Elinsky, Corps Baltimore District, at (410) 962–4503.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps proposes to amend the regulations in 33 CFR part 334 by adding a new § 334.155 which establishes a naval restricted area at the Naval Station Annapolis small boat basin, off the Severn River at Annapolis, Maryland. The Commanding Officer of the Naval Station Annapolis, has requested that the Corps establish the restricted area for reasons of security and navigational safety. The small boat basin plays an integral role in the training of midshipmen of the U.S. Naval Academy. The basin is used continuously by the Naval Academy as a training area for maneuvering and seamanship exercises. Over the past 40 years, the small boat basin has been surrounded by restricted U.S. Navy property of the Naval Station Annapolis and the Naval Surface Warfare Center (NSWC), and accordingly, access to the basin was limited to Naval personnel. In 1995, the Congress approved the Department of Defense Base Realignment and Closure Commission's recommendation to close the NSWC at that location. The NSWC property is slated to become the property of Anne Arundel County and presumably that area and the shoreline of the basin could become accessible to the public. Public access to the basin from the NSWC property by non-U.S. Navy/Department of Defense personnel would pose an unacceptable security risk to the Naval Station. Navigational safety would also be a problem if non-Naval vessels are allowed to operate in the basin and because 260 feet of the NSWC seawall is located at the entrance to the basin, which is only 170 feet wide, any mooring by vessels along the seawall would further restrict the entrance and present a hazard to boats entering and leaving the basin. In addition to the publication of this proposed rule, the Baltimore District Engineer is soliciting public comment on these proposed changes to the restricted area rules by distribution of a public notice to all known interested parties.

Procedural Requirements

A. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

B. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

C. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

D. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger Zones.

For the reasons set out in the preamble, we propose to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Add new § 334.155 to read as follows:

§ 334.155 Severn River, Naval Station Annapolis, Small Boat Basin, Annapolis, MD; naval restricted area.

(a) *The area.* The waters within the Naval Station Annapolis small boat basin and adjacent waters of the Severn River enclosed by a line beginning at the southeast corner of the U.S. Navy Marine Engineering Laboratory; thence to latitude 38°58′56.5″, longitude 76°28′11.5″; thence to latitude 38°58′50.5″, longitude 76°27′52″; thence to the southeast corner of the Naval Station's seawall.

(b) *The regulations.* No person, vessel or other craft shall enter or remain in the restricted area at any time except as authorized by the enforcing agency.

(c) *Enforcement.* The regulations in this section shall be enforced by the Superintendent, U.S. Naval Academy, in Annapolis, Maryland, and such agencies as he/she may designate.

Dated: October 20, 1997.

Approved.

Robert W. Burkhardt,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 97–28196 Filed 10–23–97; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–7202b; FRL–5902–3]

Approval and Promulgation of Implementation Plans; Conditional Approval of Implementation Plans; Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA is proposing action on State Implementation Plan (SIP) revisions submitted by the State of Connecticut. The EPA is proposing approval of Connecticut's 1990 base year ozone emission inventories, and establishment of a Photochemical Assessment Monitoring Stations (PAMS) network, as revisions to the Connecticut SIP for ozone. The EPA proposes a conditional approval of SIP revisions submitted by the State of Connecticut to meet the 15 Percent Rate of Progress (ROP) Plan requirements of the Clean Air Act (CAA). A conditional approval is also proposed for the Connecticut contingency plan.

The inventory was submitted by Connecticut to satisfy a CAA requirement that those States containing ozone nonattainment areas (NAAs)

classified as marginal to extreme submit inventories of actual ozone season emissions from all sources in accordance with EPA guidance. The PAMS SIP revision was submitted to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network by November 15, 1993. The 15 percent ROP and contingency plans were submitted to satisfy CAA provisions that require ozone nonattainment areas classified as moderate and above to devise plans to reduce volatile organic compound (VOC) emissions 15 percent by 1996 when compared to a 1990 baseline.

In the final rules section of today's **Federal Register**, the EPA is approving the Connecticut 1990 base year inventories, and the establishment of a PAMS network as a direct final rule without prior proposal, because the Agency views these as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for each approval is set forth in the direct final rule. A direct final rule is not being published for the Connecticut 15 percent ROP and contingency plans. If no adverse comments are received on the direct final rule, no further activity is contemplated in relation to this proposed rule for these revisions. 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. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Public comments on this document are requested and will be considered before taking final action on this SIP revision. Comments on this proposed action must be postmarked by November 24, 1997.

