

effective on March 16, 1998. However, if EPA receives adverse written comments by February 13, 1998, EPA will publish a document that withdraws this action.

## V. Miscellaneous

### A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from executive order 12866 review.

### B. Regulatory Flexibility Act

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

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

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

### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen Oxides, Ozone, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: November 14, 1997.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

40 CFR part 52, is amended as follows:

### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(121) to read as follows:

#### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(121) On January 23, 1997, the Indiana Department of Environmental Management submitted a revision to the State Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revision enables the State of Indiana to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level in accordance with 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 16-3: General Conformity, Section 1: Applicability; incorporation by reference of Federal standards. Adopted by the Indiana Air Pollution Control Board April 3, 1996. Filed with the Secretary of State June 6, 1996. Published at the Indiana Register, Volume 19, Number 11, August 1, 1996 (19 IR 3050). Effective July 6, 1996.

[FR Doc. 98-932 Filed 1-13-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 098-4055; FRL -5946-7]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 15 Percent Plan and 1990 VOC Emission Inventory for the Pittsburgh-Beaver Valley Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting conditional interim approval of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania, for the Pittsburgh-Beaver Valley moderate ozone nonattainment area (the Pittsburgh area), to meet the 15 percent rate-of-progress (the 15% plan), requirements of the Clean Air Act. EPA is granting conditional interim approval because the 15% plan submitted by Pennsylvania for the Pittsburgh area relies on an enhanced motor vehicle inspection and maintenance (I/M) program, for which EPA has granted

conditional interim approval. Conditional approval is also merited because EPA is granting conditional approval to the 1990 base year emissions inventory, upon which the 15% plan is dependent. Finally, EPA is conditionally approving the Pittsburgh 1990 (VOC) emission inventory, to allow Pennsylvania up to one year to supply accurate information for certain stationary emissions sources.

**DATES:** This action is effective on February 13, 1998.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian K. Rehn, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566-2176 or via e-mail at: rehn.brian@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** On January 22, 1997, EPA proposed conditional interim approval of the Pittsburgh area's 15% plan and 1990 VOC emission inventory (62 FR 3254). The basis for EPA's action is that the Pittsburgh area's 15% plan on its face achieves the required 15% VOC emission reductions, but does not contain the required verification of emission calculations necessary for full approval. Furthermore, it relies upon the Pennsylvania enhanced inspection and maintenance (I/M) program which received final conditional interim approval on January 28, 1997 (62 FR 4004). The details of the March 22, 1996 Pennsylvania 15% plan submittal are contained in the January 22, 1997 notice and accompanying technical support document and will not be reiterated here. The discussion here will address additional information submitted by Pennsylvania on February 18, 1997 and EPA's responses to the public comments received on the proposed rulemaking notice. This action is being taken under section 110 of the Clean Air Act (the Act).

### **I. Pennsylvania's February 18, 1997 Supplement to the 15% Plan SIP**

The Pennsylvania Department of Environmental Protection (PA DEP) submitted a letter to EPA on February 18, 1997, within the required time

frame, committing to satisfy all the conditions listed by EPA in the January 22, 1997 proposed rulemaking notice and within the time frames required by that notice. On February 18, 1997, PA DEP also submitted an addendum to its 15% plan, consisting of additional documentation to satisfy some of the conditions listed by EPA in its January 22, 1997 proposed conditional interim approval notice. Specifically, PA DEP submitted additional stationary source documentation (identified as Attachment 1 of its SIP addendum) to validate emissions reduction claims in the 15% plan from stationary sources benefitting from national emission standards for hazardous air pollutants (or NESHAPS) for benzene from coke production and related processes and from reasonably available control strategy (or RACT) for volatile organic compound (VOC) sources. Part of this documentation is the detailed emission inventory summary/breakdown, on a unit-by-unit basis, for the Allegheny County portion of the Pittsburgh area that was not included in PA DEP's March 22, 1996 submittal. Also included is a comparison of the VOC RACT and base year emission inventory totals for certain facilities identified by EPA in the proposed rulemaking as having inconsistent emissions levels.

