any proposed legislation, that I know of.

SENATOR MacINNES: Have you seen any proposed legislation?

SENATOR KYRILLOS: There is no bill introduced as of yet. I think people have probably put some ideas on paper, perhaps, but it is all in theory.

SENATOR MARTIN: May I ask a question just specific to that? (no response)

SENATOR MacINNES: Eight months after the warning letter and we don't have any proposed legislation. That sounds to me like a serious problem. It seems to me that in eight months you could come up with proposed legislation. Now we are going to be hitting the panic button. The Legislature is going to be asked to act again on the basis of incomplete information under threat of the loss of hundreds of millions of dollars in highway project funding. I can just see it now.

SENATOR KYRILLOS: I will remind the Senator, with all due respect, that the clock did not start ticking in January 1994. There was plenty of foot dragging. In fact, because of that we have been able to change the deal significantly.

SENATOR MARTIN: Senator Kyrillos, may I just have a point of clarification? It is not a question.

The legislation you are referring to, is that really implementation of the so-called deal that was worked out between the State -- negotiated between the State and the Feds? Is that what the legislation--

SENATOR KYRILLOS: In essence -- and please correct me if I am wrong -- it codifies the agreement worked out between the administration and the Federal government.

SENATOR MARTIN: Thank you.

ASSEMBLYWOMAN OGDEN: Assemblyman Rooney?

ASSEMBLYMAN ROONEY: Thank you.

I have a few questions. We have a chart that was given out by DEP that shows 1990 emissions. I am wondering why-- This should not be directed to you, but I would have preferred that the EPA supply us charts for 1993, at least, on the emissions. It is a pie chart, and it shows highway sources on VOCs to be 33 percent, and for NOx it is 34 percent. So we are talking about one-third of the pollution that we are

dealing with being in highway sources. Highway sources are: cars, trucks, buses, and motorcycles.

In your plan of the I/M agreement, you are talking about light duty gas vehicles, light duty gas trucks, heavy duty gas trucks, no buses, no diesels. Now, diesels, I think, do contribute to some pollution. There is no percentage that we know of. Carbon monoxide would be one of those, and some other areas. We are not even testing those vehicles for emissions. That is one of the things that bothers me. It bothers me that we are not up-to-date on the numbers, because I know in the last four years we have reduced pollution. There have been some reports that said that we are now maintaining-- We are actually below the level of carbon monoxide without the use of the oxygenated gasoline.

MR. WILSON: I am not sure everybody got off oxygenated gasoline, although that, by itself, reduced CO violations around the country by 80 percent the first year it was implemented.

ASSEMBLYMAN ROONEY: And increased formaldehyde pollution by whatever percent -- by 100 percent, because it had not been there before.

MR. WILSON: Actually, no, that is not true. Without getting off onto formaldehyde, I would just say generally with lower toxic emissions into the air.

ASSEMBLYMAN ROONEY: Formaldehyde is not toxic.

MR. WILSON: Formaldehyde is largely a photochemical-created air pollutant, much like ozone is. It is caused by hydrocarbon emissions into the air. It is true that oxygenated fuels tend to increase the directly emitted amount of formaldehyde from tailpipes slightly over nonoxygenated fuels, but they also reduce the amount of benzene, for example, which is a known carcinogen. So the net effect on formaldehyde is relatively small, because the direct emissions are a small part of the total ambient.

ASSEMBLYMAN ROONEY: That is not the question.

MR. WILSON: Nevertheless, even if you look at tailpipes, the toxic reductions are much lower. But that is beside--

We are making progress. I mean, new, cleaner cars are helping -- and trucks and buses -- to reduce the loadings from motor vehicles. Also, we are making progress on the stationary source controls, too. Unfortunately, every year, across the country and here in New Jersey, more people drive more cars more miles. So despite the fact that the cars are cleaner, you have a lot more miles being driven in cars, and that tends to offset a lot of those reductions. Even with the cleaner cars, they get screwed up, too, if they are improperly maintained. That is one of the reasons this kind of an I/M program is so important.

ASSEMBLYMAN ROONEY: That is not the question. The question is--

The other thing I have a problem with is the fact that this is summer statewide, and they do not show winter. I am sure in the wintertime there are less driving miles by personal automobiles than there are in the summertime.

MR. WILSON: Well, I suspect -- and you can ask the State -- they are showing summer because the ozone problem we are talking about is a summertime problem, so you tend to want to look at what emissions look like in the summertime.

ASSEMBLYMAN ROONEY: But we are still looking at the total emissions. This is what we have to be concerned with, the total emissions over the year period.

My problem is that we are looking at one-third of the pollution source. What are you doing about the other two-thirds?

MR. MUSZYNSKI: When you say one-third, there is a look at the stationary--



ASSEMBLYMAN ROONEY: Thirty-three percent is highway sources on VOCs; 34 percent on NOx, of four highway sources. So it is one-third of the total pollution problem.

MR. MUSZYNSKI: Right. The State's plans for the 15 percent reduction just doesn't only look at the reduction it is getting from the mobile sources. It looks at the stationary sources also. So it is not that the plan comes in and we are only--

Today we are here talking about the enhanced I/M program and what its contribution is to the total 15 percent reduction plan that the State is submitting, as well as, probably on November 15, when they are supposed to submit the plan that gets them to the year 2005 and the year 2007. That will have all of the pieces in it. So it is not just looking at one piece.

ASSEMBLYMAN ROONEY: The point I am getting at is, I don't see any big plan out there. In fact, there was an Act called the Pollution Prevention Act in New Jersey that just kicked in July 1. It has not been enforced by the State of New Jersey. It basically was a voluntary program for manufacturers to report their reductions in pollutants. That hasn't even been enforced. Now we are talking about spending \$700 million to take the poor motorists-- We are talking about the "poor" motorists; having them replace their vehicles or pay exorbitant rates to do it, and we are not even looking at two-thirds of the pollution problem in this State. That is what bothers the hell out of me.

MR. MUSZYNSKI: It is just not correct. I mean, you're saying that they are not looking at the stationary sources. I guess I can respectfully disagree with you that they are. Part of the program that the Clean Air Act required was an Air Permitting Program. It is the Title V program, which is supposed to also be put into place by the states. Those permits will, in a sense, act to further reduce and

tighten up controls on stationary sources. The Northeast states, just the other day, looked at 70 percent NOx reductions from power plants. So those sources are being looked at and are being addressed.

What we are saying is, you cannot achieve the standard by, in a sense, discounting either of the two sources. You must look at both sources.

ASSEMBLYMAN ROONEY: There is a statement I would like to make on New York City, or New York State, as far as their enforcement is concerned: We have seen what the EPA has done in those cases versus New Jersey. We have always been a poor stepchild when it came to anything. It turns out that New York City has been dumping in the Hudson River and dumping off their shores for years, without anything being--

ASSEMBLYWOMAN OGDEN: John, would you please try to stay with the issue here--

ASSEMBLYMAN ROONEY: The issue is pollution.

ASSEMBLYWOMAN OGDEN: --even though that concerns you?

ASSEMBLYMAN ROONEY: The issue is pollution. When we see what the EPA--

ASSEMBLYWOMAN OGDEN: The issue is the emissions test.

ASSEMBLYMAN ROONEY: The issue is still pollution, and when we see what the EPA has done in the past, their record is not good.

The other thing is: I would like to know, before we do anything with this I/M program, who the stockholders are on it. I have a major question as to who is benefiting from putting this system in that is obviously a flop, and hasn't worked in other states? Where is the stockholder's list? I want to see it, because this is being pushed by EPA -- the Federal government. I think we have a major item that we should look at.

MR. WILSON: A stockholder's list of--

ASSEMBLYMAN ROONEY: Whomever makes these systems, because these systems are-- I understand there is only one company that is making them. Is that true?

MR. WILSON: No, there are lots of companies making dynamometers, making test equipment.

ASSEMBLYMAN ROONEY: There are lots of companies? I thought it was one particular system that was being pushed more than anything else.

MR. WILSON: No. We would be happy to get you a list of all the different--

ASSEMBLYMAN ROONEY: I would like to take a look. I would like to see who the stockholders are.

MR. WILSON: Okay, great.

MR. MUSZYNSKI: I am not sure we would tell you all the stockholders. We will tell you the companies which are making the--

ASSEMBLYWOMAN OGDEN: Okay. We need to go back to the Senate side -- Senator Martin, Senator McGreevey.

SENATOR MCGREEVEY: I am just curious on two points, one regarding the EPA threshold. It is my understanding that EPA initially only required model years from 1986 forward. Is that correct?

MR. TIERNEY: I think you are probably referring to the performance standard model program, which establishes the target that the states have to meet -- the enhanced I/M the states have to meet. In that program design, 1986 and newer vehicles get an annual I/M 240 test. What we generally recommend states do is a biennial test. By doing it every other year you lose a little bit of emission reductions, because some cars that might break are operated on roads for a longer period of time. You make that up by doing more intensive testing on some of the older cars. Typically, most states are going back to at least 1981 with the I/M 240 test, or going back to 1975 or 1968.

MR. WILSON: New Jersey goes back to 1981, right?  
(indiscernible response from EPA associate)

SENATOR MCGREEVEY: Thank you.

ASSEMBLYWOMAN OGDEN: Assemblywoman Wright?

ASSEMBLYWOMAN WRIGHT: Thank you, Madam Chairman.

Let's talk for a minute, please, to help us to understand something about the penalties that would be required by, or imposed by EPA on other parties, such as private sector facilities and emission repair facilities. Can you elaborate on penalties for failure?

MR. WILSON: I am not sure we understand the question.

ASSEMBLYWOMAN OGDEN: Do you mean for fraud?

ASSEMBLYWOMAN WRIGHT: No. Well, in terms of failure to meet the requirements under the regulations. There are penalties, I believe.

MR. TIERNEY: Under Federal regulations, states are required to implement a quality assurance program to make sure that the inspectors and station operators do the job that they are supposed to do, follow the state regulations in terms of conducting the test, and so on. There are some minimums established in the Federal regulations for penalties, if by no means comprehensive, one of the things required in the plan is for the states to sort of flesh out a penalty schedule and the whole quality assurance program. The one minimum that I point to is that inspectors found intentionally passing a car that should fail the test, must be suspended from the test-taking operation for at least six months.

ASSEMBLYWOMAN WRIGHT: You're telling me that the State is going to identify the penalties then. Is that correct?

MR. WILSON: Yes. I think, in general, it would be part of the State implementing regulations to define licensing requirements and penalties for inspectors who did not do the right thing, those details.

ASSEMBLYWOMAN WRIGHT: I have another question: When was it determined by EPA that the I/M 240 was the best vehicle to accomplish this goal? I notice that even between July and October, as identified in your testimony on page 2-- You did not say this in July, but in October you said: "In recognition of the effectiveness of the enhanced I/M program--"

I would like you to tell me a little bit more about how you arrived at this decision concerning I/M 240.

MR. WILSON: The Clean Air Act was passed in November 1990, and it required us to adopt a performance standard for enhanced I/M programs. The requirement was to be based on an annual, what was called a "centralized test-only program." We did a lot of-- We have now gone through about 15,000 tests that were run in Indiana and Arizona of cars on various types of I/M testing regimes. As a result, we proposed a rule-making-- We went through an extensive public hearing and comment process all over the country and issued a final rule November of '92, laying out a performance standard that was based on the I/M 240 testing regime. That rule then required states, a year later, November '93, to submit the plans, and that is what New Jersey is--

ASSEMBLYWOMAN WRIGHT: The question I am asking you is not regarding how you proceeded after you chose the I/M 240 -- and you did write on that--

MR. WILSON: Right.

ASSEMBLYWOMAN WRIGHT: --but how did you determine the I/M 240 versus remote testing, for example?

MR. WILSON: As I said, we had this very extensive testing program where we took cars and ran them -- the same cars -- through a series of different tests. Some cars were run through remote sensing. We ran them through the idle test, which is typical of testing programs today, including in New Jersey. We ran them through different tests that would require

them to be on one of these dynamometers, sort of a treadmill that the cars were on.

We ran a lot of different tests, and concluded that the most cost-effective and the most effective was the I/M 240.

ASSEMBLYWOMAN WRIGHT: Which brings me to my next question: You say it is cost-effective?

MR. WILSON: Yes.

ASSEMBLYWOMAN WRIGHT: When you make a plan, you really do consider cost-effectiveness?

MR. WILSON: Yes, ma'am. As I said, we try to compare air pollution control approaches on the basis of cost per ton of pollution removed. These I/M programs cost about \$500 a ton. Most other programs now being implemented by states are \$10,000 a ton or higher, so it looks very, very cost effective, compared to other approaches available. You can talk to your own State people about the situation here.

ASSEMBLYWOMAN WRIGHT: But there is a follow-up question to that, then: Why are we having such difficulty with it, because we cannot sell this to the public? We would not be sitting here if this were something that was so great and so cost-effective from the public's perspective. I mean, we can tell them it is \$500 a ton, but--

MR. WILSON: Well, as I said, you know, in the surveys we have seen after various programs had been implemented, the public tends, once they are used to the program, to support it. In fact, even in May, I think, the State did a follow-up survey and found that 90 percent of the people felt they really didn't have any problem going through the test during its first month, when they were having some start-up problems.

It is a complicated issue, I think. The public doesn't understand what the various choices are. Even -- as I mentioned before -- it is hard on the cost. They do not understand that it is probably saving them money, because of the fuel economy savings. People do not tend to think that

way. They remember the \$100 they spent to fix the car, and do not compute whether it is saving them anything in fuel economy. I think it is a communication problem we all have, but the substance is there.

ASSEMBLYWOMAN WRIGHT: But we are not only talking about the repair costs; we are talking about the State's investment in a project like this, aren't we?

MR. WILSON: Well, it depends. Various states set up the program in different ways. In some states it is a state-run program, where the state invests its own capital dollars.

ASSEMBLYWOMAN WRIGHT: It still costs money, no matter who pays for it.

MR. WILSON: I understand, but whoever pays for it, we calculated that as part of our cost analysis when we did this regulation and computed the cost. Because you are testing millions of cars, it costs a lot of money, but the amount of pollution you reduce is significant also. It is the most significant program we know of. As a result, the cost per ton measured consistently, the way we measured it with all the other control approaches, is much cheaper than anything else we know of.

ASSEMBLYWOMAN WRIGHT: Thank you, Madam Chairman.

ASSEMBLYWOMAN OGDEN: Senator Martin?

SENATOR MARTIN: A couple of questions on different tracks: The I/M 240 is supposed to complete its task in 240 seconds. Is that correct?

MR. WILSON: Yes. That is where the name comes from.

SENATOR MARTIN: Would you have the authority, if we enacted legislation to go ahead with this, to require us to come up with a better piece of machinery if it came on the market? Suppose equal or better equipment came up that could do it in 180 seconds, or would save a minute, or two minutes. Could you require us to have to replace the equipment we had?

MR. WILSON: Again, no. Our regulation, while it-- We developed a performance standard. It was based on kind of a model program, as I mentioned. The statute required an annual centralized test-only program. Having developed that performance standard, states have the flexibility to come up with other approaches, if they can demonstrate their equivalent. In this case, I mean, we would not require you to adopt a more efficient system. It would be up to you whether--

SENATOR MARTIN: Actually, speed is not important to you, right?

MR. WILSON: No, it is.

SENATOR MARTIN: You are concerned about the quality of the test.

MR. WILSON: Well, but it is obviously important in terms of-- Public acceptability of any of these programs is dependent upon how convenient they are. If you look through our regulations, you will see that we spent, probably, more time describing the kind of things we think states should look at to make sure that programs are convenient for the public.

If a new system came up that was twice as efficient, twice as quick, and it got the same pollution reductions, or did better, it would be up to the State to make a decision as to when they would make that kind of a switch. We would not be requiring it. We would make that information available, if it happened in some other state, to your people, and they could--

SENATOR MARTIN: You do not have the authority to be able to ratchet up the type of testing machinery we have?

MR. WILSON: Well, the example you gave wasn't machinery that was more effective from an air pollution reduction standpoint; it was one that was more efficient. Again, we would certainly encourage states to use the most efficient systems they could, but our regulation does not require that.



SENATOR MARTIN: I mean, I am just likening it to a real world analogy: The State has Wang computers. I think most of us who are familiar with them realize that they are not the most proficient, at least--

MR. WILSON: Anymore.

SENATOR MARTIN: I do not want to cast aspersions, but--

MR. WILSON: Right.

SENATOR MARTIN: --the point being, if the State goes ahead and invests in one of our choices in the public sector to buy this equipment, is the Federal government going to have the capacity, within a relatively short period of time, to come in and say, "This equipment, this machinery, this testing process is no longer acceptable, because there is better stuff on the market"?

MR. WILSON: We certainly do not have any plans to do anything like that.

SENATOR MARTIN: Well, you have the authority under the Act.

MR. WILSON: In theory, over time we can change the performance standard if we find we can get substantially better -- you know, further reductions from cars through a different test approach.

I do not expect, in general, that even if we did that -- and we certainly do not plan to do it anytime soon -- that it would involve a change in the basic equipment that you would be purchasing. Putting a car on a dynamometer is what we do to certify cars from the auto industry. You know, there are new models each year, and it is the basis by which we get the fuel economy numbers, and all that sort of stuff.

You know, it might turn out that you can do a test in 250 seconds that would be more effective, or hopefully 180 seconds, that would be such as effective and twice as quick. Those sorts of things do not require new pieces of equipment.

They just make some changes in the way you operate the equipment that are more efficient.

SENATOR MARTIN: I am just concerned about both sides of the equation. One is, we could be stuck with Wangs indefinitely, or you could require us to go to some super IBM, you know, computers within a relatively short period of time before we were able to capitalize our investment. But, enough said on that.

Tell me more about the waivers. I think you make reference earlier -- I wasn't here, and I apologize -- to the fact that those who fail, and by everyone's calculation there is going to be a high percentage of vehicles that will fail, the older vehicles-- Tell me about this waiver and how you envision the private sector is going to provide rehabilitative equipment, or remediation equipment to be able to deal with those vehicles.

MR. WILSON: First of all, on the waiver idea, \$450 is frequently mentioned. Where that comes from is, the Clean Air Act says that states have to require vehicles to be fixed up to at least \$450. Some states have waivers -- I don't remember if New Jersey does or not, at this point -- cost waivers, but many of the states that have them are \$100 or \$150. Then it has to go up to at least \$450.

We would certainly encourage states to look for innovative ways of having all the vehicles meet the requirement, if they are going to be on the road. Certainly, it is those cars that are high polluters that are causing the bulk of the vehicle emission problem. If you leave them on the road, for whatever reason, it is not helping to fix that problem. We don't think that most of the cars are going to -- that very many of the failures that we talked about before, or less than 3 percent of the failures, are likely to cost as much as \$450. But we encourage states, and a lot are looking at ways of creating incentives for industry to get credit if they

help those people get their cars repaired; set up scrappage programs to create an incentive for them to turn their cars in to be scrapped and give them some financial help to buy a newer car.

SENATOR MARTIN: Other than junking the vehicles, have there been any studies that show what the costs generally are as far as the market--

MR. WILSON: Repair costs?

SENATOR MARTIN: To make these vehicles acceptable under emission standards.

MR. WILSON: Oh, yes. I think we talked about that before. We talked about the results of all the analyses we have done, and we will get that information to you in more detail. But the typical cost is less than \$100 and, as I mentioned, less-- Probably 3 percent of the cars that fail cost as much as \$450. So very few cars cost very much to fix. The repairs typically save more in fuel economy than they cost.

SENATOR MARTIN: The last question: The magic dates you talked about, such as February 2 and August 2 of next year-- That is when the alarm bell goes on. That does not necessarily-- I'm asking: Does that necessarily mean that prohibitions will be in place on that day, or is that when you are empowered to impose whatever sanctions are available under the law?

MR. WILSON: Senator, New Jersey was required to submit an acceptable I/M program -- regulations, legislation, etc. -- in November of 1993. You are now well beyond-- I mean, that is when I would suggest the alarm bell should have gone off, when that date was past. You are now getting to the dates where sanctions actually start happening, if the next dates that you just went through start passing. In February, actually-- You know, you can't start new highway projects. Old ones can continue, but you can't start new ones.

SENATOR MARTIN: I recognize an alarm bell. That is one of the reasons we are here. But all I am asking is: On the prohibitions and problems that Senator MacInnes asked about before, what will happen on February 2 and August 2, do they actually occur on that date--

MR. WILSON: Yes.

SENATOR MARTIN: --or is that when you could impose those sanctions?

MR. MUSZYNSKI: Yes, that is correct. They actually occur. The bells are ringing.

MR. WILSON: Maybe the best analogy is the alarm--

SENATOR MARTIN: No projects that require certain EPA permits will be allowed to go forward if we don't have the plan in place on February 2? Is that what you are telling me?

MR. WILSON: Projects that are not on the conformity plan and have their environmental statements completed by February 2, 1995-- If the 15 percent plan, including the enhanced I/M program, is not fully submitted, no additional projects will be allowed to be added. Those on, will continue.

SENATOR MARTIN: If that date triggers it -- let me pose another one -- you have the authority, do you not, to be able to waive your own date for good cause, I assume.

MR. WILSON: Those dates are established in regulations and the law. We cannot waive statutory dates.

SENATOR MARTIN: I understand the dates are, but you are able to grant other types of allowances. Could you not provide some allowance? I know you do not want to encourage us, but it is conceivable, isn't it?

MR. WILSON: We also don't want to give you, in a sense, some false hopes.

SENATOR MARTIN: I am just asking a question: Do you have the authority--

MR. WILSON: No.

SENATOR KYRILLOS: Do you have any flexibility? The Senator is asking: Is there any flexibility under the law?

MR. WILSON: No.

SENATOR KYRILLOS: There is nothing you can do about it?

MR. WILSON: That is correct.

SENATOR MARTIN: Okay. Thank you.

MR. WILSON: Well, as we said, it has already happened in Vermont. Again, you know, there probably weren't any new sources being -- that were ready to get built in Burlington, so you are not hearing about the impact of it right away, but it happened automatically.

ASSEMBLYWOMAN OGDEN: Assemblyman McEnroe?

ASSEMBLYMAN MCENROE: Thank you, Madam Chair, and Cochair, Senator Kyrillos.

I appreciated, when I received the meeting notice, that the focus of the Committee would be to inquire as to how we can cooperate in compliance with the Federal mandates, but I appreciate your leadership in turning the question a bit to the major question of why-- We are a State here in New Jersey that is the most densely populated, very impacted by the rules and regulations. It has been mentioned by our colleague, Senator MacInnes, that there is no bill, and possibly no votes either for this requirement. So there is a level of frustration here before the Committee.

You have referred, in your comments, to the Clean Air Act of 1990. That was an amended Act. The original Act was 1970, I believe. A question, I hope not rhetorical: Hasn't there been substantial improvement in the quality of air in this particular Northeast Corridor of our country during this past 20 years?

MR. MUSZYNSKI: I don't think there is any question that there has been improvement. Some cities -- not necessarily in the Northeast Corridor -- have actually come

into compliance. I forget the exact number nationwide, but I know a substantial number of communities have come into compliance. Unfortunately, the progress in the Northeast has been slow. I think during the debates that took place during the Clean Air Act -- which eventually resulted in the 1990 passage of it-- The attention of Congress, at that stage, was to ensure that the next deadlines they set were achieved. So they talked about the years 2005 and 2007, and gave flexibilities based upon how dire, or how serious an air pollution problem was. The states with the more serious problems were given a little longer periods of time, which they believed to be reasonable as various requirements were put into place.

They also discussed and debated whether or not there should be some level playing fields. Some states felt they were being asked to do things, or they were being required to do things that other states were not, and that perhaps the transport concept of pollution coming over from other states-- You couldn't enforce something in Pennsylvania from New Jersey, so there had to be a better program. I think that was changed in the law.

But the penalty issue, there were many people who felt that the penalty structure in the 1970 Act was basically loose and ineffective. In fact, I do not believe it was ever used. Yet, a substantial number of communities did not meet the Clean Air Act requirements. So when Congress put these penalties in, I personally believe they knew they were asking for very tough measures to be taken. I think they understood that they would be tough measures that would have to be taken in order to achieve compliance with these standards, and they built in the penalty structures with bells and whistles, with, I also believe, adequate time for people to take into account what they had to do and to prepare for it.

The votes on the Clean Air Act were overwhelming. They weren't 51-49. They were something like 85-whatever -- 85-90.

ASSEMBLYMAN McENROE: Well, thank you. I do recognize your good intentions and the intentions of the administration regarding the EPA. But certainly, this bill was not an idea that was germinated in the Congress. This was a program that was placed on the congressional desks for ratification or approval by the EPA. You made a judgment that, based on the prior 20 years, there was needed improvement, refinement of existing law.

MR. WILSON: Actually, this was not part of the administration Clean Air Act proposal. It was adopted by the Congress.

ASSEMBLYMAN McENROE: It was not, you're saying?

MR. WILSON: It was not, right.

ASSEMBLYMAN McENROE: Well, then what would be your recommendation--

MR. WILSON: I mean, frankly, it wasn't until this large testing program that I mentioned that we entered into after this was passed, that we realized how much additional reduction could be achieved by improving the inspection programs. We did not realize that before; therefore, it was not part of the administration proposal.

ASSEMBLYMAN McENROE: Do you think the reduction you envisioned-- Is it critical reduction, or is it--

MR. WILSON: It is the largest single program we know of for states to implement to improve air quality. It is also the cheapest single program we know of.

ASSEMBLYMAN McENROE: The improving emissions standards of the automobile industry-- Do they have any impact? Are they being measured?

MR. WILSON: Of course, they do, and of course, they help. That is offset somewhat by the fact that more people are

driving more cars, more miles every year. But even those newer cars don't meet the new low levels unless they are properly maintained. So however clean the car is, if it isn't maintained you are not going to get the benefit of the extra investment people are making in that additional control equipment.

ASSEMBLYMAN MCENROE: The question of flexibility has been raised by a Committee member. It goes right to the question of an informed citizenry and a responsive government. I think we have that in New Jersey, and I think it is driven by the interests of the population of this State and other states in what is going on with elected officials, whether it be in the State Legislature or in the Congress.

Now, certainly you have to understand that and respond to that. I just can't understand how you can sit there and say, "Well, there is just absolutely no flexibility. There are absolute deadlines that must be met, again, under the Act." Certainly, your recommendations to the Congress would have some weight. I can't understand how you could possibly, in a State like New Jersey, under the pressure that we, as elected officials, find ourselves, just reduce that to, "Well, you know, if you haven't been in compliance, you are going to lose \$700 million, or \$500 million in the next year." We are already 11 months into the period of noncompliance.

MR. WILSON: Well, this is not a problem that started yesterday or today. We have been working this for years now. I mean, the regs went into effect November of '92. You were required to have a program to us in November of '93. It is now October of '94, and we are here talking about the problem. It is not a new problem. Most states, as I mentioned, are moving ahead to implement the program. They will be starting up early next year in many states across the country. Some states have opted for the program where it wasn't required, because they agreed that it was a very cost-effective program.



What we are here saying is, you know, you in New Jersey are running out of our discretion. We sat down with the State to work out a hybrid program that they thought would be more workable here in New Jersey. We applied every bit of discretion we could find to help to put that sort of program together that would allow some of the newer cars to continue to go to service stations to be checked and retested. We have tried in every way we know how to show discretion. We are just now sort of saying, our discretion is running out. The statutory requirements are going to be happening automatically soon. We encourage you to move ahead with the program, I mean, not only because the statute requires you to, but because we don't know of anything that is more effective or more cost-effective in terms of providing clean air for New Jersey.

ASSEMBLYMAN MCENROE: Well, can you leave here with at least the impression that there is considerable concern in the State of New Jersey with the impact of that program on this population? Shouldn't that be a matter of high priority for the EPA Administrator to consider, in view of the lack of genuine support for the program, I think as evidenced by legislative comment, but also in every measurement we have made on a bipartisan basis of the population's response to this kind of intrusive, expensive program, with small measureable value to our quality of life?

MR. WILSON: Well, again, we don't think this program-- Of course, requiring people to get their cars checked intrudes on their lives, to some extent. You are already doing that in New Jersey. What we are asking is that you enhance your program to make it more effective. Right now, you require people in New Jersey to go through that process, and you are not getting anywhere near the air pollution reductions you could for that program. So the bulk of the people whose cars do not have a problem are being required to go through a program that isn't very darned effective.

We are suggesting that you make the changes in order to assure the public that the pain they are going through now actually accomplishes something in terms of getting the air cleaner. I don't think if the public understands that, that they will be opposed to that kind of a program. Every poll we take, whether it is spending a little more for cleaner gasoline or getting their cars inspected, suggests that they support programs when they are convinced they are not just a hassle, but they are going to give an environmental benefit back to them, particularly if it is a clean air benefit.

ASSEMBLYMAN McENROE: You have indicated that you would, in some sense, accept a change in standards. I think when you ask those questions in a rhetorical way as to whether we all enjoy a cleaner environment, or whether we need to have enhanced inspection systems, that people may not -- that most people definitely do not understand completely, I think you will encourage a favorable response.

MR. WILSON: Well, obviously, you can encourage favorable or unfavorable responses, depending on how you answer the questions. But again, our genuine sense is, having seen various I/M programs adopted across the country, that people will go out of their way. I mean, they have certainly done that in recycling. They will go out of their way to do things if they are convinced it is for the good of the environment. We think they will do that in this case.

ASSEMBLYMAN McENROE: Thank you.

SENATOR KYRILLOS: If there are no more questions -- and, Madam Chair, if you have no further questions or comments -- we thank you for being with us today. I know I asked, and maybe some other members of the Committee asked for some information, which we would appreciate.

You may not feel that the program is too rigid or too ambitious, as you responded to Assemblyman McEnroe's questions, but I would ask -- and I think I speak for many members of this

panel and many people in New Jersey -- that you confer with the Administrator and tell her that state by state by state we feel -- at least I feel -- that she will be seeing, and the administration and the body politic in Washington will be seeing, resistance, the kind of resistance that will hurt the long-range goals of the Clean Air Act amendments, and our trying to achieve what we would all like to achieve, and that is cleaner air for this and future generations.

We do run the possibility of being too ambitious and too aggressive. In doing so, we can hurt what I think is our universal goal. I hope you will convey that message. I know you don't necessarily agree with it, because you have stated so today, but I hope you will convey that that is the way we feel.

Thank you very much.

SENATOR MCGREEVEY: Joe, may I ask just one--

SENATOR KYRILLOS: Very quickly, Senator, because we want to go to the Cabinet.

SENATOR MCGREEVEY: I want to be clear that the EPA does not require -- perhaps I am incorrect -- the model years 1981 to 1985 to be included under the minimal threshold standard.

MR. TIERNEY: In the performance standard under the Clean Air Act, all 1968 and newer vehicles are covered by the performance standard.

SENATOR MCGREEVEY: Is that 1968?

MR. TIERNEY: Yes, 1968. That is the established performance standard. States have the flexibility to go out and choose which model years are actually included in the program, as long as you meet conformance standards. So, for example, the State of Maryland has chosen to test only 1977 and newer vehicles. The State of Maine has chosen to test 1968 and newer vehicles. California is going to test 1966 and new vehicles. The model program establishes an emission reduction target, and you can design your program in a lot of different

ways. We spent quite a bit of time working with the State to design a program that they felt would meet the needs here.

SENATOR MCGREEVEY: But ultimately, inherent within the authority of the State to determine the application of the program in terms of frequency of testing, as well as specific model years designated or targeted.

MR. TIERNEY: Yes.

SENATOR MCGREEVEY: Thank you.

ASSEMBLYWOMAN OGDEN: Thank you very much.

At this time, we would like to call two Cabinet officials who are very involved with this: Commissioner Shinn and Commissioner Wilson. Commissioner Wilson, I understand you have already passed your time deadline. We apologize that it has taken this long, and you have been waiting. We didn't seem to be able to do it any other way.

Attorney General Poritz, would you like to come up now, or would you like to wait and come with the DMV Director and the others in your Department? Whichever way you would like to do it.

A T T Y. G E N E R A L D E B O R A H T. P O R I T Z:  
(speaking from audience) I don't think it matters a great deal. We can come up together after the Commissioners.

SENATOR KYRILLOS: Commissioner?

C O M M I S S I O N E R F R A N K J. W I L S O N:  
Chairwoman Ogden, Chairman Kyrillos, let me be the first to wish you "good afternoon."

Members of the Joint Committee: I want to preface my statements-- While they will be brief, I want to make sure that I preface my statements by stating that I am not here in any effort to champion the cause for an enhanced I/M program.

SENATOR KYRILLOS: Excuse me, Commissioner. Give the Commissioner your full attention, please. (addressed to members of audience)

COMMISSIONER WILSON: I am really here this afternoon in the spirit of full disclosure in an attempt to elaborate just a little bit on some of what we have heard about the sharp edges to this element of the law that we need to deal with. I want to focus my remarks specifically to the penalties or sanctions that we heard mentioned by the EPA representatives.

If we fail to pursue, in some form or fashion, this enhanced I/M program, we will be engaging, or encountering the equivalent of a bungy jump, with EPA holding one end of the cord. We will have to be rather remarkably lucky and rely on their good will to survive that experience.

You heard them testify that there is a great deal of complexity in how they apply sanctions. There is also a great deal of ambiguity as to--

SENATOR KYRILLOS: Excuse me, Commissioner. We are getting signals from the back of the room that they cannot hear. There is one microphone that amplifies. I think that is the one, the small one.

COMMISSIONER WILSON: There is a great deal of ambiguity involved in how these sanctions are applied. We have heard that an important trigger date was February 2 or 3, 1995. That is for new programs that need Federal support in some form or fashion. It is not just-- Let me say, it is not just EPA approval, but it is U.S. DOT approvals as well that are in jeopardy at that point. That is what I believe they refer to as the "hard floor" that they had no flexibility on.

There is another date that we believe, after reading their rules and regulations, is equally troublesome. That date is even sooner than February of '95. In fact, it is November 16 or 17 of this year. It appears to us that they have the discretion to withhold those permits for active projects anywhere between November and February -- November of '94, February of '95. There has been a fair amount of questioning that you directed to them with respect to the impact. They

quite obviously could not answer that in terms of dollars and cents. I would find it difficult to answer that, but I will give you our best estimates of what that impact would be for our State.

If we lose the ability to support the program in February, by summertime, by the Fourth of July, we would expect to have about \$100 million to \$200 million worth of projects put on hold. If there is a trigger in their discretionary act to find us in noncompliance before that, between November of '94 and February of '95, there is a whole set of other dilemmas that we have to face. There are active projects that we could lose Federal support and approvals on. Those projects could be in the design phase, the land acquisition phase, the construction phase, or even the contract amendment phase.

So while I can sit here and tell you our best guess is \$100 million to \$200 million by summer, there may be a ripple effect, a cascading effect, because if projects are stopped in various stages of implementation, we can then expect contractors to come back to us with change orders and claims that we would have no ability to deal with. When we restart that clock and restart those projects is very speculative, so therefore we cannot say what the extent of that secondary impact would be.

