

information about activities related to the development of these rules. Additionally, a public record has been established for development of the antimicrobial rule under docket number "OPP-00473." The docket is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 Bay of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Copies of EPA documents may be obtained by contacting: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

List of Subjects

Environmental protection.

Dated: March 5, 1997.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 97-6207 Filed 3-10-97; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 52

[PA069-4040b, PA078-4041b, PA083-4043b; FRL-5697-8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Source-Specific RACT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing reasonably available control technology (RACT) on three major sources. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives

adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 10, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO & 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; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Boylan, (215) 566-2094, at the EPA Region III office or via e-mail at boylan.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 13, 1997.

W. T. Wisniewski, Acting,

Regional Administrator, Region III.

[FR Doc. 97-5975 Filed 3-10-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[PA 099-4052; FRL-5702-6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 15 Percent Plan and 1990 VOC Emission Inventory for the Philadelphia Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing conditional interim approval of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania, for the Philadelphia 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 withdrawing its proposed disapproval of the Philadelphia 15% plan and 1990 emission inventory published in the Federal Register on July 10, 1996. EPA is proposing conditional interim approval because the 15% plan submitted by Pennsylvania for the Philadelphia area requires additional documentation to quantify the 15% emission reduction and relies on the inspection and maintenance (I/M) program that received a conditional interim approval. Finally, the 1990 VOC emissions inventory 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 April 10, 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:

I. 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 15% 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. Furthermore, the Act 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, two ozone nonattainment areas are subject to the CAA 15% rate-of-progress requirements. These are the Philadelphia severe nonattainment area and the Pittsburgh moderate nonattainment area. 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 the Philadelphia ozone nonattainment area. EPA will act separately on the contingency plan for the Philadelphia 15% plan and the 1990 NOx emissions inventory, at a later date. The Philadelphia severe ozone nonattainment area consists of the following counties in Pennsylvania:

Bucks, Chester, Delaware, Montgomery, Philadelphia.

On July 10, 1996, EPA proposed to disapprove the Philadelphia 15% plan that was submitted on January 18, 1995 (61 FR 36320). EPA proposed disapproval of the January 18, 1995 submittal because it assumed credit towards ROP for numerous control strategies which were either not fully adopted, are not creditable towards ROP under the Act, or had not been adequately quantified. EPA could not approve the January 1995 15% plan submittal for Philadelphia as it would have resulted in a "shortfall" towards Pennsylvania's RFP demonstration. Also in the July notice, EPA proposed to disapprove the Philadelphia area 1990 emissions inventory estimates used in the 15% plan as the baseline because it differed substantially from Pennsylvania's separate 1990 base year emission inventory SIP submitted in 1992 to EPA. Without justification for these differences in the respective submittals pending before EPA, it cannot approve the revised inventory estimates. The September 12, 1996 submittal by Pennsylvania is intended to address the deficiencies in the original January 1995 Philadelphia 15% plan submittal. Therefore, this rulemaking action withdraws EPA's July 10, 1996 proposed disapproval and instead proposes conditional interim approval of the Philadelphia 15% plan that was submitted in September 1996.

EPA has reviewed the September 12, 1996 Philadelphia area 15% plan submittal and has identified several deficiencies, which prohibit full approval of this SIP, pursuant to 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) prepared by EPA in support of this action. Due to these deficiencies, the 15% plan cannot be assured of achieving the total reductions required by the ROP requirements of the Act. EPA is required to approve this 15% plan as a conditional *interim* approval because it relies on emission reductions from the Pennsylvania vehicle inspection and maintenance (I/M) program. EPA promulgated final conditional *interim* approval of Pennsylvania's I/M program under the National Highway Systems Designation Act of 1995 on January 28, 1997 (62 FR 4004). EPA can only fully approve a 15% plan if the emission control measures relied on by the plan are also fully approved. Because the Commonwealth's I/M program has received only conditional interim

approval, EPA is proposing conditional interim approval of the Philadelphia 15% plan as well.

Further information regarding EPA's analysis of the Commonwealth's submittal is contained in the TSD for this action. Copies of the TSD are available upon request from the Regional office listed in the ADDRESSES section of this notice. A summary of the EPA's findings follows.

