XA—Alberta
XB—New Brunswick
XC—British Columbia
XM—Manitoba
XN—Nova Scotia
XO—Ontario
XP—Prince Edward Island
XQ—Quebec
XS—Saskatchewan
XT—Northwest Territories
XW—Newfoundland
XY—Yukon Territory

Dated: July 3, 1996.

Bryant Benton,

Deputy Director, Bureau of the Census

[FR Doc. 96–17485 Filed 7–9–96; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[IA–03–94]

Federal Tax Deposits by Electronic Funds Transfer; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed Income Tax Regulations relating to the deposit of Federal taxes by electronic funds.

DATES: The public hearing originally scheduled for Tuesday, July 16, 1996, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6302 of the Internal Revenue Code. A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing appearing in the Federal Register on Thursday, March 21, 1996 (61 FR 11595), announced that the public hearing on proposed regulations under section 6302 of the Internal Revenue Code would be held on Tuesday, July 16, 1996, beginning at 10:00 a.m., in the Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, D.C.

The public hearing scheduled for Tuesday, July 16, 1996, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–17520 Filed 7–9–96; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 04–9–4028; FRL–5535–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Disapproval of 15 Percent Reasonable-Further-Progress Plan for the Philadelphia Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to disapprove the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania (for the Philadelphia ozone nonattainment area) to meet the 15 percent reasonable further progress (RFP, or 15% plan), also known as rate-of-progress (ROP) requirements of the Clean Air Act. EPA is proposing disapproval because the 15 percent plan submitted by Pennsylvania for the Philadelphia area assumes credit towards ROP for numerous control strategies which are either not fully adopted, are not creditable towards ROP under the Clean Air Act, or have not been adequately quantified. EPA cannot approve these reductions towards the 15% plan, thus causing a ''shortfall'' towards Pennsylvania's RFP demonstration. Therefore, the Commonwealth has not demonstrated sufficient reductions of volatile organic compounds (VOC) to meet the RFP requirements of the Clean Air Act. Finally, the 1990 emissions inventory estimates used in the 15% plan as the baseline for reasonable further progress differs substantially from Pennsylvania's separate 1990 base year emission inventory SIP submittal. Without justification of these differences, EPA cannot approve the revised inventory estimates.

DATES: Comments on this proposed action must be postmarked by September 9, 1996..

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

FOR FURTHER INFORMATION CONTACT: 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. Questions may also be addressed via e-mail, at the following address: Rehn.Brian@epamail.epa.gov [Please note that only written comments can be accepted for inclusion in the docket.]

SUPPLEMENTARY INFORMATION:

Background

Section 182(b)(1) of the Clean Air Act (the Act), as amended in 1990, requires ozone nonattainment areas classified as moderate or above to develop plans to reduce VOC emissions by fifteen percent from the 1990 baseline inventory for the area. These ''15% plans'' were due to be submitted to EPA by November 15, 1993, with the reductions to occur within 6 years of enactment (i.e. November 15, 1996). Furthermore, the Clean Air Act sets limitations on the creditability of certain control measures towards reasonable further progress. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g. new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure) of gasoline. Furthermore, the Act does not allow credit towards RFP for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were required to be in-place prior to 1990. Additionally, section 172(c)(9) of the Clean Air Act requires ''contingency measures'' to be included in the plan revision. These measures are required to

be implemented immediately if reasonable further progress is not achieved, or if the NAAQS standard is not attained under the deadlines set forth in the Clean Air Act.

In Pennsylvania, three nonattainment areas are subject to the Clean Air Act 15 Percent rate-of-progress requirements. These are the Philadelphia severe nonattainment area, the Pittsburgh moderate nonattainment area, and the Reading moderate nonattainment area. On July, 19, 1995, EPA published, in the Federal Register, a final rule waiving the 15% rate-of-progress requirements for the Pittsburgh and Reading moderate ozone nonattainment areas. The basis for that action was a May 10, 1995, EPA policy memo allowing such ''waivers'' for areas having ambient monitoring data which demonstrated compliance with the ozone standard. On June 4, 1996, EPA revoked the waiver for the Pittsburgh area, and reinstated the 15% plan requirement. Pennsylvania submitted separate SIP revisions for Philadelphia and Pittsburgh. The 15% plan for the Philadelphia area (Philadelphia 15% plan) was submitted by Pennsylvania on November 15, 1994, and was re-submitted on January 18, 1995. The Philadelphia metropolitan area includes counties in New Jersey, Delaware, and Maryland, as well as Pennsylvania, all of which must demonstrate reasonable further progress. However, Pennsylvania is only responsible for achieving RFP within the Pennsylvania portion of that metropolitan area. The Commonwealth did not enter an agreement with the other states which comprise the metro Philadelphia area to do a multi-state 15% plan, and submitted only a plan to reduce Pennsylvania's contribution by fifteen percent. EPA is taking action today only on Pennsylvania's 15% plan submittal, which addresses only the Pennsylvania portion of the Philadelphia metropolitan area. EPA will act separately on the Pittsburgh 15% plan, at a later date.

