

Plan (SIP) revision of the Columbiana County, Ohio ozone maintenance plan. The maintenance plan revision allocates a portion of the safety margin to the transportation conformity mobile source emissions budget for the year 2005. USEPA is approving the allocation of 0.5 tons per day of oxides of nitrogen (NO_x) to the area's 2005 mobile source emissions budget for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. In the Final Rules section of this **Federal Register**, USEPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further activity in relation to this proposed rule. If USEPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The USEPA will not institute a second comment period on this document.

DATES: Written comments must be received on or before December 3, 1999.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353-8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8656.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" are used we mean USEPA.

This Supplementary Information section is organized as follows:

What action Is USEPA taking today?

Where can I find more information about this proposal and the corresponding direct final rule?

What Action is USEPA Taking Today?

In this action, we are proposing to approve a revision to the ozone maintenance plan for Columbiana County, Ohio. The revision will change the mobile source oxides of nitrogen emission budget that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: October 20, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-6469-1]

Assessment of Visibility Impairment at the Grand Canyon National Park: Advance Notice of Proposed Rulemaking; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for an advance notice of proposed rulemaking, published June 17, 1999 (64 FR 32458), regarding visibility impairment at the Grand Canyon National Park (GCNP) and the possibility that the Mohave Generating Station (MGS) in Laughlin, Nevada may contribute to that impairment. In the June 17 notice, EPA requests information that it should consider in determining whether visibility problems at the GCNP can be reasonably attributed to MGS, and if so, what, if any, pollution control requirements should be applied.

The public comment period for the advance notice of proposed rulemaking

was originally due to expire on August 16, 1999. On August 6, 1999 (64 FR 42891), September 14, 1999 (64 FR 49756), and October 1, 1999 (64 FR 53303), EPA published notices extending the public comment period on the advance notice of proposed rulemaking. Today, EPA is extending the public comment period for an additional 25 days.

DATES: The comment period on the advance notice of proposed rulemaking is extended until November 15, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: EPA Region IX, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, Attn: Regina Spindler.

FOR FURTHER INFORMATION CONTACT: Regina Spindler (415) 744-1251, Planning Office (AIR2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: October 25, 1999.

Felicia Marcus,

Regional Administrator, Region 9.

[FR Doc. 99-28722 Filed 11-2-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY37-202, FRL-6469-7]

Approval and Promulgation of Implementation Plans; New York 15 and 9 Percent Rate of Progress Plans, Phase I Ozone Implementation Plan and 1996 and 1999 Transportation Conformity Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a State Implementation Plan revision submitted by New York which is intended to meet several Clean Air Act requirements. EPA is proposing approval of the 1990 base year ozone emission inventory (for all ozone nonattainment areas in New York); the 1996 and 1999 ozone projection emission inventories; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; photochemical assessment monitoring stations network; and enforceable commitments. EPA is also proposing

approval of New York's 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the one-hour national ambient air quality standard for ozone.

DATES: Comments must be received on or before December 3, 1999.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the New York submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 2 Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866

New York State Department of
Environmental Conservation, Division
of Air Resources, 50 Wolf Road,
Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249

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I. What Is Required by the Clean Air Act and How Does It Apply to New York?

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. EPA has issued the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) describing in detail EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale.

New York was originally divided into six ozone nonattainment areas. These areas were the Albany-Schenectady-Troy Area, Buffalo-Niagara Falls Area, Essex County Area, Jefferson County Area, Poughkeepsie Area and the New York-Northern New Jersey-Long Island Area. The New York-Northern New Jersey-Long Island Area is classified as a severe ozone nonattainment area. The New York portion of the New York-Northern New Jersey-Long Island Area is composed of New York City and the counties of Nassau, Suffolk, Westchester and Rockland, referred to as the New York City Metropolitan Area (NYCMA), and certain towns in Orange County-Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury, referred to as the Lower Orange County Metropolitan Area (LOCMA). The primary focus of this **Federal Register** action is the New York portion of the New York-Northern New Jersey-Long Island Area (referred to as the New York Metropolitan Area). EPA is also acting on the 1990 base year emission inventories for the five upstate areas identified above.

II. What Was Included in New York's Submittal?

On February 2, 1999, Deputy Commissioner Johnson of the New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a revision to the SIP to meet requirements related to attainment of the National Ambient Air Quality Standards (NAAQS) for ozone, referred to as Phase I. New York's submittal revised the previously submitted 15 Percent Rate of Progress (ROP) Plan dated November 15, 1993 and September 4, 1997. In addition, these revisions are intended to fulfill EPA's Phase I requirement ("Ozone Attainment Demonstrations," March 2, 1995 memo from Mary Nichols) and includes the following: revisions of the 1990 base year ozone emission inventory (for areas designated nonattainment for ozone since 1991 in New York); the 1996 and 1999 ozone projection emission inventories; 9 Percent Reasonable Further Progress (RFP) Plan; contingency measures; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; enforceable commitments for Phase II; photochemical assessment monitoring stations network; and transportation conformity budgets. EPA will be acting on the contingency measures in a separate **Federal Register** notice.