II. Analysis of the SIP Revision

A. 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. Pennsylvania has stated that its September 12, 1996 15% plan submittal includes a revised version of the 1990 emission inventory, and is meant to supersede the 1992 emission inventory submittal. Therefore, this rulemaking will address the 1990 VOC emission inventory only as it pertains to the Philadelphia ozone nonattainment area and no further rulemaking action will be taken on the November 12, 1992 emission inventory submittal as it pertains to the Pennsylvania portion of the Philadelphia ozone nonattainment area. The September 1996 submittal of the 1990 emissions inventory contains inconsistencies with the inventory summaries of the 15% plan. Additional information and documentation from Pennsylvania regarding the September 1996 submittal of the Philadelphia 1990 emission inventory is necessary in order for EPA to approve it. EPA has been working with Pennsylvania to compile the necessary documentation to approve the 1990 base year emissions inventory and anticipates the resolution of these issues prior to the final 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 Philadelphia ozone nonattainment area that was submitted on September 12, 1996.

B. Growth in Emissions Between 1990 and 1996

EPA has interpreted the Act to require that reasonable further progress toward 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. Pennsylvania used growth factors from the Bureau of Economic Analysis (BEA) for the point and area sources. For a detailed description of the growth methodologies used by the Commonwealth, please refer to the TSD for this action. Although EPA has identified where the methods used to project growth in the 1996 Philadelphia inventory differ from standard guidance and methodologies, 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 Philadelphia 15% plan.

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 7.7 million miles per day. In addition, the Commonwealth expects that on-road emissions are projected to decrease by 11.9 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. 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, using these growth factors 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 (ERCs) for subsequent use or sale. In addition, Pennsylvania states specifically in its 15% plan that it is taking VOC emission reduction credit from certain shutdown sources toward the required 15% emission reduction. Other sources that bank their ERCs 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 shutdown 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 by stating that banked emission reduction credits need to be accounted for such that their use is consistent with the area's 15% ROP plan and attainment plan. Where those shutdown credits were being applied to the required 15% emission reduction, Pennsylvania's September 1996 15% plan submittal identified those sources that had shut down. EPA is not conditioning the approval of the Philadelphia 15% plan on the resolution of this double counting issue. EPA will, however, require that this issue be satisfactorily resolved prior to approval of any subsequent air quality plans required for the Philadelphia nonattainment area such as the post-96 plan and attainment demonstration.

C. 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% ROP 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 VOC target level for the five counties that make up the Pennsylvania portion of the Philadelphia nonattainment area.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS¹ FOR THE PHILADELPHIA NONATTAINMENT AREA'S 15% PLAN
[Tons/day]

1990 Base Year Inventory	615.56
Adjustments for FMVCP/RVP (pre 1990 program)	33.02
1990 Adjusted Base Year Inventory	582.53
15% Reduction Requirement	87.38
RACT "fix-ups"	0.84
FMVCP & RVP Reductions	33.02
1990 Adjusted Base Year Inventory	582.53

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS¹ FOR THE PHILADELPHIA NONATTAINMENT AREA'S 15% PLAN—
Continued
[Tons/day]

Required Reductions (w/o growth)	121.24
1996 Target Level	494.31
FMVCP & RVP Reductions	- 33.02
1990-1996 Emissions Growth	35.41
Required Reductions (w/o growth)	121.24
Total Required Reduction	123.63
Total Reduction Claimed by Pennsylvania	127.91

¹ Emission figures presented here are from the September 12, 1996 submittal. These figures may change once Pennsylvania makes the corrections to the plan to reconcile inventory inconsistencies, etc.

D. Control Strategies in the 15% Plan

The specific measures adopted (either through state or federal rules) for the Philadelphia area are addressed, in detail, in the Commonwealth's 15% plan. The following is a brief description of each control measure 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 ROP requirement.