EPA has reviewed the January 18, 1995 Philadelphia area 15% plan submittal and has identified several significant deficiencies, which prohibit approval of this SIP, per section 110 of the Clean Air Act. A detailed discussion of these deficiencies is included below, in the ''Analysis'' portion of this rulemaking action, and also in the technical support document (TSD) for this action. Due to these deficiencies, the 15 percent plan, and the associated contingency measure plan, will not achieve the total reductions required by the rate-of-progress requirements of the Act. Therefore, EPA is proposing disapproval of the plan. This action in no way implies disapproval, or any other action, with respect to the individual control measures utilized in the 15% plan or the contingency plan.

Today's action addresses only the approvability of measures towards the reasonable further progress requirement of the Act, and does not address whether the control measures or inventories included in the 15% plan comply with any specific underlying requirements of the Act. For further information regarding EPA's analysis of the Commonwealth's submittal, please refer to the TSD for this action (found in the official docket). A summary of the EPA's findings follows.

Analysis of the SIP Revision

Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15 percent planning is the 1990 base year emission inventory. The inventory is broken down into several emissions source categories: stationary, area, on-road mobile sources, and off-road mobile sources. Pennsylvania submitted a formal SIP revision containing their official 1990 base year emission inventory on November 12, 1992. EPA has not yet taken rulemaking action on that inventory submittal. There are significant differences between the source categories in the officially submitted 1990 base year inventory and those contained in the 1990 base year inventory in the Philadelphia 15% plan, although total VOC emissions do not substantially vary. The Commonwealth did not acknowledge the inconsistencies in the 15% plan inventory, nor did the Commonwealth attempt to substantiate these differences. Furthermore, the base year inventory in the 15% plan lacks sufficient detail for EPA to accept it as a replacement for the official 1990 base year inventory SIP revision. Nor has Pennsylvania requested EPA to do so. Refer to the TSD for a specific comparison of the inventories. EPA intends to conduct separate rulemaking action on Pennsylvania's 1990 inventory submittal, at a later date.

Growth in Emissions Between 1990 and 1996

EPA has interpreted the Clean Air Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% RFP requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in emissions, in addition to a 15 percent reduction of VOC emissions. Thus, an estimate of emissions growth from 1990 to 1996 is necessary for demonstrating reasonable further progress. Growth is calculated by multiplying the 1990 base year inventory by acceptable forecasting indicators. Growth must be determined separately for each source, or by source category, since sources typically grow at different rates. EPA's inventory preparation guidance recommends the following indicators, in order of preference: product output, value added, earnings, and employment. Population can also serve as a surrogate indicator.

Pennsylvania's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the Commonwealth, please refer to the TSD for this action. In general, EPA approves the Commonwealth's 1990–1996 emissions growth projections, with one exception.

EPA disagrees with the growth projections for the on-road vehicle category. The Commonwealth's 15% plan indicates that highway vehicle emissions growth is based on growth in total vehicle miles of travel (VMT) for the region, which the Commonwealth expects to increase by 7.7 million miles per day, and that on-road emissions are projected to decrease by 11.9 tons/day. Since emissions from on-highway emissions control measures are calculated separately in the plan (including reductions associated with fleet turnover and the pre-1990 motor vehicle standards) and Pennsylvania indicates that this growth is based solely upon increasing VMT growth, it is unclear how motor vehicle emissions are declining. Therefore, EPA cannot approve the Commonwealth's on-road motor vehicle growth projection. Growth in highway emissions should be determined independently of mobile source control strategies. Additionally, the 15% plan should indicate what, if any, other factors effect highway emissions growth, other than the previously identified VMT influence.