The third critical date for us beyond February would be March of '95. That is when we would be in a position normally to have a new program adopted by the State's Metropolitan Planning Organization. That is the entity that adopts our capital investment programs. Now, if we do not have a program that is consistent with the State implementation plan, then, in effect, we have nothing. At that point, we are looking at the loss of \$400 million to \$600 million on an annual basis. If you want to denominate that in terms of impact on the economy just in the construction industry alone, we would be looking at 20,000 jobs which would be sacrificed.

This is not meant to be a doomsday scenario. This is meant to illuminate what we read as the effect of a full application of these sanctions.

What I am concerned about is the EPA's judgment about our good-faith efforts to move toward an acceptable enhanced I/M program. If their judgment is that we are not operating in good faith, the pain comes more swiftly and more severely than you have heard before. That happens, as I said before, in November of this particular year. That is a cause for great concern. Therefore, I would say that while I may believe that this law is unreasonable and unworkable, and that we most certainly, as an administration and as a Legislature, as responsible regulators, need to work toward a more rational plan, we do need to continue, during this period of time, to demonstrate our willingness to work in a good-faith effort.

I want to commend the two Senators who testified at the lead of this hearing -- Senators Littell and LaRossa -- for having the courage to say publicly what many of us believe. I find myself, having been in a position such as that, taking the role of the agitator, the instigator, to ensure that there is adequate public debate over critical issues. I did it on the issue of employee trip reduction. That provision, and its law, much the same as the enhanced I/M, I felt was well-intentioned, but suffered from a flawed execution strategy.

At that time, my Department had the responsibility of seeing to its implementation. The choice we faced was to either become outlaws and deny the fact that it was the law of the land and needed to be followed until there was a more rational and sane approach to it, and/or pursue alternates very aggressively. Obviously, we chose to state very publicly and very emphatically what we felt about that ETR program. We are here today to tell you, and I think you have already heard and already share our sentiments about the rationality of this enhanced I/M program-- I am here to implore you to assist us

by giving us what I would consider essentially an insurance policy. Give us the statutory ability to continue to work toward this more rational approach, and not suffer these sanctions, these very draconian sanctions. I have only addressed the transportation sanctions. We have not even touched on the ones that you have already discussed regarding the stationary source, which would have a further negative impact on the State.

So what I would implore you to do is consider where we are with this; the fact that we do have to rely on the good will of the EPA not imposing those sanctions before February, although as we read it they can do that; and join us in working with them in finding a more reasonable, more rational approach to the enhanced I/M program.

I will conclude my remarks there, and will answer any questions you may have.

ASSEMBLYWOMAN OGDEN: Are there any questions from the members of the Assembly Committee?

ASSEMBLYWOMAN WRIGHT: I just want to thank the Commissioner. I am encouraged to hear that you are able to identify for us some of your concerns, and that you are as concerned as we are about how this will all come down. I think all of us believe we have the same goal, as Chairman Kyrillos pointed out. We do not vary in our focus on the goal, it is how it will be executed. You know, it doesn't sound like something -- no matter how many times we sit and listen to EPA officials -- they understand -- what it is like to live in the most densely populated State, with a really wide variety of programs and problems. I don't know if you can compare it to Arizona or Wyoming. It doesn't make sense.

So I really wanted to thank the Commissioner, and hope that he will continue to give us the benefit of his expertise. I am still not convinced that the I/M 240 is something -- a technology that needs to be investigated in this State.



SENATOR KYRILLOS: Senator MacInnes?

SENATOR MacINNES: Well, Commissioner Wilson, as a former Californian, I would like to welcome you to New Jersey.

I guess you are offering us a choice of swallowing a bitter medicine now, or we can swallow an even more bitter medicine later. If you don't give us anything that allows us to look forward to a sweetened dose of anything, then I think the testimony will be that this is a controversial and maybe unreasonable law, that despite that fact, we need to implement fully and quickly. Is that a fair capsule of your testimony?

COMMISSIONER WILSON: Almost. I am not going to comment on the fact that we do not have a silver bullet to present here today that says, "Here is the sweeter pill to swallow." The fact of the matter is, this is too much like another portion of that bill, and I referenced this, the employee trip reduction element of the law, which has, as you know, a very negative impact on the business in this State.

SENATOR MacINNES: Right.

COMMISSIONER WILSON: Our choices there were the same as they are here. We are actively committed to working toward something that we believe is more effective, more cost-effective, and more environmentally effective as well. That does take time.

What I fear, and what I want to deposit with you today, is that the issue can be wrenched away from us, or the decision can be taken away from us, if the EPA makes the wrong read about our intentions. In that case, I think the value added by my testimony here today is to tell you what I saw when I saw that trigger date happening, the kinds of impacts more likely to endure, and the fact that I, as one Commissioner in the administration -- and I know the sentiments shared by those who will testify -- am committed to working diligently to find that sweeter solution. It is just not available as we sit here today.

SENATOR MacINNES: Well, then what should be available to us when it is the legislation that would be required -- not only the regulations -- is to show a good-faith effort, so that we don't trigger an even worse alternative of having this what they call "protective ruling," or whatever it is, lifted as early as November. Right?

COMMISSIONER WILSON: Yes.

SENATOR MacINNES: We're talking about next month?

COMMISSIONER WILSON: Yes.

SENATOR MacINNES: So do you have legislation that you are prepared to share with us to be introduced? We are going to be back here Monday -- no, we're not -- next Tuesday, on the Senate side. Are we going to have legislation--

COMMISSIONER WILSON: I doubt it. I will defer to the Attorney General.

SENATOR KYRILLOS: Attorney General Poritz, please feel free to join your colleagues from the Cabinet at the table, if you would like.

ATTORNEY GENERAL PORITZ: Let me address that for you.

We submitted draft legislation to the Office of Legislative Services about 10 days ago. Immediately when this administration took office, we began negotiations with EPA to try to work out the best deal we could work out for New Jersey. That took some time. Those negotiations went back and forth. We met with our congressional delegation in Washington. Several times we met with the congressional delegation, Mary Nichols, the head of the Air Program at EPA in Washington, and we negotiated with the Region, all of this taking some time through the spring and a period of the summer.

We were then able to draft legislation when that process was completed. We submitted that to the Legislature about 10 days ago, and we have had meetings back and forth. There have been some revisions that have been suggested by staff. We have been working with staff to try to come up with

appropriate legislation to cover what EPA is requiring, and to give us the flexibility to do what we need to do.

So, you know, I can only say to you that we have worked as diligently as we possibly could to get that to you in as short a time frame as possible, given the deadlines. But we could only do that after we came into office and negotiated the deal with EPA.

SENATOR MacINNES: And that deal was deemed acceptable by EPA when -- or acceptable enough?

ATTORNEY GENERAL PORITZ: Well, that is hard to say. The main components of it were late spring, I would say, but then there were pieces of it that were still being worked out. Indeed, I will tell you in my prepared testimony about one piece that we are still working on.

The legislation, I would hope, would give us enough flexibility, and that is what we submitted to you. So as these pieces continue to fall into place, we will be able to implement them.

SENATOR MacINNES: So we could expect, as early as next Thursday, that the legislation would be available for introduction?

ATTORNEY GENERAL PORITZ: I had hoped it would have been available a week ago, but we are still working with staff, people in our departments, individuals in the Legislature, and so on, to try to work out some of the details.

SENATOR MacINNES: And you're still trying to convince Bob Littell to be the chief sponsor, from what I've heard. (laughter)

COMMISSIONER WILSON: Absolutely.

ATTORNEY GENERAL PORITZ: That would be an interesting session.

SENATOR MacINNES: Thank you very much.

SENATOR KYRILLOS: Commissioner Wilson, I think we are probably getting into the realm of general questions, and we do

want to hear from each of your colleagues before we really get into it all.

Let me just ask you a couple of quick questions: In essence, you are advocating -- tell me if I am wrong -- a two-track policy: On the one hand, many of us here, and perhaps you and the Governor, feel that this Federal mandate is too burdensome, too aggressive, too ambitious, and we need to deal with that as time goes on.

In the meantime, you are advocating legislation to codify the plan that the administration has worked out with the Federal government to avoid the sanctions that are due to come very, very quickly. Is that correct?

COMMISSIONER WILSON: That is a lot better summary than I could give on that. I think the Attorney General mentioned a key word -- I don't know exactly how the phrase is applied -- but flexibility in this statutory authority, so that we can then work toward a less costly, less intrusive method of doing this.

SENATOR KYRILLOS: Is anyone here today authorized to speak directly for the Governor? Is it the Governor's wish that we move ahead with legislation?

COMMISSIONER ROBERT C. SHINN, JR.: I have reviewed my testimony with the Governor relative to what my presentation is before the Legislature.

SENATOR KYRILLOS: You reviewed it with her. So we will hear from you in a minute then to hear, perhaps, what she feels.

Commissioner Wilson, one would think that all of business and industry would be here in this room today to say, "Hey, look, pass this bill, so that this two for one offset provision, which would shut off all future expansion for New Jersey's economy, doesn't set in." One would think that all those who favor the renewal on the extension of the Transportation Trust Fund, where there are probably fewer

transportation dollars at stake than the Federal transportation dollars that we might lose -- I may be wrong in that; correct me if I am -- would be here to say, "Hey, look, we don't like this. Please go and deal with it. We are going to contact our congressional people to try to deal with it for the long run, but now we don't want to jeopardize these transportation funds." But they are not here.

Is the administration, or should this Legislature be working with the business community, labor unions, and others that are concerned about the state of the economy, to get them to voice their opinion?

COMMISSIONER WILSON: There is no question but that their opinion would be much in line with what you articulated. I, for one -- I will speak for myself, and I know it to be true of others in the administration -- am working with business and labor to secure a transportation funding system. It is difficult to discount the importance of the Trust Fund. Even though it may not be of the same magnitude as Federal funds, without it we do not--

SENATOR KYRILLOS: Which is a bigger pot of money, the Trust Fund or the--

COMMISSIONER WILSON: The bigger pot annually would be the Federal money--

SENATOR KYRILLOS: The Federal money, yes.

COMMISSIONER WILSON: --but you do not get that if you do not have your corresponding share.

SENATOR KYRILLOS: You probably deal with people every day regarding that Transportation Trust Fund and whether or not it is going to be renewed -- from a whole array of New Jersey interests. Where are they today?

COMMISSIONER WILSON: It's every day, it's every night.

SENATOR KYRILLOS: I'm sure.

COMMISSIONER WILSON: Where they are is--

SENATOR KYRILLOS: Do they realize what is at stake?

COMMISSIONER WILSON: --foursquare behind the renewal of that Fund and the preservation of the Federal funds. I think that, while I shouldn't speak for them as a whole, they are confident that this administration does echo their sentiments when we appear here today and say, "As much as we don't like what we are being asked to do, we have to act reasonably and rationally to preserve that buying power, as we work equally hard to free ourselves from that burden."

I am not sure that their lack of appearance here should be read as disinterest or a different point of view.

SENATOR KYRILLOS: I think you are onto something with this two-track policy, but I think that if the administration feels that that is the right course of action, that it needs to do more to mobilize those political forces, because you have heard a lot of the rhetoric here today. You know, we can introduce a bill, but it has to be passed. All of the people we would normally hear from -- labor unions, contractors, utilities, businesspersons, and the like-- We do have someone from PSE&G who wants to speak today in favor of the bill.

All of the people who we would normally hear from regarding the Transportation Trust Fund or other economic development measures, we really have not heard from in this instance. So perhaps we need to do a little bit of climate shifting. Maybe in the next few days and weeks--

COMMISSIONER WILSON: I will accept the assignment.

SENATOR KYRILLOS: --we can all collectively work on that.

COMMISSIONER WILSON: Let me say that if you want an expression of interest that large, you are not going to hold the next hearing here. It would have to be in Giants' Stadium.

SENATOR KYRILLOS: With that, we will hear from Commissioner Shinn.

COMMISSIONER SHINN: Thank you, Chairpersons Kyrillos and Ogden. I am happy to be here. I think it is the first

time at a joint legislative hearing that I have been on this side of the table. So I'll let you know after the meeting whether it was a good or bad experience.

I think we have a couple of serious problems we have to deal with. One of the ones I committed to deal with is emptying the closet of the Department. Of some of the things that came out of the closet, I guess the Clean Air Act was sort of in the form of a gorilla. One of our mandates under the law, and certainly one of our priorities, was to get up to speed with the Clean Air Act: see what it really meant; what the reductions really amounted to; what was the best way to achieve the reductions; and to work with the Legislature to get through probably the toughest bill to implement that the Legislature or the Department has ever had to deal with. I think by the time we are finished with this Act, that will be a true statement.

The goal under the Act, if you look at it -- and I don't think we have looked at it in tons of pollutants reduced-- If you look at ozone and NOx, or VOCs and NOx, what ozone consists of, you are looking at a total of 373,000 tons of reductions per year. A combination -- 211,000 tons of that is NOx. That is a significant amount of pollutant reduction. That is to meet the standards that we have to achieve in 2005 and 2007. There are significant reductions of pollutants that have a health impact. I don't think we quantified the health impact well enough to make that a reason in people's minds why we need to implement this Act, but I can tell you that that amount of pollutant reduction, which amounts to about 75 percent of the ozone that is in the atmosphere that we are going to be reducing by this Act, is a valid mission, certainly from a health standpoint, and from an economic development standpoint, because we also have new growth in that pollution to deal with as we try to rebuild the economy in New Jersey.

So we are definitely at a point where we are behind the curve. I don't think we have talked enough about how far behind the curve we have been. We have been playing catch-up. I think the Attorney General alluded to that. We cannot put this State in a position of having our Transportation Improvement Plan frozen; of having our transportation funds denied New Jersey. We went through a period of that not too many years ago, and it was devastating to the State at that point. It would even be more devastating today.

We have not talked about the Federal government promulgating a Federal implementation plan. As bad as what we are doing, or what we are embarking on may be, I can assure you that that would be more costly on an inspection basis. We have talked to EPA about what they would do if they had to implement an I/M program, and they are talking about contracting it out on their behalf because they do not have staff abilities or budget abilities to do it. It would strictly be a contracted arrangement, somewhere in the \$40-per-vehicle area. I don't think we would serve our public well by doing that.

I guess what I am trying to say is, we have very few options left, and the time is running out. We talked a little bit about protective findings under the Clean Air Act. I think we have been well-served by EPA in their flexibility to allow us to continue under consistency determinations. We have been in negotiations -- as the Attorney General pointed out, and Commissioner Wilson pointed out -- and we have gotten some flexibility on enhanced I/M. ASME 5015 and the switch to controlled lines was a demonstration of that flexibility.

If we do not act now, if we cannot get the Legislature to implement the needed statutory ability to implement I/M, I feel that before February we would lose that protective finding for consistency with the Clean Air Act, and we could go into sanctions as early as November 15, 1994. That would mean that the Transportation Improvement Plan would lapse at this point.



We would have two to one offsets occurring August 2, 1995 -- this coming summer -- and highway funds sanctioned February 2, 1996.

I have always felt that if we ever got into the sanction mode, where we actually had sanctions applied to New Jersey, because of our situation relative to transport of NOx and VOCs from out of our -- not only out of our State region, but also out of the Ozone Transport Commission region, that we would never be able to recover from the transport of NOx and VOCs. Other states can achieve Clean Air Act statements without the draconian measures that New Jersey has to take. If we were isolated, the other states would wave at us and say, "Well, we have our plan together. Good luck." Particularly New Jersey, New York, and Connecticut are in that corridor which is significantly impacted by the west-to-east transport of air from high NOx, coal generating facilities, and certainly impacted from south to north air-- That combines to create a prevailing wind corridor that runs through New Jersey, New York, and Connecticut that transports a significant amount of NOx.

On the 7th of this past month, we had an opportunity to look at some modeling that EPA just completed, which takes the Ozone Transport Commission and applies the standards we are working with. New Jersey still cannot comply. We looked at Ohio, Western Pennsylvania, and West Virginia, and applied the reduction in NOx, and we still couldn't comply. We had to take that line all the way past the Midwest and include Illinois and Michigan and reduce NOx, in order to reach near compliance with the NOx standard.

I have a couple of charts that I would like to go over with the Committee, just to give you an idea of what -- an impression, I guess, of where we are in this process. (Commissioner Shinn moves away from microphone at this point to demonstrate with charts)

This is our 1990 Emission Inventory for New Jersey. I think you all have copies of this. It indicates highway sources at 33 percent on VOC, and 34 percent NOx. It talks about other major sources of NOx. That is basically background inventory where the contaminants come from.

This wonderful chart which is upside down -- I will turn it rightside up -- Emission Reductions Needed by 1996 to Comply with the Clean Air Act: Enhanced I/M, 41 percent of what we have to reduce; wastewater treatment, 5 percent; barge and tank loading -- which is basically vapor recovery, which we have already done at filling stations -- 11 percent; reasonable, available control technologies, 9 percent; other areas, 5 percent. The area of architectural and industrial coatings, 10 percent; employee trip reductions -- which Commissioner Wilson talked about -- roughly 3 percent, plus another percent for a total of 4 percent in that area; reformulated fuels, which are going to take place January 1 of this year-- They aren't, because oxigenated fuel is going to go to April in the northern part of the State and February in the southern part of the State. As of those dates, we will see reformulated -- what they call "Reform I," which is the first phase of reformulated fuel. The critical part of that chart is the I/M impact, 41 percent.

If you look at our total inventory -- and we spent quite a bit of time on this chart, because this is how we got there -- the blue part of this chart, the left-hand column, which is the VOC column, and this is the NOx column (demonstrating on chart), reasonable, available control technologies-- They have already been applied. Stationary sources. The yellow measure is called OTC NOx. That is the Ozone Transport Commission. That is applying the standards that were just adopted on the 27th of last month to NOx. You can see that that is a big part. Those additional reduced emissions, which originated in the PSE&G, Texaco, and Merck

proposals, .2 pounds of NOx per million BTUs. We modified that a little bit. We got 11 states to buy into our program at the 27th meeting. Two states dissented, but that was a strong message that we sent to the EPA that we need not only reductions in the Ozone Transport region, but we need to look at reductions outside the region that control the transport in. I think EPA responded well to that message.

Reformulated fuel -- which I call Reform I -- which will interphase after we finish with oxygenated fuels-- The comparison is like-- Oxygenated is 2.7 percent and Reform I is 2 percent, so we will still have a form of oxygenated fuel.

Enhanced I/M: The big part of both VOC and NOx, in the red area-- You can see that it is a significant part of the program. The white part is the part that we need of out-of-region contributions. We haven't gotten there yet -- the full program, both in VOC and NOx, and we need to address the transport issue that we have talked about to achieve those goals.

So we still have more to do in our overall program. You can see what it takes to get there. You can see what it takes to get there, and we can't leave anything out of the process.

This is probably the most critical chart -- Sanctions. We tried not to confuse this by taking other programs like the permit program, and we just focused on I/M. Our sanction clock really started February 2, 1994. We could lose the protective finding November 15. We need statutory authority in our scheme of things, because we have to have 30 percent of the inventoried vehicles inspected during 1995. We really need statutory authority somewhere between October 20 through early November, in order to meet these deadlines.

I know that sounds impossible, and it probably is, but I am working on it from a critical past standpoint of what we have to do to stay out of sanctions to comply with the Clean

Air Act. Again, November 15 is the potential lose of protective finding. Transportation Improvement Plans automatically lapse February 2; no flexibility relative to EPA. That happens. That is part of the statute and the regs. The two to one offset begins; in other words, reducing two tons of pollutant for every new industry you bring into New Jersey. That will happen August 2, 1995. The Highway Trust Fund Sanction: We will cease drawing down highway trust funds February 2.

So it is sort of a slippery slope that has nothing attractive to it. Once we start down that slope and we get out of sync with what other states are doing, and a, I guess -- I won't say a cooperative, but a good communications relationship with EPA, I think we will get to the point of no return. I guess my conclusion, after reviewing all this -- and I won't extend my testimony, because I think I have covered the salient points -- is that we need to ask the Legislature for its cooperation to get the five next-- (indiscernible comment from member of audience) Sorry about that.

We need to ask the Legislature for cooperation in implementing rules. Our rules are published, as the Attorney General stated. We published the rules based on the Federal law and the Federal regulations, so they are out for hearing and comment. But we need legislation to authorize the implementation of the I/M program at this point.

Thank you very much.

SENATOR KYRILLOS: Commissioner, I know the administration feels that we have to do the legislation, and do it very quickly. It is pursuant to the agreement that you and your Cabinet colleagues worked out with the Federal government. As I understand it, a copy of that agreement, or documentation thereof, has not been received by the Legislature. Our staffs and the Office of Legislative Services

tell me that it would be helpful in our crafting of a bill if we had that agreement. Is that possible?

COMMISSIONER SHINN: Oh, absolutely. I'm sure the Attorney General will provide that. They have basically been the lead, with Motor Vehicle, on the I/M program. We have worked on the reductions standpoint, and they have worked from the implementation standpoint. I'm sure they will provide that information for your review.

SENATOR KYRILLOS: My understanding is that an outline has been shared, but not the actual agreement. It would probably help us as we try to ascertain exactly what is absolutely necessary if we, indeed, had the agreement.

C. R I C H A R D K A M I N: Excuse me, Mr. Chairman, if I may-- In the handout that we submitted to you there is an outline. For all practical purposes, that, in fact, is the agreement. That is what we are working from. It is a very public document. So there is not a written agreement as you might think of one in a legal document, but--

SENATOR KYRILLOS: I have seen the outline, Director. You're saying there isn't anything else to back that up?

MR. KAMIN: That is correct.

SENATOR KYRILLOS: Is there anything signed?

MR. KAMIN: No.

SENATOR KYRILLOS: Is it a "gentlemen's agreement" of some sort?

ATTORNEY GENERAL PORITZ: No, no. I will go through, in my testimony, the components of the agreement. In order to save time, because we were hitting up against the deadline, we agreed that legislation and the implementing regulations would embody the agreement. So that was acceptable to EPA. If we had tried to reduce what we had to writing, then come up with legislation, and then come up with regulations, it would have prolonged the process. So we agreed to components of what

would appear in our regulations and how the program would be implemented. Then we all understood we would need authorizing legislation, and that that, in effect, that and the SIP submission, would embody the agreement, without the necessity for a signed document.

SENATOR KYRILLOS: Senator MacInnes?

SENATOR MacINNES: Commissioner Shinn, I want to confirm something that Senator Kyrillos asked you about in terms of your testimony representing the administration's position to the extent that it has been reviewed -- and, I assume, approved by the Governor. Is that correct?

COMMISSIONER SHINN: Obviously, I can't speak for the Governor. I went through the testimony on the same charts that I think you have in your packets with the Governor; went through the testimony I was going to give this Committee. She concurs with that position. The Governor expressed ongoing concern with the I/M program, the complications of it. She is going to stay in communication with other Governors as we go through this process. She has concerns for the employee trip reduction impact on certain areas. But generally, we have to get on with it.

I think that is the best I can represent the Governor's position. But I did go through this testimony with her. What I am telling you, is what she generally concurred with.

SENATOR MacINNES: So however difficult she may find it to swallow the Clean Air Act and its impact in New Jersey, she is in the position of having to request urgent action by the Legislature on implementing legislation. You mentioned October 20 as another date. Could you just--

I mean, we are talking about emergency legislation, in effect, aren't we? We don't have it drafted.

COMMISSIONER SHINN: We are at the point, if we are going to stay out of sanctions -- and I include in that the

ability to-- I think the amount of vehicles we have to inspect by January 1, 1996 is 30 percent of the inventory. Is that accurate? (no response) In order to meet that date, we have to have facilities on-line at least in our existing lanes to meet that 30 percent. That is going to be a difficult mission to accomplish, as you can appreciate.

I just tried to back up the dates and the sort of critical path flowchart. It comes out certainly between October 20 and 30 days from then that we really have to address the legislation. I apologize, on my behalf, for, I guess, the long reassessment that we did with the Act, but it included negotiations that embodied the Attorney General and Motor Vehicles' negotiations, a long debate over I/M 240 and 5015 technologies. We wanted to reassess the whole Operating Permits Program and integrate that into our program before we came and asked the Legislature for support.

So I apologize on our behalf. That is why I am here on bended knee asking for some help in implementing the program.

SENATOR MacINNES: Could you just describe briefly the implementing legislation that is going to be required, whether it would--

COMMISSIONER SHINN: On I/M, I would rather have the Attorney General do that, or Motor Vehicle, because they have been more intimately involved.

SENATOR MacINNES: Okay, all right. But there is nothing that comes-- I mean, basically the Motor Vehicles agency -- Division -- takes the lead on this, in implementing the Clean Air Act. There is no separate legislation your Department requires in order to implement whatever responsibilities you have under this plan, or they would be covered by--

COMMISSIONER SHINN: It would be embodied in the proposal by the Attorney General.

SENATOR MacINNES: Okay. Thank you, Commissioner.

ASSEMBLYWOMAN OGDEN: Questions? John?

ASSEMBLYMAN ROONEY: Commissioner, how are you? It's good seeing you.

COMMISSIONER SHINN: Good, John.

ASSEMBLYMAN ROONEY: I am going to ask you the same question I asked the EPA. The charts are dated 1990. I understand there has been a significant reduction in both VOCs and NOx emissions in the State. Do we have an update on where we are, where we stand?

COMMISSIONER SHINN: I can probably give you one of our technical people who can speak to that more directly than I can. But the emissions reduction came from actions that the State took on vapor recovery. Filling stations are one of the main areas, and several other points.

Is Chris still here? Chris does a lot of our modeling, our pollutants modeling, and tries to coordinate our modeling efforts on pollutant reduction, what we need, what EPA is telling us, and how we read their program. So I would like him to comment on what we have done relative to reductions so far.

C H R I S N. S A L M I: As the Commissioner has stated, we have the State's vapor recovery. We all know about our gas pumps. We have controls for the loading and unloading of gasoline onto barges. That was a major source. We have, of course, the Federal government, the fleet turnover, getting newer vehicles. That accounts for it. We have promulgated rules for what we call "reasonably available" control technology for volatile organic compounds, like hydrocarbons, as well as for oxides of nitrogen. In the past, we have not regulated oxides of nitrogen. It was a new finding of the Academy of Sciences that that does assist in the formation of ozone and participates in the chemistry in the atmosphere.

That was a quick list.



15SSEMBLYMAN ROONEY: But the question is: 1990 is the chart. It is 1994. Where are we relative to reducing the emissions now? What I am leading up to -- and I will just give you the go ahead -- is, I know the Commissioner is new; so is the Governor. This is a plan that, obviously, was first started under the Florio administration. At that time, we had these numbers, and these were the numbers we had to go on. Meanwhile, things have occurred to reduce the numbers of pollutants in the environment, and perhaps this is not the program that we need today. We may need a less stringent program.

Looking for something different: If we are down below levels that we were at in 1990, perhaps we can go back to EPA and say, "Hey look, it doesn't apply to the entire State," because we are the ones, I believe we are the only ones in the nation that are going to have to go for a statewide program. If we can get to some lesser number, it might be more palatable to have a program that only involves part of the State.

So that is where I am going. Then I would also like to continue that with: What about other alternatives? But let's get to the first part first.

MR. SALMI: We are in the process of compiling an inventory for the year 1993. It actually takes about two years to get all the data. We need data from the Department of Transportation; we need employment information to pull it all together. So we are in that process right now.

We also require, the major stationary sources -- which the Clean Air Act required -- to report to us each year on their emissions, and we are entering that information in the database.

COMMISSIONER SHINN: I think the important part is that, hopefully we will find from our '93 data update that we are making more progress than we have identified. If you look at the chart, the white area is the total VOCs and NOx for

emissions, which I concluded, going through this program, that New Jersey was unable to control, or didn't have a place to achieve those reductions without -- out of the OTC transport region control.

So what we concluded, and why we went through the -- beyond RACT NOx reductions, was that we needed lower reductions within the region significantly, but we also needed the EPA to look at out-of-region reductions along the same line, so that our transport was reduced both for NOx and VOC, and we could make up those areas that were being impacted from a prevailing wind standpoint.

So even if Chris finds that there is a 5 percent differential on what we achieve -- and I certainly hope it is there -- we still have much more to achieve to comply with the Act. Enhanced I/M is-- We just can't give up any of the gains that enhanced I/M gives us, as difficult as that program is.

ASSEMBLYMAN ROONEY: I think that is where we have a major difficulty. We do not see the benefits of the enhanced I/M. Basically, it is a system that tells you that you have a problem. It does not correct any of the problems. You know, we are not going to force cars off the road. We are forcing them to make \$450 worth of repairs, and yet we are saying that they can come back, and if they still haven't achieved that, then we are going to give them a pass for two more years.

The I/M program-- I could see it if we-- I have seen some of this, and I understand there is some testing being done. I, in my own municipality, have asked that the testing be done on additives -- fuel additives. I understand that the Jersey City Police Department used a particular additive, and they reduced their emissions down to practically zero on the particular items we have in question.

If our standards come up to the same thing, and if we can reduce them with additives, that is significantly reducing pollution. I/M only tells you that you have a pollution

problem. It doesn't do a damned thing for that vehicle. It just tells you, "That is a problem. Go get it fixed. If it is not fixed, you are still going to have the problem."

COMMISSIONER SHINN: I don't think the inspection lane does anything itself to repair pollution. It just identifies where you are in the process.

As you know, we have been supportive of the 49 state car, primarily because we are a Corridor State. We have a lot of out-of-state cars coming through New Jersey. Also, we get a benefit from transport of NOx and VOCs from cars that are operating outside the Ozone Transport Region. So we have been a very supportive advocate of that.

On-board diagnostics: We have been a supporter of the California style of on-board diagnostics. We think that will be a lot more effective in the long term than biennial inspection, because you are going to get a signal if your car is not operating properly, as you did on the way here today.

ASSEMBLYMAN ROONEY: This morning, right. Check engine.

COMMISSIONER SHINN: That is a quick signal. You don't want to wait two years for that signal to occur. So I think on-board diagnostics, as far as something that is going to help air pollution, will ultimately -- and it is not here yet; it is not even close to being here -- do more than inspection lanes for emissions.

Now, there are things that we are supporting. EPA is negotiating with the auto manufacturers. They are not here yet, but I think they would be of significant benefit to New Jersey.

ASSEMBLYMAN ROONEY: Bob, I am looking for-- What I would love to see is either DEP or EPA doing a pilot program on some of these additives. I have heard, and I can't prove it-- I want to do it on my own vehicles in my borough. I have heard that you can take these additives, and put them into the

vehicle. First, you go in and you get it inspected. You come back out, you put the additive into the vehicle, and within a day or so, the emissions drop to practically nothing.

Why haven't we done anything? Why aren't the gasoline companies doing something to pilot that type of a thing, instead of going to a program where all it does is measure. That is all we're doing. We are spending \$700 million to measure something.

COMMISSIONER SHINN: We have had a lot of comments about that device from many areas. All I ask is that somebody quantify the benefits of that device, and we will happily put it in our program. The last report I saw on that device was last week. NJIT did an analysis of it.

ASSEMBLYMAN ROONEY: No, no, it is a different device; a different device.

COMMISSIONER SHINN: Another device? Whatever device it is, I can tell you it is welcome, from my standpoint. Just quantify the results that are acceptable to EPA, and we will include it in our inventory reduction.

ASSEMBLYMAN ROONEY: It's totally different. The one at NJIT is a device that you put on the engine. The other is an additive that you add to gasoline that actually lowers the emissions.

COMMISSIONER SHINN: Okay.

ASSEMBLYMAN ROONEY: But these are the things that really bother me -- the \$700 million investment. What I am also seeing is that I don't really believe that the current testing of emissions is that much different than the kind we are going to. We are identifying the problems on emissions. We are talking about a system that is \$700 million and a system that we have existing now. The difference in those two measurement systems -- because that is all they are -- is very little. You may get a better graph or scope or all of this

other stuff, but it comes down to the fact that we are today rejecting vehicles.

Just ask my children, who have older cars. When they bring their vehicles to the inspection station, under the current system, they are getting rejected because of emission standards on the older vehicles. They go in and they try to get a chance to go back and get it reinspected. It is happening today. Seven hundred million dollars later, it is going to be a very sophisticated system, and it is not going to do a hell of a lot more than what we are doing today.

That is why I have a major problem with it. Let's start looking at some other things. I think some people may be here to testify to the past on additives -- fuel additives. There has to be pilot programs. There has to be other alternatives. I personally cannot support this. I think you have heard from around the table that there are a lot of other people who think as I do. You know, that is where I am at right now. I just wanted to clarify that. If there was any doubt in the audience, I wanted to clarify that.

COMMISSIONER SHINN: Okay.

ASSEMBLYWOMAN OGDEN: Are there any other questions?

SENATOR KYRILLOS: I don't think so.

ASSEMBLYWOMAN OGDEN: Good. Oh, Harry?

ASSEMBLYMAN MCENROE: Thank you, Madam Chair.

Just a short question for the Commissioner: You have been pursuing the air emission problems as they relate to emissions from power plants around the State. I know it represents a substantial part of the problem and it is being addressed in New Jersey. But now, you are a Commissioner in New Jersey. We understand and recognize that the problem is created, to a great degree, by those states westerly of our State.

Now, what kind of coordination, what kind of effort are they making? Is there a uniformity of effort? Is there

information disseminated by EPA to your office? Are you, as the Commissioner, pursuing information from Ohio, Pennsylvania, and Illinois that create this problem for us?

COMMISSIONER SHINN: We are on a conference call with the Ozone Transport Commission on about a weekly basis, primarily because of activities in different states. The negotiations are going on between EPA and the auto manufacturers, so we have 12 states and the District of Columbia. Usually, halfway through that conversation, Mary Nichols joins in, so we get updates among the states on an ongoing basis. As I said before, 11 of us -- or 10 states and the District of Columbia voted to lower NO<sub>x</sub> emissions throughout the Ozone Commission zone, and petitioned EPA to examine the transport issue and assure the states that are trying to conform to the Clean Air Act that transport would not be prohibitive for us to come into compliance.

So that resolution is before EPA. I think it was favorably received, and I think they are seriously looking at updating their modeling. I think their next completed modeling round is in March; that we will see more evidence of documentation of the transport impact. So that will be another date when we will have more significant information on transports.

Again, if you look at our 2005/2007 inventory of NO<sub>x</sub> and VOCs, we have more to achieve. I plan to submit a proposed November 15 SIP in compliance with the Act. It won't be a complete SIP, because it won't have legislative implementation, but it will propose to EPA what we plan to achieve in different areas. I call it a "proposed SIP." That is probably not a word recognized by the legislation, but I think it at least gives EPA where we propose and how we propose to achieve the goals under the Clean Air Act. That is an effort, quite frankly, to stay out of sanctions.

Thank you.

ASSEMBLYMAN MCENROE: Thank you.

ASSEMBLYWOMAN OGDEN: Thank you very much, Commissioner, if there are no more questions.