E. Creditable Emission Control Strategies

The control measures described below are creditable toward the ROP requirements of the Act. Pennsylvania takes emission credit toward the 15% requirement through implementation of the following required programs: (1) Federal reformulated gasoline, (2) reformulated gasoline—nonroad, (3) I/M FMVCP/Tier I, and (4) Stage II vapor recovery. Pennsylvania also takes emission credit toward the 15% requirement through the implementation of the following programs: (1) Federal architectural and industrial maintenance coating regulation (national rule), (2) treatment, storage and disposal facility (TSDF) controls (hazardous waste rule with air emission reductions), (3) autobody refinishing national rule, (4) consumer and commercial products national rule, and (5) facility shutdowns. 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 has provided some sample calculations used in this modeling, but no detailed documentation of the MOBILE runs. However, EPA has no reason to believe that Pennsylvania's methodology is flawed. Therefore, EPA is proposing to

approve the claimed mobile emission reductions.

Further details regarding EPA's review of the Commonwealth's control measures are contained in the TSD for this action.

Architectural and Industrial Maintenance (AIM) Coating

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 was sued over this proposed national rule and negotiated a compliance date of no earlier than January 1, 1998. VOC emissions come from the evaporation of solvents used in the coating process. In a memo 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 memo, 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 reductions 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. Although Pennsylvania states that they are claiming 15% emission reduction credit from this measure in their 15% plan, the figures used to calculate the actual expected emission reduction from this measure results in an emission reduction of 20%, which is EPA's estimate of expected emission reductions from the AIM national rule. Therefore, although the Pennsylvania submittal is inaccurate, the resulting emission reduction credit of 20% from the AIM coating rule is acceptable. A

20% reduction from their 1996 projected uncontrolled AIM emissions results in a 7.28 tons per day (TPD) emission reduction credit (1996 uncontrolled emissions x 20% emission reduction). Since the 1996 uncontrolled emissions are 36.41 TPD, a 20% emission reduction is 7.28 TPD. EPA has determined that 7.28 TPD is creditable from this control measure for the Philadelphia 15% plan.

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 Phase I of the TSDF national rule on June 21, 1990 (55 FR 25454). The Phase II TSDF rule was published in the Federal Register on December 6, 1994 (59 FR 62896) and subsequently amended on February 9, 1996 (61 FR 4903) and November 25, 1996 (61 FR 59932). Final compliance with the Phase II requirements is required by no later than December 8, 1997. Pennsylvania claims an expected VOC reduction of 9.45 TPD 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 TPD credit. Additionally, from the summary tables (Tables 3.2 and 4.5) of the 15% plan, it is not possible to determine the emissions from this area source category since there is no category specifically labeled as TSDFs. The closest category is one labeled "Waste Disposal". The 1996 projected emissions for this category, however, are listed as 22.50 tons per day. Using the figures provided by Pennsylvania in Appendix 3 of the 15% plan, the expected emission reduction from this measure is calculated using the 12.57 TPD projected 1996 emissions and

multiplying this by the control efficiency (94%) and rule effectiveness (80%), resulting in an emission credit of 9.45 TPD. In a May 1993 EPA memorandum, EPA agreed that a 93% emission reduction could be expected from the implementation of the Phase II TSDF rule. Therefore, the creditable emission reduction for this measure is not 9.45 tons/day but 9.35 tons/day (12.57 tons/day 1996 emissions \times 0.93 \times 0.80). Pennsylvania must document how it determined the 1990 emissions from this category and calculated the emission reduction credit due to the implementation of this national rule. Provided the emission inventory and projected figures are correct, EPA has determined that the creditable emissions from this control measure, given the inventory information provided by Pennsylvania, is 9.35 TPD. Therefore, only 9.35 TPD of emission reductions from the TSDF rule are creditable toward the ROP requirements of the Act.

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. Although EPA intended to issue a final rule covering these products by December 1996, the final rule is now expected to be published in Spring 1997 and require compliance by July 1997. The Commonwealth claims a 20% reduction from the consumer products portion of their 1996 uncontrolled inventory, or a 6.58 tons/day reduction (32.89 tons per day, 1996 projected emissions \times 20% emission reduction). EPA has determined that 6.58 TPD is creditable toward the 15% plan requirement.

