

**ADDRESSES:** Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 2020 "L" Street,  
Sacramento, CA 95814.

Kern County Air Pollution Control  
District, 2700 M Street, Suite 302,  
Bakersfield, CA 93301.

San Diego County Air Pollution Control  
District, 9150 Chesapeake Drive, San  
Diego, CA 92123-1096.

Ventura County Air Pollution Control  
District, Rule Development Section,  
669 County Square Drive, Ventura,  
CA 93003.

**FOR FURTHER INFORMATION CONTACT:**  
Andrew Steckel, Rulemaking Office  
(AIR-4), Air Division, U.S.  
Environmental Protection Agency,  
Region 9, 75 Hawthorne Street, San  
Francisco, CA 94105-3901, Telephone:  
(415) 744-1185.

**SUPPLEMENTARY INFORMATION:** This document concerns Kern County Air Pollution Control District's (KCAPCD) Rule 425.2, Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen), Rule 427, Stationary Piston Engines (Oxides of Nitrogen), San Diego County Air Pollution Control District's (SDCAPCD) Rule 69.4, Stationary Reciprocating Internal Combustion Engines, and Ventura County Air Pollution Control District's (VCAPCD) Rule 59, Electric Power Generating Equipment—Oxides of Nitrogen Emissions, and Rule 74.23, Stationary Gas Turbines. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 25, 1995, March 26, 1996, October 19, 1994, February 11, 1994 and March 26, 1996, respectively. For further information, please see the information provided in the direct final action which is located in the rules section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 23, 1996.

Felicia Marcus,

*Regional Administrator.*

[FR Doc. 97-1079 Filed 1-21-97; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[PA 098-4032; FRL-5679-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conditional Approval of 15 Percent Reasonable-Further-Progress Plan and 1990 VOC Emission Inventory for the Pittsburgh Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is proposing to conditionally approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania, for the Pittsburgh ozone nonattainment area, to meet the 15 percent reasonable further progress (RFP, or 15% plan), also known as rate-of-progress (ROP) requirements of the Clean Air Act. EPA is proposing conditional approval because the 15 percent plan submitted by Pennsylvania for the Pittsburgh area requires additional documentation to quantify the 15% emission reduction. The 1990 emissions inventory for volatile organic compounds (VOCs) used in the 15% plan as the baseline for reasonable further progress contains inconsistencies, which must be reconciled by Pennsylvania. EPA is, therefore, proposing conditional approval of the 1990 VOC emission inventory.

**DATES:** Comments on this proposed action must be postmarked by February 21, 1997.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone/Carbon Monoxide, and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

#### FOR FURTHER INFORMATION CONTACT:

Cynthia H. Stahl, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566-2180. Questions may also be addressed via e-mail, at the following address: stahl.cynthia@epamail.epa.gov Please note that while information may be requested via e-mail, only written comments can be accepted for inclusion in the docket.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 182(b)(1) of the Clean Air Act (the Act or CAA), as amended in 1990, requires ozone nonattainment areas classified as moderate or above to develop plans to reduce VOC emissions by fifteen percent from the 1990 baseline inventory for the area. These "15% plans" were due to be submitted to EPA by November 15, 1993, with the reductions to occur within 6 years of enactment of the 1990 Clean Air Act Amendments (i.e. November 15, 1996). Furthermore, the Act sets limitations on the creditability of certain control measures toward reasonable further progress. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g. new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure) of gasoline. The Act also does not allow credit towards RFP for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were required to be in-place prior to 1990.

Additionally, section 172(c)(9) of the Act requires "contingency measures" to be included in the plan revision. These measures are required to be implemented immediately if reasonable further progress is not achieved, or if the NAAQS standard is not attained under the deadlines set forth in the Act.