SENATOR KYRILLOS: I don't think so.

ASSEMBLYWOMAN OGDEN: Thank you.

SENATOR KYRILLOS: Madam Attorney General. Your hour has finally come.

ASSEMBLYWOMAN OGDEN: In the afternoon.

SENATOR KYRILLOS: Please join us and Director of DMV, Dick Kamin, our former colleague in the Legislature. Thanks for being with us. Also the Director's Special Assistant, Mike Santaniello.

Madam General, welcome. Thank you for waiting with us throughout the day. You'll have a pile of phone messages on your desk tomorrow morning, I suspect -- right? -- after having missed a day in the office.

ATTORNEY GENERAL PORITZ: I suspect so.

Thank you, Senator Kyrillos, Assemblywoman Ogden, and Senators and Assemblypersons generally, for allowing me to address you today on this issue.

I must emphasize that we are here because it is our goal, and I know it is everyone's goal, to comply with the Clean Air Act in the best way possible, and to reduce air pollution.

ASSEMBLYWOMAN OGDEN: Excuse me for just a moment. I think we have a problem again of people in the back not hearing. (brief discussion about microphones)

SENATOR KYRILLOS: I think unfortunately, Madam General, they are both kind of lousy, so you just have to do the best you can.

ATTORNEY GENERAL PORITZ: Okay.

MR. KAMIN: They are very directional. You have to be right into them.

ATTORNEY GENERAL PORITZ: Again, let me thank you for allowing me to address you on this important subject. While I think we all agree on the goal, that is, to reduce air pollution, there are major issues of concern to all of us about the implementation of that goal.

The methods for reaching that goal are detailed in regulations issued by the EPA. In the words of the 1990 Amendments to the Clean Air Act, the regulations are supposed to "provide the states with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer."

We have sought this flexibility. As I told you before, Commissioner Shinn and I initiated negotiations with EPA shortly after this administration took office. The purpose of those negotiations was to seek approval of a program that would clean our air and be both cost-conscious and convenient for the motorists and taxpayers of New Jersey.

During each of these negotiating sessions -- and there were many -- we steadfastly expressed our support for cleaner air and for the need to improve our current emission testing program. We also recognized that this goal could not be accomplished without some cost and some sacrifice.

I can assure you that we worked very hard to explore numerous alternatives that would result in cleaner air, while keeping program costs and inconvenience to an absolute minimum for New Jersey motorists.

With these precepts in mind, our negotiations with EPA focused on the best method to meet these goals. We believe that at this juncture we have obtained the best results possible in those negotiations; that we have obtained approval of a program that is substantially more motorist friendly than the model program proposed by EPA. That is not to say we obtained all that we sought, but that we were able to reach agreement on significant modifications.



You have asked about that agreement, and I will outline it for you. I would add that other states are now attempting to work with EPA to incorporate pieces of our agreement into their agreements with EPA. In some sense, what we have managed to achieve in those negotiations has become something of a model for other states.

Let me give you some of those modifications:

Instead of the fully centralized test-only system contained in EPA rules, we gained approval of a hybrid system, which you have been talking about here; one that allows newer vehicles to be tested and repaired at private inspection centers.

Again, you have been talking about the fact that we have obtained approval for testing every other year, rather than the every single year testing in the model program.

Instead of the "full I/M 240" originally proposed by EPA, New Jersey was the catalyst for EPA's development of a shorter Fast Pass/Fast Fail I/M 240 test.

Instead of EPA's pressure and purge tests, we gained EPA's approval of New Jersey's more effective, practical, and efficient alternative tests.

Instead of no self-inspections for fleets, we obtained limited self-inspections by fleet operators.

Instead of costly I/M 240 equipment for private inspection centers, we obtained approval of the less costly, but effective ASM 5015 test for use by these small business operators.

We accomplished all of this, and yet our program still meets the emission reduction standards contained in EPA's rules.

Our best estimate is that the entire program will cost motorists approximately \$28 per test, not including some oversight costs. In total, we will need between 106 and 133 centralized test-only lanes at a capital cost of between \$106 million and \$139 million.

Annual operating costs for the centralized system and oversight of the centralized and decentralized systems will be from \$55 million to \$64 million in costs. We expect that private inspection centers will need to invest between \$25,000 and \$30,000 to buy the equipment required to inspect vehicles.

As I stated to you earlier, during the negotiations with EPA, we met with our New Jersey congressional delegation. We took several trips down to Washington where we presented our concerns to the delegation, whose members worked with us and with senior EPA officials to help us obtain the flexibility from the EPA.

We received the unanimous support of the delegation on these issues. However, as a practical matter, I must tell you that the flexibility achievable under EPA's rules is limited. Thus, as I said earlier, we did not get everything on our wish list. In short, if we are to remain with the EPA's emission standards, our options are limited. We are still concerned.

So you may better understand the agreement we reached with EPA, I will briefly describe the major concerns we voiced during our negotiations. While some of the modifications that EPA has agreed to have ameliorated those concerns to a degree, we remain troubled about these issues and the impact they could have on the citizens of our State.

Our first concern is about the high cost of the I/M 240 test originally developed by EPA. In response to our determination on this issue, EPA developed the shorter Fast Pass/Fast Fail version of this test which, at the time, EPA assured us could test a minimum of 15 and up to 20 vehicles per hour. As you are aware, the number of vehicles that can be tested determines the number of lanes needed and, therefore, the cost of the program. Contrary to EPA's assertion that this test could handle at least 15 vehicles per hour, testing at our Wayne station, the first lane in the country to be operated in

a real-life inspection system, indicated that 10 to 12 vehicles per hour was a better number.

In September, in response to a Request for Information issued by the Division of Motor Vehicles, the Wayne throughput experience was confirmed by the leading private contractors in this field. This means that the cost estimates based on EPA's throughput of 15 vehicles per hour are erroneous and we will have to build more inspection lanes than we anticipated.

Our next point of concern was what EPA has labeled the "ping-pong" effect. You have heard that discussed here also. Without the ability of private sector stations to retest vehicles, motorists may end up repeatedly going back and forth between inspection stations and repair facilities. This problem is heightened by the fact that vehicles just marginally over the fail point may be very difficult to repair to meet the I/M 240 standards. Given this potential problem, the maximum participation by our private inspection centers was a key element in our negotiations.

I need to mention another issue that has arisen since we reached agreement with EPA, which is why I stated earlier that this is-- Although we have reached agreement on central and core issues, there are still peripheral issues and there are still matters that are in a state of flux. In late August of this year, EPA issued a memorandum advising the states that no test other than the I/M 240 would be acceptable to trigger the warranty coverage provided by auto manufacturers. This means that the owner of a new vehicle failing the ASM test will not be eligible for warranty coverage by the manufacturer. Since we only received this news -- in fact, we received an update on this, I think it was just yesterday -- we have not yet resolved this issue with EPA. We have had some conversations, and I understand there is some flexibility. We will work this out with them.

During the negotiations with EPA, all of these issues were discussed at length. Based on the studies EPA had performed and EPA's experience with the I/M 240, EPA officials adamantly refused to allow New Jersey the same level of credits for other tests that they were willing to allow for the I/M 240. As a result of this impasse, however, EPA agreed further studies on the I/M 240 could be performed, and, based upon the results of those studies, that we would reopen negotiations to change, to modify, to amend our agreement. In order to mitigate the operational impact, that is, the negative impact of problems presented by the I/M 240, such as excessive wait times or lanes shut down due to equipment failure, EPA agreed to allow New Jersey to use a "switch" mechanism that would result in the test type to change from the I/M 240 to the faster ASM 5015. The conditions of that switch will be detailed for you by Director Kamin.

Our ping-pong effect and repairability concerns also were not shared by EPA. EPA officials remain staunch in their belief that a test-and-repair system cannot achieve the emission reductions required, and that the answer to these concerns is an effective training program for the repair industry. We initially sought to mitigate the repair/retest problem by having all vehicles eligible to have initial tests, repairs, and final retests conducted in private inspection centers. EPA ultimately agreed to approved private inspection center involvement limited to initial test and retest on vehicles four years old and newer, with no option for repair and final retest on older vehicles.

During the negotiations, we also were cognizant of the fact that studies are continuing nationwide to fashion more effective and efficient inspection programs. Mention was made of remote sensing earlier. As part of its agreement with EPA, we get the benefit of California testing. As you were told earlier, California has committed to performing a variety of

studies to assess the viability of alternative tests and, again, remote sensing technology. We, in our agreement with EPA, will get the advantage of those studies, and we will be able to renegotiate terms based on those studies, if they provide viability and testing options.

We are staying in constant touch with other states, and are sharing our operational know-how in order to ensure that the very best contributions of each affected state are brought together to create the best solutions. Governor Whitman is steadfast in her desire to honor her commitment to achieving an effective enhanced inspection system as required by the Clean Air Act Amendments of 1990, but by doing it in a way that will enable us to take advantage of new and more effective technologies as they are developed.

You have heard that we are facing extremely tight deadlines. If we do not meet these deadlines, New Jersey faces grave consequences. You have heard about the Federal sanctions that include the loss of transportation funds and additional stationary source offsets. You have heard about these sanctions from others today. We must have our State implementation plan filed and deemed complete by EPA no later than February 2, 1995.

The SIP must include statutory authority and regulations that authorize the I/M program. That statutory authority must give us the ability to permit New Jersey to take full advantage of the agreement that we reached with EPA, or to modify that agreement as we obtain the results of ongoing studies in New Jersey and elsewhere. That statutory authority must permit the administration to proceed with the most cost-effective system possible. While we monitor the activities of other states to ensure that we do that, that we do deliver the best system possible, Governor Whitman asks that you move forward on the legislative front. The Division of Motor Vehicles cannot propose their required regulations

without the statutory authority to do so. This will take your legislative action. Therefore, we are asking you to act now to introduce and have legislation enacted by October 20.

This is essential if we are to avoid the Federal sanction clock without emergency exemption from the provisions of our Administrative Procedures Act.

I cannot emphasize too strongly that what we seek is authorization to comply. We are in constant touch with other states. We are working continuously to obtain a means of compliance that will work. As we learn more from the private sector, from experience in other working lanes, and from studies, we will obtain the modifications we need to achieve clean air in a reasonable way. We need the flexibility to achieve this goal. We need legislation that will give us that flexibility.

Thank you for your attention and your consideration.

ASSEMBLYWOMAN OGDEN: Thank you very much, Attorney General.

Are there any questions?

ASSEMBLYMAN ROONEY: I can only state that I wish I had heard this testimony before the EPA, because I don't think they would have gotten out of this room without being tarred and feathered.

I appreciate your testimony, Attorney General, and what you have gone through. I don't think a lot of us were aware of that -- what the EPA is really doing to us. It is a lot clearer for me today.

ATTORNEY GENERAL PORITZ: There are a couple of things. One of the individuals from Washington who was here from the EPA had to leave earlier. So, although it might have been better to switch the testimony around, that was impossible.

I would also like to add that there were several levels to this. One level is required by Congress. I mean, we have Clean Air Act implementation and direct mandates from

congressional legislation that we have to deal with. There are EPA requirements that come through implementing the mandates of the Clean Air Act and through the EPA regulations. There are issues that we have been dealing with. All of this is a balancing. I mean, no one is saying that-- You know, you give a little here and you push a little there, and the equation changes slightly, but overall there is a level of compliance that is mandated. There is pollution reduction that is mandated by certain dates.

We are trying to work within those parameters to make this feasible and reasonable.

ASSEMBLYMAN ROONEY: One of the things that bothers me is the intent of legislation. This is often different than what we see in the regulations. I think Mr. Shinn and Mr. Kamin were two of the people who complained most bitterly about that in previous administrations.

The one thing that I cannot believe is that Congress intended for the regulations to call out for this I/M 240 system. This one system is being promulgated across this as if it were Federal legislation. It's not. It's the EPA, and they are doing what they are doing. They are pushing this.

One question I would have is: How many companies actually can deliver this particular system?

ATTORNEY GENERAL PORITZ: Well, I think the gentleman from EPA is going to provide the list.

MR. KAMIN: Four or five.

ATTORNEY GENERAL PORITZ: There are four or five companies that can provide this system.

ASSEMBLYMAN ROONEY: I would like to find the stockholders of those companies also, and see how many people from EPA own stock in them.

ATTORNEY GENERAL PORITZ: There are studies going on. As Assemblywoman Ogden pointed out, there is the remote sensing

system. There should be information about that system from California very shortly.

ASSEMBLYMAN ROONEY: Remote sensing does not cost \$700 million. This system is the one that is going to kill us.

ATTORNEY GENERAL PORITZ: Remote sensing certainly doesn't.

ASSEMBLYMAN ROONEY: Right, and it is a lot better than what we've got here.

ATTORNEY GENERAL PORITZ: All I can say to you is that right now, this is the system that we are being required to implement. And right now, this, we believe, is the best deal we could negotiate.

Now, we are watching very closely what is happening in other states. We will continue-- I think Director Kamin and Mike Santaniello can tell you a little bit about what other things we are looking at.

ASSEMBLYMAN ROONEY: The only point I am making, though, is that Federal legislation is legislation that we have to comply with. But when we are directed and mandated to go down one particular path by regulation, instead of legislation, it is totally different. I don't think that there is the same requirement that we have to comply with these regs that say, "You have to buy this system."

As I said before, and I will say it again, this does not do one damned thing to clean the vehicle. It measures what is coming out of the vehicle. It may measure it better than the system we have. What I am going to ask Dick, when he gets up is: How many vehicles do we reject on a daily basis? I don't think we are going to wind up with any more.

I will just throw this out: What I see as a problem is, you talk about ping-pong. I know the situation; I know from experience, as I said, with my children with the older vehicles. They go down to Motor Vehicles. They get rejected under the present system. They go to the local shop, and they



get it repaired. They get a sticker from the same guy who repairs the vehicle. Now, do we have a little conflict here? Do we have a situation if they really went back to Motor Vehicles? They would probably get rejected again, because the car can't make it. It is an older vehicle. That is what is probably causing the additional pollution and the continuation of that system.

This system isn't going to do any better. It is going to measure it better, kick it out, and give you the time and the dollars. It is going to put our people in jeopardy. This is what we object to.

ATTORNEY GENERAL PORITZ: Under this system with the older cars, you will have to go back to the central lanes. So it will catch cars if they have not been fixed properly.

ASSEMBLYMAN ROONEY: So they are going to pass for two years.

ATTORNEY GENERAL PORITZ: I'll go back to the image that I used before of the balloon, of pushing in here and it comes out someplace else, because there is a certain amount of air in it. Again, this is a matter of balancing. If we didn't have an I/M 240 test in our system, and if we didn't implement this program, you could shut down all the stationary sources and find another way to implement this. I don't think that would be at all helpful to our economy.

We are dealing with, you know, what we can do the best with; that is, these are our options, these are the paths we are trying to take. It is a matter of trying to leave as many of those options open and trying to balance one against the other. You know, what can we live with to achieve what we are being required to achieve?

ASSEMBLYWOMAN OGDEN: I just have a couple of questions here: Number 2 in the outline here, the I/M agreement with EPA, the vehicles covered-- Does this mean,

when it says "all heavy-duty gas trucks," that diesel trucks are not part of this?

MR. KAMIN: That is correct.

ATTORNEY GENERAL PORITZ: That is correct.

ASSEMBLYWOMAN OGDEN: You know, I receive more complaints about diesel trucks than anything else. I don't think we can go forward with legislation along these lines in which we do not also include diesel trucks.

ASSEMBLYMAN ROONEY: And buses.

ASSEMBLYWOMAN OGDEN: And buses.

ASSEMBLYMAN ROONEY: Particularly buses.

MR. KAMIN: Madam Chairman, if I may-- Working with you, you have probably been the leading legislator on behalf of getting legislation into place to address diesel trucks and buses. In fact, you have legislation that is already introduced -- we are working with your staff -- a program, coupled with the Division of Motor Vehicles and the Division of State Police to inspect annually 100,000 trucks. The buses will continue to be handled by the Department of Transportation. The Division of Motor Vehicles will continue to inspect school buses twice a year. But that will have a significant impact on the pollutants, the ones that your legislative office hears about, the dump truck that has somehow bypassed the equipment and is spewing out the hydrocarbons you see. An aggressive program inspecting 100,000 trucks a year will catch those types of polluters.

ATTORNEY GENERAL PORITZ: I would like to add -- and I think this is somewhat responsive to your question before -- I believe that 22 percent of the vehicles that are inspected now in the safety inspection flunked that inspection for one reason or another. We are talking, as we said earlier, about a third of the vehicles tested would flunk the emissions -- the I/M 240 test.

ASSEMBLYMAN ROONEY: Oh, big deal.

ASSEMBLYWOMAN OGDEN: I also note in your testimony that the private inspection centers would have to spend somewhere between \$25,000 and \$30,000 to buy this repair grade testing equipment. With the major gas companies -- as I hear from local gas stations -- raising their rents, I have, you know, real doubts as to whether they are going to come up with an additional \$25,000 to \$30,000 to get involved in the testing.

Do you envision that the State is going to have some incentives to encourage that?

ATTORNEY GENERAL PORITZ: We have been having discussions about possible EDA loans or other ways to help the smallest stations that want to get into this business. We are aware of the costs and what it means to the smaller businesses, and we are trying to look for ways to help them, should they wish to get into this.

We have to have enough of the private stations involved, so that we can repair these vehicles. Another issue for us is making sure that people are well-trained, so the vehicles can properly be repaired and can get back to the centralized lanes and pass the tests they need to pass. So we are working on both of those issues.

ASSEMBLYWOMAN OGDEN: I think in Pennsylvania the county colleges are going to offer courses. Possibly that is what we should be thinking of, too.

Do you have any other questions, Joe?

SENATOR KYRILLOS: Thank you, Assemblywoman.

I think you are quite right to be concerned about the private inspection centers. I guess there are 4000 of them now. We need to help those places ease into this new system, because if people can't go there -- if the cars that are four years old or newer can't go there -- we are really further stressing the already very stressed central lanes. I know you are sensitive about that.

Before we get to that point, before we evolve to that point in New Jersey, we have to implement this plan. We have to pass legislation.

I want to commend you, Madam Attorney General and Director Kamin, for all the work you have done heretofore in dealing with the Federal government. I think the July agreement that you worked out is really much better than previous plans were. We have come a long way. You are quite right to point out that other states are now saying, "We would like to get the kind of deal that the New Jersey administration sought."

But the body politic here, the climate, is not such to move this plan forward. So I would like to ask you, now that you have worked out an agreement and we have to pass it via legislation, what plans does the administration have to try to build the kind of climate by which we can avoid sanctions? For the very first time today, we heard you say that the Governor wants us to pass a bill. I know from my private conversation with her recently that she is concerned. I think we need to hear a bit more, because I think you know from the rhetoric we have heard today that we have a ways to go.

ATTORNEY GENERAL PORITZ: I would thank you and Chairperson Ogden, because I think this kind of a Committee hearing where this information is brought forth is part of that process. It is this process that will help to educate New Jersey residents about what this is all about. Certainly, the administration is committed to doing that. This is a very complicated program. You have been patient in sitting here for hours listening to a lot of us talk about the complications of it. That does not take away from our obligation to explain it to the public. In fact, that probably increases our obligation to do so, and we are very mindful of that.

The Governor has been very concerned. You were told earlier that she has been in contact with other Governors. She

is aware of what is going on in other states. One of the components of our agreement with EPA that was of great concern to her was our ability to take advantage of whatever was happening in other states, and that there be flexibility.

Really what we are saying is, we are trying to walk down the path of compliance, while we keep open all of the options that we possibly can keep open, and that we need your help to walk down the path of compliance as we do that, and the Governor does support that. I can't tell you that we are all, you know, overjoyed at having to deal with this problem in this way, but we are doing the best we can with it and we will reach out and try to educate people about it.

SENATOR KYRILLOS: I would urge you to do that as part of your responsibility of carrying out the law and managing the government, to reach out to business, industry, labor, and others who have a lot at stake, should the legislation not pass.

Go ahead. I'm sorry.

ATTORNEY GENERAL PORITZ: I understand that PSE&G, the Petroleum Council, the Business and Industry Association, the State Chamber of Commerce, Bayway Refinery, the Chemical Industry Council, the Auto Dealers Association, Schering-Plough, that they have all indicated a willingness, if there is time, to even testify here. But there is information-- I know Commissioner Shinn has been working very closely with a lot of industry leaders. I think it is very important that we get this message out to the public, but certainly there are, at this point, a lot of people who are aware, who are interested, and who are able to testify before this Committee.

SENATOR KYRILLOS: Beyond that, once those kinds of forces are mobilized and we have achieved some kind of a climate shift, and the plan is implemented -- assuming that it is, and can be -- is the administration prepared to deal with neighboring states -- other state governments -- in trying to

achieve more flexibility statutorily for the long run, vis-a-vis these Clean Air Act Amendments?

ATTORNEY GENERAL PORITZ: We are in constant communication with neighboring states, and not-so-neighboring states, some more distant. When we spoke to our congressional delegation earlier in the spring -- and things do change -- the general tenor of the conversation was that the Clean Air Act was the Clean Air Act, and that the flexibility that we could obtain, we should obtain through negotiations with EPA, which is what we did. The delegation helped us. I have to say that they were extremely helpful, and we all met together with high-up officials at EPA. But I think that, you know, as we work through this, as we keep informed and work with other states, that may change. It is very difficult to predict.

What we need to do is keep all of these options open. I know I am going to sound like a broken record, but one of those options is legislation that enables us to do this.

SENATOR KYRILLOS: I realize that, but I know there are members who feel that in order for them to pass on legislation, they need some assurances that, in a very organized and concerted way, the administration is moving forward on some of the long-range and systemic problems that are embodied in the Clean Air Act Amendments. So that is food for thought.

ATTORNEY GENERAL PORITZ: I understand your concerns. That is one of the reasons that we insisted, and are writing into our SIP that a State implementation plan -- that we get the advantage of whatever positive results appear in other studies.

ASSEMBLYMAN MCENROE: Just a question.

ASSEMBLYWOMAN OGDEN: Harry?

ASSEMBLYMAN MCENROE: Thank you, Madam Chair.

I have a question for General Poritz: General, in your prepared testimony you make a plea for enactment of

legislation by October 20. Today is October 6. That is an ambitious schedule, at best. You comment on page 7: "This is essential" -- referring to enactment by October 20 -- "if we are to avoid the Federal sanction clock without emergency exemption from the provisions of our Administrative Procedures Act."

Could you expand on that "without emergency exemption"? Are there negotiations going on? Is your Department making an effort to--

ATTORNEY GENERAL PORITZ: We could draft, and you could, if you chose to -- and I don't know that this is desirable, but it is possible -- in the very legislation that you pass authorizing us to comply with the Clean Air Act requirements-- You could provide a shortened time frame or a different method of complying with the Administrative Procedures Act so that we could implement regulations more quickly.

I am hesitant to ask for that. We could, you know, try to do the regulations on an expedited basis, We have prepared regulations that are ready to go if you pass this legislation -- which I hope you will do -- so we are ready. But it is a matter of the time frames imposed by the Administrative Procedures Act, and it is a matter of requirements under the Clean Air Act. There, also, the Federal government requires certain time frames, comment periods, public hearings, and so on. So we are sort of caught in a vise between the two. There could be some relief in this very legislation from some of the time frames of our State Administrative Procedures Act, which are more lengthy than the Federal requirements. But we would still have to have hearings. We would still have to have a comment period.

ASSEMBLYMAN MCENROE: But is there anything in the Federal Administration Act that imposes absolute requirements that we comply, or is there still an opportunity for you, as

our Attorney General, to find flexibility or allow for emergency reconsideration of the Federal Act?

ATTORNEY GENERAL PORITZ: I believe that the Federal officials who spoke to you today were telling the truth on that score; that there is no flexibility. We are up against the February 2 time frame. I know of no flexibility that is available.

ASSEMBLYMAN MCENROE: There is no current negotiation between your Department and the Federal EPA on that as to compliance and scheduling?

ATTORNEY GENERAL PORITZ: Well, only because we have been assured that there is no possibility that that is so. I mean, certainly we have broached the subject of flexibility in time frames, but we have been told there is no flexibility on that score.

ASSEMBLYMAN MCENROE: Thank you very much. Thank you.

ASSEMBLYMAN ROONEY: I have to leave in a few minutes, but I didn't want to leave without commenting on having people testify. I think it is mainly people from the Business and Industry Association. I respect them, and I respect a lot of the people involved in it. However, they are not the people who should be testifying on this bill. They are the other two-thirds. Basically, what I see is that the one-third of the driving population, basically the general public, are going to be paying to reduce the NOx, the VOCs, and all the other stuff. I don't see anything happening the other way.

Yes, I believe there is a push from Business and Industry to say, "Yes, let the motoring public take the flack on this." That bothers me. I want to hear from some consumer groups, you know, basically people who represent the people we are trying to screw, per se. I mean, I can't think of a better word. When the motoring public finds out about what it is going to cost them and what it is going to cost the State, this is going to be devastating on a lot of people.



ATTORNEY GENERAL PORITZ: I can only repeat that, again, this is a balancing. If the requirements are restructured so that you don't have an I/M 240 requirement, you will close down industry in this State. That will be, indeed, as destructive. We will lose jobs. We will not get, certainly, any new industry.

ASSEMBLYMAN ROONEY: I think this will close down industry, too, because a lot of people will decide they don't need New Jersey and what New Jersey costs. I am a local official also. I am already feeling the effect of it with the shift from commercial/industrial properties in the valuations in the communities to the residential property owners, people moving out on a massive scale, and saying, "The hell with New Jersey. We don't need high property taxes. We don't need higher automobile taxes."

These are the things that are hurting the people in New Jersey. Everything we do seems to be-- I wouldn't mind, I wouldn't have a problem in the world with this and with the appropriation, if I/M 240 actually did something to reduce the pollution. It doesn't; it doesn't do one damned thing. It measures the pollution better. Your own statistics: If it is 20 percent, or 20-plus percent rejection rate and we reject 33 percent, we are not gaining a 41 percent increase in lowering the emissions. We are not doing that at all. We are picking up those extra people.

If we took that now, in the system we have now-- As you said, you are not going to be able to retest at a local station. You have to retest, I would say, at least one time after you make that initial-- Try it for a year. Get some sort of a stay. Do it for six months. Reject them at your stations, Dick. Tell them they have to come back to this station after they have done their repairs, and then test their emissions again under the present system. I'll bet you dollars to donuts that those people do not pass in massive numbers. We

will have reduced the emissions the same way we will do with I/M 240. I/M 240, to me, is no panacea. Everybody talks as if it is going to do something and reduce emissions. It won't do a damned thing.

Let's look at something else. Let's look at adding fuel additives. Let's look at, basically, the chemical companies. The chemical industry can do something about adding to fuel. The fuel companies can do something about reducing the emissions. Why the hell put the burden on the driving population of New Jersey? That is my point.

I'm sorry, but I do have to leave. I have another meeting. I will listen for a few minutes, though.

MR. KAMIN: There are a couple of areas where we are working with the New Jersey Institute of Technology. California, in fact, is running tests. Other areas of the industry in other states-- Their think tanks are working. I think you will see an evolution of technology and methods during the next several months.

ASSEMBLYMAN ROONEY: Then let's get a delay of six months to a year on the program.

MR. KAMIN: However, we need this legislation that we have submitted to you for consideration passed, to give us the flexibility to continue these ongoing negotiations that were, in fact, outlined by the Attorney General.

ATTORNEY GENERAL PORITZ: I would also add that the I/M 240 tests -- and I don't want to sit here and become a proponent of the test -- but it will catch, certainly, those cars that are the heavy polluters, and the marginal polluters as well. What will happen is, in order to come back and pass the test, those cars will have to be repaired. They are -- and I think this is correct, it was stated by EPA officials-- That is a large component of the piece in this State that will clean up the air. It is the cheapest component, by far.

Now, I am not a proponent of the particular test. I think the jury is out on other possibilities. But cleaning up vehicle emissions is, at this point even with that test, the most cost-effective way to reach the Clean Air Act standards. I don't think we can contest that fact. What we might work on, and what we are working on is, are there more effective, more efficient--

ASSEMBLYMAN ROONEY: More economical.

ATTORNEY GENERAL PORITZ: --more cost-effective ways than the I/M 240? The legislation we are asking for will give us the ability to move forward, at the same time we are exploring those other options.

ASSEMBLYMAN ROONEY: If it doesn't have a \$700 million appropriation, I might vote for it.

ASSEMBLYWOMAN OGDEN: Thank you very much.

Director Kamin?

MR. KAMIN: Good afternoon, Madam Chairman, Mr. Chairman, and members of the Committee. Six months ago, I never thought I would be sitting on this side of the aisle in partnership with the EPA. I also thought I would never have an opportunity necessarily to thank the EPA, but I am here today to do just that -- to thank the Environmental Protection Agency for their response to a suggestion from New Jersey that we eliminate the filler pipe test that we had to do to check for lead -- to check for using leaded gasoline. Since there is no longer leaded gasoline sold anywhere, we recommended to them that they eliminate that requirement. In fact, EPA can be responsive, and can adjust their regulations and statutes if given the proper motivation.

I wrote a letter just yesterday to thank Administrator Mary Nichols for her approval, and I look forward to other areas of cooperation between New Jersey and the EPA in working out something that is affordable and a program that will help to get, as Chairman Kyrillos has outlined, clean air.

This is a very enlightened Committee. Perhaps in the interest of time-- We did bring a videotape of what the Wayne lane, in fact, looks like. I hate to miss an opportunity to help to educate the public, but since most of your Committee is, in fact, familiar with that, it is up to you as to whether or not you would like to see that. It runs about five minutes.

ASSEMBLYWOMAN OGDEN: I think we have lost most of our Committee, so--

MR. KAMIN: Okay. Let me just focus, then--

SENATOR KYRILLOS: You know, Dick, it may be helpful if copies can be made to get them to the members of the Committee.

MR. KAMIN: We will leave you that and copies can be made, or it can be viewed whenever the Committee chooses to review it.

I will just highlight a couple of areas that I consider to be very important.

The Attorney General outlined the balance, the horse trading, if you will. Anything we give up in the mobile sources has to be picked up somewhere. We are 41 percent of the pie, as outlined by Commissioner Shinn. What you, as legislators, are going to care about as well, including the effectiveness of clean air, is how it impacts your district. We submitted maps, which are part of your packets that came from Motor Vehicles. What that shows is the failure rates and the cars that are likely to fail.

Now, EPA models have indicated that older cars, those that are older than four years, are likely to fail on an average rate of 36 percent. The fleet will fail at an average rate of 30 percent, taking all the cars, even those that go to PICs. Taken also into account, is that some of the cars -- model years '81 to '87 -- because of the way they were manufactured, their failure rates there could, in fact, be, under EPA models, as high as 46 percent.

Now, there was a question, I believe from Senator McGreevey, earlier on about why we are going all the way back to 1968. The EPA testified, "Well, you don't have to go back to '68. Some states are 1977." Again, it is this horse trading that we have to go through. We have chosen to go back to 1968 because of the very reason as outlined by Assemblywoman Ogden, the older cars tend to be the polluters. We are going to inspect all of those. It is going to be every other year, but we are going to go from 1968 forward. Cars that are older than 1968, in fact, will not have to come in for emissions. They will be checked for safety, as we envision it. It is also a very infinitesimal amount of the vehicle population -- those cars that are prior to 1968.

What Senator McGreevey indicated was that we could, perhaps, only inspect more recent model cars. We could do that, but then we would have to raise the failure rates, or EPA would tell us that the failure rates, the cut points, would be different.

What this new test is going to do is require, by make and model, a particular cut point. Right now, in our inspection lanes, we check for hydrocarbons, we check for carbon monoxide. The new test is going to check for those oxides of nitrogen, the NOx. They are going to capture the entire plumb, and you are going to have that done on the dynamometer, running the car under low conditions. That is why the test is much longer.

We also point out that we have been working extensively on our evaluations of not only the test procedure, but also how much it is going to cost. We think, since we have the only effective centralized system in the country, that we have a better sense of what a centralized system is going to cost, than do those who are building, or planning to build systems. We think that is one of the reasons why Maine ran into the problems they did.

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Maine's program is costing \$43 million to build 20 lanes for seven years, and they are only handling about 255,000 cars a year. The Pennsylvania program is yet to be unfolded, but it is supposed to go into effect in January. It is projected to cost \$355 million to build 287 lanes. The contract was for seven years, and they handle about three million cars annually. They wanted to have an entirely centralized system. That is why the legislature has acted in the manner they have, as outlined by Senator Littell earlier today.

Our arrangement is to have 30 percent of the fleet to go to PICs, or eligible to go to PICs; the remaining 70 percent to go to a centralized lane. We are probably going to handle 2,300,000 cars a year and, again, the centralized lane because the EPA regulation for the older cars requires the test, then the repair, and then back to the test.

I must reemphasize, on behalf of the administration and the Attorney General, the emphasis on an expedited response on this legislation. That February 2, 1995 date is a real date. The December 31, 1995 date is also a real date when we are to have inspected 30 percent of our fleet.

We also helped to build into our agreement another, I think, important point; that is, we will be doing a study with our system from January 1, 1995 -- excuse me, 1996 to July 1, 1996. It is after that point in time that we will be able to make a final determination whether the ASM 5015 -- a test that we believe is, in fact, as good -- or the I/M 240 becomes the rule of the day.

We also have the other important component of our agreement; that is the fact that we have built in a switch. We already know, from the contractor's testimony at the Request for Information hearing, that a throughput of 15 cars per hour is, in the words of one contractor, "impossible." In fact, 10 to 12 is the more realistic number.

I will tell you that also in the real world, contractors are building systems sized at a 35 percent efficiency rate. The lower the number, the more lanes you have to build. That is what the contractors are doing. We are making our estimates based on a 50 percent efficiency rating. That means that the lanes would operate at a fully loaded capacity half of the time. A fully loaded lane is when there are people waiting to go into the chute.

My final point on the switch is that if the lines were to be longer than 45 minutes, that we would be able to switch to the alternative test, the accelerated simulation mode 5015, the test that we believe is much more cost-effective and will be as effective in targeting the bad cars and getting them off the roads.

With that, I will conclude my remarks and respond to any questions any members of the Committee may have.

ASSEMBLYWOMAN OGDEN: Dick, I noted in reviewing the chart on the other states that they all have private systems. As you said earlier in your testimony, we are the only ones having a centralized system, a centralized system operated by government.

Is it your understanding -- or maybe I should ask this question of the Attorney General -- that you need authority from the Legislature to pursue privatization?

ATTORNEY GENERAL PORITZ: Yes, it is, Assemblywoman. In the draft legislation that we prepared, we included authority to go out to privatize the system, if that was the most cost-effective way to handle this. At this point, after having gone out with a Request for Information and had a meeting with representatives from private industry who are involved in this business, we are reaching the point where we have a very good idea of what is involved, what kind of system private industry can do, and what they can put together for us,

so we could prepare an RFP and see what kinds of results we would get out of that. We have some estimates for that.