Autobody Refinishing

Autobody shop emissions come from the painting of damaged vehicles or the reconditioning of old vehicles typically done in an industrial or small business shop. The coatings used emit VOCs in significant amounts and EPA has developed a national rule to address the VOC content in those coatings. In a November 29, 1994 memorandum, "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the

Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule", EPA set forth policy on the creditable reductions to be assumed from the national rule for autobody refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). Pennsylvania is claiming a 37% emission reduction, resulting in an overall expected emission reduction of 6.3 tons per day (17.02 tons per day, 1996 projected emissions \times 37% emission reduction). EPA has determined that 6.3 TPD is creditable toward the 15% plan requirement.

Shutdown Credits

Pennsylvania is claiming 3.4 tons per day from large stationary sources that have shut down emission units since 1990. Shutdown emission reduction credits are creditable toward a state's 15% plan requirements provided they are surplus, quantifiable, enforceable and permanent. Pennsylvania's regulations (25 Pa. Code Chapter 127.207) require that ERCs generated in the Commonwealth also meet these criteria. Pennsylvania has submitted documentation with the Philadelphia 15% plan showing the 1990 emissions of each of the 23 facilities that are providing either part or all of its shutdown emissions toward the 15% emission reduction requirement. EPA generally agrees with the creditability of the shutdown emissions except for those calculated for Philadelphia Textile Finishers, S.K.F., 3M, and Progress Lighting Co. For Philadelphia Textile Finishers, S.K.F., and Progress Lighting Co., the claimed shutdown credits appear to exceed those emissions reported for these sources in the 1990 base year emissions inventory. EPA cannot allow emission reductions from sources to be credited toward the 15% plan where those emission reduction credits exceed the amount of those sources' 1990 emissions. While the most recent 2 year representative period is used to generate the emissions baseline, for credibility toward the 15% emission reduction, the emissions may not exceed those emitted in 1990; otherwise the emissions cannot be determined to be surplus. The documentation provided for Philadelphia County (prepared by the City of Philadelphia Air Management Services) was in a different format from the other 4 counties in the Philadelphia nonattainment area supplied by DEP and, unlike those DEP documents, does not provide emissions attributed to each

of the emission units within a facility. For those facilities within Philadelphia County where only part of the facility's shutdown emissions are being claimed as credit toward the 15% requirement, EPA cannot verify the emissions since the inventory is not provided on an emission unit basis. Pennsylvania must clearly document where the emission reductions from the partial shutdowns are occurring through a more detailed submittal of the 1990 inventory for Philadelphia County. It appears from the information provided that out of the 23 facilities providing shutdown credits, only 5 are total facility shutdowns. These five are all located in Philadelphia County and are: Quality Container Corp., U.S. Mint, Schneider Brothers Co., Monarch Manufacturing Works Inc., and Craftbilt Co. For 3M, the banked emissions listed in the Philadelphia 15% plan contradicts information submitted to EPA via the reasonably available control technology (RACT) requirements under section 182(b) of the Act. In the 3M RACT proposal, the Company has requested that 641.7 tons of VOC per year be banked. Even if 260 working days were used to determine the ton per day emissions for this facility, there are still only banked emissions available at 2.47 tons per day rather than the 4.24 tons per day listed in the 15% plan for this facility. Compared with the facility specific data provided within the Philadelphia 15% plan, the 3M VOC emissions appear to be slightly over estimated in the summary list in Table 6.3 of the 15% plan (4.06 TPD versus 4.24 TPD). At PA DEP's request, EPA has already federally approved 1990 VOC (and NOx) emissions for selected emission units at the United States Steel—Fairless (USX) facility (April 9, 1996, 61 FR 15709). Therefore, PA DEP must ensure that the emission reduction credits claimed for USX in the Philadelphia 15% plan are consistent with the federally approved SIP pertaining to USX. This requires that emissions information on an emission unit basis must be provided for the USX—Fairless facility clearly indicating which units are providing the emission credit in the 15% plan. Pennsylvania must reconcile all inconsistencies between and within the 1990 emission inventory and the 15% plan in order for EPA to approve the 1990 emission inventory. Pennsylvania must ensure that any shutdown emissions applied toward the required 15% emission reduction may not subsequently be used by the Company or the Commonwealth for other purposes. Today's rulemaking action does not supersede any 1990

emission inventory figures previously approved by EPA in source-specific rulemakings.