ADDRESSES: Written comments on this action should be addressed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA Region I office, and at the Connecticut Department of Environmental Protection, Bureau of Air Management, 79 Elm Street, Hartford, Connecticut, 06106–1630. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Robert F. McConnell, Air Quality Planning Unit, EPA Region I, JFK Federal Building, Boston, Massachusetts 02203; telephone (617) 565–9266.

SUPPLEMENTARY INFORMATION: For supplementary information regarding the Connecticut 1990 base year emission inventories, and establishment of a PAMS network, see the information provided in the direct final action of the same title which is located in the rules section of the **Federal Register**.

Background

Section 182(b)(1) of the CAA as amended in 1990 requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 baseline. The plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within 6 years of enactment or November 15, 1996. The Clean Air Act also sets limitations on the creditability of certain types of reductions. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990 or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990. Furthermore, the CAA does not allow credit for corrections to Vehicle Inspection and Maintenance Programs (I/M) or corrections to Reasonably Available Control Technology (RACT) rules (so called ''RACT fix-ups) as these programs were required prior to 1990.

In addition, sections 172(c)(9) and 182(c)(9) of the CAA require that contingency measures be included in the plan revision to be implemented if the area misses an ozone SIP milestone, or fails to attain the standard by the date required by the CAA.

There are two nonattainment areas in Connecticut, one classified as a serious area, the other as a severe area. Connecticut is, therefore subject to the 15 percent ROP requirements. The areas are referred to as the Greater Hartford serious ozone nonattainment area (the ''Hartford area''), and the Connecticut portion of the New York, New Jersey, Connecticut severe area (the ''NY–NJ–CT area''), which is a multi-state ozone nonattainment area. Connecticut did not enter into an agreement with New York and New Jersey to do a multi-state 15 percent plan, and therefore submitted a plan to reduce emissions only in the Connecticut portion of this area. EPA is taking action today only on the Connecticut portion of NY–NJ–CT 15 percent plan.

Connecticut submitted final 15 percent ROP plans to EPA on January 14, 1994. The plans, however, did not contain adopted rules for all of the VOC control measures listed within, and so they were deemed incomplete by EPA by letter dated January 26, 1994. During 1994, Connecticut submitted the adopted rules necessary for its 15 percent ROP plan. Revised 15 percent ROP and contingency plans were submitted on July 5, 1994 and December 30, 1994. By letter dated January 26, 1995, EPA notified Connecticut that the 15 percent ROP plans had been found complete, thereby stopping a sanctions clock which had been started on January 26, 1994 due to the lack of complete 15 percent plans from the state.

The EPA has analyzed Connecticut's submittal and believes that the 15 percent ROP and contingency plans can be given conditional approval because the State correctly determined the required level of emission reductions, and the plans would strengthen the SIP by achieving reductions in VOC and Nitrogen Oxide (NO_X) emissions. These plans, however, reference an enhanced automobile inspection and maintenance program which the State no longer intends to implement. By letter dated August 22, 1997 the Connecticut DEP committed to submittal of revised 15 percent ROP and contingency plans, and a revised I/M program, by April 1, 1998, that would reflect emission reduction credit appropriate for the type of automobile I/M program that the State will implement. Additionally, the letter contains a commitment to initiate testing of motor vehicles by January 1, 1998. Based on these commitments, the EPA is proposing a conditional approval of the plans. For a complete discussion of EPA's analysis of the Connecticut 15 Percent ROP and Contingency plans, please refer to the Technical Support Document for this action which is available as part of the docket supporting this action. A summary of the EPA's findings follows.

Emission Inventory

The base from which States determine the required reductions in the 15 Percent Plan is the 1990 emission inventory. The EPA is approving the Connecticut 1990 emission inventories with a direct final action in the rules section of today's **Federal Register**. The inventory approved by the EPA exactly matches the one used in the 15 Percent ROP plan calculations, with one minor exception of less than ½ ton per summer day (tpsd) out of a total anthropogenic emission estimate of 416.9 tpsd for this area. EPA deems this discrepancy inconsequential.