I don't think a final decision about that can be made until we actually see what the costs are, but certainly we have been pursuing that very vigorously. We haven't waited. You know, we have heard, through the Request for Information, from industry about what they can do. We are almost finished collating that information right now. We do need authority to do it.

ASSEMBLYWOMAN OGDEN: I was interested to see, apparently in the contract with Pennsylvania, that they have the right to fine the operator if anyone has to wait more than half an hour.

ATTORNEY GENERAL PORITZ: Yes, we are aware that there are different arrangements out there, different guarantees on waiting time. I guess, you know, we will most likely go that route, build some similar guarantees into the contract. But I also have to say that when those guarantees aren't met, if that is the case, if the system doesn't work, ultimately we will be held responsible. If the contractor can't perform and if things fall apart, that has to be a grave concern of ours, no matter how much the contractor can be fined. So I consider that to be something that we have to deal with.

ASSEMBLYWOMAN OGDEN: All right.

Joe?

SENATOR KYRILLOS: Thank you, Assemblywoman Ogden.

Mr. Director, I have been convinced that we ought to privatize the system. I think it makes better sense vis-a-vis the State budget, better sense for the motorists of the State. I am wondering if we choose not to go down that path, would we, as a State government, and would the Division of Motor Vehicles be able to implement the plan in time to meet the mid-1995 deadlines? In other words, do we have it within ourselves to do it on our own?



MR. KAMIN: I would respond this way: Regardless of the decision to privatize or to keep a public system, to build it is going to require a private contractor to remodel the existing lanes that are used in the new system and to build additional lanes. That would be done by a private contractor. I see no other way to do that. The operation of it then, however, is in doubt, as to how that is structured. It could be totally private, totally public, or a combination of both. We won't know that until the Requests for Proposal, in fact, are responded to.

SENATOR KYRILLOS: Very good.

We have no further questions. We thank you very much for all your time today and for your testimony.

MR. KAMIN: Mr. Chairman, if I may, I would like to just point out the one chart that is here, the Enhanced Team chart, to show the magnitude of this project, and the accompanying Clean Air Components. It is not just going through the lane. That is the very small part of it. It is putting this whole project together, from educating the public to educating technicians who are going to be able to repair the cars once we, in fact, fail them.

So we need cooperation from many areas, not the least of which, of course, is-- Once again, I remind you that, as legislators, we need your help with the passage of this legislation as urgently as possible.

ASSEMBLYWOMAN OGDEN: Like Senator Kyrillos, I would like to thank Attorney General Poritz, you, Director Kamin, and Commissioner Shinn for all the time and effort you have put into this, particularly for your sustained efforts in working with EPA to come up with a July 1 agreement. We have been wrestling with this issue ourselves, but I know you have been doing it for much longer than we have and with much greater intensity. So, we appreciate your efforts.

SENATOR KYRILLOS: Thank you very much.

We have some other people who would like to speak, and we would like to hear from them. First, from the New Jersey Automobile Dealers Association, Bob May, if he is still here. At the same time, Stephen Carrellas, from the National Motorists Association, can come forward as well.

After that, if they are still around, we will hear from PSE&G, the Chamber, the Petroleum Council, and others, one big panel to share their concerns and comments.

Stephen, welcome. Thank you for being with us.

**S T E P H E N   G .   C A R R E L L A S:** Thank you very much. It is my turn to see how these things work. (referring to microphones)

I am Steve Carrellas. I am the State Chapter Coordinator for the New Jersey Chapter of the National Motorists Association. My usual start off: We are a member-supported organization that advocates and represents the interests of the American motorists -- in my case, New Jersey motorists -- on these kinds of public policy issues.

I have been before this group before. It always turns out when you involve the EPA and State officials that we tend to lose most of the Committee in the process. So Assemblywoman Odgen has had the benefit of hearing most of the other things I have said at these kinds of meetings.

I am really just going to give you the bottom line on where this is all -- how this is all sounding. You know, from all the time that I have been working on this issue, I am happy to say that more State officials are beginning to sound like I did about two years ago. That is kind of encouraging to those of us who are trying to look out for the motoring public. It kind of says you are listening and you understand.

A lot of this boils down to, what can we do in the State versus what is the EPA saying versus what does the Clean Air Act say. From the beginning -- and I have testified to

this fact before -- the Clean Air Act Amendments were appropriately broad to provide the necessary flexibility. But the EPA implementation essentially takes that away. While we talk about how much air we can improve, tons per day percent from what sources, all those sorts of things are based on models and procedures which are terribly flawed. It is like a deck of cards when you try to make a house. There is just no stable foundation.

In that same context, it is all based on theoretical modeling, without incorporating measures of actual effects. What happens when you kind of look at the real data of what is actually going on, our air is improving considerably; that outside of California and Houston, the 26 remaining nonattainment areas are going to be in attainment in the next three to four years, almost to the point as if you did nothing more with your enhanced inspection and maintenance programs.

Now, what is going to be interesting is-- Let's say we were to implement this kind of program and good things do happen, good things were going to happen anyway. I feel like someone will definitely take credit for I/M 240, if that were to be implemented, as actually doing this all. It just really isn't.

Assemblywoman Wright brought up the question: "I think we kind of realize what is going on. What can we do?" At the last hearing, I offered some suggestions. I have been one of the earlier promoters of remote sensing. Now, EPA is a great fan of that, which I find real interesting. It sounds to me like they are responding to pressure now to do some other things.

My two-track process on how you have to get there is, you are going to have to work on what you can do best in this State, using our resources, and we are still going to have to address these Federal issues. I mean, there are certain things that EPA is doing that they cannot be contested on, because

they are their regulations based on their interpretation of the Clean Air Act. Then there are a few things that were built into the Clean Air Act that make it difficult, for example, for us to -- what's the word? -- reestablish what our nonattainment status is, and so on and so forth. There are some hard-coated numbers which were done based on data which did not take into account the temperature back in 1988, when those numbers were used to form a baseline. There are a lot of things that just don't make too much scientific sense that were put into the Clean Air Act. So in order to solve the problem, we cannot get away from working the Federal issues to make it reasonable for everybody, from California on down to us, to have the most flexibility to fit their situations.

On the local situation side, one of the things I said, using remote sensing as an example, was that you could get businesses involved with using such devices in helping their employees to maintain their cars. You could do this and be much more effective at this, rather than having employers doing employer reduction programs. So here we have the business community that do something more effectively to solve the problem better, but then again they also have to do something else, because of that Federal government mandate again. So I don't see how you can get around doing something that makes sense without working both issues.

I guess the final point concerns the sanctions. It has been real interesting kind of listening to these discussions. We're talking about timetables, we are talking about dollar amounts. It is almost like insurance. If we really get up to that point and don't do anything, or do something that we think is right, what will really happen? Will those sanctions come into play?

My experience with the history of sanctions put on by the Federal government when a number of states are out of compliance with something -- and this applies to other than air

pollution things as well -- in most cases in a given year, there is forgiveness given by Congress to those offending states as to that particular problem. So it is almost like, what kind of insurance do you want to buy. I just don't believe that those sanctions -- that we can talk about starting to implement them, you know, with the clocks ticking and the alarms going off-- I just don't believe they can actually happen.

The political process that kind of put them in place, or left the possibility for them to be put into place, is the same process that won't let them happen to the devastating scale that we have been talking about, if it were to happen. I mean, that is the risk. One really has to think about the process that allows these things to happen, or allows them not to.

Since I have provided the Committee with a lot of information in writing in the past, I am not going to go through all those details. Pretty much what I have talked to today is kind of the approach that we are going to have to take if we are going to work the problem. The bottom line is, there are much better ways to clean the air from vehicle sources than the I/M 240 program. It just won't work, and it has a lot more cost and inconvenience to it. If we are really looking to clean the air, we really have to do something else, but it doesn't look like what I was hearing from the administration-- We have to invest in today's program in order to have some new program in the future. You know, there is something that might sound attractive to that, but that, too, is yet another gamble that we have to take, and a big investment may have to be put into place.

Thank you very much.

SENATOR KYRILLOS: May I just ask you to describe the National Motorists Association? Of what is it comprised?

MR. CARRELLAS: As I said, we are member-supported, individuals, families, some small businesses, no particular makeup.

SENATOR KYRILLOS: Your mission is to deal with this Clean Air Act per se?

MR. CARRELLAS: No, no. We are over 10 years old on a national basis. This Clean Air Act is a good example. Things happen at the Federal level and at the State level that impact motorists, and we work at the different levels. It actually started out over 10 years ago on some of the national mandated speed limit issues, and has since broadened to a whole variety of issues.

One of the biggest pocketbook items now is the Clean Air Act. It is the biggest impact on the motorists, probably, of almost all the issues that involve both the State and Federal levels. So we have been spending a lot of time in the last few years working on this, versus some of the other things we have worked on in past years.

SENATOR KYRILLOS: Thank you very much for being with us.

Madam Chairman, if you agree, perhaps we can bring up a panel.

ASSEMBLYWOMAN OGDEN: Yes, a panel of industry--

SENATOR KYRILLOS: Members of business and industry. I saw my constituent, Bob Geiger, from PSE&G here earlier. He may have left.

ASSEMBLYWOMAN OGDEN: William Walsh is here.

SENATOR KYRILLOS: Anyone else from PSE&G can come forward, if they would like. Jim Sinclair from BIA is here. Bruce Jones, from the Bayway Refining Company, signed up previously. He may have left already. Oh, no, here he is. Anyone else from the Petroleum Council, or the Chemical Industry Council, or Shearing Plough-- I think that after some earlier comments about the lack of industry present to give

voice on this issue, the Attorney General penned together a list of possible witnesses.

We welcome you and are anxious to hear what you have to say about the possibility of sanctions, or whether or not we ought to comply with this Federal mandate.

Jim, do you want to lead off? This is Jim Sinclair, from the Business and Industry Association.

**J A M E S   S I N C L A I R:** I will just briefly start it off and say that the Clean Air Act and the Amendments to the Clean Air Act-- We have known for numbers of years that it was going to have a tremendous impact on the business community. In New Jersey, during the 1980s, prior to the kick-in of the Clean Air Act Amendments in this round, we had made tremendous strides in terms of reducing the amount of pollution at fixed sources, and we have done numbers of things in terms of products, whether in the petroleum industry or other products, to reduce air pollution. The cost, at fixed sources, of getting an equivalent amount of reduction is tremendous, compared to what we can do on some mobile sources. We know that. We also know we looked at the SIP plan, and we see where the bang for the buck is.

I think it is fair to say that we understand the political liability in this process of putting in place an inspection and maintenance system that doesn't work properly for the public -- for the consuming public. I think that is one of the key problems that we see in the process; that whatever we put into place has to work and has to be efficient. But generally, from an industry perspective, this is an important component in meeting the State's implementation plan.

So from our perspective, it has to work, and it has to work right. If we do not have this particular component, it means that we are going to be faced, one, with the impact of sanctions and what that means in terms of our economic recovery

in this State, and two, it also means in terms of additional racheting down on fixed sources, which is just terribly cost-ineffective and would prevent industrial expansion that may cost us significant jobs.

That is my overview.

**W I L L I A M   W A L S H:** I will go next, if I might.

I am Bill Walsh, of Public Service Electric and Gas Company. I will make sure that Bob Geiger's comments get submitted in writing to the Committee, but I think what Bob was going to tell you this morning is-- What you heard from Commissioner Shinn and Commissioner Wilson, those comments are right on target. We have been very supportive of what DEP has been doing with the Ozone Transport Commission. We are on record, particularly with EPA -- and I will supply the Committee copies of that testimony -- calling for tighter controls on power plants. If you do everything else within the Clean Air Act, but you do not address power plants, you are not going to get into compliance. If you do everything but exclude regional approaches, because the transport phenomenon is very significant in this overall equation-- If you don't have the regional approaches, you are not going to get there.

I think what you are hearing today, or a lot of the testimony is, if you do this, move ahead with compliance initiatives without an enhanced inspection and maintenance plan, you are not going to get there either, because I believe the State is in a box. We can sit here and talk about how high the sides, or how low the sides of that box are, but I can tell you, internally at PS, we refer to these sanctions as a train wreck that is approaching. We have to do something to avoid that train wreck, because we are competing, as a State, with other states for new business; competing to retain the business that we have now. If there is a chance for New Jersey to have a shot at any expansions that our existing businesses are planning, with the threat of a sanction clock ticking, I don't



think we are going to have very much of a chance at success in bidding for those expansions. Those who are seeking to locate in New Jersey knowing that the sanction clock is ticking, more than likely won't put us on the short list for consideration for relocation.

Thank you very much.

SENATOR KYRILLOS: Thank you.

Yes?

**B R U C E J O N E S:** Hi. I am Bruce Jones, with Bayway Refining Company.

I would just like to mirror what both Bill and Jim have just emphasized; that industry basically has stepped up to the block over the past couple of years. We have installed, as you heard the Commissioner talk about, marine vapor recovery systems, gasoline recovery systems at gasoline stations, etc., and have already done a large reduction in both NOx and VOC emissions in the State.

Further, we have new rules coming into place right now called-- There are all sorts of terms for them -- RACT, MACT, and LAER -- but essentially they all require you to install pollution control equipment that can sort of capture the remaining emissions that are available from the industrial sector. We are looking now at a range of somewhere above \$4000 to \$5000 per ton all the way up to about \$80,000 to \$90,000 per ton that it will cost us to do the reductions both on the State and Federal rules that are coming up.

Overall, in spite of the dollars, there is also-- What we have heard already is, are there enough emissions available on the industrial side? If you turned off industry, would that get New Jersey into attainment? The answer is probably, "No." If you think you can go to the well one more time, go to industry and ask to ratchet down your emissions out of your furnaces or your boilers, there isn't enough left right now to meet the 15 percent reduction goal by 1996.

I will submit a written statement to your Committee also. Thank you.

ASSEMBLYWOMAN OGDEN: Thank you.

Jim?

**J A M E S E. B E N T O N:** Good afternoon, Mr. Chairman, Madam Chairman, and members of the Committee. My name is James Benton. I am the Executive Director of the New Jersey Petroleum Council. By way of introduction, as you know, we represent the major oil companies doing business here in New Jersey.

I appreciate the chance to submit comments, and would offer an observation. We have heard a lot of constructive comments here today. However, one particular comment which was made did attract my attention, and I would like, at the outset, to respond to it. That was the concern that the business community in the State of New Jersey had not expressed its position regarding some of the concerns of the Clean Air Act. Quite candidly, we are, as this panel illustrates and, quite honestly, as I have spent time on behalf of my employers, as have these gentlemen, we are well-aware of all of the concerns of the Clean Air Act, all of the potential sanctions, and all of the need for concrete development and resolution of the outstanding issues.

Let me assure this Committee, and others, that we spend a considerable amount of our professional time being involved in development and implementation of these standards. Nothing could be further from the truth than suggesting that the business community was not aware of this in the past or currently, and its potential implications for the future.

Today, I would like to give you our position on the enhanced inspection and maintenance issue. Clearly, you have a fear here of the unknown, but the fear of the unknown should not be an obstacle to improving, and continuing to improve on what we believe is New Jersey's excellent track record in

improving air quality, which has shown, and continues to show demonstrable results. This debate should continue to be about improving on New Jersey's first-class record, on both the stationary source side and the motor vehicle side, on New Jersey's air quality. Clearly, despite the past summer's hot season, we have shown less and less exceedances of the ozone standard, which is to everyone's benefit.

Our position on I/M is straightforward and logical. Let's identify the cars that are polluting the air excessively, and repair them or get them off the road. It is also about keeping newer cars cleaner over time through proper maintenance. As has been suggested, about one out of five cars you see traveling on New Jersey's highways cause more than half of the pollution from their exhaust and emissions. Clearly, then, developing an appropriate I/M strategy for New Jersey is an important priority.

We strongly support the implementation of a cost-effective, enhanced I/M program in this State. Such a program should be designed, in part, to detect easily and to repair or scrap the high and super high emitting vehicles that contribute disproportionately to air quality.

We also think an effective program needs to include several features: evaporative emission testing, on-board diagnostic checks, load mode testing, and an appropriate role for new technology, such as on-road remote sensing to detect gross polluters. Those basic elements must be supplemented by generating public support of the test facilities, by mechanics' training -- which I would be happy to talk to you a little bit more about -- and by strict enforcement, which are the success of any I/M program. Most recently, some of the experience in Maine and failure in these critical additional components generated that result.

But we are not alone in this. As you heard, DEP recognizes the significant air quality benefits. A study which

was directed by the New Jersey Legislature -- by the New Jersey Institute of Technology, while it focused on the California low-emitting vehicle issue, clearly identified enhanced inspection and maintenance as a first priority issue. Indeed, the effectiveness of the California low-emission vehicle program was not only predicated on the adoption of an enhanced automobile inspection and maintenance program, but on the maximum enhanced vehicle inspection program. So clearly, there are yet other additional elements that make that California low-emission vehicle a success in terms of its cost-effectiveness. I would just point that out to you, and it is in the NJIT report, if you would like to take a look at it.

We are pleased to note that remote sensing has been endorsed today by EPA, and I quote them. They are real fans of remote sensing. We think remote sensing has a role to play in identifying those vehicles and helping New Jerseyans to become more aware of this program.

We know the changes are very difficult and these decisions are not easy. However, in New Jersey, typically, we have had some very good expertise brought to the table that help us to solve these difficult problems. Within the petroleum industry, service stations that are now performing private inspections are worried about the impact on their business, but, quite candidly, there are those issues that can be resolved. We think they can be addressed and actually stimulate their business.

We also have some other ideas regarding programs to scrap older vehicles that are faced with potentially expensive emission controls. Somehow they can be incorporated. We also think that a mechanics' training program, as I mentioned before, is an integral component. We can assist in developing technical mechanics that can simulate the I/M 240 test to help people to get their vehicles repaired.

These are just a few ideas. What Governor Whitman has said -- which we would like to emulate -- is that when you bring the right people together to tackle a problem, a difficult problem like enhanced I/M, one that needs to be done to improve our State's air quality-- We have the right people and the right resources here in New Jersey. For the Petroleum Industry, and I am sure for my colleagues from business, we stand ready to assist you in this effort.

Thank you very much for the opportunity.

I call your attention to a chart which I brought along. It shows the progress on vehicle emissions that we have made. As you can see, the chart identifies the rapid progress that has been made in curtailing vehicle emissions; that as long as the cars are running well, that will actually demonstrate significant improvement and lend credence to the 20 percent of the cars causing 50 percent of the pollution in the State.

Thank you.

SENATOR KYRILLOS: Jim, thank you very much. I thank all of you. I appreciate your comments.

I am quite certain that all of you have spent a lot of time on Clean Air Act subjects. When I spoke earlier, I spoke of the need to communicate to the members of this Legislature, in a very high energy way, the need for this legislation which many people feel is there. Jim, I am sure you agree, from some of the rhetoric earlier in the session, we have not moved the kind of climate by which we can codify the administration's agreement via legislation. We may need to do that as we move toward that date. We need to mobilize as a total New Jersey community to communicate to people what is at stake if, indeed, we do not pass a bill in due course.

I appreciate your very helpful comments today.

ASSEMBLYWOMAN OGDEN: I just want to ask one question. You know, the motoring public is going to say,

"Well, we have already done a lot. Why doesn't industry do more?" I mean, we know -- Senator Kyrillos and I and other members of these two Committees -- that industry has already done a great deal.

Do you have specific information, say, since the original Clean Air Act was passed, on how much industry has done versus how much the average motorist has done, you know, like in a pie chart? Do you come out 50/50, 75/25, or any sense of that, or maybe DEP does?

MR. SINCLAIR: Instead of giving you something off the top of our head, we would be happy to sit down with DEP and send to the Committee the kind of solid figures that you are really asking for. I personally believe-- I have been involved with this since the '70s, both in the Department of Environmental Protection and in the private sector. I realize that over the course of air pollution control since we have been doing it, since the '70s -- actually before the Department of Environmental Protection was formed in the Department of Health -- that the amount of controls and the amount of money spent by the private sector on just air pollution control equipment has to be in the billions of dollars here in New Jersey just in cost equipment and maintaining it. The efficiency of what we have done is up there now -- up around 97 percent. I think that is a fair assessment on fixed sources.

As technology improves, the controls increase. This is not a static process on industry. Our concern, as we have been ratcheting down, is that the people who are brought into the process increase, so the number of industries that are controlled gets smaller and smaller, where now it is down into the neighborhood of dry cleaners and bakeries.

We have seen the evolution. We would be happy to work with the Department to give you those figures -- to give the Legislature those figures so they could understand. I know this is an argument, you know, "Well, why can't we just ratchet

down on industry?" That is sort of an early '80s kind of argument. This is the '90s. We have known all along that if we are serious about air pollution control, that now it starts to impact on private citizens. This is what we saw in the project Clean Air Program we ran with industry, academia, the environmental community, and the Department. We went through and took a look at the options on the mobile side, and they are all painful. To be successful, they are going to be painful. I don't think there is any way of getting around that. That is the reality of the situation.

MR. BENTON: I would just like to supplement Jim's comments by saying that the results are there also. The good news is that air quality is improving, and improving dramatically. Back when there was a lawsuit brought against the State of New Jersey regarding their programs to implement the Clean Air Act, DEP offered, in deposition, that routinely we would have days of ozone exceedances that would be .25 and above, the standard, of course, being 1.2. Now in New Jersey, we barely exceed that standard, if at all. We have made dramatic progress. The good news is, most of the improvements are yet to be realized.

For example, in my own industry -- the oil industry -- we put the nozzles-- We are still, in New Jersey, the only statewide application of Stage II vapor recovery. The good news is, now on-board canisters are coming on the vehicle that will recapture those emissions.

Bruce mentioned earlier that we have marine vapor recovery at the loading docks when they transfer gasoline from the vessel to the facility. We recapture those vapors now. Those are in addition to all the smokestack, if you will, improvements that have been made. The good news is that New Jersey's air quality is good. We are a leader in air quality improvements, and we will continue to get better.

MR. SINCLAIR: In addition, on the mobile side, employers are required to comply with the Employer Trip Reduction Program, a program that no one has welcomed with open arms, and a program which has a questionable impact in terms of what it is going to do in terms of air pollution control, as opposed to something like the enhanced maintenance program. But we have, and are, making a good-faith effort to comply with the restrictions of this program. That is part of the overall effort that the employer community is making.

SENATOR KYRILLOS: Senator Martin?

SENATOR MARTIN: With respect to the, I guess you called it a graph, right, Jim, in front of you, where you see the dramatic difference with the quality of the air emissions per vehicle-- How much of that would you attribute -- sort of like Maureen's question in a little, perhaps, more specified way-- How much of that is attributable to the better quality of gasoline going from lead-free to the kinds of gasoline we have today, as opposed to, perhaps, devices on the vehicles, you know, with carburetors? Do you have breakdowns like that as to-- How did you go from 10.6 to .25, is it?

MR. BENTON: (using chart; speaking off mike) Well, this chart here illustrates the advent of the Clean Air Act and the requirements that were mandated on the vehicle for improvements in air quality. Basically, what you've got here is the 1970 Clean Air Act being the first vehicular passenger exhaust standard. Previously, you had vehicles that were precontrolled admitting 10.6 grams, on average. This chart is conditional on vehicles that are properly maintained, i.e., not having been tampered with or their exhaust system having been poisoned, if you will, with leaded gasoline.

SENATOR MARTIN: So if a converter has not been converted--

MR. BENTON: Yes. The introduction of unleaded gasoline stimulated the further dramatic reduction, and then,



as Assemblywoman Ogden knows from the countless testimony we had on the California low-emitting vehicles and their program, that takes you out with a new vehicle standard of .25, which is in place right now for all New Jersey vehicles.

We are trying to bring on Federal reformulated gasoline, which will start January 1, 1995, which will help to assist that number in meeting its goal, and eventually working toward an even further reduction. This is an easy illustration of the problem.

SENATOR MARTIN: With respect to this facet of clean air, just with the auto emissions, do you know what the number would be, a fraction, that would -- if all of our current vehicles averaged a certain amount, what it would take to put us into acceptable compliance with the EPA?

MR. BENTON: Ironically, because of the quick nature by which this testimony was developed, I don't have that chart with me, but I do have a similar chart back in the office. I would be happy to share it with you.

Obviously, if you could wave a magic wand and somehow grant everybody at least a newer vehicle, say a 1980 -- Director Kamin talked about a 1980 vehicle or beyond -- that would make a considerable improvement in New Jersey's air quality, without question. That, again, is conditional on the vehicle being properly maintained and running appropriately. If you have a vehicle that is not, you are potentially talking about this type of an emission.

SENATOR MARTIN: My other question is: You made reference to mechanics, before. Do you contemplate the mechanics that you talked about? Are these people in the, what are sometimes called "mechanical shops"? Are the body shops doing this work? Where is the labor pool going to be generated from that is going to be doing this work, mostly in the local garage?

MR. BENTON: It is across a broad spectrum. There is no question that the technology advancing would put a strain on the ability of some of those facilities to meet this type of a requirement. But already you are seeing things like-- This one happens to be-- Let me get the acronym right here. It is the Coalition for Safer, Cleaner Vehicles, which puts out information regarding vehicles' troubleshooting and how to correct vehicles if they are having a particular problem.

Our point is simple: There are many initiatives in the private sector community that will be responding to this challenge to assist the technical community in responding to the vehicles that do not make the appropriate cut points on their inspections.

SENATOR MARTIN: I'm not sure whether you can answer this, and I would direct it to anyone at your table: Do you think there are enough persons in the private sector to be able to upgrade vehicles which are out of compliance? Is that a problem, or is that something-- I am not sure that the pool of employees, nor the amount of training that they are going to have to receive to be able to provide proper troubleshooting-- Do you see that as a problem, or do you imagine that that can be accomplished without too much difficulty?

MR. BENTON: We see it as a problem, but, quite candidly, the resources are beginning to come together to assist them in getting a good start on that. Obviously, the State's role is critical also. For example, in the first year, 30 percent of the vehicles must be tested, so that will at least give a "heads up," if you will, to that community to begin to get their service response in line.

The other part of it is -- which is helpful, and which was testified to before DEP when they held their I/M hearings -- there is also a slip which your I/M station, when they do your test, gives to the consumer whose vehicle has failed, which helps the mechanic to identify where the problem is.

That is something the State of New Jersey should require when they look at this type of a system.

SENATOR MARTIN: What you are telling me is, if there is any good side to some of this difficult transition period, it is that there may be increased employment opportunities in this environmental field. I know that in the past -- and I think Mr. Sinclair has talked about this in a negative light -- one of the fastest growing growth areas has been in environmental compliance, and so forth. I would anticipate that there would be generated opportunities for both managerial and employee positions, right, to be able to respond to this, if we go to a private section route?

MR. SINCLAIR: Yes. The level of training will need to be higher. There may not be more mechanics, but they are going to have to be better trained mechanics. There will also be hot line services to supplement their efforts. In other words, if you have a problem with a particular vehicle, you can call in to the manufacturer, or a hot line within companies to get the proper response. There will be a digest put out on troubleshooting in particular vehicles, if they are having particular problems. So there are resources that will be coming into this work.

SENATOR MARTIN: Do you expect a new technology, sort of on a micro level, for vehicles to be able to get them over the hump, to be able to reach the level? I mean, are there going to be devices that you can apply, and so forth?

MR. BENTON: Technology is always improving. However, there is no simple silver bullet that you seem to be referencing that would bring a particular vehicle into automatic compliance.

SENATOR MARTIN: One more quick question: The typical way in which a car, an older vehicle, would have to upgrade itself-- What do you expect would have to be done? Would it be readjusting the carburetor and just, you know, a cleanup of

the engine, or is it more complicated than that -- mufflers? What generally is involved in improving a vehicle to get it up to the standard here? Maybe you guys don't know.

MR. SINCLAIR: I think a better barometer of that would be the research that EPA has done to date which provided them with the estimate that the average repair costs \$100 to-- I believe their testimony was \$100 to \$200 -- \$150.

SENATOR MARTIN: They said that most cars would be under \$100. I am just wondering whether that would be a tune-up, whether it's the muffler? I should have asked them, I suppose.

MR. SINCLAIR: It could be a broad range of things. To me, it would be almost impossible to easily identify that. I think I would only be generalizing for you. I think you should ask the EPA, based on their experience, where the typical problems have been. By my perusal of this type of document, the problems are as diverse as the vehicles that are on the road today, quite candidly. There are all different types, whether it is an emission idle, or whatever the problem might be.

SENATOR KYRILLOS: Thank you, Senator Martin.

Gentlemen, thank you very much for your testimony.

MR. SINCLAIR: Thank you.

MR. BENTON: Senator, if the Committee would like, just for a moment, I would just like to add one final point: Earlier testimony indicated there were some significant concerns regarding ozigenated fuels, some very grossly misunderstood problems with this particular fuel. My only point is, I would be happy to testify before the Committee. As Chairwoman Maureen Ogden knows, last year she held a hearing regarding oxigenated fuels and at that time we presented some testimony. Given the testimony today, we think there are a lot of misunderstandings on that. We would be happy to testify

about that, and about the upcoming reformulated gasoline that will be coming into New Jersey on January 1.

SENATOR KYRILLOS: I am reminded by Minority staff that Senator MacInnes had a lot of questions and concerns on that score, so we would welcome that opportunity. Perhaps you can communicate directly with him, as well.

MR. BENTON: I will be chasing Senator MacInnes, and I will be happy to answer any questions you or any other member of the Committee might have, particularly Senator LaRossa.

SENATOR KYRILLOS: Thank you very much, Jim.

We have two more people who have signed up to testify. We will ask them to step forward and summarize as much as possible, given the late hour. Eric DeGesero, a representative from the Fuel Merchants Association of New Jersey, and finally -- and I apologize to Bill Dell for being last -- if you will just want a second, Bill-- Bill is from Systems Control, and he will be the wrap-up speaker. We have to take the in-state guys here first a little bit. I know you are opposed to this. If you could just say simply why, we will move forward.

E R I C D e G E S E R O: In addition to representing individuals on the home heating oil side, the Fuel Merchants Association also represents the gasoline jobber sector, the individuals who actually deliver product. Some of our members, in addition, also own gas stations. So while we are not the retailers, some of our members are gas station operators.

A lot of what I was going to say has already been said. I know the hour is late, and I am not going to rehash it. There is one particular point of the proposal -- and I am reading from the August 15 edition of the "New Jersey Register," looking at 7:27-15.6. This is regarding where we might be in the future with regard to compressed natural gas vehicles. The first compressed natural gas station is in

Jersey City. I am not exactly sure when it will be up and running, but it is in that process right now. Natural gas is not the panacea that some would like to make it out to be. It contains methane. In terms of contributing to smog and poor air quality, methane certainly does do so. The Department seems to acknowledge that as well. I am just going to read right from the document. It says: "The standards being proposed by the Department are designed for total HC measurement. Some alternatively fueled vehicles" -- natural gas vehicles -- "emit large quantities of the HC methane which is an inner compound relatively harmless to the environment. However, if tested using the proposed standards, these alternatively fueled vehicles may mistakenly be identified as high emitters and, consequently, will fail the exhaust test."

So there is a recognition that natural gas -- that CNG-powered vehicles might present some problems to air quality. However, it goes on to say--

SENATOR KYRILLOS: Eric, if I may interrupt you--

MR. DeGESERO: Yes, Senator.

SENATOR KYRILLOS: We are not here to talk about the Clean Air Act Amendments in general, but only the I/M requirement.

MR. DeGESERO: Well, yes, but this is part of the Department's proposal for the I/M standard, as published in "The Register." So it is a part of the proposal that I did want to draw attention to. It is something I commented on in "The Register."

Thank you, Mr. Chairman.

SENATOR KYRILLOS: Eric, thank you. I promise that the next time we have a hearing we will get you up earlier in the proceeding.

MR. DeGESERO: No problem.

SENATOR KYRILLOS: Finally, from Systems Control, Bill Dell.

W I L L I A M   C .   D E L L : Thank you, Mr. Chairman.

SENATOR KYRILLOS: I met with Bill yesterday. He knows a fair bit about this subject, so thank you.

MR. DELL: I know it is late in the day, and I will be glad to answer any questions, but I will be very brief in testimony.

I have brought with me packets of information for the Committee, which include some information on the main program.

Let me start by saying, I represent Systems Control. We are a contractor in the business of designing, building, and operating centralized vehicle emission testing programs for states around the country. We designed, built, and operate the program in Maine, which has received a lot of comment this morning. A lot of the testimony you heard earlier, I can tell you, was quite false. There is material in these packets that is factual as to what the situation in Maine is.

Very briefly, the Maine program has been a resounding success. There are no lines; there have been no lines. There are no equipment failures. The I/M 240 system is working spectacularly well.

SENATOR MARTIN: How long does it take to get through design?

MR. DELL: We take a car through the front door about every five minutes. The car spends about 15 minutes on the roof, five minutes in each of three different positions, in an assembly line fashion. So you have a car entering the lane inspection process every five minutes. That is approximately 12 cars an hour. In fact, we are probably doing a little closer to 11 now, in reality.

The Maine program did run into a political fire storm up there, which was caused entirely by a situation not of our doing. The Natural Resources Defense Counsel of Northern Maine chose a day after a week after -- or about a month after the opening of the program to announce what they thought was a good

target. That was to say that they believed that emission trading credits between the new I/M program and the Louisiana Pacific Paper Company up in northern Maine would allow this paper company to continue to pollute the air, while all the good people of southern Maine would have to pay to have their cars tested.

Things degenerated very quickly in the press. As a result, there was a Senate committee formed which gathered public opinion. We worked very, very closely with that Senate committee, with the department, and with the Governor to come up with a solution to a very difficult problem. Quite frankly, we are pleased with the solution. I think it is a sterling example of how private industry can work with government to solve tough problems.

The program, as it is now, is in a temporary voluntary phase. No one that is scheduled for testing during this voluntary period is being exempted from testing. All cars that were scheduled for testing will be tested. If not now, they have to come back in, starting in March. There are inducements for them to come in now, like the lower test fee. But the program itself is extremely successful, and we are extremely proud of it. I would be glad to answer any questions on that in a minute.

What Systems Control does, and others like us in this business, is, we privatize these kinds of programs. That means, just for your edification, that typically we will come into a state and we will say, "We have the expertise and the knowledge to solve your problem. We understand EPA's requirements -- the Federal requirements. We understand the state requirements. We will design, build, and implement a program, and fully capitaliza it with private money so that it doesn't require any state funding. We will do all that on our own risk in return for a contract to test cars." It is a



fiscally responsible way to proceed, and virtually all of the states, besides New Jersey and Delaware, are taking that approach.

There is a lot of experience in the industry in doing this. We hire and train all the people, as well as provide all of the equipment, the technology, the systems, the land, the buildings, everything that is necessary. I recognize that New Jersey is a little bit unique in that it has an existing program with State-owned properties that have to be dealt with in the process.