Calculation of Target Level Emissions

Pennsylvania calculated a ''target level'' of 1996 VOC emissions, per EPA guidance. First, the Commonwealth calculated the non-creditable reductions from the FMVCP program and subtracted those emissions from the 15 percent plans's 1990 inventory estimate. This yields the 1990 ''adjusted inventory''. The emission reduction required to meet the 15 percent rate-of-progress requirement equals the sum of 15 percent of the adjusted inventory and

any reductions necessary to offset emissions growth projected to occur between 1990 and 1996, plus reductions that resulted from corrections to the I/M or VOC RACT rules that were required to be in-place before 1990. Table 1 summarizes the calculations for the five-county Philadelphia area's [1] VOC target level.

Table 1.—Calculation of Required Reductions for the Philadelphia Nonattainment Area's 15% Plan

[Tons/day]

1990 Base Year Emission Inventory [15% plan version]	629.27
Adjustments for FMVCP/RVP programs in-place (prior to 1990)	−32.95
1990 Adjusted Inventory	596.32
15% of the 1990 Adjusted Inventory	89.45
Reductions from Previously Required RACT Rule Corrections	0.84
Projected 1990–1996 Emissions Growth	8.12
1996 Target Level	506.03
1996 [2] Projection Inventory	637.39
Required Reduction	131.36

[2] 1996 forecast emissions (projected from 1990), reflecting only emissions growth and in-place (or, pre-1990) controls.

Control Strategies in the 15% Plan

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

Creditable Emission Control Strategies

The control measures described below are creditable towards the rate-of-progress requirements of the Act. However, the Commonwealth has in many cases failed to fully document the claimed reductions, particularly in the case of mobile source measures, which Pennsylvania estimates using a Post-Processor for Air Quality (PPAQ) computer model. This model uses MOBILE modeling information as input, and determines total reductions for mobile source control strategies. The Commonwealth provided no documentation from this modeling, with the exception of sample MOBILE input and output files and modeling assumptions which are used as input to the PPAQ. Therefore, for nearly every mobile source control strategy utilized, the 15% plan lacks detailed documentation to support the claimed reductions. EPA is not disapproving these measures, or the creditability of such measures. However, EPA cannot fully approve the reductions from the measures without additional documentation to verify the emissions estimates. For further details regarding EPA's review of the Commonwealth's control measures, please refer to EPA's TSD for this action, located in the docket.

Stage II Vapor Recovery

This state-adopted regulation requires the installation and operation of vapor recovery equipment on gasoline dispensing pumps to reduce vehicle refueling emissions. The state regulation for this program is codified in 25 PA Code § 129.75. EPA approved the Commonwealth's Stage II program on June 13, 1994 (59 FR 112). EPA supports the Commonwealth's use of this measure towards the rate-of-progress requirement. However, EPA is unable to fully verify the 17.0 tons/day credit estimate claimed by the Commonwealth for this program, due to a lack of detail regarding the methodology used to quantify Stage II reductions for the 15% plan.

Automobile Refinishing

EPA is in the process of adopting a national rule to control VOC emissions from solvent evaporation through reformulation of coatings used in auto body refinishing processes. These coatings are typically used by small businesses, or by vehicle owners. VOC emissions emanate from the evaporation of solvents used in the coating process. Pennsylvania's 15% plan claims reductions from EPA's national rule.

Use of emissions reductions from EPA's expected national rule is acceptable towards the 15% plan target. Pennsylvania claims a 35% reduction, or 6.8 tons/day from their 1996 projected uncontrolled autobody refinishing emissions. Due to inventory documentation deficiencies in the 15% plan, EPA cannot verify the claimed reduction.

Reformulated Gasoline

Section 211(k) of the Clean Air Act requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe, or worse. This gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. As a severe area, Philadelphia benefits from the emission reductions from this program. However, EPA again cannot verify the reductions from this program, based on the documentation provided by the Commonwealth in the 15% plan.

Transportation, Storage, and Disposal Facilities (TSDFs) Rule

TSDFs are private facilities that manage dilute wastewater, organic/inorganic sludges, and organic/inorganic solids. Waste disposal can be done by various means including: incineration, treatment, or underground injection or landfilling. EPA promulgated a national rule on June 21, 1990 for the control of TSDF emissions. Pennsylvania claims an expected VOC reduction of 3.13 tons/day from this national rule. This measure is creditable towards the rate-of-progress requirements of the Act. However, due to conflicts between the 1990 base and 1996 projected uncontrolled emissions from this emissions category, EPA cannot verify this claimed reduction.