Calculation of Target Level Emissions

Connecticut subtracted the non-creditable reductions from the Federal Motor Vehicle Control Program (FMVCP) from the 1990 inventory, and accurately adjusted the inventory to account for the reid vapor pressure (RVP) of gasoline sold in the state in 1990. These modifications result in the 1990 adjusted inventory.

The total emission reduction required to meet the 15 percent ROP Plan requirements equals the sum of the following items: 15 percent of the adjusted inventory, reductions that occur from noncreditable programs such as the FMVCP and RVP programs as required prior to 1990, reductions needed to offset any growth in emissions that takes place between 1990 and 1996, and reductions that result from corrections to the I/M or VOC RACT rules. Table 1 summarizes these calculations for the two ozone nonattainment areas within the state:

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS

[Tons/day]

	NY–NJ–CT	Hartford
1990 anthropogenic emission inventory [1]	131.7	414.2
1990 adjusted inventory [2]	121.8	389.3
15 percent of adjusted inventory	18.3	58.4
Noncreditable reductions	9.9	24.9
1996 target	103.5	330.9
1996 [3] projected, uncontrolled emissions	129.6	415.7
Required reduction [4]	26.1	84.8

[1] Manmade emissions only. Perchloroethylene emissions excluded due to negligible photochemical reactivity.
[2] Adjusted inventory subtracts non-creditable FMVCP and RACT reductions from the anthropogenic inventory.
[3] 1996 emissions for on-road mobile sources were calculated using an emission factor that reflected the level of control achieved by the FMVCP in 1996.
[4] Required Reductions were obtained by subtracting 1996 target from the 1996 projected uncontrolled inventory.

Measures Achieving the Projected Reductions

Connecticut has provided plans to achieve the reductions required for the two ozone nonattainment areas within the state. The following is a description of each control measure Connecticut used to achieve emission reduction credit within its 15 percent ROP plans. The EPA agrees with the emission reductions projected in the State submittals except where noted in the text and in Table 2 under the heading ''Noncreditable Reductions.''

A. Point Source Controls

Non-CTG Sources

Connecticut has claimed 3.1 tpsd in emission reduction credit from the implementation of VOC RACT on stationary sources. The reductions are claimed from facilities subject to the State's non-CTG RACT rule. The State's rule has been submitted to EPA, but has not as of yet been approved by EPA into the State's SIP. EPA intends to take final action on the State's rule by the time final action are issued for the State's 15 percent plans. The State's 15 percent plans included documentation for the level of emission reduction credit claimed. The emission reductions claimed by the State are approvable.

Gasoline Loading Racks, Rule Effectiveness Improvement

The Connecticut DEP plans on undertaking a rule effectiveness improvement program to improve compliance with a regulation on gasoline loading racks. The State's SIP outlines the manner in which Connecticut intends to improve compliance with this rule, including conducting 3 unannounced inspections at each of the 14 facilities in the state over a 24 month period. Additionally, the State submitted a rule effectiveness improvements protocol to EPA which outlines the manner in which the State will verify that these emission reductions have occurred. At the conclusion of the State's rule effectiveness program, a report documenting the results of the effort will be submitted to the EPA. The State anticipates achieving a 3.6 tpsd emission reduction statewide for this source category due to the rule effectiveness improvement program, and due to the effect that the sale of reformulated gasoline in the State will have on gasoline loading rack emissions.

B. Area Source Controls

Vehicle Refueling (Stage II)

Connecticut has adopted and submitted to EPA a Stage II vehicle refueling regulation. EPA approved the rule into the State's SIP on December 17, 1993 (58 FR 65930). Connecticut calculated 1996 vehicle refueling emissions and underground tank breathing emissions jointly, and determined that a 15.6 tpsd emission reduction would occur from these emission sources. Emissions from underground tanks will be reduced due to the sale of reformulated gasoline in the State.

Automobile Refinishing

On November 29, 1994, EPA issued a final guidance memorandum that allowed States to assume a 37% control level for this source category without adopting a State rule due to a pending National rule. The State correctly applied this guidance and determined that emissions will be reduced 7.4 tpsd statewide due to implementation of the federal rule.

Architectural Coatings

In a memo dated March 22, 1995, EPA provided guidance on the expected reductions from a pending national rulemaking on AIM coatings. The memo projects that emissions would be reduced by 20% for both architectural coatings and industrial maintenance coatings. The State correctly applied this guidance and determined that emissions will be reduced 6.5 tpsd statewide due to implementation of the federal rule.