I want to also make mention of "Why I/M 240?" Very briefly, I have heard that question several times today. I am not sure anyone has the answer to it, so I thought I would take a very brief stab at it. There is a good reason for I/M 240 versus some other process, like the one being done right now in the inspection lanes in New Jersey. Very briefly, in order to get the junk out of the air that you have to get out of the air, you have to identify two to three times as many polluting vehicles as you are currently identifying in your existing test lanes. You could do that in your existing test lanes by ratcheting down on the stringency of the test. But if you did that, and only that, careful analysis and science have proven that there would be an extremely high level of false failures and false passes to get to the level necessary to identify those vehicles. So, in fact, what you would be doing is sending people out for repair who should not have failed in the first place. That is grossly inequitable, and that would be a system that doesn't work.

So EPA, along with places like Denver University, the Colorado Department of Health, the California Air Resources Board developed, over time, a new testing procedure that would allow you to identify the number of vehicles that are polluting that you have to get, without having all those false failures. The result of all that study and research is the I/M 240 test.

That is why it is necessary, and that is why you can't just use ASM 5015 for the current idle test, because they can't get you the numbers of vehicles without having to many false failures. It is really quite simple. So the investment is truly justified.

All that being said, I would just like to take a couple more minutes to say, I have been a legislative assistant before. I have not sat in your seats as an elected official, but I have done a lot of work for elected officials in that capacity, so I have some appreciation for what you are going through. I think that what you face--

SENATOR MARTIN: Did your candidate get reelected?

MR. DELL: One time. Actually, he served three terms in the United States Senate. He was an excellent, excellent man.

You know, I have dealt with constituents. I think what you have now is a tough situation -- I understand -- and you are going to be looking at a bill that currently is dealing with a lot of unpopular press. I'll tell you, what you heard this morning isn't going to help any, because that is going to get the headlines and the sound bites. The press isn't here right now; the cameras are gone. I understand that. But I think what you can do is take this opportunity to take this bill, which you and I have not seen yet, that is being sent down by the administration, and put some valuable and useful things in there that answer the tough questions.

Yes, the people of New Jersey have a problem with vehicle inspection. They have to stand in line. So why don't you just tell your constituents that you are changing the bill. You are putting into law -- New Jersey State law -- that there shalt not be lines. That can be done. You could write right in there that the contractor who is assigned to this responsibility under contract, when you privatize this program, has the responsibility to assure that no one waits more than 15

minutes within some reasonable parameter; say, 85 percent of the population never waits more than 15 minutes, and 95 percent never more than 30 minutes. That would be a drastic improvement over what people get now. I think they would appreciate your efforts in that regard.

Other motorist convenience things could be built into the bill, such as: Why not demand, in law, that the contractor provide extended hours of operation, including evenings and weekends. Let's make it more convenient for the people. This is the chance you have to do that, right now

You could suggest that the Department look into offering additional services, such as registration renewal right there in the lane while the car is there. You could also suggest that no one has to drive, or within some reasonable limit, say, 80 percent of the population be within 5 miles of a station, and 90 percent within 10 miles, so you guarantee some minimal driving distance. Let's make it convenient while we can. This program can be better. The new program can be better than the existing program. It can be easier on the public, by doing some very simple things, and you have the opportunity to do that right now.

I have numerous other suggestions to make along that line. I would be glad to pass them on. I have said more than I wanted to already.

I would be glad to answer questions.

SENATOR KYRILLOS: Bill, thank you very much.

Senator Martin, do you have--

SENATOR MARTIN: Just a couple short ones: Do you subscribe to the idea -- it may be a vested interest, I am not sure -- of having one vendor throughout the State of New Jersey?

MR. DELL: I am probably neutral on that. I have a little understanding of the geography of New Jersey. I suppose that dividing it into two zones would probably be doable. Obviously, there is a big chunk of the population sort of

shoved up in one direction, and it is a little more sparse than the other. But I am sure there is a way, demographically, to divide it up, so that bids you would get would be comparable. There is an economy of scale involved, so if you have a very dense population, you can get some economies out of building a system to serve that versus a more rural population.

I would guess my only other comment there would be, if the State is divided up into bid zones -- contract zones -- that the Department be allowed to look at bids that would combine the zones, to see what the effects of economies of scale are, if any, and then make a judgment whether or not there was economic sense to combine it or keep it split.

SENATOR MARTIN: The suggestions you make, which I found are obviously something that would help sell the program-- Would that limit the number of vendors? It seems to me that it would, to some degree, but are there enough people in your industry out there who would respond to the situation in which they would have to meet criteria such as guaranteeing a no wait, or a limited wait, and those kinds of things? Is that used in Maine right now -- any of those controls?

MR. DELL: Yes, it is used in Maine. It is also used in Texas, Michigan, Indiana, Washington, Pennsylvania, and elsewhere. all the places that have already let contracts have had provisions like that.

SENATOR KYRILLOS: Is it actually in the statute itself?

MR. DELL: Some have put it in statute; others have left it up to their departments to put in regulation or RFP. What I am suggesting is that you have an opportunity to put it in statute, and that makes a firm stand, and you ought to take it.

SENATOR MARTIN: To your knowledge, that has not posed a problem as far as soliciting enough vendors to make this system doable.

MR. DELL: Absolutely not. I think there are several other things you can do, too, at this time.

SENATOR MARTIN: I would be real pleased to hear any other suggestions you have along this line, as far as customer service features are concerned.

MR. DELL: Well, if I may, very briefly, I will just run down a couple more.

I think one of the things we learned from the Maine experience was that public relations and public information are extremely important, and must be kept at a very high pitch, not just before the program start-up, but right on through and continuing. Why not legislate that a certain number of cents per test -- I am not sure what that would be, 10 cents per every single test -- be required by the contractor to be put into an effective multimedia and continuing public information/public relations program. That way you would be sure that the appropriate money and effort would be put forth in that area.

Another thing we learned in Maine was that whenever there is a change, people should have an opportunity to ease into it a little bit. That is why we are doing the voluntary program right now. Why not legislate, right now, that there shall be a phase-in period of some weeks before we turn the final switch on and make everybody mandatory to do an I/M 240? You know, our friends from EPA might scream a little bit when they hear that, but they would get over it.

With regard to labor, we did come under some fire in Maine in the press for the fact that we paid something just a little over minimum wage to lane inspectors. This is a competitive business I am in. I have to win these contracts. The state, in its RFP, did not mandate any minimum level of wage rate, benefits, or anything. Therefore, I had to go out, as part of my proposal, and determine, through surveys of the population and wage rates, you know, how to be as

cost-effective as I possibly could. I would say it would be to the benefit of New Jersey, and any other state that is considering this, to legislate and mandate certain minimums that we must bid to -- get us on an equal playing field -- that there shall be some minimum wage rate paid for lane employees, and that there shall be a certain minimum benefit level provided. That way we will all propose on an equal basis, and won't be concerned about losing the bid because we are trying to do the right thing.

With regard to the current employees, I am very cognizant of the labor union that is out there right now. There ought to be a way to use them, to deal with them, to work with them hand in hand. I think that probably could be dealt with legislatively.

I think, lastly, you do need to give some consideration to existing properties and how best to dispose of them. I don't think the Department has a clear understanding of how to do that yet. I am not sure the Governor is providing that guidance at this point. Perhaps the Legislature should provide some guidance in that regard. There is a lot of property out there that the State currently owns. Some of it, it might make sense to keep and retrofit, and some of it, it might not. How best is it to separate the good from the bad? The answer to that is probably on an economic basis. In other words, you have a property, for example, up in Princeton on Route 1. It has to be worth \$2 million. It does not make sense to have a car-testing station on there. Sell that to some retail establishment, take the money, and run. Make us go find another piece of property that makes more economic sense as bidders, and we would do that.

I think if you would provide some guidance to the Department that would allow them to go out and get a true value on the properties and then provide that as information in the RFP process, we could respond effectively.

I think I have covered most of what I had.

SENATOR KYRILLOS: Bill, thank you very much.

I think Senator Martin is as impressed as I was yesterday when you briefly outlined some of these suggestions to me. As we move forward with possible legislation, we will appreciate your assistance, as well as the assistance of your competitors on how best to write a bill that can make all of our lives in New Jersey a little bit easier.

Thank you for being here.

MR. DELL: Great. Thank you.

SENATOR KYRILLOS: Finally, I promised Drew Kodjak just a couple of minutes. Drew, it is 3:45. We have been here nearly six hours, so I hope you will be as brief as possible.

DREW KODJAK, ESQ.: I will be incredibly brief.

MARIE CURTIS: Mr. Chairman, I also-- I thought I had a slip up there. I'm sorry if you didn't--

SENATOR KYRILLOS: Well, you didn't, but please sit, Marie.

MS. CURTIS: Thank you.

SENATOR KYRILLOS: Okay.

MR. KODJAK: I really just second what Bill Dell was saying. I think this is an opportunity for the State to take a program which isn't very effective right now and make it far more effective, and also consumer friendly.

I did a press conference about two months ago now. I believe I faxed you the numbers I did. This sort of laid out a consumers' "Bill of Rights" for automobile inspections, which talks a lot about the different types of guarantees you could put into it. The bill basically laid a lot of them out. A lot of the contracts that had been let out in Pennsylvania and Connecticut talked about seven-minute average waiting times, things along those lines that are very effective.

The only other thing is, I mentioned on the maintenance side that there is a company right over the river

in Tullytown, Pennsylvania, called "Aspire," which actually works with these private contractors to make sure that maintenance is also something that is made very easy for consumers. So when you go through the test, you will actually get a slip saying, "This is what we think is wrong with the automobile. It is your oxygen sensor. It should cost between \$50 and \$60." Ninety-five percent of the time, this will fix your problem, so you won't have that ping-pong effect that everyone is really concerned about.

So there are lots of features. If you look at it and work with it, you can really improve the system we have both from an environmental perspective and a consumer perspective.

That is the end of my testimony.

SENATOR KYRILLOS: All set.

Marie Curtis.

MS. CURTIS: I will try to be equally brief. I do have written comments. I am not going to read them. I will give them to you for distribution to the Committees.

SENATOR KYRILLOS: We will make them part of the permanent record -- the transcript.

MS. CURTIS: Okay, fine. I will hand them in.

I did not want this day to go by without someone mentioning the whole point of the Clean Air Act; that is, the health of the citizenry of this country. I mean, we have heard a lot of things said today. I must say that I totally agree with Jim Sinclair and the business and industry people who sat up here, with their concerns about industry already ratcheting down, and the most cost-effective being I/M and its implementation. But I think you have heard enough on all of those areas, and I will not go into them.

I do think, however, that you should be aware that we are really talking serious health consequences here. New Jersey has improved its air, yes, but we still have the second worst air quality in the country. Between 1979 and 1987, a



study has shown that deaths from asthma in this country rose by 32 percent. In our inner cities, where our ozone problems are the most severe, that asthma death rate rose by 65 percent. I think that is pretty scary.

We also had in the July '91 copy of "Lancet," the British medical magazine-- They revealed that a study has shown -- and the National Institute of Health in the United States did a follow-up study that also confirmed -- that in the presence of ozone, one-half the normal amount of allergens will trigger a severe attack in those sensitive individuals. This means that on ozone alert days -- you can check, there was a study done in New Jersey -- I believe it is somewhere around a 15 percent increase in respiratory admissions to hospitals, and an even higher increase of emergency room procedures being done for people with those concerns. Now, these are just the ones that we can track in hospitals. This says nothing about the people who are suffering at home. This says nothing about the lost production time from this health consequence. It says nothing about the long-term consequences of ozone weakening our lungs and giving rise to recurrences of some of the old diseases that we faced before. Newark, New Jersey, has the highest incidence of tuberculosis per number of population in this country. I think that is a little bit scary.

I think these are the things that we have to keep in mind. I am going to give you a chart that can be handed out to Committee members showing how many people, county by county in New Jersey -- the numbers that fall into those populations at risk. The populations at risk from ozone and lung concerns are: those under 13 who are outdoors, running, exercising, and breathing deeply at the time that most ozone is present in the atmosphere; those who are 65 and older who are also out and subject to this; pediatric asthmatics; adult asthmatics; and those who exercise or who are involved in outdoor athletic activities in mid- to late-afternoon.

Now, these populations cover most of the citizens of New Jersey. Yes, a few of us maybe are in here and not out there, and maybe we are not exercising. But I think it covers such a high percentage of the populace that we really have to be very, very concerned.

We heard that we were perhaps meeting and had fewer ozone alert days. That may be true this year. I am not sure what the exact number of ozone alert days was in New Jersey this year. I am sure the Department has the figure. But I know it was, perhaps, 9 to 12, or something like that. I do know, however, that that is based on a standard of .12 parts per million. Now, that .12 standard was devised back in late 1970. The scientific standard was .08. But somewhere along the line in the early years they realized that they couldn't reach that standard, so it was a political decision to increase it to .12. The American Lung Association has been lobbying for years to try and get it reduced to .08. If it were reduced to .08, you would have found that the exceedance days in New Jersey this summer were 42. From that kind of an incidence, the lung damage, on a damaged individual, has a related holdover effect of about three or four days. So people may not be ill, but they are not feeling well. They are not fully productive on their jobs, and so on.

I am not going to go any further. I think you get what I am trying to say. There is a very serious health consequence, and it is a related cost that is the aim of the Clean Air Act in the first place. I think we have lost sight of that in the talk of all of our procedures and all of the methods we are going to take to reach attainment. I really think we need I/M. I do think it is the biggest bang for the buck. Let's not lose sight of the reason we are doing it. It is the health of all of our people out there, and reduced health care costs for us all.

SENATOR KYRILLOS: I think you put things in their proper perspective, Marie. Thank you very much for waiting so long to testify.

With that, I thank you all. Commissioner Shinn, Director Kamin, your Cabinet colleagues, thanks for all your time and patience today.

This meeting is adjourned.

**(MEETING CONCLUDED)**



APPENDIX





NEW JERSEY SENATE

**ROBERT E. LITTELL**

SENATOR, 24TH DISTRICT

ROUTES 23 & 517, BOX 328

FRANKLIN, NJ 07416-0328

201-827-2900 (OFF)

201-827-7136 (BUS)

201-827-7136 (RES)

201-827-0346 (FAX)

October 4, 1994

The Honorable Marge Roukema  
Representative, 5th District  
2244 Rayburn House Office Building  
Washington, DC 20515

Dear Congresswoman Roukema:

I am writing to ask you to join with us in the fight to stop certain federal regulations which implement the Federal Clean Air Act. The Clean Air regulations will end New Jersey's economic recovery. Businesses and jobs will flee New Jersey for the western and southern sections of the country. We can not permit this to happen. We must take a stand against this federal mandate and not back down.

We are not alone in this, other states have taken up the fight and are willing to put it all on the line in an effort to find a more reasonable solution to the problem of improving air quality. Maine and Delaware have suspended implementation of the EPA's IM/240 inspection system, citing results that were way below the EPA's predictions. Vermont's General Assembly has refused to adopt the program, and as a result the state is being threatened by the Federal Government with sanctions that could halt industrial development in Chittenden County, the state's most populous area.

Both Houses of the Pennsylvania Legislature voted to approve legislation that would suspend the implementation of the mandated IM/240 emissions testing program. The EPA response to Pennsylvania's decision was to have Peter H. Kostmayer, the regional EPA Administrator, threaten immediate sanctions against Pennsylvania in the amount of \$1 billion.

I am outraged by such blatant acts of pure aggression against sovereign states by mere federal bureaucrats. The EPA has a failed system on its hands and instead of admitting it and returning to the drawing boards, they attempt to punish the states that refuse to implement their failed system.

If the federal EPA intends to push us around they better be prepared to expect the same in return. I am aware of their threats -- no more federal highway funding, no more air permits. But those threats pale in comparison to the course of action the citizens of this state will take when they find out we let a passel of federal bureaucrats threaten us into spending \$700 million on a system we knew didn't work.

It is time to send a message to the federal EPA and any other department, division, or agency of the federal government -- it was the sovereign states that created the federal government, not the other way around.

Sincerely,

Senator Robert E. Littell,  
Chairman, Senate Budget &  
Appropriations Committee

## **Testimony of Commissioner Frank J. Wilson**

**Assembly Environment & Energy Committee  
and the  
Senate Natural Resources, Trade and Economic Development Committee  
10/6/94**

Good morning Chairwoman Ogden, Chairman Kyrillos and members of both the Senate and Assembly committees.

First, let me extend my sincere thanks to all of you - especially Maureen Ogden and Joe Kyrillos - for holding this joint hearing. As I hope I will be able to convince you, debate over the federal Clean Air Act Amendments is no longer academic in New Jersey. It is now.

As Commissioner Shinn has just explained, this law has already prompted industry in our nation to face the prospect of spending millions - perhaps billions - in unprecedented dollars to meet the act's burden.

Beyond that, the act calls into question our very lifestyles here in the Garden State. This law challenges us to consider the potential consequences of our actions every time we drive to work or go to the 7-Eleven for a loaf of bread.

As state officials, we are confronted with numerous challenges by the Clean Air Act Amendments. As Transportation Commissioner, I fully expect to be back before you one day soon to talk about the Employee Trip Reduction program required by the Clean Air law - but that's another story.

Today, as I need not remind you, we are here to talk about the Enhanced Inspection and Maintenance program which the federal government will require for the millions of vehicles that travel our New Jersey roads.

Much has been made - even rumored - about what Enhanced I&M will mean for New Jersey. Well, my area of expertise is transportation, so let me



state as clearly as I can how this program - or perhaps I should say the absence of this program - will affect the New Jersey DOT.

Unless we enact the program under the terms we have negotiated with the federal Environmental Protection Agency, the New Jersey Department of Transportation could be effectively out of business after February 2, 1995. That's less than four months.

Please don't misunderstand me. But, as things stand now, under a worst-case scenario, my department will instantly lose access to hundreds of millions of dollars in federal funds. Beyond that, we will not be able to get federal approval to spend funds we have already counted on. We won't even be able to get federal permits to continue work we're already doing.

We figure the projects we have in the pipeline now will be enough to keep our engineers, road workers and administrative people working until next summer. But, after about the Fourth of July, we are going to be faced with the prospect of putting down our drafting pens and taking our shovels out of the ground.

And, as I don't really have to tell you, the impact won't stop at with the DOT. If we lose \$500 million - and that's not unreasonable to expect - that could mean the end of something like 20,000 jobs. That's not going to help the economic recovery that you and Gov. Whitman have worked so hard to build.

It's also not going to be limited to highway construction. NJ Transit will also lose funding. That raises the specter of service cuts and very unhappy commuters.

Let me try to bring the point even closer to home ....

Assemblywoman Ogden, in your legislative district we might be unable to continue work on the resurfacing and ramp plans for Route 22 in Union. That's a \$2 million-plus job gone.

In Assemblyman Impreveduto's area, we would probably be forced to pull the plug on plans for Routes 1 and 9 at Secaucus Road. That work is valued at upwards of \$50 million.

Assemblyman Corodemus, your district could see the end of design work for work on Route 33 in Neptune. That's \$10 million we can't spend in Monmouth County.

None of us is happy about this. But , frankly, none of us has yet been able to develop a working alternative.

It's not that we haven't been trying. We are working daily with county and local governments on our program of Transportation Control Measures to make clean air strategies a reality.

We've built a successful HOV lane system on Route 80 and we're about to build another one on Route 287 - unless we ironically lose those funds because we fail to implement Enhanced I&M.

Let me conclude unequivocally.

The only way we can meet the federal burden is if you in the Legislature pass some from of enabling legislation immediately, if not sooner. In fact, today is technically too late. October 4 was the last day to we could begin to write new regulations in time to meet the EPA's deadline of February 2.

No matter. If you give us a law, we will find a way to meet that deadline. We will preserve our highway and transit funding. And we can keep New Jersey open for business.

Thank you.

COMMISSIONER ROBERT SHINN  
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NEW JERSEY SENATE NATURAL RESOURCES, TRADE AND ECONOMIC  
DEVELOPMENT COMMITTEE and ASSEMBLY ENVIRONMENT AND ENERGY  
COMMITTEE  
OCTOBER 6, 1994

- Chairpersons Kyrillos and Ogden and Committee Members, I am here to appear before you today to discuss the State's progress to date in implementing the federal requirements of the Clean Air Act, and to highlight the critical role that the Enhanced Inspection and Maintenance (Enhanced I/M) program plays in New Jersey's ability to meet the legal requirements of the Clean Air Act. As you know, the Enhanced Inspection and Maintenance program is only one component of many leading to compliance. I am pleased to be joined by the Attorney General, Deborah Poritz, Commissioner Frank Wilson from the Department of Transportation and Dick Kamin, the Director of the Division of Motor Vehicles.
- The Governor wants me to convey the importance of moving ahead with legislation for this program.
- There are many provisions of the Clean Air Act that reasonably intelligent people, including you and I and the people at this table, can debate. Extensive debate occurred from 1986 to 1990 in the United States Congress. That debate has ended; a bill was passed and signed into law.
- We cannot debate whether New Jersey should comply with this law.... New Jersey must comply with the federal requirements of the Clean Air Act....which includes an enhanced inspection and maintenance program....in order to avoid costly mandatory federal sanctions.
- How we implement the program to benefit all the citizens of New Jersey is what we must discuss and agree upon.
- You, the members of the New Jersey Senate and Assembly play a crucial role in the state's ability to comply with the Clean Air Act. Legislation must be introduced and passed by October 20, or thereabouts, if the DMV is to remain on schedule to adopt and implement these regulations.
- If we do not have legislation and an adopted program and submittal to the USEPA for the enhanced Inspection and Maintenance program by January, 1995, New Jersey will be faced with the potential loss of hundreds of millions of dollars in federal highway funds annually beginning on February 2, 1995, which is just 4 months away.

- Not only are we discussing compliance with the law, but the Enhanced Inspection and Maintenance program will help the quality of the air for all of our citizens to breathe.
- As you know, New Jersey does not meet the federal health standard for ozone (which is 0.12 parts per million one hour average). Areas of the state also have exceeded the carbon monoxide health standard. I will limit my remarks today to attaining the ozone health standard which has been one of our most difficult goals to attain.
- Adverse health effects from exposure to elevated levels of ozone are well documented; children, the elderly, and asthmatics are particularly at risk.
- Studies in central New Jersey have shown that emergency room visits are significantly higher when there are elevated levels of ozone, even if we are not exceeding the health standard.
- New Jersey must meet the federal ozone standard by 2005 in southern New Jersey and by 2007 in northern New Jersey. It is the law and it is the right thing to do. We are also required to show progress toward this goal by reducing volatile organic compound (VOC) emissions by 219 tons per day by 1996.
- Many other states that have committed to implement an Enhanced Inspection and Maintenance program have been in the newspapers recently, i.e., Maine, and Delaware. I would like to take a few minutes to address the status of those programs and show how their situations are different from New Jersey.
- The state of Maine never had any type of safety or emissions inspection program, so it was a very new concept for the citizens of that state. The Enhanced Inspection and Maintenance program continues in Maine; it is voluntary until March, instead of mandatory. This is a very new program, and Maine had the honor of being first out of the gate. They will work out the kinks, and get back on track.
- Delaware miscalculated the emissions reductions from their program and decided it would be far more cost-effective to get the reductions from other program(s) in spite of the clear federal requirement for an Enhanced Inspection and Maintenance Program.
- How much progress is New Jersey making toward meeting the Clean Air Act requirements and what role does the Enhanced Inspection and Maintenance program play in our successfully meeting these requirements? These are two important questions I will answer for you now.

- My staff have prepared some charts to help illustrate some key points.

#### CHART#1

- First, one of the initial requirements of the Clean Air Act was for states to complete an inventory of existing 1990 emissions in order to formulate an "emissions baseline" from which to proceed. This chart shows a break-down of New Jersey's 1990 summertime emissions inventory for Volatile Organic Compounds (volatile organic compounds) and Oxides of Nitrogen (NOx).
- As you can see, highway source emissions are a large percentage of the 1990 inventory. They comprise approximately one third of the volatile organic compounds inventory, and oxides of nitrogen inventory. Highway vehicles are one of the largest categories of sources.
- Highway sources consist of cars, trucks, buses, motorcycles; off-highway sources consist of construction, agricultural and recreational vehicles, ships, boats, trains, aircraft and powered garden or lawn tools.
- Emission Reductions from mobile sources are a critical component of New Jersey's strategy to meet the federal ozone health effects standard.

#### CHART #2

- The Clean Air Act further required the State to develop a plan to reduce volatile organic compound emissions in the 1990 inventory by 15% by 1996. This plan was submitted to EPA in 1993, and the next chart illustrates this 15% reduction.
- The plan attempted to rely on federal and federally mandated measures as much as possible. The Enhanced Inspection and Maintenance program is one of those measures mandated by the Clean Air Act.
- Certainly, the largest chunk of the emission reductions comes from the enhanced Inspection and Maintenance program, 41%; this equals about 85 tons per day of volatile organic compounds.
- Even if we had a choice, it would be very difficult to replace the benefits of the Enhanced Inspection and Maintenance program with reductions from other industrial/stationary sources or area source categories. We would be forced to look at smaller and smaller sources of emissions where the cost per ton removed would be much higher as compared to enhanced Inspection and Maintenance.

### CHART #3

- New Jersey has already done a lot towards reaching the ozone standard by 2005.
- We have recently adopted stricter oxides of nitrogen and volatile organic compounds regulations for industrial facilities.
- You can see that the enhanced Inspection and Maintenance program is one of the critical building blocks for the State's emissions control program. It provides a mechanism to ensure the current vehicle fleet is polluting within acceptable levels.
- You can also see that New Jersey will achieve significant reductions beyond the existing oxides of nitrogen control requirements for industrial facilities, mainly power plants, as a result of the September 27 Memorandum of Understanding (MOU) signed by eleven of the 13 members of the Ozone Transport Commission.
- You will note that we do face a need for more reductions for both volatile organic compounds and oxides of nitrogen emissions. Additional regional reductions are a critical component of achieving our 2005 goals, and we have already begun working with EPA in this regard. The September 27 Ozone Transportation Commission/Oxides of Nitrogen Memorandum Of Understanding (MOU) asks EPA to determine whether the state implementation plans for those states outside the ozone transport region are adequate to prohibit their significant contribution to nonattainment in New Jersey and any other state in the Ozone Transport Region.

### CHART #4

- On February 2, 1994, EPA found our 1993 state implementation plan to be incomplete because New Jersey did not have an Inspection and Maintenance program in place as indicated in the plan; This finding started the sanction clock for the Inspection and Maintenance program in New Jersey. EPA could have scheduled the federal transportation sanction to kick in next month.....November 1994, but they issued a protective finding giving us additional time until February 1995, to submit a complete Enhanced Inspection and Maintenance program.
- The EPA could remove the protective finding they granted the state last February, upon which the federal highway funding will lapse, if we do not show a commitment to move ahead.

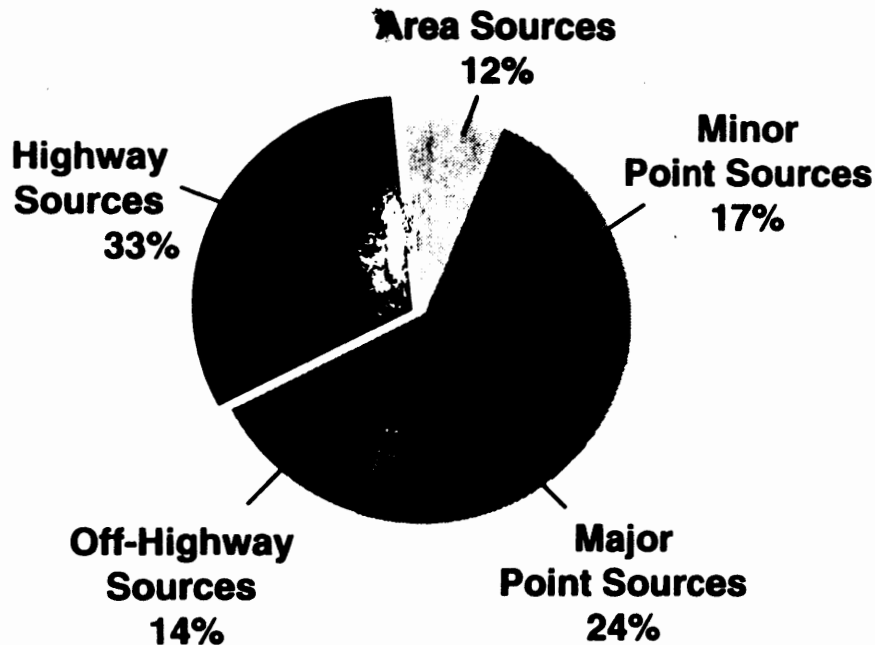
- If the state does not have a complete I/M program in place by February 2, 1995, which means adopted DMV rules and DEP rules, as well as necessary authorizing state legislation, federal transportation sanctions will be imposed. If we still do not have a program adopted by August 2, 1995, the 2:1 offset sanction will be imposed on New Jersey's industries, which means that if any new or modified major industrial source wishes to locate or expand they will need to offset one ton of their emissions with two tons. The cost of such offsets could put New Jersey at a competitive disadvantage. Additionally, the uncertainty of not knowing if these additional reductions will be required may cause business and industry to look elsewhere to locate.
- And do not think that if we do not act we will not have an Enhanced I/M program, it will exist, only it will be run by the Federal government,

SO WHAT IS THE PLAN OF ACTION?

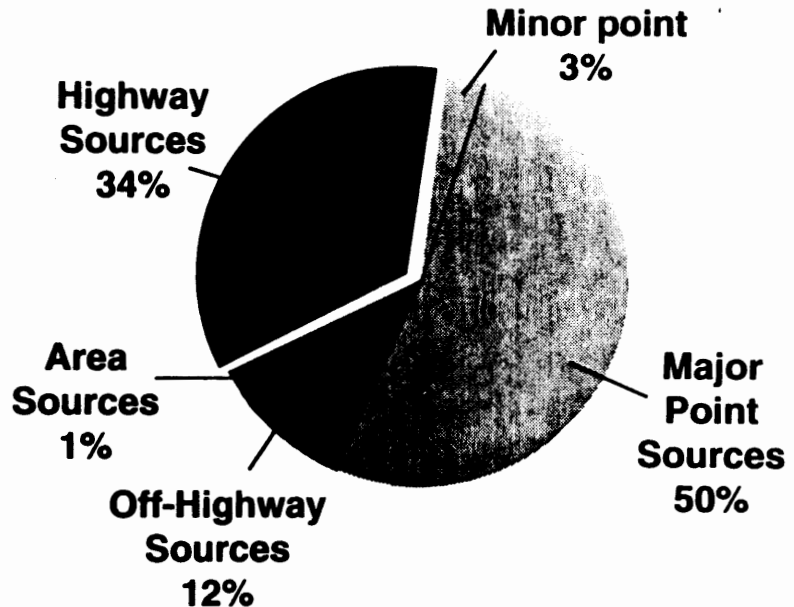
- New Jersey will submit a plan to the EPA later this year which outlines the progress to date, and a future plan to complete all outstanding Clean Air Act commitments.
- In this regard, I would be remiss if I did not mention that the EPA sanction clock for New Jersey's failure to adopt an Operating permits program under Title V of the Clean Air Act began on November 15, 1993; the first sanction will occur in May, 1995. The Inspection and Maintenance sanction clock is not the only sanction clock ticking.
- We are available to work with you and the rest of the state legislature to pass an Enhanced Inspection and Maintenance program legislation before the end of the month and operating permit program legislation by the end of the year.
- Note that the DMV and the DEP must adopt final regulations for Inspection and Maintenance implementation, based on the legislation finally adopted to avoid federal highway sanctions on February 2, 1995.
- Also, the EPA is preparing to disapprove portions of New Jersey's Carbon Monoxide State Implementation Plan (SIP) revision, submitted in 1992, because New Jersey does not have an Enhanced Inspection and Maintenance program.
- I look forward to working with you.