In Pennsylvania, three nonattainment areas are subject to the Clean Air Act 15% rate-of-progress requirements. These are the Philadelphia severe nonattainment area, the Pittsburgh moderate nonattainment area, and the Reading moderate nonattainment area. On July, 19, 1995, EPA published, in the Federal Register, a final rule waiving the 15% rate-of-progress requirements for the Pittsburgh and Reading moderate ozone nonattainment areas. The basis

for that action was a May 10, 1995 EPA policy memo (entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard") allowing such "waivers" for areas having ambient monitoring data which demonstrated compliance with the ozone standard. On June 4, 1996, EPA revoked the waiver for the Pittsburgh area, and reinstated the 15% plan requirement. Pennsylvania submitted separate SIP revisions for Philadelphia and Pittsburgh. EPA is taking action today only on Pennsylvania's 15% plan submittal (including the 1990 VOC emissions inventory), which addresses only the Pittsburgh ozone nonattainment area. EPA will act separately on the contingency plan for the Pittsburgh 15% plan and the 1990 NO<sub>x</sub> emissions inventory, at a later date. The Pittsburgh moderate ozone nonattainment area consists of the following counties in Pennsylvania: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, Westmoreland.

EPA has reviewed the March 22, 1996 Pittsburgh area 15% plan submittal and has identified several deficiencies, which prohibit full approval of this SIP, per section 110 of the Act. A detailed discussion of these deficiencies is included below, in the 'Analysis' portion of this rulemaking action, and also in the technical support document (TSD) for this action. Due to these deficiencies, the 15% plan cannot be assured of achieving the total reductions required by the rate-of-progress requirements of the Act. Therefore, EPA is proposing to conditionally approve this plan.

For further information regarding EPA's analysis of the Commonwealth's submittal, please refer to the TSD for this action (found in the official docket). A summary of the EPA's findings follows.

#### Analysis of the SIP Revision

##### *Base Year Emission Inventory*

The baseline from which states must determine the required reductions for 15% planning is the 1990 VOC base year emission inventory. The inventory is broken down into several emissions source categories: stationary, area, on-road mobile sources, and off-road mobile sources. Pennsylvania submitted a formal SIP revision containing their official 1990 base year emission inventory on November 12, 1992. EPA has not yet taken rulemaking action on that inventory submittal. In its March 22, 1996 submittal, Pennsylvania stated

that the 1990 emission inventory included with that submittal is meant to supercede the 1992 emission inventory submittal. Therefore, this rulemaking will address the 1990 VOC emission inventory only as it pertains to the Pittsburgh ozone nonattainment area and no further rulemaking action will be taken on the November 12, 1992 emission inventory submittal as it pertains to the Pittsburgh ozone nonattainment area. The March 1996 inventory submittal of the 1990 inventory contains inconsistencies including inconsistencies with the inventory summaries in the 15% plan. Additional information and documentation from Pennsylvania regarding the March 1996 submittal of the Pittsburgh 1990 emission inventory is necessary in order for EPA to accept it as a replacement for the official 1990 base year inventory SIP revision. EPA has been working with Pennsylvania to compile the necessary documentation to approve the 1990 base year emissions inventory. Pennsylvania has recently submitted some additional information that may clarify some of the questions about the 1990 inventory. This additional information has been placed in the docket for this rulemaking. Please refer to the TSD for a specific discussion of the inventory. Therefore, EPA is proposing to conditionally approve the 1990 VOC emission inventory for the Pittsburgh ozone nonattainment area that was submitted on March 22, 1996.

##### *Growth in Emissions Between 1990 and 1996*

EPA has interpreted the Clean Air Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% RFP requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in emissions, in addition to a 15 percent reduction of VOC emissions. Thus, an estimate of VOC emissions growth from 1990 to 1996 is necessary for demonstrating reasonable further progress. Growth is calculated by multiplying the 1990 base year inventory by acceptable forecasting indicators. Growth must be determined separately for each stationary (point) source or by area source category, since sources typically grow at different rates. Even within a stationary source, individual emission unit emissions may grow at different rates during the same time period. EPA's inventory preparation guidance recommends the following indicators as applied to emission units in the case of stationary

sources or to a source category in the case of area sources, in order of preference: Product output, value added, earnings, and employment. As a last resort, population can also serve as a surrogate indicator.

Pennsylvania's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the Commonwealth, please refer to the TSD for this action. Although EPA has identified some problematic issues with the methods used to project growth in the 1996 Pittsburgh inventory, EPA is not conditioning the approval of the 15% plan on the resolution of these issues. The rationale for this is summarized below and in more detail in the TSD. Consequently, EPA is proposing to approve the Commonwealth's 1990-1996 emissions growth projections for the Pittsburgh 15% plan.