The PA DEP's February 18, 1997 SIP addendum also includes updated information for the non-road and area source portions of its 15% plan and base year inventory (Attachment 2 of the addendum). This attachment contains a revised VOC area source emissions summary table, by source category by county, as well as sample calculations for determining the emissions from those area source categories.

Supplemental mobile source documentation is contained in Attachment 3 of the SIP addendum. This documentation consists of a summary table containing MOBILE5 model emissions factors and vehicle miles of travel (VMT) estimates for various road facilities and time frames for the Allegheny County portion of the Pittsburgh area. The Commonwealth utilized a post-processor model called PPAQ to generate extensive numbers of MOBILE modeling runs and to combine those runs with VMT to produce county-wide on-highway mobile source emissions estimates. Because of the difficulty associated with documenting the operation of that model, the table in Attachment 3 of the SIP addendum provides a means to understand the methodology employed by the PPAQ model for the determination of highway motor vehicle emissions.

Finally, the February 18, 1997 SIP addendum reflects organizational changes to PA DEP's 15% plan. First, credit for the portion of the enhanced I/M program that the Commonwealth previously claimed in the contingency measures portion of the SIP has been applied to the 15% plan control strategy measures portion of the plan. Second, the credit for waste treatment, storage, and disposal facilities (or TSDFs) that were included in the VOC control measures portion of the plan have been moved to the contingency measures portion of the plan. This plan reorganization does not alter the implementation of any control measure, nor does it affect the total reductions claimed to achieve the 15% plan. Attachment 4 of the February 18, 1997 SIP addendum contains revised charts and tables to reflect these organizational changes to the SIP. Other notable control measure credit claim differences between the previous SIP and the amended version include: a decrease in Pennsylvania's claimed reductions from a pending federal reformulation rule for architectural, industrial and maintenance (or AIM) coatings category (changed from 5.05 tons per day to 4.93 tons per day); and an increase in claimed credit from the pending federal rule for the reformulation of autobody refinishing coatings (from 2.55 tons per day to 4.62 tons per day).

EPA's evaluation of the February 18, 1997 addendum submitted by Pennsylvania is detailed in the technical support document (TSD) that is part of the docket to this rulemaking. Briefly, EPA has determined that Pennsylvania has resolved the inconsistencies with the 1990 VOC emissions inventory, with the exception of certain emissions sources at J & L Specialty Steel, Inc. and Indspec Chemical Corporation. Consequently, EPA is conditionally approving the 1990 VOC emission inventory submitted on March 22, 1996 for the Pittsburgh nonattainment area to allow Pennsylvania to resolve the uncertainty of the levels of emissions from these two facilities. Presently, the 1990 emissions inventory levels for these sources are not consistent with VOC RACT plans for those same sources. The PA DEP has committed to amend the 1990 inventory to address this issue.

The PA DEP's revised Pittsburgh 15% plan SIP claims total 15% control measure emissions reductions of 67.63 tons per day of VOC for all measures credited under the 15% plan (excluding growth and pre-1990 control measures). A summary of control measures, and their corresponding emissions reductions, applied by the

Commonwealth to the 15% plan is provided below in Table 1. This table also lists the reductions levels EPA has deemed creditable towards the 15% plan, per the Agency's review of the SIP. The PA DEP's summary totals shown

below were taken from Table 5.2 of Attachment 4 to the February 18, 1997 SIP addendum, which provides a breakdown of PA DEP's total expected reductions from all creditable measures. This total is slightly more than the 67.48

tons per day previously expected by the Commonwealth. Therefore, the 15% plan revisions do not jeopardize the ability of the Pittsburgh area to meet the 15% target level of VOC emissions reductions required by the Act.