# 1990 Emission Inventory for New Jersey

**Volatile Organic Compounds  
(Summer — Statewide)**



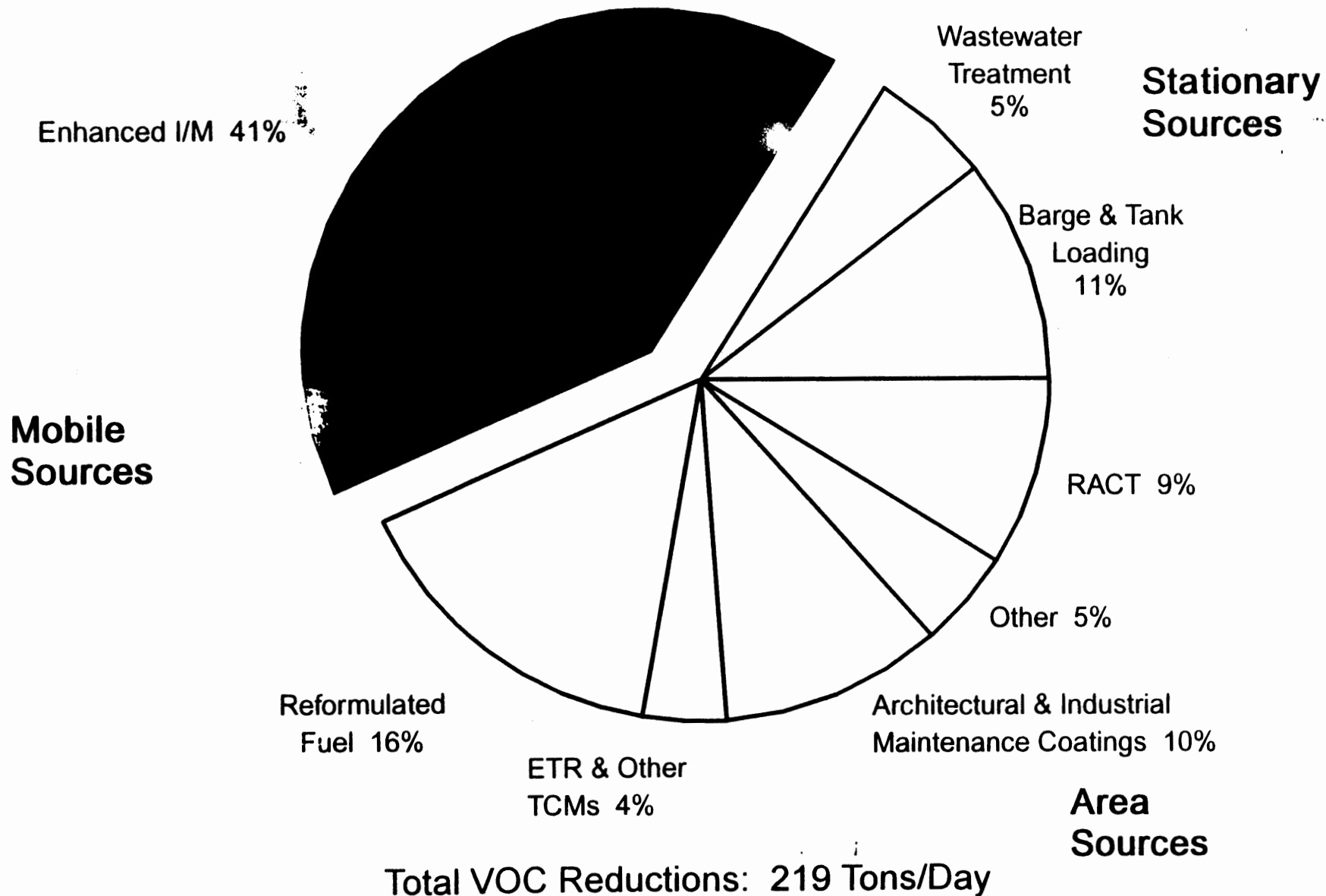
**Nitrogen Oxides  
(Summer — Statewide)**



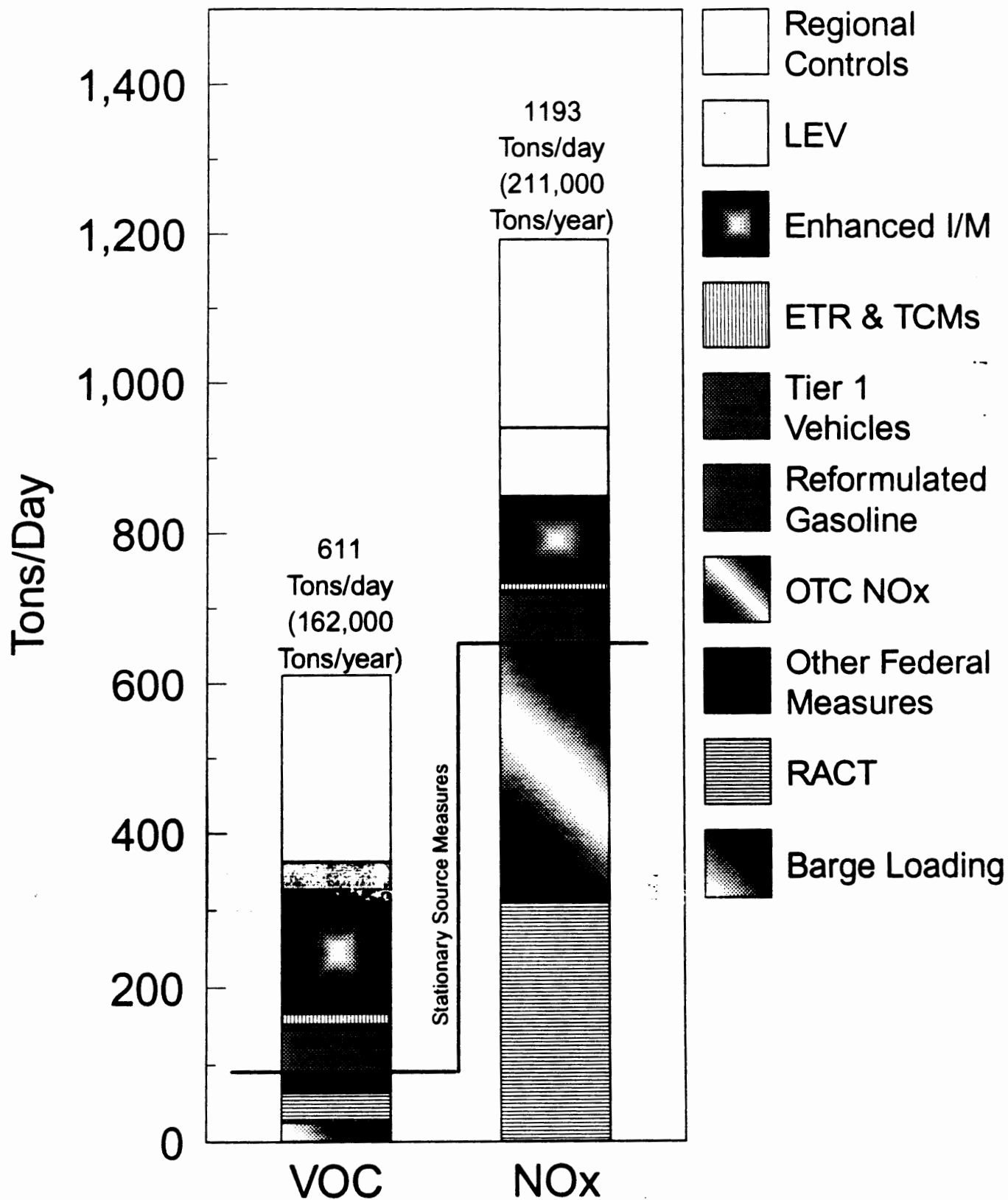
- Point sources:** Include factories and industrial facilities Major sources emit 10 tons/day or more; minor sources emit less than 10 tons/day
- Area Sources:** Smaller sources, such as gas stations, dry cleaners, home furnaces, structural fires and commercial and consumer product uses
- Highway Sources:** Cars, trucks, buses and motorcycles
- Off-Highway Sources:** Construction, agricultural and recreational vehicles, ships, boats, trains, aircraft and powered garden or lawn tools



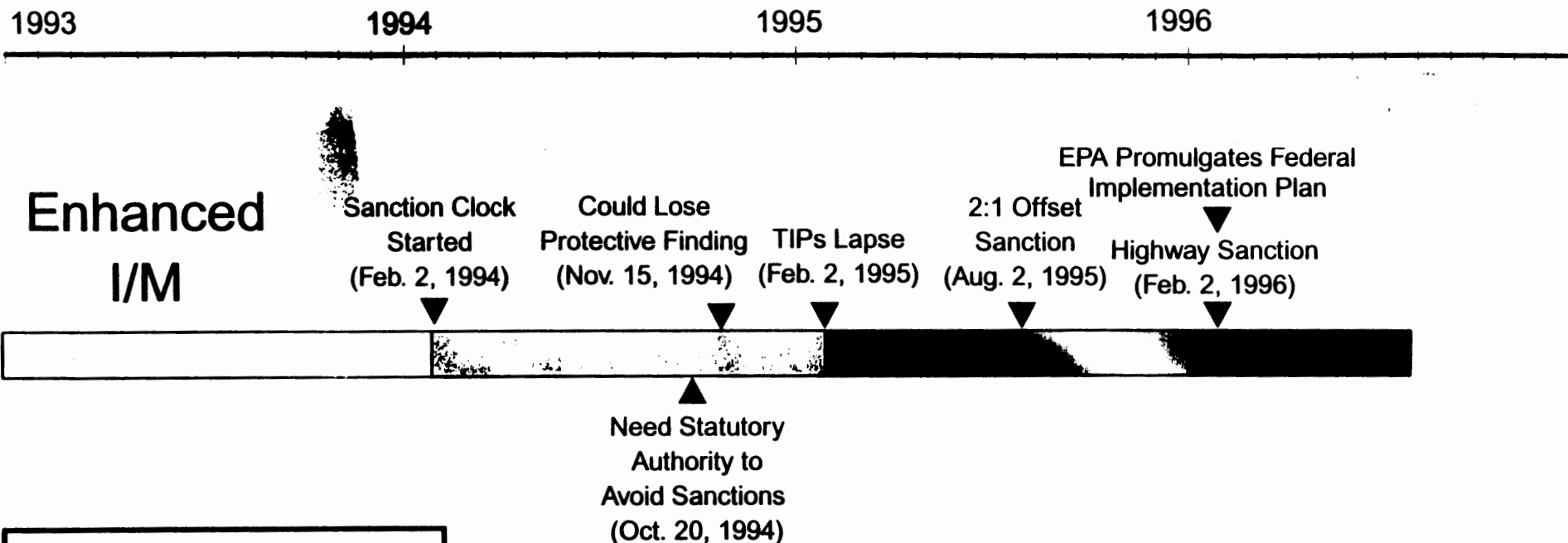
# Emission Reductions Needed by 1996 to Comply with the Clean Air Act



# Emission Reductions Needed to Attain the Ozone Health Standard in New Jersey by 2005



# Sanction Time Lines



## KEY

 No Sanctions

 Discretionary Sanctions

 Mandatory Sanctions

Outline of Enhanced I/M Agreement with EPA

1. **Frequency:** Inspections Once Every Two Years
2. **Vehicles Covered:** All Light Duty Gas Vehicles  
All Light Duty Gas Trucks  
All Heavy Duty Gas Trucks
3. **Network Type:** Centralized Stations - Vehicles more than 4 years old  
Private Inspection Centers - Vehicles 4 years old or newer
4. **Tests:** Purge & Pressure Tests  
Fast Pass/Fast Fail IM 240 at Centralized Lanes  
ASM 5015/RG 240 at Private Inspection Centers
5. **Switch:** Ability to switch from IM 240 to ASM 5015 under certain parameters on a station by station basis. Generally speaking, switch to ASM 5015 can occur whenever waiting time exceeds 45 minutes and test is able to process less than 15 vehicles per hour.
6. **Cutpoints:** 1995 - Phase-in Cutpoints  
1998 - EPA Cutpoints  
2001 - More Stringent Cutpoints
7. **Projected Overall Failure Rate:** 36%
8. **Retests:** Vehicles 4 years and newer retested at private inspection centers; vehicles older than 4 years retested at centralized lanes.
9. **Waivers:** Waivers can be granted to any owner who spends \$450 or more on repairs (as annually adjusted based on consumer price index) and whose vehicle continues to fail test.
10. **Study:** New Jersey will conduct a study between January 1996 and July 1996 to assess concerns relating to throughput, durability and practicality of test equipment, reliability and variability of test, and repairability of vehicles failing the test. Results of study will be used to make any adjustments, modifications or changes to the program.
11. **Nationwide Studies:** Program can be adjusted or modified based upon the results of other studies conducted, including but not limited to those in process in California.

# A Comparison: 40 CFR Part 51:New Jersey Agreement

| ENHANCED SYSTEM ELEMENTS                                  | EPA PROGRAM<br>40 CFR Part 51   | NEW JERSEY'S<br>NEGOTIATED DEAL  |
|---|---|--|
| Network Type:   | Fully Centralized<br>No Private Inspection Centers                                      | 30% Private Inspection Centers<br>70% Centralized  |
| Inspection Frequency:                                     | Annual  | Biennial   |
| Model Year Coverage:                                      | 1968 and later vehicles   | Same as current system - all model years   |
| Vehicle Type Coverage:                                    | All up to 8,500 pounds (passenger cars, light duty trucks, vans, small delivery trucks) | Same as current system - all gas operated vehicles   |
| Centralized System:                                       |   | Vehicles $\geq$ Five Years Old - Centralized System  |
| Private Inspection System:                                |   | Vehicles $\leq$ Four Years Old - Private Inspection System   |
| Exhaust Emission Test Type:<br>Centralized System:        | Full I/M 240  | Fast Pass/Fast Fail IM 240   |
| Wait time "Guarantee":                                    | None  | "Switch" to faster ASM 5015 test   |
| Exhaust Emission Test Type:<br>Private Inspection System: | Not Permitted   | ASM 5015 or RG 240   |
| Emission Standards:                                       | EPA determined  | EPA determined   |
| Catalytic Converter Inspection:                           | All 1983 and later model year vehicles  | Vehicles 4 years old and newer in Private Inspection Centers   |
| Fuel Inlet Restrictor Inspection:                         | All 1983 and later model year vehicles  | None   |
| Evaporative System Function Checks:                       | EPA protocol  | Alternative Pressure and Purge developed by New Jersey DMV   |
| Stringency; failure rate for pre-1981 vehicles:           | 20%   | Consistent with <u>current</u> program experience - 30%  |
| Waiver Rate:  | 3% of initially failed vehicles   | 3% of initially failed vehicles  |
| Compliance Rate:  | 96% of subject fleet  | 96% of subjects fleet  |
| Fleet Self-Inspection:                                    | Not Allowed   | Inspect $\leq$ 4 years old as licensed Private Inspection Facility   |
| Program Phase-In Dates:                                   | 30% - 1/95<br>100% - 1/96   | 30% - 12/95<br>100% - 1/96<br>PICs continue test-and-repair on $\leq$ 4 year old vehicles  |
| Study Focus:  | Not Applicable  | Agreement calls on New Jersey to conduct studies, the results of which can be used to change, modify or amend the agreement with EPA   |
| Study Duration:   | Not Applicable  | NJ studies must be completed by 7/1/95   |
| Flexibility Options Negotiated for New Jersey:            | None Addressed  | New Jersey can modify, change or amend its program based upon studies performed by contractors, research organization or other states; or programs adopted by other states (e.g. California) |

## Recommended Lane Configuration

Customer Waiting Area



Emission Pressure Test

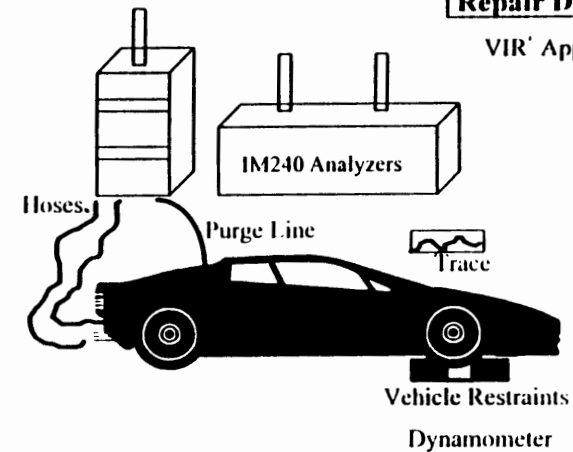
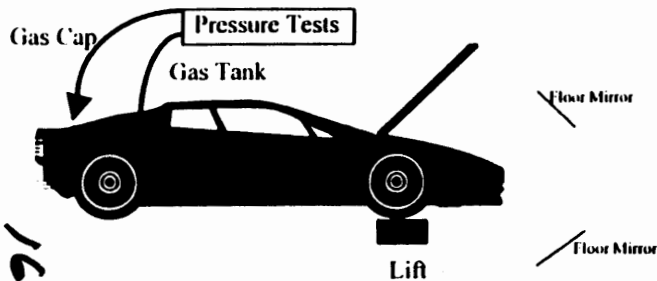
Prep Area for Emission Tests

Emission Tests IM240 & Purge

On-Line Inquiry Booth  
Credential/Odometer  
Recall Compliance

VIR Booth  
Repair Data Collection

VIR' Approx 2 min 30 sec



Pressure Test approx 2 min 30 sec

During pressure test, safety checks being performed include, glazing, signals, wipers, horn, stop lights, tires headlights, suspension, & misc.

POSITION #1

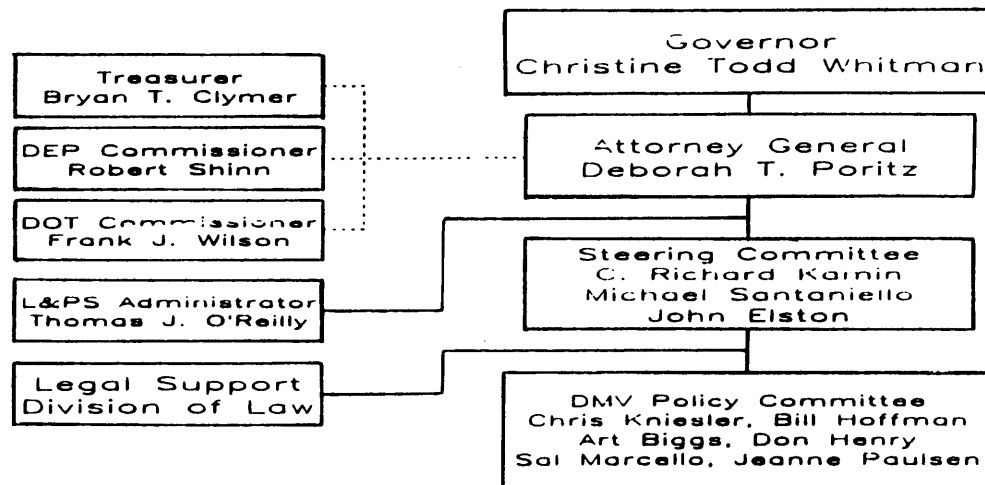
Emissions Prep approx 20 sec

POSITION #2

Emission Test IM240 & Purge approx 6 min

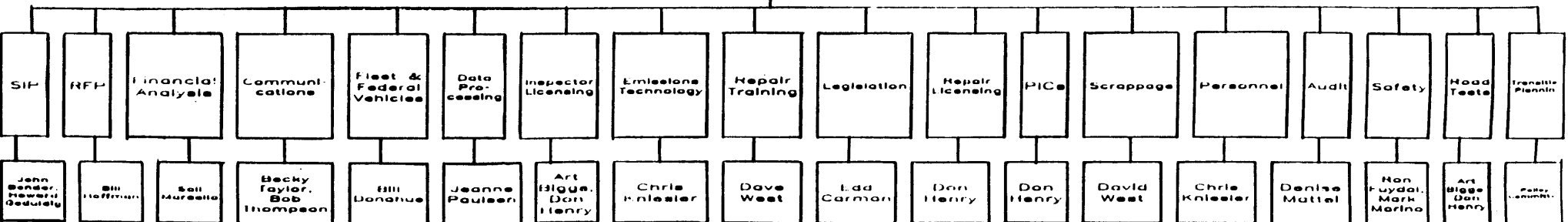
POSITION #3

# "ET" THE ENHANCED TEAM



## PARTICIPATING AGENCIES

Governor's Office  
 Department of Law & Public Safety  
 Division of Consumer Affairs  
 Division of Law  
 Division of Motor Vehicles  
 Labor Relations Office  
 Department of Treasury  
 Division of Building & Construction  
 General Services Administration  
 Office of Management & Budget  
 Office of Telecommunications & Info Sys  
 Department of Personnel  
 Department of Transportation  
 Department of Environmental Protection  
 Department of Education  
 Department of Military & Veterans Affairs  
 Division of Veterans Affairs  
 Department of Labor



## **CLEAN AIR PROJECT COMPONENTS**

- 1. FUNDING**
- 2. TEST SCHEDULE**
- 3. FLEET VEHICLES**
- 4. OUT OF STATE VEHICLES**
- 5. FEDERAL VEHICLES**
- 6. REAL TIME DATA SYSTEM**
- 7. DOCUMENT SECURITY**
- 8. WAIVERS**
- 9. WARRANTY NOTIFICATION**
- 10. REGISTRATION DENIAL SYSTEM**
- 11. COMPUTER MATCHING PROGRAM**
- 12. REGISTRATION BAR CODE SYSTEM**
- 13. AUDITS OF DATA BASE**
- 14. PARKING LOT SURVEYS**
- 15. OVERT AUDITS**



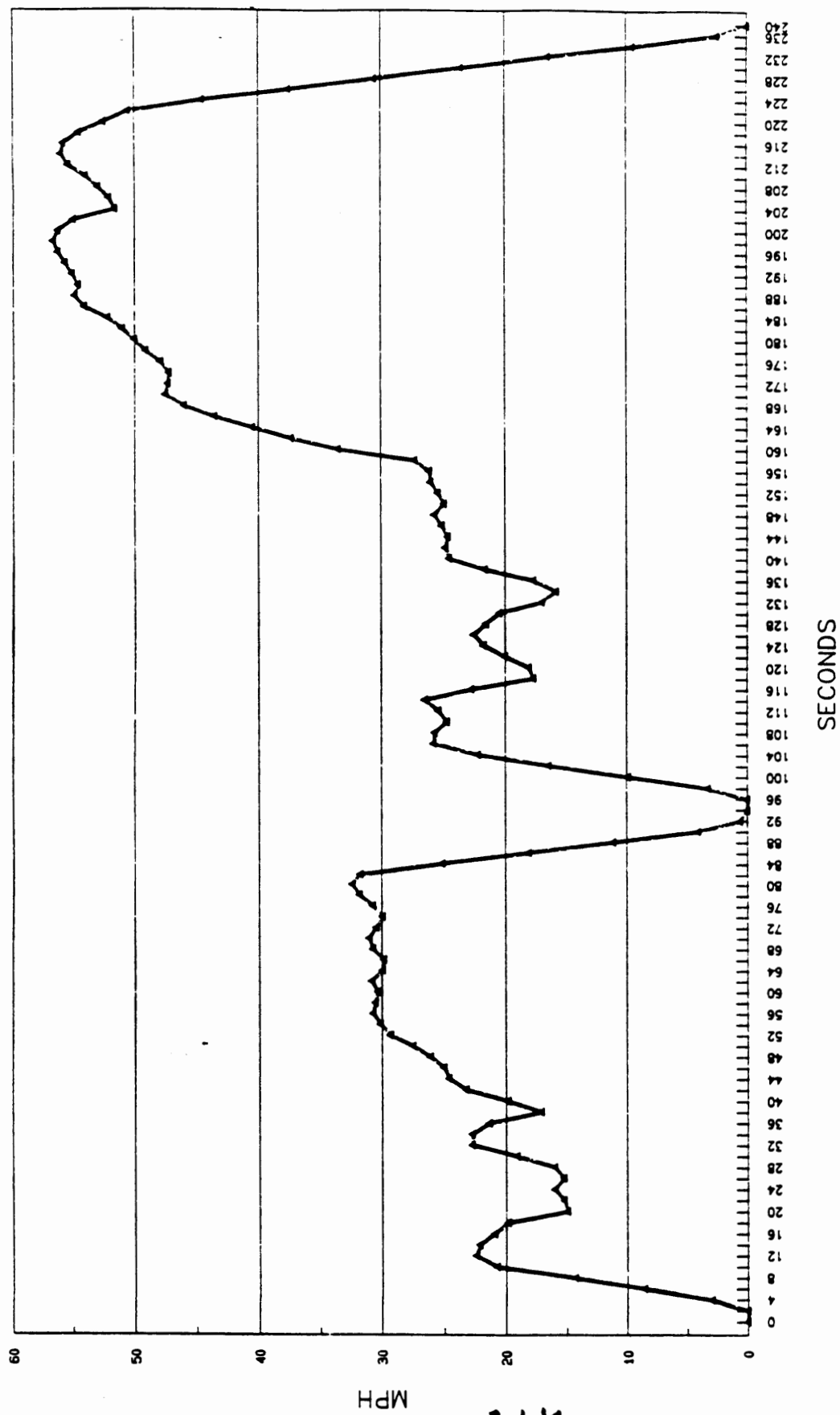
## **CLEAN AIR PROJECT COMPONENTS**

- 16. REMOTE VISUAL OBSERVATION**
- 17. COVERT AUDITS**
- 18. COVERT VEHICLE FLEET**
- 19. FICTITIOUS COVERT VEHICLE RECORD SYSTEM**
- 20. RECORD AUDITS**
- 21. EQUIPMENT AUDITS**
- 22. AUDITOR TRAINING**
- 23. AUDIT OF AUDITORS**
- 24. ENFORCEMENT SYSTEMS AGAINST STATIONS,  
INSPECTORS, PICS**
- 25. DATA COLLECTION - TEST DATA**
- 26. DATA COLLECTION - QUALITY CONTROL DATA**
- 27. REPORTING REQUIREMENTS**
- 28. INSPECTOR LICENSING COMMITTEE**
- 29. PUBLIC COMMUNICATION SYSTEM**
- 30. REPAIR PERFORMANCE MONITORING SYSTEM**
- 31. CONSUMER COMPLAINT SYSTEM**

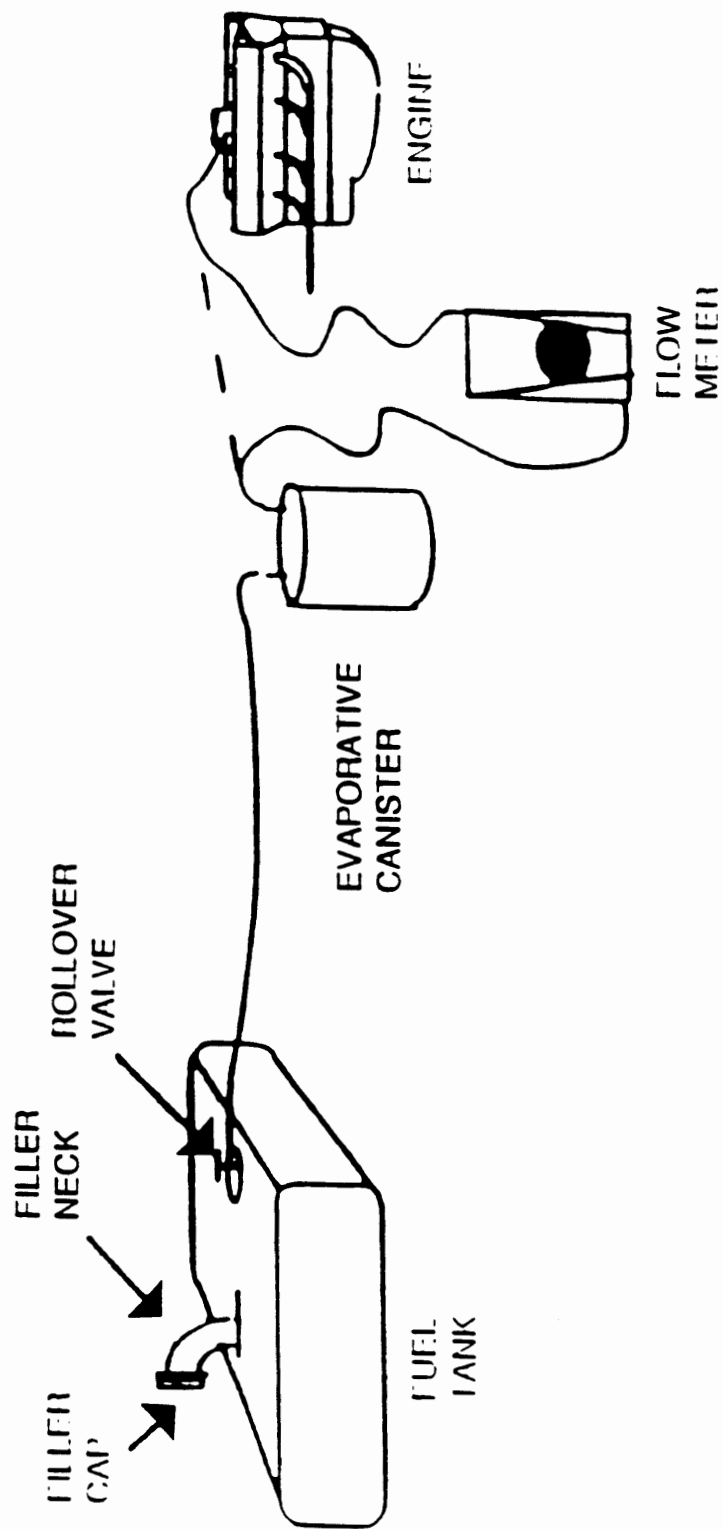
## **CLEAN AIR PROJECT COMPONENTS**

- 32. REPAIR INDUSTRY TRAINING**
- 33. REPAIR INDUSTRY INFORMATION SYSTEM**
- 34. REPAIR INDUSTRY HOTLINE**
- 35. RECALL COMPLIANCE SYSTEM**
- 36. ROADSIDE INSPECTION SYSTEM**
- 37. REPAIR INDUSTRY REGISTRATION SYSTEM**
- 38. SCRAPPAGE PROGRAM AND PROGRAM FOR FINANCIALLY DISADVANTAGED**
- 39. WAIT TIME TRACKING SYSTEM**
- 40. VEHICLE THROUGHPUT TRACKING SYSTEM**
- 41. PROGRAM EVALUATION**
- 42. RANDOM SAMPLE SYSTEM OF .1% OF FLEET**

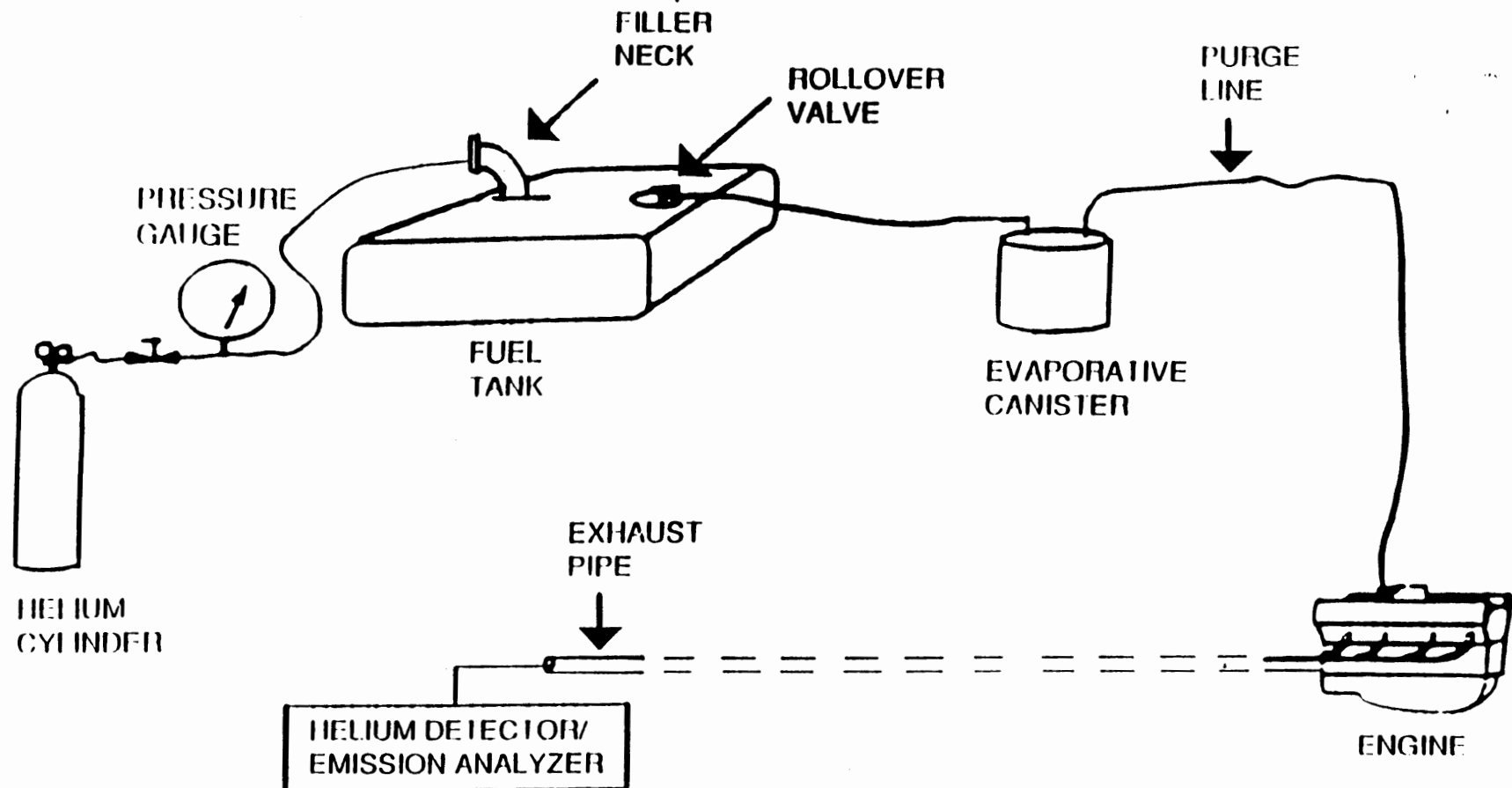
# IM 240 TRACE



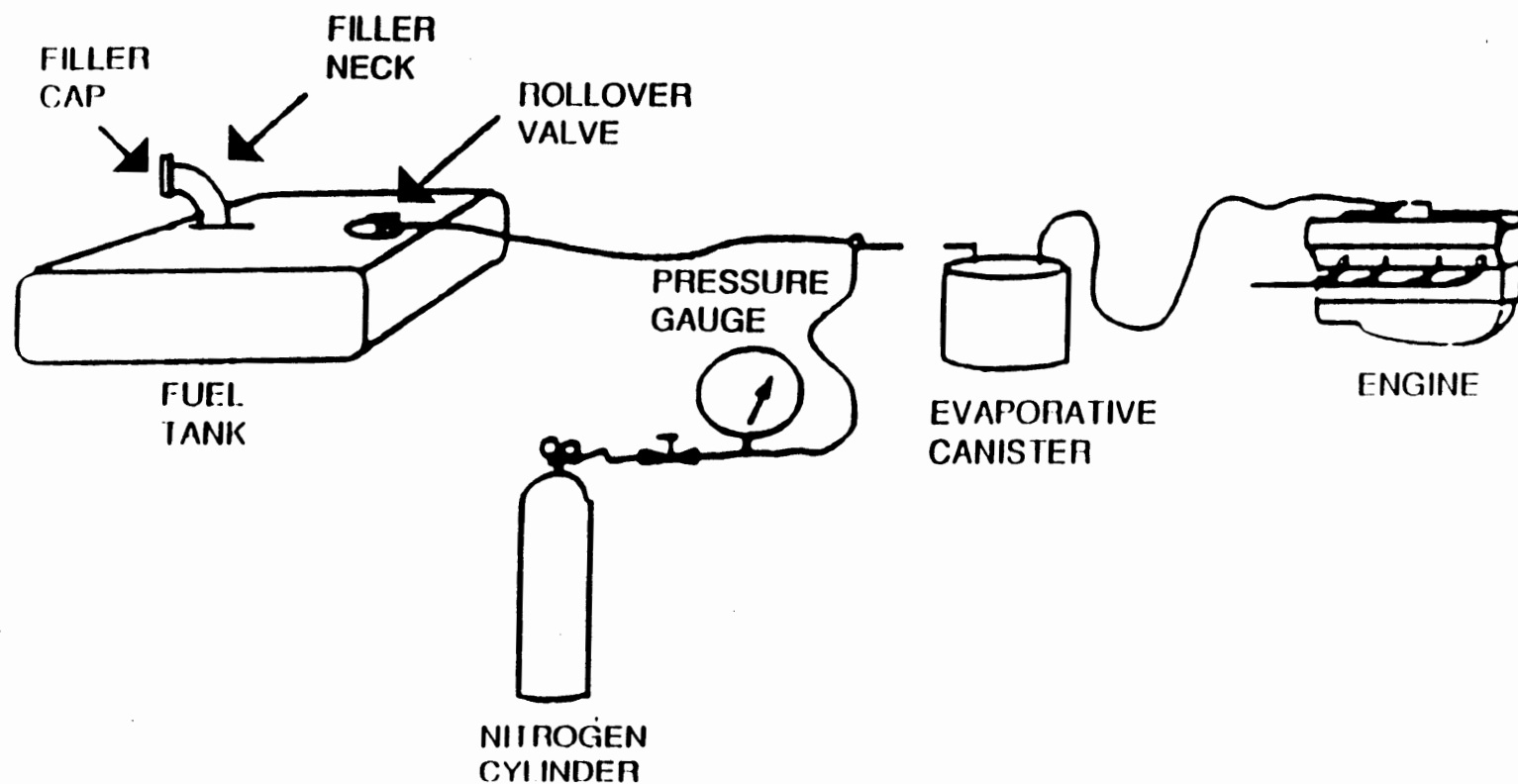
# EPA Purge Test Method



# N.J./ESP Purge Test Method

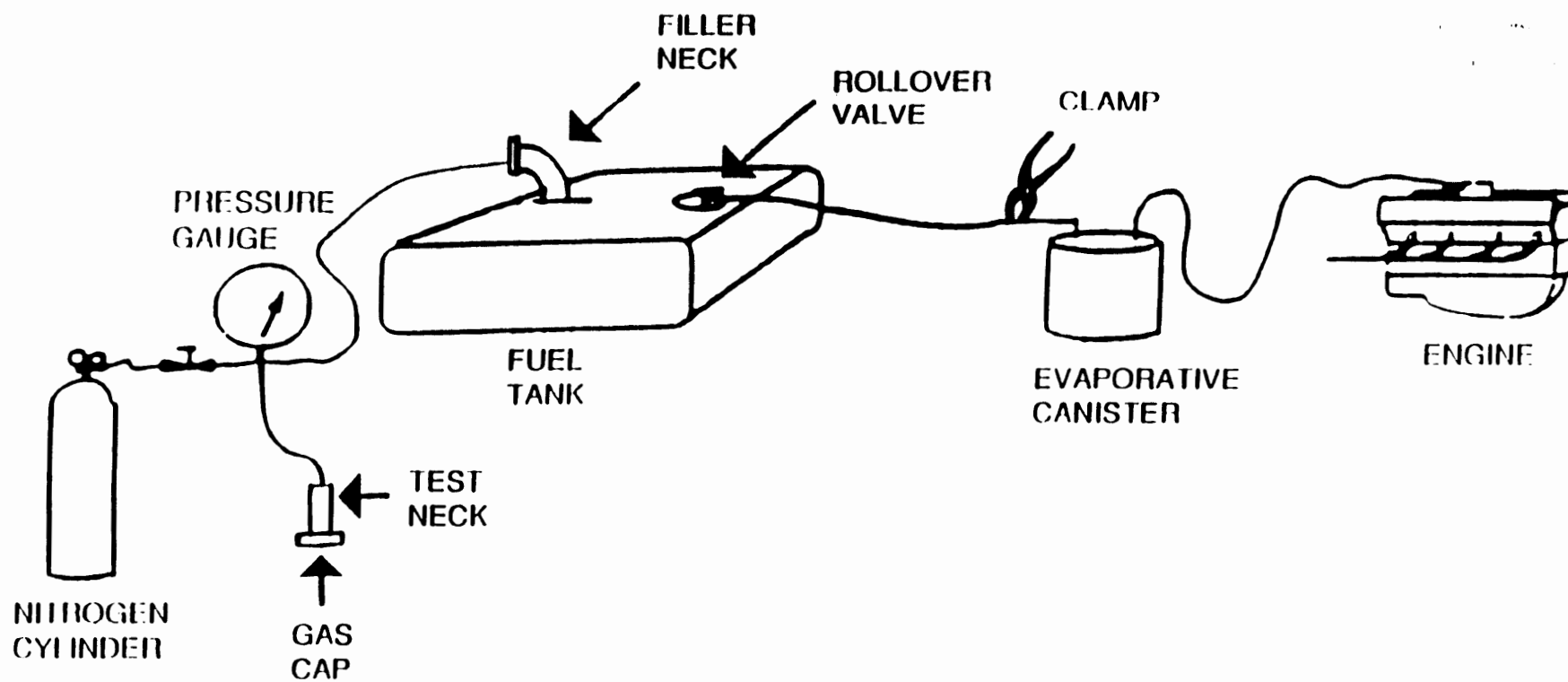


# EPA Pressure Test Method



24X

# N.J./ESP Pressure Test Method



## Vehicle Owner Hardship by Legislative District

- Older vehicles (1989 and older) will experience higher failure rates since emission components are more likely to fail after years of use.
- The map shows by color the percentage of older vehicles subject to centralized testing, decentralized repair and centralized retesting.
- Only three (green) districts contain less than 70% older cars. These vehicles can be tested and certified at a decentralized location.
- Fourteen districts (red) include 75-80% older vehicles. A majority of 23 districts (yellow) include 70-74% older vehicles. These vehicles must be tested and certified at a centralized location.
- The EPA projects a 46% failure rate for 1981-1987 model year vehicles and a total failure rate of 36% for all vehicles.
- Approximately 640,000 older cars failing the centralized test annually must:
  - Make an appointment for repairs.
  - Find the time and travel to a repair facility.
  - Pay on average, \$120 - \$190 in EPA estimated repair costs.
  - Return to a centralized facility for retesting with no guarantee the vehicle will pass inspection.
  - Possibly spend up to \$520 to be eligible for a waiver.