Federal Reformulated Gasoline

Section 211(k) of the Act requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or extreme. This gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. As a severe area, Philadelphia benefits from the emission reductions from this program. Pennsylvania claims a VOC emission reduction of 26.48 tons per day from this measure. EPA has determined that this is a creditable emission reduction toward the 15% requirement.

Reformulated Gasoline—Nonroad

The use of reformulated gasoline will also result in reduced emissions for both exhaust and evaporative emissions from off-road engines such as outboard motors for boats and lawn mower engines. Pennsylvania claims a VOC emission reduction of 0.59 tons per day from this measure. EPA has determined that this is a creditable emission reduction toward the 15% requirement.

Stage II Vapor Recovery

EPA approved Pennsylvania's Stage II vapor recovery regulation on December 13, 1994 (60 FR 63938). This final approval followed a limited approval/limited disapproval rulemaking action that was published in the Federal Register on June 13, 1994 (59 FR 30302). The federally approved Stage II regulation requires the use of vapor recovery nozzles at gas stations through a phased compliance schedule but the last group of stations (pumping less than 100,000 gallons of gasoline per month) were required to comply with this requirement by no later than February 8, 1994 in all moderate and above ozone nonattainment areas. Pennsylvania claims a 17.02 tons per day VOC emission credit from the implementation of this regulation in the 5-county Philadelphia area. EPA has determined that this credit to be reasonable and acceptable.

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

percent 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 1.0 tons/day from this post-1990 Federal Motor Vehicle Control Program. Although Pennsylvania has not provided EPA with all the documentation necessary to verify this emission reduction credit, EPA has no reason to believe that Pennsylvania's methodology is inaccurate. Therefore, EPA is proposing to accept the emission reduction credit claimed for this measure.

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 percent 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 where 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 § 182(b)(1), 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. EPA published the final conditional interim approval of the Pennsylvania I/M program on January 28, 1997 (62 FR 4004).

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.

In the case of Philadelphia, the Pennsylvania program has submitted a 15% SIP that would achieve the amount of reductions needed from I/M by November 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 Philadelphia that includes control measures that are creditable toward the 15% plan. Emission reductions in the Philadelphia nonattainment area resulting from the implementation of the RFG, Stage II, and from implementation of FMVCP—Tier I have already occurred. EPA believes that this SIP contains all measures, including enhanced 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 Philadelphia severe 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 Philadelphia area, as a severe ozone nonattainment area that is required to implement a large number of control measures, there is no combination of additional control measures that can be implemented prior to the end of 1997

that would achieve the emission reductions equivalent to I/M. The Commonwealth has recently concluded the Southeast 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 Philadelphia nonattainment area in order to reach attainment of the ozone national ambient air quality standard. The stakeholders final report and recommendation to the Governor was released on January 16, 1997. For the Philadelphia 15% plan, the Commonwealth has chosen to implement the I/M program in the Philadelphia nonattainment area, which is expected to produce a 49.74 ton per day emission reduction beginning in late 1997. The details of this analysis are contained in the accompanying TSD.

SUMMARY OF CREDITABLE EMISSION REDUCTIONS FOR THE PHILADELPHIA OZONE NONATTAINMENT AREA

[Tons/day]

Required Reduction for the Philadelphia area	123.64
Creditable Reductions:	
Shutdown credits ¹	3.40
AIM Coatings Rules	7.28
Consumer/Commercial Products	6.58
TSDF Controls	9.35
Autobody refinishing	6.30
Stage II vapor recovery	17.02
Federal Reformulated gasoline	26.48
Reformulated gasoline—nonroad	0.59
FMVCP (Tier I)	1.08
Inspection and Maintenance (I/M)	49.74
Total	127.82

¹The emission reductions from this program have not been substantiated by Pennsylvania.