A. What Emission Inventories Were Included in New York's Submittal and Do They Meet EPA's Guidance?

New York's submittal included revisions of the 1990 base year ozone emission inventory (for areas designated nonattainment for ozone since 1991 in New York) and the 1996 and 1999 ozone projection emission inventories.

1. 1990 Base Year Inventory

Based on EPA's review, New York has satisfied all of EPA's requirements of providing a comprehensive, accurate, and current inventory of actual emissions in the six ozone nonattainment areas. A more detailed discussion of how the emission inventory was reviewed and the results are presented in the technical support document (TSD). A summary of EPA's review is given below:

—New York submitted a final Inventory Preparation Plan for the "Development of Ozone/CO SIP Inventory of Base Year 1990 Emissions," September 24, 1992. This Plan contained a Quality Assurance

- Plan which was implemented and documented.
- The inventory is well documented. New York provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New York identified the sources of data used in developing the inventory.
 - The point and area source inventories are complete and were prepared/ calculated in accordance with EPA guidance.
- New York biogenic emissions were prepared/calculated using the July 1991 version of PC-BEIS according to current EPA guidance.
 - The method used to develop vehicle miles traveled (VMT) estimates was in accordance with EPA guidance and was adequately described and documented in the inventory report.
 - The most current version of the Mobile model was used correctly for each of the eight vehicle classes.
 - Emission estimates for the non-road mobile source categories were correctly prepared according to EPA guidance.
- The revisions have been made in accordance with EPA guidance. Therefore, EPA is proposing to approve the revisions to the 1990 base year volatile organic compounds (VOC), nitrogen oxides (NO_x) and carbon monoxide (CO) emission inventories.¹
- A summary of the emission inventories broken down by point, area, biogenic, on-road, and non-road mobile sources are presented in the Tables 1A–1F.

TABLE 1A.—NEW YORK METROPOLITAN AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	381	103	484	167	103	1,238
NO _x	59	286	400	178	N/A	923
CO	40	45	3,890	1,333	N/A	5,308

TABLE 1B.—ALBANY-SCHENECTADY-TROY AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	48.27	78.66	54.40	23.5	222.11	426.79
NO _x	4.84	73.34	73.10	23.35	N/A	174.63
CO	3.16	15.04	474.6	174.32	N/A	667.12

TABLE 1C.—BUFFALO-NIAGARA FALLS AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	67.11	156.45	50.5	32.70	61.06	367.85
NO _x	9.54	116.53	75.3	29.55	N/A	230.92
CO	5.13	69.06	437.7	24.12	N/A	536.00

TABLE 1D.—POUGHKEEPSIE AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	31.70	15.73	39.27	13.45	56.51	156.66
NO _x	4.0	66.47	50.69	15.42	N/A	136.58
CO	1.9	5.73	338.00	23.35	N/A	368.98

TABLE 1E.—ESSEX COUNTY AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	1.98	.29	2.97	.97	182.22	188.43
NO _x .....	.18	2.50	4.89	.83	N/A	8.4
CO .....	.36	1.45	25.06	7.61	N/A	34.48

¹ EPA's March 1991 guidance document, "Emission Inventory Requirements for Ozone State

Implementation Plans" (EPA-450/4-91-010),

requires the base year inventory summary contain emission estimates of VOC, NO_x and CO.

TABLE 1F.—JEFFERSON COUNTY AREA 1990 BASE YEAR OZONE SEASON EMISSIONS IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC	5.53	1.5	7.00	2.88	83.08	99.99
NO _x .....	.56	3.43	12.6	2.69	N/A	19.28
CO .....	.33	.23	61.90	21.72	N/A	84.18

2. 1996 and 1999 Projection Year Inventories for the New York Metropolitan Area

A projection of 1990 VOC anthropogenic emissions to 1996 for the New York Metropolitan Area is required to determine the reductions needed for the 15 Percent ROP Plan. In addition, projection of the 1990 VOC and NO_x anthropogenic emissions to 1999 are required to determine the reductions needed for the 9 Percent RFP Plan with NO_x substitution. The 1996 and 1999 projection year emission inventories are calculated by multiplying the 1990 base year inventory by factors which estimate growth from 1990 to 1996 and 1990 to 1999. A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.