**Data Source:** R.L. Polk Co., July 1993, excludes 1994 model year and newer.



47TH DISTRICT  
GERALD J. LAVALLE

- SENATE BOX 203047  
HARRISBURG, PA 17120-3047  
(717) 787-8078
- 238 BRIGHTON AVENUE  
ROCHESTER, PA 15074  
(412) 774-0444
- 301 CENTRAL BUILDING  
101 SOUTH MERCER STREET  
NEW CASTLE, PA 16101  
(412) 684-1444



Senate of Pennsylvania

COMMITTEES

VETERANS AFFAIRS AND EMERGENCY  
PREPAREDNESS, MINORITY CHAIRMAN  
COMMUNICATIONS AND  
HIGH TECHNOLOGY  
COMMUNITY AND ECONOMIC  
DEVELOPMENT  
LABOR & INDUSTRY  
TRANSPORTATION

PENNSYLVANIA EMERGENCY  
MANAGEMENT COUNCIL  
PENNSYLVANIA MILITE COUNCIL

June 30, 1994

Ms. Carol M. Browner, Administrator  
United States Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Dear Administrator Browner:

I have obtained and enclosed for your review a copy of an Urgent Fax recently transmitted to a Mr. Tom Binder from Mr. Gene Tierney of the USEPA's Vehicle Emission Laboratory in Ann Arbor, Michigan. The Urgent Fax, as you will note, attempts to describe an amendment proposed to legislation relating to the Commonwealth's enhanced vehicle emission testing program and further delineates the impact the amendment would have on the State of Pennsylvania if adopted. In that I intend to sponsor such an amendment, and recently circulated a memo describing same to members of the Senate, I believe it is fair to assume that Mr. Tierney must be addressing my proposal in his Urgent FAX.

It is a known fact that I have opposed implementation of the EPA preferred centralized program in Pennsylvania based on a number of valid concerns shared not only by many of my colleagues in the Pennsylvania legislature, but by state and congressional officials throughout the country. That aside for a moment, I must convey to you my extreme disgust with the behavior displayed by your agency in regard to this issue. Mr. Tierney's Urgent Fax is just one more example to be added to the expanding list.

First, and apart from Mr. Tierney's inaccurate analysis of the amendment I still propose to offer, some very serious threats are made in the Urgent Fax which could, if legally justified, have a tremendous impact on Pennsylvania's residents. Given these very serious consequences, would it not have been appropriate for Mr. Tierney to first inquire with and convey this highly important information to State officials? Did Mr. Tierney transmit his Urgent Fax to the Governor or the Secretary of Transportation? Did it go to members of the General Assembly?

To my knowledge, the answer is no to all of the above. Rather, it was sent to Mr. Tom Binder and subsequently circulated and portrayed as the official message from the EPA to the government of Pennsylvania. Mr. Binder, in case you don't know Ms. Browner, is a regional marketing manager for EnviroTest, the Arizona contractor selected by PennDot to perform emissions testing in this state. Mr. Binder does not represent the Commonwealth in either an appointed or elected capacity. Should we assume that he represents the EPA as the courier of official policy?

I don't believe it is necessary to spell out for you the perception this situation creates for an agency such as yours which is already suffering major credibility problems on this issue. Having been involved in this issue for some time now, it appears to me that an extremely cozy relationship has been established between your agency and EnviroTest, a company which will be well placed to make millions upon millions of dollars on the backs of motorists if your agency persists and is successful in forcing centralized auto emissions testing programs on states. I have been wondering for some time now, Ms. Browner, just who is in charge and this latest incident only raises my curiosity.

I would also ask that you provide me with information as to Mr. Tierney's role in the SIP approval process. I have been told that Mr. Tierney was instrumental in developing and guiding USEPA policy which favors centralized systems utilizing I/M 240 technology. Does he also interpret legislation for the agency in order to issue swift Urgent Fax announcements declaring official EPA positions? If that is the case, I would suggest to Mr. Tierney that he take another look at the memo he refers to. It might even be worthwhile for him to review the actual language of the amendment in the event he failed to do so prior to the issuance of his Urgent Fax.

First, the amendment would not serve to terminate nor will it even delay Pennsylvania's existing centralized program which your agency has yet to approve. Further, the amendment would not as Mr. Tierney asserts, require the Pennsylvania Department of Transportation to implement a hybrid or decentralized system instead of the current program. Third, it is uncertain whether Mr. Tierney is aware of the distinction between an amendment and a statute by claiming that if the amendment is passed, a number of actions would be taken by the EPA. What legal system would the EPA be operating under which would allow for the imposition of sanctions based solely on the passage of an amendment to a pending piece of legislation?

As a result of the California agreement, your agency has now found it necessary to publicly proclaim that flexibility to design I/M programs is available to States if equivalency can be demonstrated. Although federal law has always provided for this flexibility, the fact remains that your agency has and continues to utilize every means available to discourage States from considering alternatives. EPA bureaucrats have found the

sanctions threat to be a very resourceful tool in their arsenal and they have used it repeatedly to intimidate state jurisdictions time and time again. Quite frankly, Ms. Browner, they're wearing it out!

If you and all other un-elected and unaccountable EPA bureaucrats believe that clean air is the preeminent concern with regard to this issue, I would strongly suggest that you take a hard look at the facts and evidence challenging the effectiveness and need for your preferred system. In the meantime, please give those of us who are ultimately forced to impose unproven, costly, inconvenient and unfunded federal mandates on people a break!

Sincerely,



GERALD J. LaVALLE  
STATE SENATOR

GJL:adr

President Bill Clinton  
Governor Robert P. Casey  
Secretary Howard Yerusolim, Secretary of Transportation  
Honorable Ernie Preate, Attorney General  
Pennsylvania State Senators  
U.S. Senator Arlen Specter  
U.S. Senator Harris Wofford  
Pennsylvania Congressional Delegation



United States Environmental Protection Agency  
National Fuel and Vehicle Emission Laboratory  
Ann Arbor, Michigan 48105



**URGENT  
FAX**

FROM

Gene Tierney

FAX#

313-668-4497

PHONE#

313-668-4456

I/M Section

Emission Control Strategies Branch  
Emission Planning and Strategies Division

FAX TO

Tom Binder

FAX#

(717) 233-8949

MESSAGE

I just received a memo to Pennsylvania senators explaining an amendment that will be introduced today or tomorrow. The amendment will cut back the PA enhanced program to testing only the minimum 1995 and will require Penn DOT to implement a hybrid (or decentralized) system instead of the currently planned network. If this amendment were to pass, EPA would have to do the following:

- 1) Disapprove the I/M SIP (means sanctions clock cannot be stopped by submission, only by proposed approval of a new plan - makes sanctions more likely)
- 2) Remove the protective finding, as we did in Virginia, leading to the lapse of the transportation plans and the end of highway project funding.
- 3) Disapprove the 15% plan unless PA can make up for the emission reductions that would have been generated by full implementation in 1995 and the loss in reductions associated with a hybrid system. This will mean highway projects could not be built for quite a long time.



We would like to take this opportunity to provide you with information regarding our start-up experiences in Maine with an enhanced IM240 inspection program. As you may know, this was the first fully operational enhanced vehicle inspection program in the country. Systems Control (SC), the Maine Department of Environmental Protection, the U.S. EPA, and the I/M industry at large are all learning from this experience. All future I/M programs will benefit from what we have and will learn in Maine.

Despite what you may have heard, there has been no elimination of the inspection requirement in Maine. All vehicles originally required to be inspected must still be inspected sometime during the next year. Motorists at their option may satisfy the testing requirement during either a 6-month voluntary period (at a reduced inspection fee and waiver limits) or a 6-month mandatory testing period.

The voluntary phase-in period was conceived by SC and the State of Maine to allow several public policy issues raised since the July 1 launch of the program to be addressed. The issues that must be addressed by the State include:

- Should the program be statewide, continue to be confined to the seven southern counties or just cover the non-attainment areas?
- Why aren't "dirty" diesel vehicles included?
- Should there be low-income waivers or subsidies?
- Should there continue to be a low-mileage exemption?
- Should pollution credits to stationary sources be allowed?
- How can the repair industry be successfully integrated into the program?

Public concern regarding these issues was heightened by election year politics and disclosure in early July that a firm in northern Maine (Louisiana Pacific) was about to be given free pollution credits in order to expand a manufacturing plant. Given Maine's recessionary climate and the potentially high costs of inspection and repair, this disclosure created a public furor. It was the spark that ignited the public controversy regarding the fairness of the program. Southern Maine motorists began asking the question, "Why should I have to pay \$24 for an inspection and up to \$450 for repairs so a company can pollute in Northern Maine?"

The attached letter from State Senator Richard J. Carey, Co-chair of the Joint Selection Legislative Committee, describes how "Maine's program became caught up in a controversy not of the program operator's making." Carey acknowledges that "the public controversy aroused by the emissions credits issue threatened to destroy the program before it had a chance to achieve full public acceptance."

SC has worked closely with the Select Committee and the Department of Environmental Protection to formulate a phase-in testing program with the following key features:

- A voluntary testing program between September 1, 1994 and February 28, 1995.
- Incentives for motorists to participate in the voluntary testing, including a reduced testing fee and a reduction in the minimum repair expenditure to qualify for a repair waiver.
- Creation of a repair reimbursement fund by Systems Control.
- Reinstatement of the full testing fee and full waiver minimums, effective March 1, 1995 for motorists whose vehicles are tested after that date.
- All vehicles must be tested during either the 6-month voluntary or mandatory phase.

While SC experienced some of the "start-up pains" that could reasonably have been expected in the first ever full-scale IM240 program in the country, we have worked to continuously improve all aspects of the operation including increased staffing and refresher training to capture lessons-learned from actual operations.

During the voluntary testing period SC will continue to make program improvements including:

- Improved comfort and utility at test sites.
- Distribution of simple, written explanation of the test process.
- Improved reporting of the test results to motorists.
- Additional customer service training based on "lessons learned" in initial test operations.

Survey results recently released by DEP showed that over 90% of motorists were satisfied with how they were treated at the SC test facilities. Included is an article from the Portland Press Herald that provides the survey results.

Because the Maine program is the first in the nation to have fully operational IM240 lanes on a program wide basis, a special EPA Audit was conducted in early August. The EPA report states that the Maine program, CarTest, "was found to be technically well designed and implemented. Given that this is the first full-scale, enhanced IM240 program, the few technical problems noted in this audit are an indication of the outstanding job done by the Maine DEP and its contractor, Systems Control." A copy of the EPA's audit report is attached.

In Maine, SC was confronted with an unusual and volatile mix of circumstances. They include an upcoming election, underlying public concern regarding the fairness and cost of the program in a state still feeling the effects of the recession, introduction for the first time of a vehicle emission inspection, "start-up pains", and a pollution credit issue unrelated to the program, which ignited a public outrage. In these difficult circumstances, in a collaborative effort with the State, SC worked out a solution that in the words of Governor McKernan was "a win-win for all parties involved."

The voluntary program in Maine is a real example of how SC develops working partnerships with our clients which result in solutions that meet their needs under even the most difficult of circumstances. We recognize that no one's best interests are served by litigious attitudes or actions. We understand the benefits of collaboration and the formulation of solutions that work for everyone. In his letter Senator Carey also acknowledges that we "worked with the state as partners and the Maine testing program will be better as a result".

We will continue to be in touch with you over the next several months to provide updated information on how the voluntary program in Maine is proceeding. Systems Control's marketing staff is available to answer questions about the Maine CarTest Program or to arrange a visit to one of our facilities. They can be reached at the following numbers:

- Laura Baker (408) 481-3905
- Jim Caffey (410) 280-0088
- Bill Dell (410) 280-0088
- Leo Carroll (617) 576-5717

New Jersey State Library

Senate

Richard J. Carey, Kennebec, Chair  
Georgette B. Bernhe, Androscoggin  
Charles E. Summers, Cumberland

Deb Friedman, Legislative Analyst



MAINE STATE LEGISLATURE  
Augusta, Maine 04330

House

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JOINT SELECT COMMITTEE TO REVIEW THE  
IMPLEMENTATION OF THE AUTO EMISSIONS INSPECTION PROGRAM

To whom it may concern:

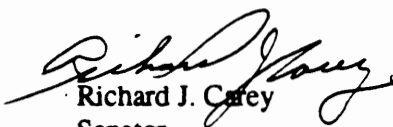
On July 1, 1994, the State of Maine implemented the first enhanced IM 240 auto emissions testing program in the nation. As is the case with any new program, this one experienced its share of start-up problems needing to be worked out. Unfortunately, in addition to the operational issues, Maine's program became caught up in a controversy not of the program operator's making. Within days of the program start-up, a policy issue involving the possible giveaway or sale of air emissions credits expected to be earned by Maine because of our testing program came to public attention. The public controversy aroused by the air emissions credits issue swept the entire testing program into the public dispute and threatened to destroy the program before it had a chance to achieve full public acceptance.

The operator of our testing program, Systems Control, Inc., caught the heat of the public furor and demands were made by some members of the public for the abolition of the testing program. A Select Committee, of which I serve as Senate chair, was created by legislative leadership to look into both the operational concerns and the public policy issues which caused much of the public uproar. Following a series of seven public hearings, the Committee considered what actions to recommend to address the legitimate concerns raised about the policy decisions made in authorizing and implementing our testing program, and the operational problems experienced during the start-up of the testing.

During the Committee's deliberations, Systems Control was an active participant in our discussions and showed a cooperative spirit in working with the Committee to resolve problems. Systems Control worked closely with our Department of Environmental Protection and the Committee to fashion an agreement to establish a voluntary phase-in period for the testing program with incentives for motorists to participate, reinstatement of the mandatory testing program effective March 1, 1995, and a requirement that all vehicles be tested during either the six month voluntary or the mandatory phase. The company, which had experienced some "start-up pains" while implementing the first full-scale IM 240 program in the country, has worked continuously to improve all aspects of the operation and to capture the lessons learned from the start-up period.

Systems Control negotiated a memorandum of understanding with the State to implement the voluntary phase-in period and the incentives, a solution which our Governor call "a win-win for all parties involved". The company is to be commended for its cooperative and collaborative approach to resolving an unusual and difficult set of circumstances. They worked with us as partners and our testing program will be better as a result.

Sincerely yours,

  
Richard J. Carey  
Senator



United States  
Environmental Protection  
Agency

Office of Air and Radiation EPA-AA-EPD-I/M-94-8  
Office of Mobile Sources  
Ann Arbor, Michigan 48105  
August 1994

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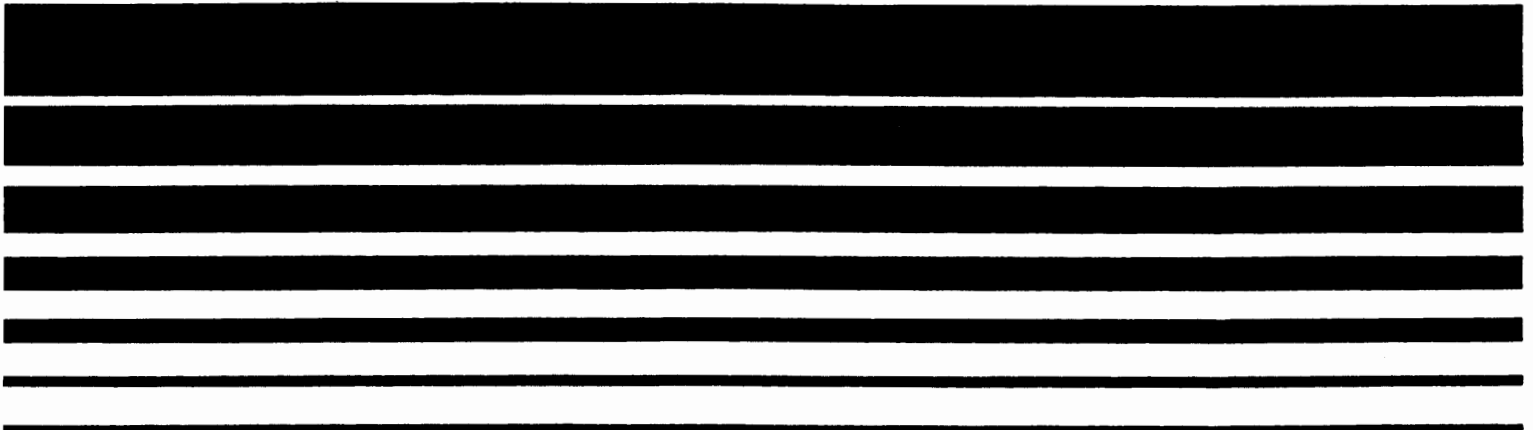
Air

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EPA

## Audit of the Enhanced I/M Program in Maine



## Executive Summary

On August 9, 10, and 11, 1994, a four person EPA audit team from the National Vehicle and Fuels Emission Laboratory in Ann Arbor, Michigan, conducted a brief audit of the Maine Car Test Program. The purpose of this audit was not to conduct a comprehensive or in-depth review of every aspect of the program but, rather, to evaluate the technical and organizational aspects of the program. The Maine inspection program is the first to employ IM240, evaporative system purge, and evaporative system pressure tests on a network-wide basis. The Maine Car Test program was found to be technically well designed and implemented. Minor technical problems were observed, however, none are likely to result in false test failures.

The major area that needs to be addressed at this time is public interface, especially revising the test report and other information provided to motorists that fail the test. Minor refinements are needed in the testing process, and procedures for suspending evaporative system tests when pattern failure problems are encountered are needed. Additional informational training for the repair industry would be useful in helping insure efficient and effective communications and repairs, although the data on retest pass rates to date do not indicate a major problem with repair effectiveness.

## Introduction

From August 9-11, 1994, a four person EPA audit team from the National Vehicle and Fuels Emission Laboratory in Ann Arbor, Michigan, conducted a brief audit of the Maine Car Test Program. The purpose of this audit was not to conduct a comprehensive or in-depth review of every aspect of the program but, rather, to evaluate the technical and organizational aspects of the program. The Maine inspection program is the first to employ IM240, evaporative system purge, and evaporative system pressure tests on a network-wide basis. These tests are being implemented in enhanced IM programs throughout the country and Maine's experience will help those that follow to refine the design and operation of the enhanced IM tests. The audit team visited four stations in the seven station network: Westbrook, Kennebunk, Lewiston, and Topsham. The first three of these stations are the largest volume stations in the system. The audit team focused on observing the testing process, monitoring inspector performance, assessing equipment and quality control, and evaluating the overall system.

## General Description of the Test Process

The testing process in the Maine program uses a three position system that begins when the motorist pulls into the lane. At the first position, an inspector greets the motorist and obtains basic information and the vehicle registration. This information is used to call up the pre-existing vehicle record, if available, or to create a new record for the vehicle. The inspector determines whether this vehicle is scheduled for an inspection and, if not, asks the motorist if he or she would like a voluntary test. If the information collection is occurring in the lane (as opposed to outside the lane in the queue, when other cars occupy the test positions in the lane) the vehicle is turned off and, on 1981 and newer vehicles, another inspector prepares the vehicle for pressure testing by removing the vent lines from the evaporative canister under the hood and attaching a pressure test hose and for the purge test by connecting two purge hoses between the canister and the engine. A swinging arm is then brought into position in front of the car and the pressure test system is attached to the pressure test hose. Once attached, the inspector presses a button and the pressure test

proceeds automatically. When the test is completed, a light automatically illuminates to notify the inspector.

Once the pressure test is completed, the hood is lowered (but not closed) and the vehicle is moved to the second position in the lane where the IM240 and the evaporative purge tests are performed. With one inspector driving the vehicle and another inspector assisting, the vehicle is positioned on the dynamometer. While still running, the vehicle is prepped by one or two inspectors for the IM240 test:

- chock blocks are placed in front of the non-drive wheel tires
- for some front wheel drive cars, straps are attached to the front of the vehicle
- the cooling fan is positioned in front of the vehicle
- the purge meter (mounted on the cooling fan) is attached to the purge test hoses
- the sample funnel is attached to the tail pipe, and
- the test control console is hooked onto the steering wheel.

Once prepared, the inspector sits in the driver's seat and runs the IM240 and the evaporative system purge test. Maine employs fast-pass software so the test may last as little as 30 seconds or as long as 240 seconds. Once the IM240 is complete, the vehicle is deprepped and moved to the final position at which point the motorist resumes control of the vehicle, is given the test report and a brochure, and is advised of the test results. At this point, the motorist may be referred to the customer service office for more assistance.

Over the course of the three day visit the audit team observed this testing process at all four of the test stations visited. In most respects, inspectors followed the test procedures established by EPA and the State. There were several relatively minor deviations observed during the audit, that are unlikely to have any major impacts but do need to be addressed:

- In some stations, vehicle hoods were not left fully open during the IM240. Opening the hood during the transient test is important to simulate normal air flow cooling during the test. The effect on emissions of failing to open the hood is likely negligible, however, it is important to prevent vehicles from overheating.
- At one station, the sampling system was routinely removed from the tailpipe prior to the end of the test due to the mistaken belief that the final deceleration did not contribute to the test results. Pulling the sampling system off early is unlikely to result in false failures, however, there are some types of emission related malfunctions that might not be detected.
- At one station, the pressure and purge tests were skipped if the inspector observed that the vent line or purge lines were "brittle." As far as we could tell, these vehicles were not failed and required to get new hoses. EPA believes it is best to test these vehicles, however, if hoses are too brittle for the vehicle to be tested then it should fail.
- Vehicles were not always restarted right after the pressure test. EPA guidance requires a minimum of 30 seconds of engine operation after restart prior to the IM240. Minimizing the length of time the engine is shut off is important to keep the vehicle in a fully warmed up condition. This will become more important when the weather gets colder.

The audit team also noted that the State's instructions to the contractor do not seem to include a comprehensive visual inspection of the evaporative canister. This check is part of the credit for the pressure test. A visual check of the evaporative canister needs to be performed and must include an assessment of the canister and the hose connections. Obviously tampered or damaged canisters or obviously missing or misrouted hoses must result in test failure.

There are several other recommendations that the State should consider in terms of how the test is run and which tests are employed:

- Suspend evaporative pressure or purge tests for problem vehicles such as Ford Broncos. EPA has approved alternative pressure and purge tests that should alleviate many of the problems that Maine has encountered. These tests will not be ready for use for approximately 6 months.
- Use fast-pass only when there are vehicles waiting in line to be tested. The fast-pass results only predict the final test outcome; they do not provide an accurate, absolute measure of the vehicle's condition. When time allows, completing the full test will provide the motorist and the State with more accurate information about the vehicle's emission rates.
- Check tire pressure when there are no lines. While the audit team did not notice any vehicles with low tire pressure being tested, we also did not observe any tire inflation occurring, which is required when low tire pressure is observed. It is often difficult to visually detect low tire pressure. Inflating tires to recommended tire sidewall pressure when there is no time pressure in the lane will yield important benefits: fuel economy will improve, emission rates may be reduced, and a more accurate test result will be insured.

The audit team did not note any other problems with the performance of the test but some potential problems are difficult to spot during overt observations. Inspectors should be reminded to:

- Verify vehicle operating temperature by checking the temperature gauge
- Check drive wheel tires for inflation and safety conditions
- Turn off *all* accessories during the IM240

#### Physical Structure and Equipment

Maine's contractor, Systems Control, Inc. has done an outstanding job in designing and deploying the IM240 testing system. The equipment is well designed in most respects and it appears to meet the specifications established in EPA guidance. The pressure test arm is very convenient to use - it swings into position and back out of the way with ease. The monitors and controls for the emission test are intuitive and practical. The equipment provides excellent feedback to the driver on the degree to which the trace is being followed. A possible problem observed in one case is that the software did not seem to identify the fact that the emission sample was lost after the sample funnel fell out of the tailpipe. An inspector noticed the problem and alerted the driver and the test was aborted. In another case, the sample funnel kept collapsing when the inspector tried to attach it to the tailpipe. The technical staff indicated that they were aware of the problem and plan to increase the rigidity of the funnel. The purge equipment is mounted directly on the cooling fan, which is manually placed in front of the vehicle very easily and easily retracted after the test. The vehicle restraint system - which is also not automatic - is more cumbersome to deploy and,

in two cases, inspectors did not remove chock blocks or straps prior to moving the vehicle to the third position. (The vehicles were not apparently damaged in these cases.) The layout of the lane is designed to minimize noise levels - blowers are placed near the ceiling in insulated boxes. Enclosed booths are provided along with fenced areas for observing tests to insure the safety and comfort of motorists. In general, the physical structure and the equipment meets EPA's expectations of how an effective system is designed and deployed.

#### Public Interface

The audit team observed the testing process from beginning to end in as many cases as possible. By necessity, inspectors must interact with motorists in order to conduct the test process. From the initial greeting to the final results, the audit team observed that inspectors acted courteously and helpfully. Even in cases where a customer was upset about failing the test or some other problem, the inspectors maintained their composure and performed their roles in a responsible manner. EPA does recommend one procedural change that is used in other centralized IM programs.

- Inspectors should provide motorists with only a very brief verbal report on the results of the test and then refer motorists that have additional questions or would like assistance to the customer service office.

This will help increase throughput and insure that motorists are given consistent, accurate and comprehensive information. The audit team noticed that testing was frequently delayed because one member of the three-person team was occupied answering a motorist's questions in the third position. This does not seem to be an efficient use of the inspector's time. The training required to insure optimum responses to the wide variety of questions or potentially difficult situations is probably too much to ask of this type of position. In keeping with this, a system needs to be devised (e.g., a buzzer or light) such that when motorists do enter the customer service office, a customer service agent can respond promptly if they are not already present at the desk.

The other major interface with the public is the test report. This is one area where major changes need to be implemented right away. The audit team found the report to be confusing and the information in conflict with the intent of EPA guidance. It should be noted that EPA's guidance was not absolutely clear in this respect. EPA plans to make changes to clarify its intent. The following changes should be made to the test report:

- The composite emission standard should *always* be the *only* standard printed on the test report for each pollutant, regardless of the decision process used to determine pass-fail status. While the logic being used for determining the overall test result is correct, the report is confusing. Two standards are being printed now - the composite standard or the fast pass standard, *and* the phase 2 standard. This is very confusing - especially when a vehicle fails only the composite or only the phase 2 standard. When a vehicle fails only one, then the overall result is a pass. The fact that the printout says "Fail" for one of them implies a failure for that pollutant overall.
- Current practice is to print the fast-pass standard instead of the composite standard if the vehicle is fast-passed. This is even more confusing since vehicles of the same class appear to be subject to different standards. The potential for this type of confusion was highlighted in a recent newspaper report in which it was inferred that one vehicle was tested at different standards at different stations. The fast pass standards should be viewed as subsets of the composite

score since they are derived from the composite standard. As above, only the composite standard should be printed on the test report.

Two emission scores are also being reported for hydrocarbons and carbon monoxide, and the score reported is a function of the decision process used to determine pass fail status. This is also confusing to motorists. The emission scores reported should be as follows:

- If the vehicle passes the composite standard, report only the composite emission score.
- If the vehicle fails the composite standard, report only the composite emission score.
- If the vehicle fails the composite standard but passes the phase 2 standard, report only the phase 2 results.
- If the vehicle fast passes, report the gram per mile emission rate for the test.

Another essential element of successful public interface is providing motorists that fail the test with information on what to do. The State and the contractor have produced an excellent brochure providing motorists with general information on how to respond to a test failure. At this time, however, that brochure, the test report, and verbal information is all that is provided to motorists. EPA's I/M rule requires that motorists also be provided with a list of repair facilities. This list must include all facilities that have performed repairs on one or more vehicles that failed the I/M test. The list may be segmented in various ways, including groupings of certified facilities and non-certified facilities. Naturally, at the start of the program, the list will be in a rapidly evolving state as more and more repair facilities become involved in the program. In addition to merely listing the facilities, EPA rules also require that the list include information on the success of stations that repair vehicles. Again, that information will take some time to accumulate and EPA does not expect such information to be reported in the first few months of a program.

- Give every failing motorist a list of repair facilities that are certified or have conducted repairs on vehicles that failed a test. Conversations with the Maine Department of Environment's I/M staff indicate that such a list is now available and will be distributed.

EPA's I/M rule also requires that repair technicians be provided with software generated diagnostic information when vehicles fail the test. The minimum that EPA intended was that motorists be given second-by-second emission results if they failed the test. This information could be passed on to repair technicians to use in the diagnostic process. The State is planning to provide this information to repair technicians via an electronic interface service. The printed information should also be provided so that the information is readily available to all technicians.

- Print out second-by-second trace information and give it to failing motorists.

Effective maintenance is the key to a successful I/M program. The State has taken commendable steps to establish training and certification programs for repair technicians. The Maine Central Technical College provides testing and training courses that relate directly to the inspection program. The State and the contractor have also produced a series of newsletters that have been sent to repair facilities throughout the seven county region. Nevertheless, the audit team got the impression that some in the repair industry did not have

a full understanding of the nature of the IM tests being performed, general information on why they were necessary and what they were intended to find, information on how to interpret the results and other program specific information.

- EPA recommends that the State institute a series of brief repair technician training sessions to provide information about the program and how it works (i.e., not training on repairing vehicles, per se; Maine is already providing such a program). One of EPA's grantees has developed a training course that serves this purpose.

#### Failure Rates

The audit team reviewed data on the pass and fail rates for the first month of the program. The overall failure rate is 21%. The by-model-year failure rates track very closely with the failure rates predicted by EPA based on the standards being used. The audit team also looked at retest failure rates. Among vehicles that got repaired and returned to the test station for a retest, about 62% passed the retest. This rate is essentially the same as that experienced in other (basic) test-only IM programs. This indicates that, in the majority of cases, repair technicians are able to repair the vehicle on the first try. EPA was concerned that in an area that has never had an IM program and one that starts with enhanced IM, unusual problems could be experienced with repair effectiveness. This does not seem to be the case: the repair community seems to be as capable as other IM areas in fixing failed vehicles.

#### Summary and Conclusions

The Maine Car Test program is technically well designed and implemented. We conclude that Maine has successfully implemented the IM240, purge and pressure tests in mass production in a networked system. This system has been developed and tested by EPA over the last five years. Given that this is the first full-scale, enhanced IM240 program, the few technical problems noted in this audit are an indication of the outstanding job done by the Maine Department of Environment and its contractor, Systems Control. This is not to say, however, that there are no problems that need to be addressed. The technical problems, however, are minor.