III. Proposed Action

The EPA has evaluated this submittal for consistency with the Clean Air Act, applicable EPA regulations, and EPA policy. On its face, this RFP plan for Philadelphia 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 has determined that the submittal for Philadelphia contains enough of the required structure to warrant proposing conditional interim 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% reasonable further progress plan or section 182(a)(1) of the Act regarding emission inventories. Since the September 1996 Philadelphia 15% plan submittal supersedes the previous 15% plan submittal, EPA is withdrawing its July 10, 1996 proposed disapproval of the Philadelphia 15% plan and is, instead, proposing conditional interim approval of the plan that was submitted on September 12, 1996.

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 interim 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 the technical support document.);
- (3) Provide additional documentation for the emissions for those sources categories where credit is claimed (shutdowns, TSDFs);
- (4) Provide a written commitment to remodel and submit the enhanced I/M program as implemented in the Philadelphia nonattainment area in accordance with EPA guidance (December 23, 1996 memo entitled "Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance); and

(5) Fulfill the conditions listed in the enhanced I/M SIP rulemaking notice (proposed October 3, 1996, 61 FR 51638; final January 28, 1997, 62 FR 4004).

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 Philadelphia 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 (although documentation for the amount of shutdown credit is). 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 September 1996 submittal in order to resolve all the issues necessary to fully approve the Philadelphia 15% plan. Pennsylvania is aware of the deficiencies cited above and is currently working to amend the Philadelphia 15% plan to address the above-named deficiencies. While these deficiencies currently remain, EPA believes that all issues will be resolved no later than 12 months after EPA's final conditional interim approval of the Philadelphia 15% plan. EPA will consider all information submitted as a supplement or amendment to the September 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 Philadelphia 15% plan and the Philadelphia 1990 base year emissions inventory, including its amendments, for compliance with the requirements of the 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 SIP. Each request for revision to the SIP 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 interim approval action for the Pennsylvania

15% plan and the 1990 VOC emission inventory for Philadelphia 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 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.

The Regional Administrator's decision to approve or disapprove the SIP revision pertaining to the Philadelphia 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 regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Dated: February 28, 1997.
Stanley Laskowski,
Acting Regional Administrator.
[FR Doc. 97-6019 Filed 3-10-97; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 86

[AMS-FRL-5701-7]

Extension of Interim Revised Durability Procedures for Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Today's proposal was originally published as a Direct Final Rule (61 FR 58618, November 15, 1996), but the amendments were removed due to the receipt of an adverse comment.

On January 12, 1993, EPA published a final rule establishing interim durability procedures used for demonstrating compliance with light duty vehicle and light duty truck emission standards, applicable in model years 1994-1996 only. On July 18, 1994, EPA published a direct final rule extending the applicability of the original rule through model year 1998. Today's proposal extends the applicability of those durability procedures indefinitely. The Agency intends to conduct a separate rulemaking to implement a long-term durability program; however, such an action will be linked to others as part of a broad-based streamlining initiative for all vehicle emission compliance activities. It is difficult to predict with any precision when this subsequent action will occur. The Agency currently estimates that new compliance regulations will be promulgated such that they would become effective no earlier than the 2000 model year. Because the current durability regulations expire at the end of the 1998 model year, failure to proceed with today's proposal would result in less effective and inefficient durability regulations beginning with the 1999 model year, and may create timing problems for manufacturers planning to use alternate durability processes in the 1999 model year, since the durability demonstration procedures would revert back to requiring the AMA mileage accumulation process, a procedure which requires 100,000 miles to be accumulated on a prototype vehicle.

DATES: Comments must be received on or before April 25, 1997. A public hearing will be held on March 27, 1997. Request to present oral testimony must be received at least 5 days prior to the hearing.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A-93-46 at: Air Docket Section, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Materials relevant to this proposed rule have been placed in Docket No. A-93-46. Additional documents of relevance may be found in Docket No. A-90-24. The docket is located at the above address in room M-1500, Waterside Mall, and may be inspected weekdays between 8:30 a.m. and noon, and between 1:30 p.m. and 3:30 p.m. A reasonable fee may be charged by EPA for copying docket materials. The public hearing will be held at the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, MI. The hearing will begin at 10 am and