Pennsylvania did not provide EPA with all the documentation necessary to verify the growth projections for the on-road vehicle category. EPA, however, has no reason to believe that the Commonwealth's methodology or assumptions in making these projections are flawed. Therefore, EPA is accepting the Commonwealth's 15% plan projection for highway vehicle emissions growth that is based on growth in total vehicle miles of travel (VMT) for the region, which the Commonwealth expects to increase by 2.8 million miles per day. In addition, the Commonwealth expects that on-road emissions are projected to decrease by 21.35 tons/day. Emissions from on-highway emissions control measures are calculated separately in the plan (including reductions associated with fleet turnover and the pre-1990 motor vehicle standards) and Pennsylvania indicates that this growth is based solely upon increasing VMT growth. Typically, growth in highway emissions is determined independently of mobile source control strategies. Fifteen percent plans usually indicate what, if any, other factors effect highway emissions growth, other than the previously identified VMT influence. EPA cannot definitively determine how motor vehicle emissions are declining from this data but believes, based on the sample calculation submitted by Pennsylvania, that Pennsylvania's mobile model inputs are correct. Those interested in obtaining the data necessary to verify the Commonwealth's calculations are encouraged to contact PA DEP for that information. Therefore, EPA is proposing to approve the

Commonwealth's on-road motor vehicle growth projection.

For the point source categories, Pennsylvania used the Bureau of Economic Analysis (BEA) growth factors to project point source emissions on a point source category basis to 1996. Typically, this is an acceptable method of estimating point source growth. However, Pennsylvania operates an emissions bank in the Commonwealth that allows facilities to bank emission reduction credits for subsequent use or sale. In addition, Pennsylvania states specifically in its 15% plan that it is not taking VOC emission reduction credit from shutdown sources since those sources are being allowed to sell their VOC emission reductions as credits to other sources. These shutdowns all occurred after January 1, 1990. Since the BEA growth factors are devised to account for all economic activity, including the shutdown of facilities (through loss of employment, income, etc.), allowing both the use of the BEA point source growth factors for these source categories where the shutdowns occurred and allowing the sources in these categories to sell their emission reduction credits could result in the double counting of emission reductions, which is not allowed. In the General Preamble for the Implementation of Title I of the Clean Air Act Amendments (57 FR 13498, April 16, 1992), EPA addresses the issue of accounting for emission reduction credits (ERCs) by stating that banked emission reduction credits need to be accounted for such that their use is consistent with the area's 15% rate of progress plan and attainment plan. For any ERCs that are either used or available for use prior to the end of the planning period (in this case, the end of 1996), the state must appropriately account or plan for their use in the applicable air quality plan (in this case, the 15% plan). In Pennsylvania's March 1996 15% plan submittal, DEP did not identify which sources had shut down or in which source categories these shutdowns had occurred. Without the proper identification of these sources and accounting in the 15% plan, there is no guarantee that the use of those shutdown or banked ERCs would be consistent with the 15% plan. This potential double counting of emissions is not a problem unique to Pennsylvania. EPA guidance to date has not addressed this issue in detail. Therefore, EPA is not conditioning the approval of the Pittsburgh 15% plan on the resolution of this issue. EPA will, however, require that this issue be satisfactorily resolved prior to approval

of any subsequent air quality plans required for the Pittsburgh nonattainment area such as the attainment demonstration.

#### Calculation of Target Level Emissions

Pennsylvania calculated a "target level" of 1996 VOC emissions, per EPA guidance. First, the Commonwealth calculated the non-creditable reductions from the FMVCP program and subtracted those emissions from the 15 percent plan's 1990 inventory estimate. This yields the 1990 "adjusted inventory". The emission reduction required to meet the 15 percent rate-of-progress requirement equals the sum of 15 percent of the adjusted inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996, plus reductions that resulted from corrections to the I/M or VOC RACT rules that were required to be in place before 1990. Table 1 summarizes the calculations for the seven-county Pittsburgh nonattainment area's VOC target level.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS<sup>1</sup> FOR THE PITTSBURGH NONATTAINMENT AREA'S 15% PLAN (TONS/DAY)