The major area that needs to be addressed at this time is public interface, especially revising the test report and other information provided to motorists that fail the test. Minor refinements are needed in the testing process, and procedures for suspending evaporative system tests when pattern failure problems are encountered are needed. Additional informational training for the repair industry would be useful in helping insure efficient and effective communications and repairs, although the data on retest pass rates to date do not indicate a major problem with repair effectiveness.



11 North Willow Street  
Trenton, NJ 08608  
(609) 394-8155 telephone  
(609) 989-9013 fax

119 Somerset Street  
New Brunswick, NJ 08901  
(908) 247-4606 telephone  
(908) 220-1179 fax

June 28, 1994

The Honorable Christine Todd Whitman  
Governor of New Jersey  
State House  
Trenton, 08625

Dear Governor Whitman:

We the undersigned environmental, public health and business community are writing to express our combined support for strong implementation of the enhanced inspection and maintenance program as required under the 1990 federal Clean Air Act Amendments. It is our understanding that the state is presently negotiating the details of this program with the U.S. Environmental Protection Agency (USEPA). If implemented effectively, this program is capable of dramatically improving the state's air quality and making a significant step towards meeting Clean Air Act requirements. If implemented poorly, the health of New Jersey's citizens will suffer, and New Jersey's businesses may be required to make up for the shortfall through additional stationary source controls.

Time is short. By November 15, 1996, New Jersey is required under the Clean Air Act to achieve a 15% reduction in emissions of volatile organic compounds. Forty five percent (45%) of those reductions are projected to come from the enhanced inspection and maintenance program. At present, New Jersey is still in the planning stages. This deficiency was in part responsible for the USEPA's Finding of Incompleteness for New Jersey's 1993 State Implementation Plan, which triggered the 18-month sanction clock on February 2, 1994. Based on our calculations, in order to comply with the Clean Air Act's first milestone in 1996, New Jersey must have an enhanced inspection and maintenance program 100% operational by at least one year prior if we choose to use annual testing (i.e., October, 1995), and two years prior if we choose to use biennial testing (i.e., October, 1994). Every day of delay decreases the likelihood that New Jersey will be able to meet the health-based standards of the Clean Air Act.

In an effort to confront some of the most pressing and controversial issues surrounding the enhanced inspection and maintenance program, we have taken this opportunity to set forth our views. In short, we are calling upon the state to implement an enhanced inspection and maintenance program that utilizes the IM240 Fast pass/ Fast fail system at test-only stations and explore all feasible options.

*Privatization: An Option Which Should be Thoroughly Explored*

Pennsylvania, New York, Maine, Connecticut, Wisconsin, Kentucky and Texas have already successfully moved towards privatizing their state inspection programs. A number of qualified companies are available to implement an enhanced inspection and maintenance program in New Jersey which will meet all EPA requirements at a cost of between \$19 and \$23 per car every two years. Other state programs include IM240 Fast pass/ Fast fail conducted at test-only inspection stations, thus meeting all EPA requirements. Any contract could require that inspection stations stay open on weekends; provide for longer, more convenient weekday hours; establish an optional reservation service and require that motorists are served in less than 15 minutes.



At present, the state has not accepted any private proposal because the Division of Motor Vehicles (NJDMV) is working on developing an alternative system which we are afraid will impose greater burdens on the state budget than privatization. However, NJDMV's proposal cuts corners by using test-and-repair stations and an inspection test (ASM5015) previously rejected by USEPA. Therefore, we urge you to thoroughly evaluate all privatization options to ensure that they meet three criteria: 1). greatest reduction in emissions to achieve clean air standards 2). lowest cost to the consumer 3). least impact on the state budget.

#### *Inspection Stations: Test-only versus Test-and-repair*

Emissions inspections conducted by independent garages that also do repairs (test-and-repair stations) are not nearly as effective as "test only" centers. In their comments on the federal inspection and maintenance regulations, relevant state agencies stated in "no uncertain terms" that they "knew of no solution to the problem of test-and-repair ineffectiveness." 57 Fed. Reg. 52,973 (1992). Reflecting the strong state sentiment against test-and-repair systems, the final EPA rule issued under the Bush Administration provides, "[e]nhanced I/M programs shall be operated in a centralized test-only format, unless the state can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard." 57 Fed. Reg. 52,980 (1992) (to be codified at 40 C.F.R. 51.353).

For states that choose to adopt test-and-repair programs, emissions credits are reduced by 50% for tailpipe emission test, purge test, evaporative system integrity test, catalytic check and gas cap check, and by 75% for evaporative canister checks, PCV check, and air system checks. 57 Fed. Reg. 52,980 (1992) (to be codified at 40 C.F.R. 51.353 (b) (1) (a)). These emissions credit penalties were recently upheld as a reasonable agency action by the federal appeals court in Washington, D.C. New Jersey, with the second worst air quality in the nation, needs every emission credit available to meet the 15% VOC reduction requirement by 1996. New Jersey's public health and economy cannot afford to adopt a test-and-repair program.

However, it is our understanding that New Jersey is presently proposing to utilize test-and-repair stations for initial tests for newer model cars (4 years or less) and to allow older vehicles to retest at test-and-repair stations after an initial failure at a test-only inspection station. The present annual inspection requirement would be relaxed to a system of inspections every other year, or biennially. Based on our understanding of the federal regulations, the New Jersey proposal would only receive full emissions credits for automobiles that passed the test-only inspection station the first time and those who returned for a retest.

Any lost emission credits will cost New Jersey businesses million of dollars a year. In order to make up for the substantial (50% and 75%) loss of emissions credits, the state would have to either expand the covered model years to those before 1983, or tighten the failure "cut" points. In either case, this action would have a disparate impact on the poorer citizens of New Jersey who either cannot afford a newer automobile, or who do not have the financial resources to maintain their vehicles to pass the tighter failure points. Thus the poorest segment of our society will pay the lion's portion of the cost of maintaining test-and-repair stations in the state. This is a regressive policy which should not be pursued.

There are also cost concerns associated with allowing vehicle emissions inspections at private garages. If New Jersey increases its failure rate to accommodate test-and-repair and ASM5015, the cost per ton could rise dramatically, in some circumstances exceeding the cost of additional stationary source controls. Under a test-only, IM240 system, the cost per ton for vehicle emission reductions is between \$1,000 to 5,000, based on a recent study by the Desert Research Institute (Reno) which assessed the cost-benefit of the present California smog-check system. By comparison, additional stationary source controls cost between \$8,000 and \$12,000 per ton. If New Jersey cuts corners and adopts a test-and-repair, ASM5015 system, the cost per ton of VOC reductions jumps from \$5,200 for the 8th percentile (30% failure rate) to \$14,100 for the 7th percentile (40% failure rate). Cutting corners is likely to result in higher repair costs to the driving public and additional costs to our large corporations and utilities that operate stationary sources of air pollution.

#### *Method of Inspection Test: IM240 versus ASM 5015 (NJ version)*

Air quality models have in the past significantly underreported vehicle emissions by a factor of 2 or 3, according to the National Academy of Science. At present, vehicle emissions inspection tests do not adequately reflect real-world driving conditions such as acceleration and deceleration and uphill and downhill gradients. As a result, these tests are biased towards passing high-polluting vehicles. EPA recommends the high-tech IM 240 inspection test which has been used on more than 10,000 vehicles and more precisely simulates real-world driving conditions by taking the automobile through a course of two hills, increasing and decreasing vehicle speed from zero to 55 miles per hour. The IM240 is presently running at the Wayne Inspection Station and generating a throughput of roughly 10 cars per hour with a significant percentage of down time. Wisconsin's IM240 station reportedly achieves 15 cars per hour, but this rate is disputed by NJ DMV.

It is our understanding that New Jersey is presently proposing to use the New Jersey version of the ASM5015 test under certain circumstances. The New Jersey ASM5015 test measures emissions between 30 and 90 seconds at a constant speed of about 15 miles per hour. This test does not capture the increased emissions from acceleration/ deceleration, or from changes in gradient. The ASM5015 test does not accurately reflect real-world driving conditions, and has been rejected by USEPA in formal testimony during the 1993 SIP public hearings. We would urge the state to forgo the New Jersey version of the ASM5015 and implement the EPA-approved IM240 inspection test.

#### *Conclusion*

In sum, we believe that the minor cost and minimal inconvenience of an enhanced inspection system to New Jersey drivers is dwarfed by the high health care costs and personal pain suffered by New Jerseyans with respiratory ailments, as well as the young and the elderly, from exposure to elevated levels of ground-level ozone, or smog. Preliminary research by the University of Medicine and Dentistry in New Jersey found an increase in visits to hospital emergency rooms during high smog days of between 7 and 9 percent. Nationwide, asthma is now the most common chronic disease of childhood and the leading cause of days lost from school, resulting in over 200,000 hospital admissions and more than 12 million contacts with doctors nationwide each year.

The simple truth is that if the state does not take full advantage of the cost-effective emissions reductions achievable through a strong enhanced inspection and maintenance program, large and small businesses will be asked to do more at great expense. Additional stationary source controls are likely to be significantly more expensive than

mobile source reductions and will make New Jersey's economy less competitive. For economic, environmental and public health reasons, we believe that it is in the best interests of the state to move ahead quickly and decisively in planning and implementing a strong enhanced inspection and maintenance program.

We respectfully request that you convene a meeting of leading environmentalists, large and small businesses with stationary sources, and public health officials in order to address these concerns and others surrounding the implementation of the clean air act.

Sincerely,

Drew Kodjak, Environmental Attorney  
New Jersey Public Interest Research Group

Linda Stansfield, Environmental Consultant  
American Lung Association

Marie Curtis, Executive Director,  
New Jersey Environmental Lobby

Sally Dudley, Executive Director  
Association of New Jersey Environmental Commissions

Bill Neil, Program Director  
New Jersey Chapter of the Audubon Society

Dery Bennett, Executive Director  
American Littoral Society

Hal Bozarth, Executive Director \*  
Chemical Industry Council

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\* The Chemical Industry Council (CIC) shares the concerns articulated in this letter that stationary sources will be left to pick up the shortfall in air pollution reductions if an effective enhanced inspection and maintenance program is not implemented. The CIC is still studying all alternatives and does not endorse, at this time, the specific recommendations outlined in this letter.



11 North Willow Street  
Trenton, NJ 08608  
(609) 394-8155 telephone  
(609) 989-9013 fax

119 Somerset Street  
New Brunswick, NJ 08901  
(908) 247-4606 telephone  
(908) 220-1179 fax

## PRESS RELEASE

FOR IMMEDIATE RELEASE  
JULY 21, 1994

CONTACT: DREW KODJAK  
ENVIRONMENTAL ATTORNEY  
(609) 394-8155

### NJPIRG RELEASES NJ DRIVERS "BILL OF RIGHTS"

At a press conference held today in Trenton, the New Jersey Public Interest Research Group (NJPIRG) released a "BILL OF RIGHTS" for New Jersey drivers during motor vehicle inspections. The watchdog group also released supporting documentation about other states' vehicle inspection programs that the group obtained from the US Environmental Protection Agency.

According to a recently-reached agreement between EPA and the state, New Jersey's private garages will be allowed to continue to operate inspection tests for newer model cars and the state will be allowed to use a less-effective inspection test when lines are longer than 45 minutes.

"NJPIRG is concerned that the state is cutting corners with the vehicle inspection program, and New Jersey citizens will suffer from long lines at the inspection stations and dirty air," said Drew Kodjak, Environmental Attorney for NJPIRG.

"Pennsylvania and Connecticut have guaranteed that their citizens will not have to wait longer than 7 minutes on average for a vehicle inspection test. New Jersey should provide its citizens with similar conveniences," said Kodjak.

"The new system should be consumer-oriented and designed to achieve the maximum amount of air pollution reductions," said Kodjak. "Instead, all we've heard is that it will be costly and inconvenient. Other states have proved that it doesn't have to be that way."

One issue still on the table is whether the state will privatize the entire inspection system under a private contractor. "NJPIRG urges Governor Whitman to fully explore all options available including privatizing the entire state inspection system under one private contractor," said Kodjak.

Founded in 1972, NJPIRG is a non-profit, non-partisan research, education and advocacy group dedicated to environmental preservation, consumer protection and government reform.

# BILL OF RIGHTS FOR NEW JERSEY CITIZENS DURING MOTOR VEHICLE INSPECTIONS

The Enhanced Inspection and Maintenance Program required by the Clean Air Act is an opportunity to overhaul New Jersey's outdated automobile inspection system. The new system should be consumer-oriented and designed to achieve the maximum amount of air pollution reductions. To that end, NJPIRG has devised a list of six performance standards / suggestions. The new inspection system must be operational by July 1995, according to the latest agreement with US Environmental Protection Agency.

## 1. The Waiting Period Should Be Short

*NJPIRG Recommendation: The Waiting Period No Longer Than 7 Minutes On Average, and 80% Should Wait Less Than 15 Minutes.*

Other states have ensured minimal waiting periods for their citizens. Connecticut citizens will have a 7 minute average wait with 80% waiting less than 15 minutes. Maryland citizens will also wait an average of 7 minutes with 97% waiting less than 30 minutes. (see table 2). In contrast, New Jersey's proposed program stipulates that if the waiting period reaches 45 minutes, the station will switch to a faster, less effective emissions inspection test (ASM 5015) (see table #1).

In addition, a review of other state's programs indicates that New Jersey may be falling far short of providing an adequate number of inspection lanes. For New Jersey's 4.8 million vehicles, numbers from other state programs suggest that the state would have to have 253 lanes to adequately service all its vehicles. Even with private garages picking up a percentage of newer model vehicles, the state's current proposal of about 90 and 100 lanes will probably not adequately serve New Jersey motorists (see table #2).

## 2. Inspection Stations Should Be Nearby

*NJPIRG Recommendation: Distance to Inspection Station Should be Within 10 Miles for 80% of Motorists.*

Motorists are entitled to conveniently-located, nearby vehicle inspection stations. Connecticut has guaranteed that 80% of its citizens will be within 10 miles of an automobile inspection station. Maryland has secured a better deal for its citizens -- 90% will live within 5 miles of an inspection station. (see table #1).

## 3. Retests Should Have Preferential Treatment

*NJPIRG Recommendation: Stations Should Designate Special Lanes to be Kept Open and Available for Motorists Who Return to a Retest.*

At present, no uniform policy exists for servicing those motorists who fail the inspection test the first time and must return for a retest. NJPIRG recommends preferential treatment for retests. We suggest each station maintain a special lane for retesting previously-failed vehicles in order to reduce what is commonly referred to as the "ping-pong" effect. Retest lanes are currently available in Maryland, and are recommended in EPA regulations.

#### 4. Discounts for Recent Tune Ups and Early Arrivals

*NJPIRG Recommendation: Discounts Should Be Provided for Motorists Who Arrive in the First Half of the Month and Who Present Proof of a Tune Up within The Last Two Months.*

##### a. Recent Tune Ups

The inspection system will work more effectively if motorists get their vehicles tuned up prior to their inspections. Cleaner cars will take less time to process in the system, and thus save the state money and lessen waiting lines. NJPIRG suggests that the state provide a discount for motorists who demonstrate that they have had their automobiles tuned up (and oxygen sensors checked) within the last two months.<sup>1</sup>

##### b. Early Arrivals

Inspection centers are often congested at the end of the month, and nearly empty at the beginning and middle of the month. In Pennsylvania, motorists are provided with a \$3.00 discount if they arrive early in the month. We believe New Jersey motorists should be provided with a similar discount for early arrival.

#### 5. Motorists Should Know What They are Paying For

*NJPIRG Recommendation: Information Cards on Health Effects Associated with Polluted Air and the Importance of Clean-Running Vehicles Should Be Handed Out During Vehicle Inspections.*

NJPIRG believes that if the public is required under the Clean Air Act to comply with more stringent emissions standards, then the public deserves to be informed about what their money is going towards: cleaner air and improved public health. This information should be listed on an information card handed out at the inspection center.<sup>2</sup>

#### 6. Motorists are Entitled to the Lowest Cost, Most Effective Vehicle Inspection System Available Today

*NJPIRG Recommendation: Automobile Inspections Should Cost No More Than \$20.*

On average, inspection tests cost under 20 dollars (see table 2).<sup>3</sup> Neighboring states such as Pennsylvania and Connecticut will each charge \$20 per test. New York State will charge \$25 per test. New Jersey residents should pay no more than \$20 for comparable inspection tests.

New Jersey residents also deserve the most effective test available today. Pennsylvania, Connecticut and New York are using the high-technology I/M 240 test conducted at "test only" inspection stations. The systems used by neighboring states are the most effective means of reducing vehicle emissions. By comparison, New Jersey is cutting corners by using a less-effective test (ASM5015) under certain circumstances, and by allowing private garages to continue to perform inspections. As a result, New Jersey's vehicle

inspection program will be less effective than those of neighboring states at reducing air pollution and will be more inconvenient for New Jersey motorists.

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<sup>1</sup> Of critical importance for cleaner emissions is the vehicle's oxygen sensor. The oxygen sensor is the cornerstone of the vehicle emissions system. The catalytic converter relies upon the oxygen sensor for continuous information about the level of oxygen in the exhaust.

<sup>2</sup> The information card should explain that the state is in violation with the health-based standards for ground-level ozone, or smog; that this is a public health issue, that automobiles are the largest single source of ozone pollution, and that automobile inspection and maintenance is one of the most cost-effective air pollution control strategies available to the state.

<sup>3</sup> New Jersey motorists pay about \$4.80 annually for automobile inspections through their DMV registration fee. Private garages are authorized by law to charge up to half of their hourly labor rate which runs at an average of about \$18.00 (without repairs).

The Division of Motor Vehicles has proposed a biennial automobile inspection test which provides motorists with the option of using private garages for automobiles four years and younger. No fee has been established.

# WAIT TIME AND TRAVEL DISTANCE

## (TABLE #1)

| Program Area                | Hrs/Wk   | Wait Time  | Travel Distance                            |
|-----------------------------|----------|--|--|
| Connecticut                 | 42       | 7 minutes average<br>80% wait < 15 minutes   | 80% within 10 Miles                        |
| Maryland                    | 54       | 7 minute average<br>97% wait < 30 minutes  | 90% within 5 miles                         |
| Chicago, IL                 | 55       | 5 minute average   | 95% within 12 miles                        |
| Washington                  | 51       | 10 minutes average<br>for the first 3 weeks of the month;<br>15-30 minutes average for the last week of the month. | 80% within 5 miles<br>100% within 12 miles |
| Cuyahoga, OH                | 56       | 98% wait < 15 minutes  | 100% within 20 miles                       |
| Louisville, KY              | 48       | 85% wait 3 minutes<br>10% wait 10 minutes<br>5% wait >= 30 minutes   | 80% within < 10 miles                      |
| Milwaukee, WI               | 50       | 98% wait <= 15 minutes   | 6 mile average                             |
| Nashville, TN               | 52       | 80-90% wait < 10 minutes<br><5% wait >30 minutes   | 2.5 mile average<br>10-12 mile maximum     |
| Phoenix, AZ                 | 64       | 85% wait 3 minutes<br>10% wait 10 minutes<br>5% wait >=30 minutes  | 80% within 5 miles                         |
| Palm Beach, Dade County, FL | 48       | New program  | 90% within 6 mile average                  |
| Minneapolis, MN             | 50       | New program  | 90% within 5 mile average                  |
| Vancouver, B.C.             | Variable | Not operating  | 85% within 10 km radius                    |

Note: There are 15 states that are required to adopt enhanced inspection and maintenance program. They are: Colorado, Connecticut, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Texas, Washington, D.C., Wisconsin.

Six (6) states have voluntarily adopted the enhanced inspection and maintenance program because it is the most cost-effective means of reducing air pollution. Those states are: Arizona, Kentucky, Michigan, Missouri, Ohio, Texas. In total, 21 states have adopted or will adopt an enhanced inspection and maintenance program.



## INSPECTION TEST FEES AND LANES (TABLE #2)

| State                  | Number of<br>Stations | Number of<br>Lanes     | Number of<br>Vehicles | Test Fee<br>(in dollars)  |
|------------------------|-----------------------|------------------------|-----------------------|---|
| Maine                  | 9                     | 24                     | 500,000               | 20  |
| Maryland               | 19                    | 87                     | 1.4 million           | 14  |
| Connecticut            | 26                    | 92                     | 2.4 million           | 20  |
| New York               | 74*                   | 500-615                | 9.5 million           | 25  |
| Pennsylvania           | 94                    | 305-500                | 5.8 million           | 20  |
|                        |                       |                        |                       | 17 if early   |
| Colorado               | 15                    | 71-96                  | 1.4 million           | 20  |
| Texas                  | 60                    | at least 229           | 6.5 million*          | 15-23   |
| Michigan               | 7                     | 23                     | 600,000               | N/A   |
| Indiana                | 7                     | 21-23                  | 458,000               | N/A   |
| <i>Average</i>         | <i>35</i>             | <i>189</i>             | <i>3.2 million</i>    | <i>under 20</i>   |
| New Jersey             | --                    | 80 - 100<br>(proposed) | 4.8 million           | Unknown at<br>present time                                      |
| New Jersey<br>(NJPIRG) | --                    | 253<br>(see note)      | 4.8 million           | 20<br>discounts for<br>early arrival<br>and previous<br>tune up |

Note: Based on the average numbers, New Jersey would need 253 lanes in order to serve the motorists with reasonable waiting lines. This figure was derived from 169 lanes / 3.2million vehicles = X lanes / 4.8 million vehicles. This works out to 253.5 lanes for 4.8 million vehicles.

\* indicates an estimated number or fact



New Jersey  
Environmental  
Lobby

204 West State Street, Trenton, NJ 08608 (609) 396 3774

Comments for the SENATE NATURAL RESOURCES and ASSEMBLY ENVIRONMENT COMMITTEES regarding ENHANCED INSPECTION AND MAINTENANCE 10/6/94

I am Marie Curtis, Executive Director of the New Jersey Environmental Lobby. Our organization represents some 150 local and statewide environmental groups, as well as almost 1000 individual members. We are aware of the reliance that New Jersey has placed on the enhanced inspection and maintenance program for emission reductions in the State Implementation Plan (SIP). We are concerned with the delay and continuing changes that the program has encountered.

In a state that is actively seeking to project a pro-business image, the 2 for 1 emission reductions that would be required for new sources, should sanctions apply, could be disastrous. Therefore, it serves us all to reach air quality attainment levels as soon as possible. With enhanced inspection and maintenance (I&M) accounting for some 40% of the projected emission reductions, we can ill afford to delay.

Throughput and motorist reaction to lengthy waiting lines have been cited repeatedly as major causes of concern. We would recommend a few simple steps to address these problems. First, the adoption of a customer service attitude by the Division of Motor Vehicles would help a lot. Look to hours that best serve the needs of the citizens and you may even find a saving in capital costs. Keeping the current lanes open until 10 p.m., like the shopping malls, might demand an additional shift of workers. Yet building additional lanes for traditional work hours would require the same thing. Added hours on week days, as well as weekend hours, would give us a more intensive use of our capital investment in these facilities.

Next, we would recommend consideration of one lane per facility for appointment only. A minimal fee could be charged those who would opt for this convenience and the flow would be steadier and faster. There would, of course, have to be a fine or some other disincentive for those who failed to arrive for their appointment.

Of major concern to us is the dual inspection system currently proposed. We see this as an invitation for disaster. The political backlash will be tremendous once the citizens of this state realize the inherent unfairness of differing test methods depending on line length. Those who fail the more stringent 240 test will resent those who pass the faster 50/15. Some may even "shop" for a long line to avoid the 240 test. We believe that one consistent test with longer hours to make each lane capable of handling greater numbers of vehicles is the better way to reduce lines.

Furthermore, we must once again mention our preference for annual, as opposed to biennial, testing. Those who have emissions problems could be detected far sooner under an annual system and, perhaps, could avoid costly repairs by catching a malfunction early.

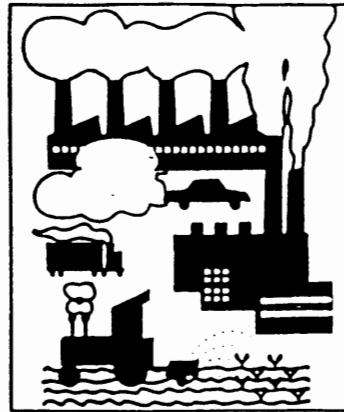
Our "bottom line" is clean air, and we shouldn't forget it. A Harvard Medical School study showed a 32% rise in asthma deaths nationwide between 1979 and 1987. In the inner cities where ozone is a greater problem, the death rate rose 65%. Furthermore, in July of 1991 the British Medical Journal Lancet reported that in the presence of ground level ozone, only half the normal dosage of an allergen would result in a severe asthmatic attack. We have only to check the hospital admissions for respiratory disorders on high ozone alert days to recognize the importance of clean air.

Lungs weakened by long-term exposure to ozone are prone to a variety of diseases. Here in New Jersey the city of Newark has the highest incidence of tuberculosis in the country. We doubt if this is mere coincidence.

Motor vehicle emissions are a major source of ozone precursors. Enhanced inspection and maintenance will go a long way toward cleaning up this problem. Please, let us move ahead with a single, effective test available to citizens at most hours of the day. New Jersey deserves clean air.

# Danger II

Submitted by NJ Environmental  
Lobby



† AMERICAN  
LUNG  
ASSOCIATION.

Estimation of Populations-At-Risk  
of Adverse Health Consequences  
in Areas Not in Attainment with  
National Ambient Air Quality Standards  
of the Clean Air Act

TABLE 3: ESTIMATES OF THE POPULATIONS-AT-RISK EXPOSED TO ADVERSE HEALTH  
CONSEQUENCES IN OZONE NONATTAINMENT AREAS (1)

| STATE         | COUNTY           | AGE-SPECIFIC POPULATIONS |           | PEDIATRIC<br>ASTHMA (2) | ADULT<br>ASTHMA | COPD (3) |
|---------------|------------------|--------------------------|-----------|-------------------------|-----------------|----------|
|               |                  | <13                      | 65+       |                         |                 |          |
| NEW HAMPSHIRE | BELKNAP CO. #    | 9959                     | 6743      | 726                     | 1329            | 2832     |
|               | CHESHIRE CO. #   | 13683                    | 9188      | 983                     | 1922            | 3978     |
|               | HILLSBOROUGH CO. | 69235                    | 34429     | 4965                    | 9035            | 18347    |
|               | MERRIMACK CO.    | 24399                    | 14577     | 1749                    | 3245            | 6718     |
|               | ROCKINGHAM CO.   | 51584                    | 22600     | 3685                    | 6576            | 13264    |
|               | STRAFFORD CO.    | 19904                    | 11079     | 1408                    | 2880            | 5671     |
|               | SULLIVAN CO. #   | 7752                     | 5676      | 569                     | 1043            | 2248     |
| NEW JERSEY    | ATLANTIC CO.     | 40683                    | 32594     | 2963                    | 6266            | 12933    |
|               | BERGEN CO.       | 130497                   | 126359    | 9698                    | 23916           | 48739    |
|               | BURLINGTON CO.   | 77434                    | 42188     | 5658                    | 10762           | 21889    |
|               | CAMDEN CO.       | 106115                   | 61191     | 7665                    | 13402           | 28310    |
|               | CAPE MAY CO.     | 16921                    | 19131     | 1213                    | 2692            | 5877     |
|               | CUMBERLAND CO.   | 28048                    | 18657     | 2071                    | 3705            | 7914     |
|               | ESSEX CO.        | 146834                   | 98321     | 10865                   | 21379           | 44071    |
|               | GLOUCESTER CO.   | 48947                    | 24761     | 3545                    | 6105            | 12725    |
|               | HUDSON CO.       | 95746                    | 70401     | 7055                    | 15597           | 31187    |
|               | HUNTERDON CO.    | 20463                    | 10201     | 1494                    | 2972            | 5926     |
|               | MERCER CO.       | 57888                    | 42229     | 4225                    | 9152            | 18475    |
|               | MIDDLESEX CO.    | 113963                   | 78817     | 8331                    | 19091           | 37435    |
|               | MONMOUTH CO.     | 105689                   | 70387     | 7765                    | 15189           | 31513    |
|               | MORRIS CO.       | 74501                    | 44422     | 5546                    | 11817           | 23538    |
|               | OCEAN CO.        | 77655                    | 100408    | 5654                    | 12170           | 27477    |
|               | PASSAIC CO.      | 85325                    | 58435     | 6264                    | 12485           | 25723    |
|               | SALEM CO.        | 12994                    | 9558      | 964                     | 1765            | 3811     |
|               | SOMERSET CO.     | 41880                    | 26013     | 3046                    | 6802            | 13378    |
|               | SUSSEX CO.       | 29124                    | 11684     | 2096                    | 3423            | 7081     |
|               | UNION CO.        | 85078                    | 74125     | 6226                    | 14017           | 28891    |
|               | WARREN CO.       | 18176                    | 12143     | 1305                    | 2502            | 5233     |
| NEW YORK      |                  | 2,405,961                | 1,032,025 | 163,649                 | 214,909         | 442,12   |
|               | ALBANY CO.       | 49574                    | 42822     | 3607                    | 8324            | 16790    |
|               | BRONX CO.        | 264374                   | 140220    | 19103                   | 31578           | 67180    |
|               | DUTCHESS CO.     | 49005                    | 29683     | 3569                    | 7157            | 14466    |
|               | ERIE CO.         | 178288                   | 147083    | 12987                   | 26978           | 56582    |
|               | ESSEX CO.        | 7069                     | 5477      | 519                     | 1022            | 2165     |
|               | GREENE CO.       | 8094                     | 7120      | 599                     | 1247            | 2638     |
|               | JEFFERSON CO.    | 24684                    | 12178     | 1758                    | 2902            | 6068     |
|               | KINGS CO.        | 477313                   | 285057    | 34880                   | 61408           | 129560   |
|               | MONTGOMERY CO.   | 10118                    | 10100     | 741                     | 1422            | 3185     |
|               | NASSAU CO.       | 216633                   | 182899    | 16168                   | 36640           | 75137    |
|               | NEW YORK CO.     | 196243                   | 197384    | 14217                   | 44943           | 84184    |
|               | NIAGARA CO.      | 43568                    | 33452     | 3168                    | 6020            | 12915    |
|               | ORANGE CO.       | 68178                    | 32084     | 4900                    | 8056            | 16908    |
|               | PUTNAM CO.       | 17023                    | 7575      | 1246                    | 2280            | 4577     |
|               | QUEENS CO.       | 319222                   | 288343    | 23537                   | 55996           | 113280   |
|               | RENSSELAER CO    | 29158                    | 20414     | 2122                    | 4258            | 8749     |
|               | RICHMOND CO      | 73553                    | 42313     | 5418                    | 10331           | 21116    |
|               | ROCKLAND CO      | 53019                    | 26871     | 3972                    | 7154            | 14854    |
|               | SARATOGA CO      | 36592                    | 18719     | 2678                    | 4882            | 9972     |
|               | SCHENECTADY CO   | 27154                    | 24711     | 1973                    | 4175            | 8839     |
|               | SUFFOLK CO       | 251164                   | 141717    | 18811                   | 36132           | 73641    |
|               | WESTCHESTER CO   | 149321                   | 126026    | 10959                   | 24891           | 50959    |

20x



HARVARD SCHOOL OF PUBLIC HEALTH

Beverly J. Freeman  
Director of Public Affairs

*Submitted by NT Environmental Lobby*

December 6, 1993

**Embargoed:** This information can be released in the media  
after 6 pm EST, Wednesday, December 8

TO: Members of the Media

FROM: Beverly Freeman  
Harvard School of Public Health  
617-432-3863

CONTACT: Douglas Dockery, ScD  
617-432-1244

*Copy to Judy  
ASAP  
return to  
rule tough*

**FINE PARTICLE AIR STANDARDS NOT  
SUFFICIENT TO PROTECT PUBLIC'S HEALTH**

December 9, 1993 - In a study published today in *The New England Journal of Medicine*, Harvard School of Public Health investigators report that exposure to fine particle air pollution, such as smoke and soot, increased the risk of early death by 26%. In a comparison of individuals living in six communities in the U.S., those in the most polluted cities had a 26% greater mortality rate than individuals living in the least polluted cities. In other words, the life of an individual in the most polluted cities is shortened by one to two years. Fine particulate air pollution, produced by industrial and automobile emissions, was the pollutant most strongly associated with increased mortality.

"Perhaps most significant is that the particles measured in our study are much smaller than the particle diameter standard currently used by the U.S. Environmental Protection Agency. These results, combined with those of other studies, suggest that federal standards for exposure to small particles should be re-evaluated if public health is to be protected," commented Douglas Dockery, ScD, associate professor of environmental

epidemiology at the Harvard School of Public Health and lead author on the study. "We are particularly concerned about vulnerable individuals like the elderly, children or asthmatics. After exposure over a long time to this type of pollution these individuals experience even more difficulty surviving a health crisis like a heart attack or pneumonia."

The findings are from a prospective study of 8,111 men and women who, over a period of 14 to 16 years, were tracked for risk factors such as smoking status, obesity, occupational risks, and low education. After accounting for other possible factors that could affect their health, the Harvard team found that the risk of early death increased by 26% and could be directly attributed to air pollution.

The six cities in the study are Watertown, Massachusetts; Harriman, Tennessee, including Kingston; certain census tracts in St. Louis, Missouri; Steubenville, Ohio; Portage, Wisconsin; and Topeka, Kansas. Under current EPA standards, cities are considered out of compliance if the 24-hour average concentration of particles 10 microns or less ( $PM_{10}$ ) exceeds 150 micrograms per cubic meter of air or the annual mean exceeds 50 micrograms per cubic meter. The cities in this study were in compliance with the particle standards during the follow-up. Nevertheless, associations were observed across the full range of cities.

The particles most strongly associated with mortality in the study were 2.5 microns or less in diameter. Fine particles such as these come from auto exhausts, factory and power plant smokestacks and other processes that burn coal, oil and natural gas. Such particles contain sulfur, carbon (soot), various metals, and droplets of sulfuric acid. The fine particles penetrate deeply into the lungs, past the principle defense mechanisms protecting the sensitive gas exchange areas (alveoli) of the lungs. Sulfur, metals, soot and acid landing on the alveoli may do irreversible damage to these sensitive tissues, permanently reducing lung capacity. Consequently, individuals exposed to this type of

pollution, and impaired by other diseases or weakened by age, are very vulnerable.

Other studies corroborate the same link between death and pollution at levels less than the EPA standards. This includes a study in Philadelphia showing that deaths start to increase when particles reach levels of one-third of the current legal standards. "No one study can prove causality," Dockery cautioned. "Statistical analyses like this one don't reveal the causes of sickness and death, but they point out strong associations. We now have a good case for the inadequacy of the EPA standards now in effect. All this information points to the need to reduce the amounts of airborne particles to which the general public and vulnerable people, such as those with lung and heart problems, are exposed," he concluded.

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