Rule Effectiveness (RE) Improvements

Rule effectiveness is a means of enhancing rule compliance or implementation by industrial sources, and is expressed as a percentage of total available reductions from a control measure. The default assumption level for rule effectiveness is 80%. Pennsylvania claims RE improvements from the 80% default level to a level of 90% in their 15% plan SIP revision for Philadelphia, based upon improvements to RACT regulations for twenty-nine facilities in the 5-county Philadelphia area. The applicable RACT rules pertain to surface coating operations (PA Code § 129.52) and offset printing operations (PA Code § 129.67).

Pennsylvania followed EPA policy to quantify emissions reductions from specific RE improvements for two categories, in the absence of quantifiable compliance or emissions data. The RE measures Pennsylvania claims toward the 15% plan include facility improvements, as well as improved state oversight. Facility measures include: Improved operator training, better operation and maintenance of process equipment, improved source monitoring/reporting. State oversight improvements include: More inspector training, stringent compliance inspections of all RE improvement facilities. If the final facility inspections identify a shortfall from the projected RE emission improvements, Pennsylvania will utilize the ''surplus'' projected emissions reductions (i.e., the RE improvement from 90%–94%) to alleviate the shortfall. The state also claimed this four percent RE improvement as a contingency measure in the plan. In the event that these

[1] The five-county Philadelphia area is comprised of the following counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia.

contingency reductions are needed to satisfy the 15% reduction requirement, Pennsylvania must substitute another contingency measure in place of this RE measure. For EPA's detailed analysis of this measure, please refer to the appropriate section of the TSD for this action. RE improvements are creditable toward the 15% plan requirement of the Clean Air Act, and EPA supports Pennsylvania's emissions projections for this measure. Therefore, Pennsylvania's claimed RE improvements are approvable towards the 15% requirement of the Act.

Permanent VOC Source/Facility Shutdowns

Several industrial VOC sources that were operational in 1990 (i.e. included in the base year inventory) have since shut down either processes or entire facilities. Pennsylvania has adopted a banking rule (25 Pa Code § 127.208), which requires that sources wishing to bank emission reduction credits, or ERCs, must do so within one year of initiation of the shutdown. If not, the Commonwealth can claim credit for the reductions as permanent and enforceable emissions reductions.

Pennsylvania's 15% plan claims partial credit for shutdowns for which the source ''banked'' emissions reductions, and the Commonwealth claimed the entire shutdown credit for sources that did not bank their emissions within the one year deadline set forth in Pennsylvania's banking rule. The 15% plan reflects shutdowns from twenty-one VOC sources in the Philadelphia nonattainment area. These credits are ineligible for use as future ERCs, or to offset emissions from new sources under the Commonwealth's new source review regulation.

Reductions from this measure are both permanent and enforceable, since the shutdowns are reflected in RACT permit conditions for the facility. EPA is approving the use of these reductions.

Architectural and Industrial Maintenance Coatings (AIM)

Emission reductions have been projected for AIM coatings due to the expected promulgation by the EPA of a national rule. In a memo dated March 22, 1995, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. Pennsylvania claimed a 15% reduction in AIM emissions under its 15% plan. However, due to deficiencies in the documentation of this portion of the underlying emissions inventory, EPA cannot verify the claimed reduction.

Tier I Federal Motor Vehicle Control Program

EPA promulgated a national rule establishing ''new car'' standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Clean Air Act was amended in 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. The EPA agrees with the State's projected emission reductions. Due to the three-year phase-in period for this program, and the associated benefits stemming from fleet turnover, the reductions prior to 1996 are somewhat limited. Pennsylvania claimed a reduction of 4.5 tons/day from this post-1990 Federal Motor Vehicle Control Program. As with other on-highway mobile source control measures, the reductions from this program cannot be verified without further information.

Off-Road Use of Reformulated Gasoline

The use of reformulated gasoline will also result in reduced emissions from off-road engines such as outboard motors for boats and lawn mower engines. The EPA agrees with the 0.59 ton/day reduction projected in the 15% plan for off-road engines utilizing reformulated gasoline.