1990 Base Year Inventory .....	402.20
Adjustments for FMVCP/RVP (pre-1990 program) .....	28.70
1990 Adjusted Base Year Inventory .....	373.50
15% Reduction Requirement .....	56.03
RACT "fix-ups" .....	0.0
FMVCP & RVP Reductions .....	8.70
Required Reduction (w/o growth) .....	84.73
1990 Baseline Emissions .....	402.20
Required Reductions (w/o growth) .....	-84.73
1996 Target Level .....	317.47
1990-1996 Emissions Growth .....	-20.51
Required Reductions (w/o growth) .....	84.73
Total Required Reduction .....	64.22
Total Reduction Claimed by Pennsylvania .....	67.48

<sup>1</sup>Emission figures presented here are from the March 27, 1996 submittal. These figures will likely change once Pennsylvania makes the corrections to the plan to reconcile inventory inconsistencies, etc.

#### Control Strategies in the 15% Plan:

The specific measures adopted (either through state or federal rules) for the Pittsburgh area are addressed, in detail, in the Commonwealth's 15% plan. The following is a brief description of each control measure that Pennsylvania has claimed credit for in the submitted 15% plan, as well as the results of EPA's review of the use of that strategy towards the Clean Air Act rate-of-progress requirement.

#### Creditable Emission Control Strategies

The control measures described below are creditable towards the rate-of-

progress requirements of the Act. However, the documentation provided by the Commonwealth with the March 22, 1996 submittal does not clearly show how the claimed emission reductions from the implementation of the benzene National Emission Standards for Hazardous Air Pollutants (NESHAP) were obtained and calculated. Pennsylvania has recently sent EPA additional material pertaining to the calculation of the NESHAP credit. This additional information has been placed in the docket for this rulemaking. If EPA determines that the additional material with the original submittal is adequate to document the NESHAP credit, EPA will state that Pennsylvania has met the condition that requires adequate documentation of the NESHAP credit. For the mobile source measures, which Pennsylvania estimates using a Post-Processor for Air Quality (PPAQ) computer model, limited documentation was provided. The PPAQ model uses MOBILE modeling information as input, and determines total reductions for mobile source control strategies. The Commonwealth recently provided some sample calculations used in this modeling, but no detailed documentation of the MOBILE runs. However, as mentioned earlier, EPA has no reason to believe that Pennsylvania's methodology is flawed. Therefore, EPA is proposing to approve the claimed mobile emission reductions.

As described below, EPA cannot fully approve the reductions from the benzene NESHAP measure without additional documentation to verify the emissions estimates. As mentioned above, the documentation recently submitted by the Commonwealth and placed in the docket for this rulemaking may address this issue. For further details regarding EPA's review of the Commonwealth's control measures, please refer to the TSD for this action.

#### Benzene NESHAP

EPA promulgated the benzene NESHAP (40 CFR part 61, subpart L, National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants) on September 19, 1991. The coke oven battery NESHAP (40 CFR part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories and for Coke Oven Batteries) was promulgated on October 27, 1993. The rule regulates the emissions from new and existing coke oven batteries. The benzene NESHAPs are expected to produce high emission

reductions. However, EPA is unable to fully verify the 35.0 tons/day credit estimate claimed by the Commonwealth for this program, due to a lack of detail regarding the methodology used to quantify the benzene NESHAP emission reductions and inconsistencies with the emission inventory figures for sources where this credit is being claimed for the 15% plan. Therefore, while it is not unlikely that a 35 ton/day credit from these requirements, Pennsylvania must provide the documentation that supports it. As stated earlier, Pennsylvania has recently provided some additional information regarding this calculation that may clarify how the credits were calculated.

#### *Architectural and Industrial Maintenance (AIM) Coating*

EPA is in the process of adopting a national rule to control VOC emissions from solvent evaporation through reformulation of coatings used in architectural and industrial maintenance coatings, such as building and bridge paints, etc. This is a national rule that EPA proposed on June 25, 1995 (61 FR 32729), which expected compliance with the coating requirements by April 1997. Subsequently, EPA has been sued over this proposed national rule and has negotiated a compliance date of no earlier than January 1, 1998. VOC emissions emanate from the evaporation of solvents used in the coating process. In a memorandum dated March 22, 1995 ("Credit for the 15% Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule"), EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. In this memorandum, EPA stated that although the emission reductions are not expected to occur until April 1997, states will be allowed to use the expected emission reduction credit from this measure in their 15% plans. EPA believes that even though the compliance date has been pushed to January 1, 1998, the emission reduction from the national AIM rule are creditable in state 15% plans.