Cutback Asphalt, Increased Rule Effectiveness

The December 30, 1994 revision to the Connecticut 15 percent ROP plans included a plan to increase the rule effectiveness of the State's cutback asphalt regulations, such that a total of 15.3 tpsd in emission reductions would be achieved. The State's SIP outlines the manner in which Connecticut intends to improve compliance with this rule, including notifying all towns in the

State of their responsibilities pursuant to the rule, and requiring all towns to annually report their cutback asphalt usage. The State submitted a rule effectiveness improvements protocol to EPA which outlines the manner in which the State will verify that these emission reductions have occurred. At the conclusion of the State's rule effectiveness program, a report documenting the results of the effort will be submitted to the EPA. The emission reductions claimed by the State are approvable.

Effect of Reformulated Gasoline on Remaining Gasoline Marketing Operations

Reformulated gasoline will be required to be sold in Connecticut in 1996. This fuel has a lower volatility than conventional gasoline, and therefore produces less evaporative emissions than conventional gasoline. Appendix C of Connecticut's 15 percent plan outlines the effect that the sale of ''Class C'' reformulated gasoline will have on emissions in 1996 from the gasoline distribution network. The State estimated the emission reduction expected from the source categories where this reduction was not previously quantified, such as bulk gasoline storage tanks, barges, gasoline trucks in transit, and Stage I tank filling operations. The net result was a 1.0 tpsd emission reduction statewide. The projected emission reductions are approvable.

C. On-Road Mobile Source Controls

Vehicle Inspection and Maintenance

The 15 percent ROP plans relied on an enhanced vehicle I/M program that was developed by Connecticut and submitted to EPA on May 13, 1994. In light of the recent I/M flexibility policy issued by EPA, Connecticut has indicated an interest in re-evaluating their enhanced I/M program to take advantage of the I/M flexibility. However, Connecticut has not yet submitted a revised I/M program design to EPA. By letter dated August 22, 1997, Connecticut committed to submitting a revised I/M program to EPA by April 1, 1998, revised 15 percent and contingency plans reflecting the credit from the revised I/M program by April 1, 1998, and importantly, the State committed to begin testing motor vehicles by January 1, 1998. Since the enhanced I/M program described within the 15 percent plan submitted to EPA on December 30, 1994 will not be implemented, EPA cannot fully approve the emission reductions from this program. However, based on the commitments contained within the State's August 22, 1997 letter, EPA proposes to conditionally approve the Connecticut 15 percent ROP and contingency plans.

Section 182(b)(1) of the CAA requires that States containing ozone nonattainment areas classified as moderate or above prepare plans that provide for a 15 percent VOC emission reduction by November 15, 1996. Most of the 15 percent 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 the original enhanced I/M protocol.

In September, 1995, the EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the guidance contained within EPA's revised I/M rule, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded 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 percent VOC emission reduction required under CAA section 182(b)(1), and the recent regulatory changes regarding enhanced I/M programs, the EPA recognized that it is no longer possible for many States to achieve the portion of the 15 percent reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15 percent 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 percent plans, even though the emission reductions from the I/M program will occur after November 15, 1996.

Specifically, the EPA will propose approval of 15 percent SIPs if the emission reductions from the revised, enhanced I/M programs, as well as from the other 15 percent SIP measures, will achieve the 15 percent level as soon after November 15, 1996 as practicable. To make this ''as soon as practicable'' determination, the 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 percent level is achieved. The EPA does not believe that measures meaningfully accelerate the 15 percent date if they provide only an insignificant amount of reductions.

In the case of the NY–NJ–CT area and the Hartford area, Connecticut has committed to submittal of 15 percent SIPs that would achieve the amount of reductions needed from I/M by November, 1999. The EPA proposes to determine that these SIP revisions contain all measures, including automobile I/M, that achieve the required reductions as soon as practicable.

The EPA has examined other potentially available SIP measures to determine if they are practicable for the two Connecticut ozone nonattainment areas, and if they would meaningfully accelerate the date by which these areas reach the 15 percent level of reductions. The EPA proposes to determine that these SIPs contain the appropriate measures. The rationale for this determination is outlined within the technical support document available in the docket for this action. In summary, several area source measures exist which could conceivably be implemented prior to November 1999. However, these measures would not achieve the same level of emission reductions expected from Connecticut's I/M program, and additionally, would not meaningfully accelerate the achievement of the required reductions.