Non-creditable Emissions Control Measures

The following control measure is not creditable towards meeting the rate-of-progress requirements of the Clean Air Act. This measure, as it is described in the submitted 15% plan, is no longer in-place. Therefore, the emission reduction projected for this program is invalid.

Enhanced Vehicle Inspection and Maintenance (I/M) Program

The I/M program described in the Commonwealth's 15% plan is a contractor-operated, centralized, IM240 inspection program. This program was conditionally approved by EPA in August of 1994. However, since that time, Pennsylvania suspended operation of this program, terminated the test inspector contract, and began the rule adoption process for a decentralized program as a replacement for the centralized program. Pennsylvania submitted a new I/M program SIP to EPA, under authority provided by the National Highway Systems Designation Act of 1995, on March 22, 1996. However, Pennsylvania has not revised the 15% plan for Philadelphia to reflect differences in the I/M program description and projected emissions reductions.

Reasonable Further Progress Shortfall

Table 2 summarizes the proposed creditable and non-creditable reductions from Pennsylvania's 15% plan for the Philadelphia area. While the reductions listed as ''creditable'' in this table can be used to satisfy the Clean Air Act's reasonable further progress requirements, the measures in many cases are not approvable because of deficiencies related to quantification, lack of detailed emission inventory information, and documentation deficiencies (particularly related to mobile source control strategies).

Summary of Creditable and Non-creditable Emission Reductions for the Philadelphia Ozone Nonattainment Area

[Tons/day]

Required Reduction for the Philadelphia area	131.36
Creditable Reductions	
Stage II [1]	117.02
FMVCP (Tier I) [1]	4.51
Auto Refinishing [1]	6.79
Rule Effectiveness Improvements (80%–90%)	21.55
Reformulated Gasoline—Highway [1].	
Non-road vehicle use of RFG [1]	0.59
Industrial Facility Shutdowns	3.24
AIM Coatings Rules [1]	5.96
TSDF Controls [1]	3.13
Total	85.85
Reductions not Approvable: Inspection & Maintenance Program [1]	45.64
Total not approved	*45.64*
Shortfall (from target level)	45.51

[1] Pennsylvania's claimed reduction. This estimate cannot be verified based on the supporting documentation (e.g. supporting modeling, sample calculations, base year inventory references, etc.) For specific deficiencies related to an individual category, refer to the applicable portion of section III of EPA's technical support document entitled ''Evaluation of the Commonwealth's 15% Plan Control Measures'', located in the official docket for this action.

Contingency Measures

Per section 172(c)(9) of the Act, for ozone nonattainment areas classified as moderate or above, states must include contingency measures in their 15% plan submittals. These are measures which are to be immediately implemented if reasonable further progress (RFP) is not achieved, or if the areas do not attain the NAAQS standard by the applicable date mandated by the Act. EPA's interpretation of this Clean Air Act requirement is set forth in The General Preamble to Title I (57 FR 13498), which requires that the contingency measures should, at a minimum, ensure that emissions reductions continue to be made if RFP (or attainment) is not

achieved in a timely manner, and additional planning by the state is needed. EPA interprets the Act to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures in the 15% plan SIP submittal, such that upon implementation of those measures, additional emissions reductions of up to 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. States must show that their contingency measures can be implemented with minimal further action on their part, and with no additional rulemaking actions (e.g. public hearings, legislative review, etc.). EPA has further interpreted the Act to allow states to substitute NO_x control measures to achieve a portion of the required contingency measure reductions.

Analysis of Specific Contingency Measures

The following is a discussion of each of the contingency measures that have been included in the SIP submittals and an analysis of their approvability.

VOC Reasonably Available Control Technology (RACT)

The CAA requires states to adopt regulatory programs mandating RACT control strategies for major sources located in ozone nonattainment areas. Since Philadelphia is a severe ozone nonattainment area, the CAA threshold for major sources is 25 tons/year. Pennsylvania determined reductions from certain classes of major source complying with RACT (on a case-by-case basis) within the Philadelphia area, and claimed a 1.02 ton/day reduction from VOC RACT, for use as a contingency measure. However, EPA interprets the Act to prohibit the use of mandatory measures (i.e. those specified under the Clean Air Act for an applicable nonattainment area) as contingency measures, unless such a measure is in place to reduce another pollutant, and additionally provides VOC or NO_x reductions. Therefore, Pennsylvania's VOC RACT reduction is not creditable as a contingency measure, since VOC RACT is required to be implemented, prior to 1996, under section 182 of the Act.