Use of emissions reductions from EPA's expected national rule is acceptable towards the 15% plan target. Pennsylvania claims a 20% reduction, or 5.0 tons/day (1996 uncontrolled emissions x 20% emission reduction) from their 1996 projected uncontrolled AIM emissions. Since the 1996 uncontrolled emissions are 20.83 tons/day, a 20% emission reduction is 4.16 tons/day. Therefore, there appears to be a discrepancy in the calculated emission reduction expected from the

implementation of this national rule. Pennsylvania must resolve this discrepancy and determine the proper emission credit from this national rule.

#### *Treatment Storage and Disposal Facilities (TSDFs)*

TSDFs are private facilities that manage dilute wastewater, organic/inorganic sludges, and organic/inorganic solids. Waste disposal can be done by various means including: incineration, treatment, or underground injection or landfilling. EPA promulgated a national rule on June 21, 1990 for the control of TSDF emissions (55 FR 25454). Pennsylvania claims an expected VOC reduction of 9.59 tons/day from this national rule in one part of the 15% plan submittal; although in the narrative description of the TSDF credit, Pennsylvania claims 10.0 tons per day (TPD) credit. Using the figures provided by Pennsylvania, the expected emission reduction from this measure is calculated using the 12.75 TPD projected 1996 emissions and multiplying this by the control efficiency (94%) and rule effectiveness (80%), resulting in an emission credit of 9.59 TPD. EPA believes that the creditable emissions from this control measure, given the inventory information provided by Pennsylvania, is 9.59 TPD.

#### *Consumer/Commercial Products National Rule*

Section 183(e) of the Clean Air Act required EPA to conduct a study of VOC emissions from consumer and commercial products. EPA was then required to list (and eventually) to regulate those product categories that account for 80% of those consumer products emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule—including personal, household, and automotive products. EPA intends to issue a final rule covering these products in Spring 1997. The Commonwealth claims a 20% reduction from the consumer products portion of their 1996 uncontrolled inventory, or a 4.0 tons/day reduction. Using the amended emission inventory figures provided by DEP on October 7, 1996, the actual emission credit available is 5.06 TPD. This is a creditable emission reduction for the Pittsburgh 15% plan.

#### *Tier I Federal Motor Vehicle Control Program*

EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty

vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Act was amended in 1990, the resulting emission reductions are creditable toward the 15% reduction goal. The EPA agrees with the Commonwealth's projected emission reductions. Due to the three-year phase-in period for this program, and the associated benefits stemming from fleet turnover, the reductions prior to 1996 are somewhat limited. Pennsylvania claimed a reduction of 6.0 tons/day from this post-1990 Federal Motor Vehicle Control Program. EPA accepts this estimate of expected emission reductions from this program.

#### *Inspection and Maintenance Program*

Section 182(b)(1) of the CAA requires that States containing ozone nonattainment areas classified as Moderate or above prepare State Implementation Plans (SIPs) that provide for a 15% VOC emissions reduction by November 15, 1996. Most of the 15% SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most States experienced substantial difficulties with these enhanced I/M programs, only a few States are currently actually testing cars using their original enhanced I/M protocols.

On September 18, 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs (60 FR 48029). Subsequently, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides States with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program precludes States that revise their I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many States upon enhanced I/M programs to help achieve the 15% VOC emissions reduction required under CAA section 182(b)(1) of the Act, and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA believes that it is no longer possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these

circumstances, disapproval of the 15% SIPs would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow States that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996.

Specifically, EPA will propose approval of 15% SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable. To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions. However, as a minimum requirement, EPA will approve a 15% SIP only if it achieves the reductions from I/M needed to reach the 15% level by no later than November 15, 1999.