Reformulated Gasoline (RFG)

Section 211(k) of the Clean Air Act requires that after January 1, 1995, in the nine areas of the country with the worst air quality, only reformulated gasoline be sold or dispensed. Portions of the State of Connecticut are covered by this requirement. On October 28, 1991, Connecticut submitted a letter from their Governor requesting that the portions of the State not specifically required by the CAA to use reformulated gasoline ''opt into'' the reformulated fuels program. This request was published in the **Federal Register** on December 23, 1991, 56 FR 66444. Connecticut correctly used the MOBILE5a model to calculate the emission reductions due to the implementation of the reformulated gasoline program.

Tier I Federal Motor Vehicle Control Program

The EPA promulgated standards for 1994 and later model year light-duty vehicles and light-duty trucks (56 FR

25724, June 5, 1991). Since the standards were adopted after the Clean Air Act amendments of 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. Connecticut correctly calculated these reductions using the MOBILE5a model.

Employee Commute Option

Connecticut has adopted legislation requiring employers in the State's severe nonattainment area with 100 or more employees implement measures to increase average passenger occupancy by 25%. The EPA has not approved this program into the State's SIP. A discussion with staff from the CT–DEP indicates that this program is not being implemented. The State included the effect of this program in the MOBILE modeling runs done to estimate emission reductions in the severe area. This resulted in the State assuming 0.4 tpsd in emission reduction credit which will not occur in the Connecticut portion of the NY–NJ–CT area due to the failure to implement this program.

D. Non-Road Mobile Source Controls

Use of Reformulated Gasoline in Non-road Engines

On August 18, 1993, EPA's Office of Mobile Sources issued a guidance memorandum regarding the VOC emission reduction benefits for non-road equipment in a nonattainment area that uses Federal Phase I RFG. Connecticut has correctly used the guidance to compute that VOC emissions will be reduced 0.6 tpsd in the severe area, and 2.4 tpsd in the serious area.

Table 2 summarizes the creditable and noncreditable emission reductions contained within the Connecticut 15 percent ROP plans:

TABLE 2.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: CONNECTICUT OZONE NONATTAINMENT AREAS

[Tons/day]

	NY–NJ–CT	Hartford
Required reduction	26.1	84.8
Creditable reductions:		
Non-CTG RACT	0.9	2.2
Gasoline Loading Racks	0.7	2.9
Stage II + Tank Breathing	3.9	11.7
Auto Refinishing	2.0	5.4
AIM Coatings	1.6	4.9
Cutback Asphalt (RE imp.)	3.8	11.5
Reform, other gas market	0.2	0.8
On-road mobile strategies (I/M, Reform, Tier I)	16.1	46.1
Reform, Off-road	0.6	2.4
Total	29.8	87.9
Noncreditable reductions:		
Employee commute option	0.4	.....
Surplus	3.7	3.1

Contingency Measures

Ozone nonattainment areas classified as serious or above must submit to the EPA, pursuant to sections 172(c)(9) and 182(c)(9) of the CAA, contingency measures to be implemented if an area misses an ozone SIP milestone or does not attain the national ambient air quality standard by the applicable date. The General Preamble to Title I, (57 FR 13498 (April 16, 1992)) states that the contingency measures should, at a minimum, ensure that an appropriate level of emission reduction progress continues to be made if attainment or RFP is not achieved and additional planning by the State is needed. The EPA interprets this provision of the CAA to require States with moderate and above ozone nonattainment areas to submit sufficient contingency measures so that upon implementation of such measures, additional emission reductions of three percent of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved in the year after the failure has been identified (57 FR at 13511). States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review.

Analysis of Contingency Measures

Surplus Emission Reduction From 15 Percent Plan

Connecticut's contingency plan included emission reduction credits that were considered surplus reductions from the state's 15 percent ROP plans. A 4.0 tpsd surplus was identified for the NY–NJ–CT area, and a 3.1 tpsd surplus for the Hartford area. EPA notes that due to the lack of implementation of the employee commute program in the NY–NJ–CT area, the adjusted surplus is 3.7 tpsd for that area. This equals the contingency obligation for this area, and so no additional reductions are needed for the NY–NJ–CT area.