Employee Commute Options Program

The Clean Air Act required severe nonattainment areas to adopt an employee trip reduction (ETR) program, providing a 25% reduction in average vehicle occupancy levels during the summer morning ''rush hour'' period. In a letter of February 27, 1995 from Pennsylvania Governor Tom Ridge, Pennsylvania announced the suspension of implementation and enforcement of the Commonwealth's adopted ETR program. However, the Commonwealth has not removed the ETR regulation from the Pennsylvania Code of Regulations, but has encouraged voluntary ''trip reduction'' efforts. Since then, Congress has removed the requirement for this program and EPA has issued guidance interpreting Congress's revised legislation. This guidance indicates that ETR need not be implemented if a state undertakes additional measures to make up the ''emissions shortfall'' caused by suspension of the program.

Pennsylvania's 15% plan SIP claims credit for early implementation of ETR as a contingency measure, based on the assumption that the program would be implemented in 1996 and would achieve the predicted emissions benefits at that time. The 15% plan claims ''full'' credit for the program, not accounting for its voluntary nature. EPA cannot approve the Commonwealth's ETR program, as claimed within the 15% plan. However, this measure would be approvable if the Commonwealth amended the 15% plan to provide for reimplementation of the ETR regulation to require a future mandatory ETR program.

NO_x Source/Process Shutdowns

Pennsylvania is claiming credit, as a contingency measure, for emissions reductions credits from four facilities that banked emissions reduction credits from permanent NO_x process shutdowns, under the state's banking rule. These shutdowns occurred after 1990, but before 1996. Pennsylvania's banking regulation is found at 25 Pa. Code § 127.210. The sources for which the Commonwealth claims contingency measure credit include: U.S. Steel—Fairless Hills, Martin Marietta Astro Space, Wyeth-Ayerst Labs, and Marck Co., Inc.

These reductions are permanent, since the shutdowns are to be reflected as RACT permit conditions in the facilities' revised permits. EPA interprets section 182(b)(1) of the Act to require that for the period from 1990 to 1996, only VOC reductions are creditable towards the 15% plan requirement. Furthermore, any contingency measure implemented early (i.e., before 1997) must also be a VOC measure, in order to be creditable as a contingency measure for failure to reach the 15% RFP milestone. Since the claimed shutdowns are NO_x reductions that occurred prior to 1996, the reductions are not approvable as a contingency measure to meet the reasonable further progress requirements of the Clean Air Act. Additionally, in order for a NO_x measure to be creditable as a contingency measure (i.e. reductions occur after 1996), the state must demonstrate that total NO_x reduction from all combined NO_x control strategies does not exceed 2.7% of the adjusted 1990 base year NO_x inventory. Pennsylvania did not submit a 1990 baseline NO_x inventory, nor attempt to make the above demonstration.

Improved Rule Effectiveness (90%–94% Level)

Pennsylvania credits rule effectiveness (RE) improvements from the 80% default level to a level of 90% toward the 15% plan SIP obligation. However, the Commonwealth maintains that the actual RE improvement is 94%, and is utilizing the improvements from the 90% to 94% level as a contingency measure. These RE improvements are obtained from VOC RACT regulations (for the Philadelphia area) pertaining to two categories—surface coating operations (PA Code § 129.52) and offset printing operations (PA Code § 129.67). Table 5.2 of the 15% plan lists those facilities from which the Commonwealth assumes increased RE credits. These are the same facilities listed for RE improvements towards the 15% rate-of-progress plan. If the Commonwealth identifies a shortfall in their rule effectiveness claim (the 80–90% level) in the 15% plan, then the Commonwealth will utilize the reductions from the 90–94% RE level to make up a shortfall in their 15% plan. In that event, another contingency measure must be adopted to make up any shortfall thereby created in the Commonwealth's contingency measure portion of the SIP. EPA approves Pennsylvania's use of this measure, and the credits claimed for its use as a contingency measure. The reductions occurring from this measure will be in place prior to 1996, the earliest time by which reductions for a contingency measure would be needed. However, EPA has issued policy allowing states to implement contingency measures early (without penalty), assuming that such a measure is not a mandatory Part D requirement under the Act.