TABLE 1.—EXPECTED REDUCTIONS FROM THE REQUIRED VOC CONTROL MEASURES

Control measure	Emissions category	Pennsylvania expected reduction (tons/day)	EPA creditable reduction estimates (tons/day)
Benzene NESHAPS for coke ovens & related processes .....	Point Source .....	35.00	35.20
AIM Coating Reformulation Federal Rule .....	Area Source .....	4.93	5.05
Autobody Refinishing Coating Reformulation Federal Rule .....	Area Source .....	4.62	2.55
Consumer Products Reformulation Federal Rule .....	Area Source .....	4.35	4.35
Waste Transportation, Storage, and Disposal Facilities (TSDFs) Federal Rule.	Area Source .....	0.00	0.00
New Standards for Motor Vehicles (Tier I) .....	On-Highway Mobile Sources .....	6.24	6.24
Motor Vehicle I/M Program .....	On-Highway Mobile Sources .....	12.29	12.29
Total (tons/day) .....	.....	67.43	65.68
Total Control Measure Reductions Needed in the Pittsburgh Area	.....	.....	64.22

As a result of the additional documentation provided by PA DEP on February 18, 1997, Pennsylvania has substantially satisfied conditions #1 through #3 listed in the notice of proposed rulemaking. The remaining conditions (#4 and #5) pertain to the enhanced inspection and maintenance (I/M) program. Under the National Highway Systems Designation Act of 1995, states choosing to adopt decentralized I/M programs are allowed to assume a reasonable credit level for such a program, and be afforded time to evaluate the actual reductions of the program after a short demonstration period. Therefore, EPA cannot fully approve the reductions from an I/M program that are credited towards the 15% plan until the Commonwealth demonstrates that the associated reductions are appropriate and valid. As a result of these statutory changes, states are required to recalculate the benefits of their I/M programs, and the associated reductions in the 15% plans. Pennsylvania expects to satisfy those I/M related conditions of its 15% plan within the required time frames established by EPA's January 28, 1997 interim conditional rulemaking on that program (62 FR 4004).

## II. Public Comments and Responses

Pursuant to the January 22, 1997 proposed rulemaking notice, PA DEP submitted comments in the form of a SIP submittal addendum to EPA on February 18, 1997. The February 18, 1997 comments from PA DEP are not adverse in nature and do not take issue with EPA's proposed conditional

approval action on its SIP revision. Rather, PA DEP's submittal of February 18, 1997 provides information relative to the conditions imposed in EPA's notice of proposed rulemaking. The PA DEP's comments and EPA's responses follow below.

*Comment #1:* The PA DEP's February 18, 1997 supplemental submittal indicates that there is still a degree of uncertainty in the determination of 1990 emissions for J&L Specialty Steel, Inc. and Indspec Chemical Corp. The PA DEP agrees that it is necessary to amend the 1990 inventory in the future. PA DEP believes EPA should approve the remainder of the base year inventory, with these issues to be resolved at a later date.

*Response #1:* As described above, Pennsylvania's February 18, 1997 addendum to its March 22, 1996 submittal resolves most of the emission inventory and creditability issues discussed in EPA's proposed rulemaking notice. Supplemental documentation provided by PA DEP includes source specific information for stationary sources, a summary table demonstrating the methodology used for the highway motor vehicle modeling analysis, and sample calculations and summary tables for area and non-road emissions categories. As a result, EPA has determined that Pennsylvania has satisfied conditions related to this comment (i.e., conditions #1 and #2) from the January 22, 1997 proposed rulemaking notice (62 FR 3254). The remaining conditions of the proposed approval pertain to I/M and reductions from two benzene NESHAPS for coke

production and related processes. For the enhanced I/M program, Pennsylvania is afforded additional time in accordance with the National Highway Systems Designation Act. Consequently, the inventory-related defects identified in the January 1997 proposed rulemaking notice have been remedied. EPA's detailed analysis of the amended base year inventory is included in the TSD for this action.

*Comment #2:* The PA DEP commented that the February 19, 1997 SIP addendum contains revised target level calculation, which should supersede those of the March 22, 1996 SIP. In particular, enhanced I/M program reductions from the contingency plan were moved to the control measure portion of the 15% plan, and TSDF category reductions expected from the promulgation of a federal rule have been moved from the control measure portion of the 15% plan to the contingency plan. The PA DEP also commented that EPA misinterpreted PA DEP's earlier emissions reduction claims associated with the national rules for the control of AIMS, TSDFs, and consumer products. Pennsylvania submitted, as part of its SIP addendum, new summary information that clarifies its claims for various VOC control measures. PA DEP commented that these revisions and clarifications should be considered by EPA in its final rulemaking action.