In the case of Pittsburgh, the Pennsylvania has submitted a 15% SIP that would achieve the amount of reductions needed from I/M by late 1998. The Pennsylvania I/M program is an annual program with implementation required to begin no later than November 15, 1997. Pennsylvania has submitted a 15% SIP for Pittsburgh that includes control measures that are creditable toward the 15% plan. Emission reductions in the Pittsburgh nonattainment area resulting from the implementation of the benzene NESHAP and from implementation of FMVCP—Tier I have already occurred. EPA believes that this SIP contains all measures, including I/M, that achieves the required reductions as soon as practicable for this nonattainment area.

EPA has examined other potentially available SIP measures to determine if they are practicable for the Pittsburgh moderate ozone nonattainment area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions. EPA proposes to determine that the SIP contains the appropriate measures. For the Pittsburgh area, reformulated gasoline (RFG) and Stage II vapor recovery, are regulatory options that, theoretically, might be implemented prior to 1998. For RFG, since the Commonwealth has not petitioned EPA to opt back into the program, and since the section

211(k)(6)(A) of the Act provides a one year implementation timeframe for options of the RFG program, EPA believes the Commonwealth is meeting 15% as soon as practicably possible. For Stage II, the Commonwealth currently has a compliance moratorium in the Pittsburgh nonattainment area on their existing Stage II regulation (Pennsylvania Code Title 25, Subpart C, Article III, Chapter 129.82). Even if the Commonwealth were to choose to lift their moratorium, the emission reductions from the implementation of Stage II are unlikely to occur prior to 1998 since the regulated community will have to be given some time to make the capital investments, purchase and install the equipment to implement this program.

The Commonwealth has recently concluded the Southwestern Pennsylvania Stakeholders Group process that will result in recommendations to the Governor of Pennsylvania as to the control measures that should be implemented in the Pittsburgh nonattainment area in order to reach attainment of the ozone national ambient air quality standard. The stakeholders final report and recommendation to the Governor is expected to be released soon. For the Pittsburgh 15% plan, the Commonwealth has chosen to implement the I/M program in the Pittsburgh nonattainment area, which is expected to produce a 13 ton per day emission reduction beginning in 1998. The details of this analysis are contained in the accompanying TSD.

#### SUMMARY OF CREDITABLE EMISSION REDUCTIONS FOR THE PITTSBURGH OZONE NONATTAINMENT AREA

[Tons/day]

Required Reduction for the Pittsburgh area	64.22
Creditable reductions:	
Benzene NESHAP <sup>1</sup> .....	35.00
FMVCP (Tier I) .....	6.00
Inspection and Maintenance Program <sup>2</sup> .....	5.00
AIM Coatings Rules .....	4.16
Consumer/Commercial Products ....	5.06
TSDF Controls .....	9.59
Total .....	64.81

<sup>1</sup> The emission reductions from this program have not been substantiated by Pennsylvania.

<sup>2</sup> Partial credit from this program is taken in the 15% plan with the remaining credit taken in the contingency plan, which is not the subject of this rulemaking notice.

#### III. Proposed Action

The EPA has evaluated this submittal for consistency with the Act, applicable

EPA regulations, and EPA policy. On its face, this RFP plan for Pittsburgh achieves the required 15% VOC emission reduction to meet the requirements of section 182(b)(1) of the Act. While all the emissions inventory figures have not been substantiated and the amount of creditable reductions for certain control measures has not been adequately documented to qualify for Clean Air Act approval, EPA believes that the submittal for Pittsburgh contains enough of the required structure to warrant conditional approval.

In light of the above deficiencies, EPA is proposing to conditionally approve this SIP revision, which includes the 15% plan and the 1990 emission inventory, under section 110(k)(4) of the Act. The submittal does not fully satisfy the requirements of section 182(b)(1) of the Act regarding the 15 percent reasonable further progress plan or section 182(a)(1) of the Act regarding emission inventories.