Consumer and Commercial Products Reformulation

Section 183(e) of the Clean Air Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then

required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the reasonable further progress requirement. Pennsylvania determined reductions from implementation of this national rule, but claimed credit for the program as a contingency measure. However, EPA has interpreted the Clean Air Act to disallow the use of mandatory measures, i.e. those required by the Act to be implemented in an ozone nonattainment area, as contingency measures. Therefore, for the same reason that Pennsylvania cannot utilize VOC RACT as a contingency measure, the state cannot use the consumer products national rule as a contingency measure.

Highway Marking Paints

This measure requires, through a memorandum of understanding with the Pennsylvania Department of Transportation (PennDOT), a conversion from solvent-based to low- or non-VOC paints when painting traffic lines on highway surfaces in the Philadelphia area. EPA considers highway paints as a subset of the AIM coating emissions category, for which Pennsylvania has already claimed emissions reduction in the 15% plan. However, Pennsylvania claims that highway markings are a separately inventoried category. PennDOT estimates for traffic line painting VOC emissions are based on the solvent formulation and usage estimates based on population, and assume a total annual reduction of 58%–73%, compared to solvent-based paints. Pennsylvania claims a VOC reduction in 1996 of 1.56 tons/day. The 15% plan SIP revision does not indicate whether Pennsylvania has executed a memorandum of understanding, the implementation mechanism for this program. This contingency measure involves product reformulations, which are presently commercially available, and utilizes a non-regulatory, yet binding, mechanism for the state to require this measure. EPA assumes that this measure could be enacted within 60 days of the Commonwealth's failure to achieve the RFP requirements of the Clean Air Act, and is therefore an approvable contingency measure.

Table 3.—Summary of Contingency Measures and Associated Reductions (tons/day) for the Philadelphia Non-attainment Area

Required Contingency	17.88
Creditable Reductions:	
Traffic Line Paint Reformulation	1.56
Rule Effectiveness Improvement (90%‰94%)	8.63
Total Creditable Reductions	10.19
Reductions not Creditable:	
VOC RACT reductions	1.02
Consumer/Commercial Products (National Rule)	6.68
NO_X Source/Facility Shutdowns (post-1990)	[1] 1.46
Employer Trip Reduction Program	0.93
Total non-creditable reductions	10.09
Shortfall	7.69

[1] NO_X reduction is listed as a VOC equivalent reduction, based on a NO_X/VOC conversion factor (see discussion of measure in the TSD).

III. Proposed Action

The EPA has evaluated this submittal for consistency with the Clean Air Act, applicable EPA regulations, and EPA policy. Pennsylvania's 15 percent plan for Philadelphia will not achieve sufficient reductions to meet the 15 percent rate-of-progress requirements of section 182(b)(1) of the Act. In addition, the contingency plans in these SIP submittals would not achieve sufficient emission reductions to meet the three percent reduction requirement, under 172(c)(9) of the Act. Additionally, there are measures included in the plan, which are creditable towards the Act requirement, but which are insufficiently documented to qualify for Clean Air Act approval. EPA has not included these measures as part of the 15% plan or contingency measure shortfall, although the reductions from these measures are not fully approvable towards the RFP requirement. Finally, the baseline 1990 emissions inventory contained in the Commonwealth's 15% plan varies from the state's officially submitted 1990 emissions inventory SIP revision, without justification or documentation.

In light of the above deficiencies, EPA is proposing to disapprove this SIP revision under section 110(k)(3) and section 301(a) of the Act. The submittal does not satisfy the requirements of section 182(b)(1) of the Act regarding the 15 percent reasonable further progress plan, nor the requirement of section 172(c)(9) of the Clean Air Act regarding contingency measures.

EPA is aware that Pennsylvania is currently revising the 15% plan, which the Commonwealth intends to submit in the near future. Since Congress passed the National Highway Systems Designation Act of 1995, which amended federal I/M program requirements and granted states authority to revise their I/M programs, and Pennsylvania has utilized that authority to revise its I/M program, revision of the 15% plan to reflect the I/M program changes is expected. When the Commonwealth submits a revised 15% plan, EPA expects they will withdraw the SIP revision which is the subject of today's action. Upon receipt of the revised 15% plan submittal, EPA will undertake a separate review of that plan for compliance with the requirements of the Clean Air Act. If the deficiencies cited in today's action are remedied by the revised submittal, EPA will withdraw this proposed disapproval and propose approval of that submittal.

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

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.

EPA's proposed disapproval of the State request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirement. Therefore, EPA certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing

requirements and impose any new federal requirements.