*Response #2:* EPA acknowledges Pennsylvania's clarifying revision to the 15% plan, submitted after EPA's

January 22, 1997 action proposing conditional interim approval of the 15% plan, was made in response to prior comment from EPA. In particular, EPA had objected to the partial allocation of enhanced I/M program VOC reductions between the 15% plan, as well as to the separate plan for contingency measures. EPA indicated that reductions from implementation of an enhanced I/M program were either to be credited wholly to the 15% plan, or wholly to the contingency measure plan. Therefore, PA DEP's action to shift the entire enhanced I/M program VOC reductions to the 15% plan was taken, in part, at EPA's behest.

EPA supports the Commonwealth's resulting estimates for VOC reductions from the 15% plan control measures. However, EPA was unable to validate all the reductions claimed by PA DEP, based upon the supplemental information for the 1996 projected uncontrolled emissions inventory provided by the Commonwealth. For some area source control measures in the 15% plan, EPA arrived at slightly different control measure reduction estimates (based on the PA DEP's area source inventory information and the control measure reductions claimed by PA DEP) for the pending national reformulation rules applicable to the architectural and industrial maintenance coating and autobody refinishing source categories. The results of EPA's review of this information are summarized in table 1 of this notice, above. For complete details of EPA's review of the reduction claims for these programs, refer to the technical support document for this action.

However, regardless of the changes to the control measures applicable to the 15% plan's target and the slight inaccuracies in calculation of the benefit of certain area source control measures, EPA's review yielded a similar overall net VOC reduction in the amended 15% plan. EPA believes that the PA DEP's revised 15% plan will achieve a level of reduction necessary to satisfy Federal 15% plan requirements. Thus EPA considers PA DEP's revisions and minor errors as a minor accounting error, which does not affect the overall emissions reduction goal. EPA is therefore approving PA DEP's estimates (i.e., total creditable control measure reductions of 65.68 tons/day, versus PA DEP's claim of 67.43 tons/day) as the creditable level of reductions from the control measures contained in the 15% plan. These reductions satisfy the intent of the law, since only 64.22 tons/day of VOC reduction is necessary to meet the 15% plan requirements based upon

Pennsylvania's target level calculation. For details of EPA's review, refer to the technical support document for this action.

*Comment #3:* The PA DEP committed to remodel its enhanced I/M program benefits according to the methodology set forth in a December 1996 EPA policy memorandum, in order to ensure that the program achieves the reductions claimed in the 15% plan. PA DEP also wished to clarify that this remodeling effort should not be confused with the I/M program performance modeling demonstration, which was submitted in a November 1, 1996 addendum to the I/M SIP.

*Response #3:* EPA agrees with the PA DEP's comment. By submitting a commitment to remodel the enhanced I/M program benefits for the 15% plan, EPA can conditionally approve the Pittsburgh 15% plan, as specified in Condition #4 of EPA's January 22, 1997 proposed conditional interim approval action (62 FR 3254). EPA has not confused the I/M performance standard remodeling (as submitted in November of 1996 to satisfy I/M program SIP requirements) with the modeling required for this 15% plan for the purpose of demonstrating reasonable-further-progress towards attainment of national air quality standards.

*Comment #4:* PA DEP expressed concern that EPA stated in its January 22, 1996 proposed conditional interim approval rulemaking that EPA would review the whole 15% plan and the 1990 base year VOC inventory for Pittsburgh when the Commonwealth submits an amended 15% plan. PA DEP intends to submit the 15% plan enhanced I/M remodeling demonstration as a supplement to the plan. PA DEP expects that EPA will take action only upon the supplements, and will not re-review the entire plan and inventory.

*Response #4:* EPA is acting today on the 15% plan and the 1990 base year VOC inventory submitted by the Commonwealth, as revised on February 18, 1997. Due to the remaining deficiencies, EPA must conditionally approve these SIP revisions. Until such time as the Commonwealth remedies the remaining deficiencies with this plan, upon which approval is conditioned, EPA cannot fully approve the plan. Furthermore, the plan can only be approved on an interim basis, until the Commonwealth completes and submits in NHSDA demonstration of the I/M program. To the extent that the supplemental information to be submitted by the Commonwealth for the purposes of remedying the above deficiencies serves only to remedy those

deficiencies, EPA would not re-review the entire SIP. However, if additional information is submitted by Pennsylvania, would influence EPA's previous rulemaking action, then EPA would need to re-review the entire 15% plan SIP revision, in light of the new supplemental information.