Today's notice of proposed rulemaking begins a 30-day clock for the Commonwealth to make a commitment to EPA to correct the major elements of the SIP that EPA considers deficient, by date certain, within 1 year of conditional approval. These elements are described as follows. In order to make this 15% plan approvable, Pennsylvania must fulfill the following conditions by no later than 12 months after EPA's final conditional approval:

(1) Reconcile the 1990 VOC point source emissions inventory with all the appendices, tables and narratives throughout the 15% document, wherever emissions are cited;

(2) After establishing consistent figures as described in (1) above, provide sample calculations for point source 1990, 1990 adjusted, and 1996 projected emissions showing how each of these figures were obtained (The level of documentation must be equivalent to that required for approval of a 1990 emissions inventory as described in the emission inventory documents at the beginning of this technical support document.);

(3) Provide additional documentation for the emissions where credit is claimed (NESHAP);

(4) Provide a written commitment to remodel the I/M program as implemented in the Pittsburgh nonattainment area in accordance with EPA guidance (December 23, 1996 memo entitled "Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance), submit the remodeling to EPA; and

(5) Fulfill the conditions listed in the I/M SIP rulemaking notice (proposed October 3, 1996, 61 FR 51638) and summarized here as: (a) Geographic program coverage and program start dates, (b) ongoing mass-based transient program evaluation, (c) test types, test procedures and emission standards, (d) test equipment specifications, and (e) motorist compliance enforcement demonstration.

After making all the necessary corrections to establish accuracy and consistency in the emission inventory, baseline and projected figures, and the creditability of chosen control measures, Pennsylvania must demonstrate that 15% emission reduction is obtained in the Pittsburgh nonattainment area as required by section 182(b)(1) of the Act and in accordance with EPA's policies and guidance issued pursuant to section 182(b)(1). Resolution of the issues pertaining to banked emissions and projected growth is not a condition of this 15% plan approval. Satisfactory resolution of these issues will be required for any approval of subsequent air quality plans. If the Commonwealth does not make the required written commitment to EPA within 30 days, EPA is today proposing in the alternative that this SIP revision be disapproved.

EPA and Pennsylvania have worked closely since the March 1996 submittal in order to resolve all the issues necessary to fully approve the Pittsburgh 15% plan. Pennsylvania is aware of the above deficiencies and is currently working to amend the Pittsburgh 15% plan to address the above-named deficiencies. Some of these amendments have been sent to EPA and others remain to be sent. While some of these deficiencies currently remain, EPA believes that all issues will be resolved no later than 12 months after EPA's final conditional approval of the Pittsburgh 15% plan. While this rulemaking was being prepared, Pennsylvania has provided some additional information pertaining to their March 1996 submittal. This additional information has been placed in the rulemaking docket and is available to the public. EPA will consider all information submitted as a supplement or amendment to the March 1996 submittal prior to any final rulemaking action. In addition, since Congress passed the National Highway Systems Designation Act of 1995, which amended federal I/M program requirements and granted states authority to revise their I/M programs, and Pennsylvania has utilized that authority to revise its I/M program, revision of the 15% plan to reflect the I/M program changes is expected. When

the Commonwealth submits an amended 15% plan, EPA will review the whole Pittsburgh 15% plan and the Pittsburgh 1990 base year emissions inventory, including its amendments, for compliance with the requirements of the Clean Air Act. At that time, EPA will re-propose rulemaking action based on the merits of the original submittal and its amendments.

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

This proposed conditional approval action for the Pennsylvania 15% plan and the 1990 VOC emission inventory for Pittsburgh has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA,*

427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

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

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

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

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

The Regional Administrator's decision to approve or disapprove the

SIP revision pertaining to the Pittsburgh ozone nonattainment area 15% plan and 1990 VOC emission inventory will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Dated: January 13, 1997.

W. Michael McCabe,

Regional Administrator.

[FR Doc. 97-1493 Filed 1-21-97; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 67**

[Docket No. FEMA-7206]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a

newspaper of local circulation in each community.

**ADDRESSES:** The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California .....	Madera County (Unincorporated Areas).	Fresno River .....	Just upstream of State Highway 41 .....	None .....	* 2,253
			Approximately 1,100 feet upstream of Road 426.	None .....	* 2,262
		China Creek .....	Approximately 500 feet upstream of confluence with Fresno River.	None .....	* 2,256
			Approximately 4,160 feet upstream of Road 425-B.	None .....	* 2,363
		Oak Creek .....	At confluence with Fresno River .....	None .....	* 2,262