NO_X Contingency Measures for Serious Area

The State determined that the serious area would need to achieve additional emission reductions beyond those generated by the 15 percent plan surplus for this area. The State chose to meet the remainder of this requirement using NO_X emission reductions, which is allowed pursuant to guidance issued by EPA on August 23, 1993. The state correctly determined that a 2.2 percent reduction of the adjusted NO_X inventory (321.5 tpsd) would be required to fulfill the emission reduction obligations for the serious area. (The adjusted NO_X inventory is so named because pre-1990 emission reductions from the FMVCP are subtracted to derive the ''adjusted'' NO_X inventory). This yields a 7.1 tpsd NO_X emission reduction obligation.

Connecticut chose to meet the NO_X contingency measure obligation using a portion of the emission reductions achieved by its NO_X RACT rule. Connecticut has submitted a NO_X RACT

rule to the EPA. EPA intends to approve the State's rule prior to or concurrent with final approval of the State's 15 percent and contingency plans. The State's NO_X RACT rule is more stringent than required by the CAA. The State performed an analysis to determine the quantity of emission reductions generated by the rule which are beyond the reductions required by the CAA. The results of the analysis were included with the State's submittal, and indicate that 6.3 tpsd surplus credit will be generated in the severe area, and 3.4 tpsd surplus credit in the serious area.

As stated above, Connecticut needs to identify 7.1 tpsd in NO_X emission reduction credits to fulfill the contingency measure obligation for the serious area. Only 3.4 tpsd are identified from the State's analysis of surplus NO_X credits. However, since the State's NO_X RACT rule contains a Statewide NO_X cap provision, which allows sources from the serious area to over-control and trade emission reduction credits to facilities in the severe area (and vice versa), the State will use a portion of the credit generated in the severe area to meet the remainder (3.7 tpsd) of the serious area's contingency obligation.[5]

Table 3 summarizes the creditable emission reductions contained within the State's contingency plans:

TABLE 3.—SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: CONNECTICUT NONATTAINMENT AREAS

[Tons/day]

	NJ–NJ–CT	Hartford
Required contingency	3.7 (VOC)	3.1 (VOC) 7.1 (NO_X)
Creditable contingency reductions:		
Excess from 15 percent plans (VOC)	3.7	3.1
Beyond CAA NO_X RACT	.....	7.1

Transportation Conformity Budgets

In recognition of the proposed approval of the 15 percent ROP plans, EPA also proposes approval of motor vehicle emission budgets for VOCs and NO_X. Final approval of the 15 percent plan will eliminate the need for the transportation conformity emission reduction tests, which are the build/no build test and the less than 1990 emissions test, for these pollutants.

A control strategy SIP is required to establish a motor vehicle emission budget which places a cap on emissions that cannot be exceeded by predicted highway and transit vehicle emissions. The Connecticut DEP did not provide a break down of the 1996 projected inventory denoting transit emissions as an individual category. Therefore EPA is proposing to utilize the on-road mobile emissions provided in the SIP submittal as the motor vehicle emission budget for transportation conformity purposes. The 1996 projected on-road mobile emission estimates contained within the State's 15 percent plans are shown in the following table:

TABLE 4.—1996 MOTOR VEHICLE EMISSION BUDGETS

	NY–NJ–CT area	Hartford area
VOC	23.2	71.1
NO_X	39.4	126.3

EPA recommends that the DEP submit a specific motor vehicle emission budget for conformity purposes that includes both the highway and transit components. If such a submittal is made, EPA will address the revised motor vehicle budget within the final rulemaking on Connecticut's 15 percent plan.

EPA notes that the DEP derived these emission values using the assumption that the State's motor vehicle I/M program will achieve emission reductions equivalent to the reductions achievable from an enhanced I/M program. As stated elsewhere in this notice, EPA is aware that Connecticut no longer intends to implement an enhanced I/M program, but rather will implement an ''ASM 25/25'' type program beginning on January 1, 1998. The DEP has committed to submittal of a revised 15 percent plan which contains emission estimates reflective of the State's ASM 25/25 motor vehicle emission testing program. If the revised 15 percent plans are found to contain adequate motor vehicle emission budgets, those budgets will supersede the budgets proposed for approval in today's notice. Additionally, the budgets will be adjusted if the State's evaluation of the emission reductions obtained from its I/M program reveal that the projected benefits were inaccurate.