### III. 1990 VOC Emissions Inventory

The PA DEP's February 18, 1997 SIP addendum does not alter Pennsylvania's 1990 VOC base year emissions inventory for the Pittsburgh area. Rather, the Commonwealth has submitted additional documentation to satisfy the conditions of EPA's January 22, 1997 proposed conditional approval of the base year inventory. In particular, EPA's concerns focused on the level of documentation of the inventory, which prevented recreation of the Commonwealth's inventory estimates in some instances. These inventory shortfalls focused on several stationary sources where EPA identified inconsistencies between source-specific Reasonable Available Control Plan (or RACT) plan inventories for several sources and PA DEP 1990 base year SIP inventory levels for the same sources. Also, further documentation was necessary to clarify the area source and non-road inventory, and to demonstrate the methodologies and outcomes of Pennsylvania's Post Processor for Air Quality (or PPAQ) model used to estimate highway mobile source emissions for the 1990 inventory. The documentation provided by Pennsylvania in the February 18, 1997 addendum to the SIP addresses EPA's concerns. For further information on the supplemental information provided by the PA DEP, and EPA's analysis of the Commonwealth's inventory, please refer to the TSD for this action.

EPA is approving the Commonwealth's VOC inventory in today's action. However, this approval is being conditioned, due to missing emissions baselines for two stationary point sources—J & L Specialty Steel, Inc. and Indspec Chemical Corp. Each of these sources has listed base year emissions in their source-specific RACT SIP plans, which do not correspond to emissions in the Commonwealth's official base year 1990 inventory. The PA DEP is still researching the 1990 emissions levels for these two sources, and therefore cannot definitively quantify them in the 1990 inventory at this time. EPA is therefore conditioning approval of the inventory upon the PA DEP's submission of the additional information for these sources. Since the 15% plan is being conditionally approved, based in part upon the 1990

inventory information, the inventory information must be submitted prior to expiration of the interim approval period for the 15% plan. Therefore, PA

DEP must submit the missing emission inventory information by no later than July 27, 1998.

Table 2, below, documents the point, area and non-road mobile and highway

source 1990 VOC emissions totals for the Pittsburgh area, based upon Pennsylvania's March 22, 1996 base year emissions inventory.

TABLE 2.—COUNTY-BY-COUNTY SUMMARY FOR THE PITTSBURGH OZONE NONATTAINMENT AREA [1990 Emissions Inventory—VOC (tons/day)]

County	Point	Area	Non-road mobile	Highway mobile
Allegheny .....	80.44	73.3	15.48	76.54
Armstrong .....	1.1	3.3	1.01	3.9
Beaver .....	5.77	8.19	1.91	12.8
Butler .....	4.34	8.59	2.19	9.28
Fayette .....	0.57	7.53	1.42	7.8
Washington .....	0.85	10.74	2.53	14.96
Westmoreland .....	3.54	16.31	3.67	24.84
Total .....	96.61	127.96	28.21	150.12

By today's action, EPA is granting conditional approval of the 1990 VOC emissions inventory for the Pittsburgh area. EPA is not acting today upon the 1990 carbon monoxide or nitrogen oxide emissions inventories for the Pittsburgh area; nor is EPA acting today upon any 1990 VOC emissions inventory other than for the Pittsburgh area. Those inventories will be the subject of a separate EPA rulemaking action.