Under section 179(a)(2), if the EPA Administrator takes final disapproval action on a submission under section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) of the Act (unless the deficiency has been corrected within 18 months of such disapproval). Section 179(b) provides two sanctions available to the Administrator: revocation of highway funding and the imposition of emission offset requirements. The 18-month period referred to in section 179(a) will begin on the effective date established in the final disapproval action. If the deficiency is not corrected within 6 months of the imposition of the first sanction, the second sanction will apply. This sanctions process is set forth in 40 CFR 52.31. Today's action serves only to propose disapproval of the Commonwealth's SIP revision, and does not constitute final agency action. Thus, the sanctions process described above does not commence with today's action.

Also, 40 CFR 51.448(b) of the federal transportation conformity rules (40 CFR 51.448(b)) state that if the EPA disapproves a submitted control strategy implementation plan revision which initiates the sanction process under Act section 179, the conformity status of the transportation plan and transportation improvement plan shall lapse 120 days after the EPA's disapproval.

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

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

The Regional Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Parts 52 and 81

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

Dated: July 1, 1996.

W. T. Wisniewski,

Acting Regional Administrator.

[FR Doc. 96–17546 Filed 7–9–96; 8:45 am]

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40 CFR Part 61

[FRL 5536–2]

National Emission Standards for Hazardous Air Pollutants: National Emission Standard for Radon Emissions From Phosphogypsum Stacks

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of Public Comment Period.

SUMMARY: The Environmental Protection Agency (EPA)is extending the comment period for the rulemaking to reconsider 40 CFR 61.205 and 40 CFR 61.207 which appeared in the Federal Register on May 8, 1996 (61 FR 20775). The extension of the comment period is provided in response to a request by a trade association representing the affected industry. The public comment period for this proposed rule was to end on July 8, 1996. The comment period is extended to July 26, 1996.

DATES: EPA will continue to accept public comments on this proposed rule until July 26, 1996. In addition, pursuant to Section 307(d)(5) of the Clean Air Act, the public may submit rebuttal and supplemental information to the docket for thirty (30) days after the August 1, 1996 public hearing. For more information on the public hearing, see 61 FR 33053 (June 26, 1996).

ADDRESSES: Comments must be submitted, in duplicate, to: Central Docket Section (6101), Environmental Protection Agency, ATTN: Air Docket No. 94–57, Washington, D.C. 20460. The docket is available for public inspection between the hours of 8:00 am and 5:30 pm, Monday through Friday, in Room M1500 of Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying. The FAX number is (202) 260–4400.

FOR FURTHER INFORMATION CONTACT: Eleanor Thornton, or for technical information, Rita Cestaric, at: Office of Radiation and Indoor Air (6602J), Environmental Protection Agency, Washington, DC 20460, (202) 233–9677. The proposed rule and supplementary information are located in Air Docket No. 94–57.

SUPPLEMENTARY INFORMATION: On March 24, 1994, EPA announced its decision concerning a petition by The Fertilizer Institute (TFI) seeking reconsideration of a June 3, 1992 final rule revising the National Emission Standard for Radon Emissions from Phosphogypsum Stacks, 40 CFR Part 61, Subpart R. EPA partially granted and partially denied the TFI petition. Pursuant to that decision, EPA convened a rulemaking to reconsider 40 CFR 61.205, the provision of the final rule which governs distribution and use of phosphogypsum for research and development, and the methodology used under 40 CFR 61.207 to establish the average radium-226 concentration for phosphogypsum to be removed from the phosphogypsum stack. See 61 FR 20775 (May 8, 1996) for a more detailed description of the proposed rule.

Reopening of comment period: The Comment Period for this proposed rule was scheduled to end on July 8, 1996. EPA received a request to extend the period to submit comments from TFI. After considering this request, EPA has decided to extend the comment period for this rulemaking to July 26, 1996.

Dated: July 5, 1996.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 96–17578 Filed 7–8–96; 8:45 am]

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40 CFR Part 63

[AD–FRL–5531–2]

Approval of State Programs and Delegation of Federal Authorities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action revises the ''Approval of State Programs and Delegation of Federal Authorities'' (subpart E). These amendments are being made to improve the clarity of subpart E. Because the amendments clarify regulatory text and serve to minimize administrative burden and provide more flexibility to States using this rulemaking, the Agency does not