Proposed Action

The EPA has evaluated these submittals for consistency with the CAA, EPA regulations, and EPA policy. The Connecticut 15 Percent ROP plans will achieve enough reductions to meet the 15 percent ROP requirements of section 182(b)(1) of the CAA. In addition, the Connecticut contingency plans will achieve enough emission reductions to meet the three percent reduction requirement under sections 172(c)(9) and 182(c)(9) of the CAA. However, the ability of these plans to achieve the indicated quantity of emission reductions depends in large part on the successful implementation of an automobile emission testing program. By letter dated August 22, 1997, Connecticut indicated that the I/M 240 program described within the December 30, 1994 15 percent plans would not be implemented, and that an ASM 25/25 type program would be implemented in its place beginning on January 1, 1998. The letter states that a preliminary analysis performed by the DEP indicates that Connecticut can meet its emission reduction requirements for 15 percent and contingency plan purposes based on a January 1, 1998 start date for the ASM 25/25 I/M program. The letter also committed to submittal of a revised 15 percent and contingency demonstration, and submittal of a revised I/M program, by April 1, 1998. Based on these commitments, the EPA is proposing

[5] The NY–NJ–CT severe area is also upwind from the Hartford serious area, so these NO_X reductions will contribute to air quality improvement in the serious area. Any NO_X reduction the State uses in its contingency demonstration would no longer be available for use as a trade or other purposes under the CAA.

conditional interim approval of the Connecticut 15 percent and contingency plans as a revision to the SIP.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA regional office listed in the **ADDRESSES** section of this action.

EPA is proposing to grant conditional approval of the Connecticut 15 percent and contingency plans. The outstanding issues with these SIP revisions are as follows:

1. By January 1, 1998, Connecticut must begin testing motor vehicles using the ASM 25/25 program which is described within the State's August 22, 1997 letter.

2. By April 1, 1998, Connecticut must submit revised 15 percent and contingency plans as revisions to the State's SIP which show that the emission reductions from the ASM 25/25 automobile emission testing program, when coupled with emission reductions from other measures, will meet the emission reduction goals of these requirements.

3. By April 1, 1998, Connecticut must submit a revised I/M program as a revision to the State's SIP.[6]

Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from the State to adopt specific enforceable measures by a date certain, but not later than 1 year from the date of approval. If EPA conditionally approves the commitments in a final rulemaking action, the State must meet its commitments as described in the preceding paragraph. If the State fails to do so, this action will become a limited approval, limited disapproval at the time of the State's failure to meet one of the conditions listed above. EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved Connecticut SIP. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a limited approval, limited disapproval. If the State meets its commitments within the applicable time frames, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the Connecticut 15 percent and contingency plans. If EPA disapproves the Connecticut I/M program, the 15 percent and contingency plans will receive limited approvals, limited disapprovals at that time. If EPA approves the Connecticut I/M program, the 15 percent and contingency plans will be fully approved in their entirety and replace the conditionally approved program in the SIP.

If EPA determines that it must issue a limited disapproval rather than a final conditional approval, or if the conditional approval is later converted to a limited approval, limited disapproval, such action will trigger EPA's authority to impose sanctions under section 179(a) of the CAA at the time EPA issues the final limited approval, limited disapproval or on the date that Connecticut fails to meet a commitment. In the latter case, EPA will notify Connecticut by letter that the conditional approval has been converted to a limited approval, limited disapproval and that EPA's sanctions authority has been triggered. In addition, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. section 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 sections 603 and 604). Alternatively, EPA may certify that the rule will not have a significant economic 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, I certify 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 Connecticut's failure to meet a 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 does 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.

C. Unfunded Mandates

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

EPA has determined that the actions proposed in this notice do 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 proposes approval of 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.

[6] Any conditions, such as a program evaluation, that EPA attaches to its approval of the revised I/M program may effectively also become conditions on the continuing validity of Connecticut's 15 percent plans, because the I/M program represents a major portion of CT's 15 percent reductions.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Reporting and recordkeeping, Nitrogen Oxides, Ozone, Volatile organic compounds.

Dated: September 19, 1997.