**IV. Creditable Measures for the 15% Plan**

The control measures described below are creditable toward the rate of

progress requirements of the Act. Pennsylvania takes emission credit toward the 15% requirement through implementation of the following programs: (1) Two benzene national emissions standards for hazardous air pollutants (or NESHAPS)—for coke by-product recovery plants and for coke oven batteries; (2) EPA national rule for the reformulation of architectural, industrial, and maintenance (or AIM) coatings; (3) EPA national rule for the reformulation of consumer and commercial products; (4) EPA national rule for the reformulation of autobody refinishing surface coatings; (5) national

emissions standards for new light-duty motor vehicles (i.e., Tier I standards); (6) motor vehicle inspection and maintenance program. A summary of the measures and associated reductions which are creditable towards satisfaction of the 15% rate-of-progress requirements of the Clean Air Act are detailed in the right-hand column of Table 1 found earlier in rulemaking notice. Further details regarding EPA's review of the Commonwealth's control measures are contained in the TSD for this rulemaking action.

**V. 15% Rate-of-Progress Plan Calculation**

RATE-OF-PROGRESS CALCULATION FOR PITTSBURGH

Category	Tons/day
1990 Base Year Inventory .....	402.20
Adjustments for pre-1990 new car standards/fuels .....	- 28.70
1990 Adjusted Base Year Inventory .....	373.50
15% Reduction Requirement .....	56.03
Pre-1990 VOC RACT requirements .....	0.0
Pre-1990 FMVCP & RVP Reductions .....	28.70
Required Reduction (w/o growth) .....	84.73
1990 Baseline Emissions .....	402.20
Required Reductions (w/o adding growth) .....	- 84.73
1996 Target Level .....	317.47
1990-1996 Emissions Growth .....	- 20.51
Required Reductions (w/o growth) .....	84.73
Total Needed Reductions from VOC Control Measures .....	64.22
Creditable VOC Control Measure Reductions .....	65.68

**VI. Conditions for Approval of the 15% Plan/1990 VOC Inventory**

EPA is not taking rulemaking action today regarding the contingency plan

(submitted by Pennsylvania in conjunction with the March 1996 15% plan). That plan will be the subject of a separate EPA rulemaking document.

EPA is also not taking rulemaking action, at this time, on the 1990 NO<sub>x</sub> emission inventory submitted with the March 1996 15% plan. The 1990 NO<sub>x</sub>

emission inventory will also be the subject of a separate rulemaking notice.

#### A. 15% Plan Approval Conditions

EPA has evaluated this submittal for consistency with the Act, applicable EPA regulations, and EPA policy. In the January 22, 1997 proposed rulemaking notice, EPA listed five conditions, which Pennsylvania would be required to meet within 12 months of the final rulemaking notice. Otherwise, the conditional approval of the Pittsburgh 15% plan and 1990 VOC emission inventory would be converted to a disapproval.

The conditions listed in EPA's January 1997 proposed interim approval were:

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

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

(3) Provide additional documentation for the emissions for those source categories where credit is claimed (i.e., benzene NESHAPs);

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

(5) Fulfill the conditions listed in the I/M SIP interim final conditional rulemaking notice (January 28, 1997, 62 FR 4004) and summarized here as: (a) geographic coverage and program start dates; (b) ongoing program evaluation; (c) test types, test procedures and emission standards; (d) test equipment specifications and; (e) motorist compliance enforcement demonstration.

Through its February 18, 1997 addendum, Pennsylvania has substantially met conditions #1, #2, and #3 of EPA's proposed conditional interim approval. Although the full amount of emission reduction credit in some cases could not be fully substantiated based upon Pennsylvania's documentation, EPA is now satisfied that the documentation supports the level of credit being

approved by EPA. However, the Commonwealth's 1990 base year inventory still lacks final estimates for two stationary sources—J & L Specialty Steel, Inc. of Beaver County and Indspec Chemical Corp. of Butler County. Therefore, EPA must maintain a form of condition #1 from its proposed rulemaking due to the uncertainty of these two sources' base year emissions.

The emission reductions from the enhanced I/M program that is subject to the National Highway Systems Designation Act with its extended deadlines are required in order for the required 15% emission reduction to be achieved in the Pittsburgh nonattainment area. Under the National Highway Systems Designation Act of 1995, Pennsylvania's enhanced I/M program is receiving a conditional interim approval. As such, EPA can, at best, propose conditional interim approval of the Pittsburgh 15% plan. In its February 18, 1997 letter, Pennsylvania agreed to meet conditions #4 and #5 that pertain to I/M within the required time frames.