John P. DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 97–27856 Filed 10–23–97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 24

[WT Docket No. 97–82; FCC 97–342]

Installment Payment Financing for Personal Communications Services (PCS) Licensees

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this *Further Notice of Proposed Rule Making* the Commission proposes auction rules and procedures for the reauction of licenses surrendered to the Commission pursuant to the Commission's decision in the *Second Report and Order* in Docket 97–82, FCC 97–342 (released October 16, 1997). These proposed rules are necessary to ensure that any licenses surrendered to the Commission can be awarded to parties who are capable of providing service to the public as rapidly as possible. The intended effect of this action is to seek comment on proposed rules and procedures for the reauction of all surrendered C block licenses.

DATES: Comments are due on or before November 13, 1997. Reply comments are due on or before November 24, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark Bollinger, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This *Further Notice of Proposed Rule Making* in WT Docket No. 97–82, adopted on September 25, 1997, and released on October 16, 1997, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800. The complete *Further Notice of Proposed Rule Making* also is available on the Commission's Internet home page (http://www.fcc.gov).

SUMMARY OF ACTION:

I. Background

1. On September 25, 1997, the Federal Communications Commission (Commission) adopted a *Further Notice of Proposed Rule Making* seeking comment on proposed changes to its C block rules to govern the reauction of any licenses or spectrum surrendered pursuant to the provisions adopted in the *Second Report and Order. See* Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, *Second Report and Order*, WT Docket No. 97–82, FCC 97–342 (released October 16, 1997) (''*Second Report and Order*'').

II. Further Notice of Proposed Rule Making

2. In the *Further Notice of Proposed Rule Making*, the Commission proposes to reauction all licenses and spectrum surrendered to the Commission under the *Second Report and Order*. The Commission believes that a reauction of licenses surrendered to the Commission will assure rapid provision of service to the public. A reauction also will ensure that these licenses are available to all applicants in a rapid and fair fashion. A simultaneous reauction of all the licenses turned in to the Commission will benefit all bidders because they will be able to bid for a number of licenses in a single reauction, instead of a series of piecemeal auctions after defaults and revocations, in which opportunities for aggregation might be less favorable.

A. Licenses to be Reauctioned

3. The Commission proposes that the reauction include the following licenses: (1) All licenses representing the disaggregated spectrum surrendered to the Commission under the disaggregation option; (2) all licenses surrendered to the Commission on or before January 15, 1998, by incumbent licensees who choose to take advantage of the Commission's prepayment or amnesty options; and (3) all PCS C block licenses currently held by the Commission as a result of previous defaults. By including all available licenses in the reauction, the Commission can efficiently and fairly speed service to the public. In addition, offering all available licenses will allow for the most efficient aggregation of licenses. The Commission seeks comment on this proposal.

B. Eligibility for Participation

4. As the Commission stated in the *Second Report and Order*, all entrepreneurs, all entities that applied for the original C block auction, and all current C block licensees with exceptions, are eligible to bid in the reauction. The Commission seeks comment on whether it should restrict participation in the reauction to entities that have not defaulted on any FCC payments. *See* 47 U.S.C. 309(j)(5). Should the Commission presume that an entity's prior default on payments for an FCC license or authorization makes that entity not financially or otherwise fit to acquire a reauctioned C block license? Alternatively, the Commission could review financial qualifications through several other means. For instance, the Commission could allow such entity to participate in an auction, but if the applicant is a winning bidder, set for expedited hearing the financial qualifications of the bidder, and allow the applicant to rebut a presumption that it is not financially qualified. *See* 47 CFR 24.832(e), 1.2108(d)(3). Another alternative would be to request that the entity submit more detailed financial information at the application stage, or require that the entity submit a higher upfront payment amount (*e.g.*, a 50% upfront payment requirement) to participate in the reauction. With regard to C block licensees who elect the disaggregation, amnesty, or prepayment options adopted in the *Second Report and Order*, the Commission observes that by making such election and related payments they are not in default on their C block licenses and, thus, would not be restricted from participation in the reauction (except as otherwise set forth in the *Second Report and Order*).

C. Reauction Procedures

5. The Commission proposes below auction design and application procedures for the reauction of C block licenses.

1. Competitive Bidding Design

6. The Commission proposes that all licenses and spectrum surrendered be awarded by means of a simultaneous multiple-round electronic auction. The Commission bases this proposal on its desire to quickly auction available licenses and thereby to promote the most efficient assignment of the spectrum. Consistent with the Commission's normal practice, the specific procedural requirements of the auction would be set out by public notice prior to the auction. In general,