The Commonwealth submitted a commitment on February 18, 1997 to remodel the I/M program, per EPA guidance. The Commonwealth submitted additional documentation to fully satisfy the #2 and #3 conditions of EPA's January 22, 1997 15% plan approval.

As conditions #4 and #5 remain unfulfilled, EPA cannot grant full interim approval of the Pittsburgh 15% plan under section 110(k)(3) and Part D of the Clean Air Act, and section 172 of the National Highway Systems Designation Act. However, EPA believes that Congress did not intend the National Highway Systems Designation Act of 1995 (NHSDA) to jeopardize approval of States' 15% plans that relied upon I/M program reductions—due to revised I/M program implementation and demonstration time frames that stemmed from section 348 of the NHSDA. Since the NHSDA provides authority to approve I/M programs on an interim basis, for a period of eighteen months, EPA believes this interim approval can also be extended to approval of a 15% plan that relies upon I/M program VOC reductions. Therefore, EPA is granting interim approval of this 15% plan SIP within the same time frame and in conjunction with the interim approval period granted to the Pennsylvania enhanced I/M program (i.e., interim approval expires on July 27, 1998). EPA is conditionally approving the Pittsburgh 15% plan under section 110(k)(4) of the Clean Air Act due to the deficiencies stated above. Since the interim approval period of its

revised enhanced I/M expires July 27, 1998, the Commonwealth must satisfy the conditions of the 15% plan, as stated above, by no later than July 28, 1998 as well.

#### B. 1990 VOC Emissions Inventory Approval Conditions

In addition, EPA is approving the 1990 VOC base year emissions inventory for the Pittsburgh ozone nonattainment area, submitted with the 15% plan on March 22, 1996, and revised on February 18, 1997. However, EPA is not approving the 1990 estimates for two stationary point sources—J & L Specialty Steel, Inc. and Indspec Chemical Corp. The PA DEP expressed in its February 1997 addendum to the 15% plan that the inventory estimates for those two sources are being researched.

EPA is conditioning approval of the 1990 base year inventory for Pittsburgh, based upon missing information for two stationary sources for which the baseline emissions are uncertain. Since the 1990 VOC emissions inventory is an important aspect of the 15% plan, this condition must be satisfied in order to grant full approval of the 15% plan. Since EPA's interim approval of the 15% plan expires on July 28, 1998, the above emissions inventory condition must be satisfied by July 27, 1998 as well.

#### VII. Final Action

EPA is granting conditional interim approval of the Pittsburgh 15% plan and conditional approval of the 1990 VOC emissions inventory for Pittsburgh as revisions to the Pennsylvania SIP. By today's action, EPA is granting approval to emission credits for the Pittsburgh 15% plan on an interim basis, pending verification of the enhanced I/M program's actual performance, pursuant to section 348 of the NHSDA. Interim approval of the Pittsburgh area 15% plan will expire at the end of the 18-month period granted to the Pennsylvania enhanced I/M plan, and will be replaced by appropriate EPA action based on evaluation of the I/M program's performance. If the evaluation indicates a shortfall in emission reductions compared to the remodeling that the 15% plan is conditioned on, the Commonwealth will need to find additional emission credits. Failure of the PA DEP to make up for an emissions shortfall from the enhanced I/M program may subject the Pittsburgh area to sanctions and imposition of a federal implementation plan (or FIP). EPA has already approved the Pennsylvania enhanced I/M program on a conditional interim basis (January 28, 1997, 62 FR

4004). This approval of the Pennsylvania enhanced I/M program was taken under section 110 of the Act and, although the credits provided by this program may expire, the approval of the I/M regulations does not expire. As explained above, the credits provided by the enhanced I/M program on an interim basis for the 15% plan may be adjusted based on EPA's evaluation of the enhanced I/M program's performance.

Approval of the 1990 base year VOC emissions inventory is being conditioned upon uncertain emissions for two "major" stationary sources. When Pennsylvania provides clarification on the emissions levels from these two sources, EPA will approve the 1990 base year VOC inventory for Pittsburgh.

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

### VIII. Administrative Requirements

#### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

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

#### D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller

General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This conditional interim approval action of the 15% plan and conditional approval action of the 1990 VOC base year inventory for the Pittsburgh area action may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Reporting and recordkeeping requirements.

Dated: December 16, 1997.

**W. Michael McCabe**,  
Regional Administrator, Region III.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. *et seq.*

#### Subpart NN—Pennsylvania

2. Section 52.2026 is amended by adding paragraphs (d) and (e) to read as follows:

#### § 52.2026 Conditional approval.

\* \* \* \* \*

(d) The Commonwealth of Pennsylvania's March 22, 1996 submittal for the 15 Percent Rate of Progress Plan (or 15% plan) for the Pittsburgh ozone nonattainment area, is hereby conditionally approved based on certain contingencies, for an interim period. This interim period corresponds to an 18-month period granted to the Pennsylvania inspection and maintenance (I/M) program (January 28, 1997). That interim approval period expires July 27, 1998. However, Pennsylvania must also remedy the following conditions no later than July

27, 1998. The conditions for approvability is as follows:

(1) Provide final estimates for two stationary sources from the 1990 base year emissions inventory and adjust the total 1990 VOC base year inventory, accordingly. The two sources are: J & L Specialty Steel Inc., Midland and Indspec Chemical Corp., Petrolia Plant.

(2) Remodel the I/M program (as implemented in the Pittsburgh ozone nonattainment area) in accordance with EPA guidance (December 23, 1996 memo entitled "Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance) and to submit that remodeling to EPA; and

(3) Fulfill the conditions listed in the conditional interim approval notice granted by EPA to Pennsylvania's enhanced I/M program (January 28, 1997), by the deadlines set forth in that rulemaking. The conditions of that EPA's I/M approval are summarized here as: geographic coverage and program start dates; ongoing program evaluation; test types, test procedures and emission standards; test equipment specifications and; motorist compliance enforcement demonstration.

(e) The Commonwealth of Pennsylvania's March 22, 1996 submittal for the 1990 VOC Base Year

Emissions Inventory for the Pittsburgh ozone nonattainment area (summarized in the table in this paragraph), is hereby conditionally approved based on the following contingency:

(1) Provide final estimates for two facilities sources from the 1990 base year emissions inventory and adjust the total 1990 VOC base year inventory to reflect those estimates, by no later than July 27, 1998. The two affected sources are: J & L Specialty Steel Inc., Midland and Indspec Chemical Corp., Petrolia Plant.

COUNTY-BY-COUNTY SUMMARY FOR THE PITTSBURGH OZONE NONATTAINMENT AREA  
[1990 Emissions Inventory—VOC (tons/day)]

County	Point	Area	Non-road mobile	Highway mobile
Allegheny .....	80.44	73.3	15.48	76.54
Armstrong .....	1.1	3.3	1.01	3.9
Beaver .....	5.77	8.19	1.91	12.8
Butler .....	4.34	8.59	2.19	9.28
Fayette .....	0.57	7.53	1.42	7.8
Washington .....	0.85	10.74	2.53	14.96
Westmoreland .....	3.54	16.31	3.67	24.84
Total .....	96.61	127.96	28.21	150.12

(2) [Reserved]

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BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[UT001-0010a and UT001-0011a; FRL-5948-7]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Utah; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the Utah plan and associated regulations for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which were required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan was originally submitted to EPA on April 2, 1997 with revisions to the plan submitted on October 31, 1997, in accordance with the requirements for adoption and submittal of State plans for designated

facilities in 40 CFR part 60, subpart B. The State's plan establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards. EPA finds that Utah's plan for existing MSW landfills, as amended, adequately addresses all of the Federal requirements applicable to such plans.

**DATES:** This action is effective on March 16, 1998 unless adverse or critical comments are received in writing by February 13, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments on this action should be addressed to Vicki Stamper, 8P2-A, at the EPA Region VIII Office listed. Copies of the documents relative to this action are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466; and the Division of Air Quality, Utah Department of Environmental Quality, 150 North 1950 West, P.O. Box 144820, Salt Lake City, Utah 84114-4820.

**FOR FURTHER INFORMATION CONTACT:** Vicki Stamper, EPA Region VIII, (303) 312-6445.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes emissions guidelines in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the emission guideline for that source