The difference between the most current 1990 base year inventory and the 1996 and 1999 projection inventories are the emissions growth estimates. Based on the difference between the 1990 base year inventory and the 1996 and 1999 projection year inventories, the total 1990–1996 and 1990–1999 VOC growth for the four source categories is estimated at 40 tons per day (tpd) and 81 tpd, respectively, in the New York Metropolitan Area. The total 1990–1996 and 1990–1999 NO_x growth for the four source categories is estimated at 79 tpd and 125 tpd, respectively, in the New York Metropolitan Area.

Projection Methodology. Point Sources. For the point source category, New York projected 1990 base year emissions to 1996 and 1999 for each facility using Bureau of Economic Analysis (BEA) growth indicators available from New York State at the two-digit Standard Industrial Classification (SIC) Code level.

Since BEA growth indicators are one of the preferred growth indicators to use, as outlined in "Procedures for Preparing Emissions Projections," July 1991, EPA finds New York's 1996 and 1999 point source projection methodologies to be acceptable.

Area Sources. For the area source category, New York projected emissions from 1990 to 1996 and 1999 using population and BEA growth rates where applicable. This is in accordance with EPA's recommended growth indicators for projecting emissions for area source categories outlined in "Procedures for Preparing Emissions Projections," July 1991.

Non-Road Mobile Sources. For the non-road mobile source category, New York projected emissions utilizing EPA's guidance documents. New York included reductions anticipated from reformulated gasoline and new engine standards. Population growth rates were utilized to project the subcategory emissions except for light commercial, industrial and construction equipment which used the BEA growth rates. EPA finds New York's methodology for

projecting nonroad mobile sources to be acceptable.

On-Road Mobile Sources. For the highway mobile source category, the primary indicator and tool for developing on-road mobile growth and expected emissions are VMT and EPA's mobile emissions model Mobile 5b. 1996 and 1999 VOC and NO_x emission factors were generated by Mobile 5b and applied to the New York State Department of Transportation (NYSDOT) VMT projections.

NYSDOT projected VMT by county and functional roadway classification based upon linear regression of historical Highway Performance Monitoring System (HPMS) VMT data. NYSDOT's method is in accordance with EPA's recommended growth indicators for projecting emissions for on-road mobile source categories outlined in "Procedures for Preparing Emissions Projections," July 1991.

The 1996 and 1999 projection year emission inventories were calculated in accordance with EPA guidance. Therefore, EPA is proposing to approve the 1996 and 1999 projection year inventories. A more detailed discussion of how the emission inventories were reviewed and the results are presented in the TSD.

Tables 2A and 2B show 1996 and 1999 VOC and NO_x projection emission inventories using the aforementioned growth indicators/methodologies.

TABLE 2A.—NEW YORK METROPOLITAN AREA 1996 PROJECTION YEAR EMISSIONS INVENTORY IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
VOC	388	109	506	172	1,175
NO _x	61	311	443	187	1,002

TABLE 2B.—NEW YORK METROPOLITAN AREA 1999 PROJECTION YEAR EMISSIONS INVENTORY IN TONS/DAY

Pollutant	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
VOC	393	113	534	176	1,216
NO _x	62	327	467	192	1,048

B. What Are the Act Requirements for an Approvable 15 Percent Rate of Progress Plan and What Does New York's 15 Percent Plan Consist of?

Section 182(b)(1) of the Act as amended in 1990 requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 adjusted baseline. The plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within six years of enactment or by November 15, 1996. The Act also sets limitations on the creditability of certain types of reductions. Specifically, states cannot take credit for reductions

achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990 and Reid Vapor Pressure (RVP) programs promulgated prior to 1990. Furthermore, the Act does not allow credit for corrections to vehicle Inspection and Maintenance Programs (I/M) or corrections to reasonably available control technology (RACT) rules (RACT fix-ups) that were required to have been made to meet requirements in effect prior to 1990.

The target emission reductions were calculated in accordance with EPA guidance. The reader is referred to "Guidance On The Adjusted Base Year Emissions Inventory and The 1996

Target For The 15 Percent Rate of Progress Plans," (EPA-452/R-92-005). New York's 15 Percent ROP Plan is summarized in Table 3A.

The reader should note that the differences in VOC emissions between 1990 and 1996, in the New York Metropolitan Area as depicted in Tables 1A and 2A, are not the same as the emission reductions for the same time period depicted in Table 3A, Summary of 15 Percent ROP Plan. This is because the emissions changes between 1990 and 1996 have been adjusted for purposes of the 15 Percent ROP Plan to eliminate emission changes not creditable according to the Act. These adjustments are explained in detail in the previously referenced guidance.

TABLE 3A.—SUMMARY OF 15 PERCENT ROP PLAN

	New York metropolitan area VOC (tons/day)
Required VOC reductions to meet 15 Percent Plan	197.2
Creditable Reductions—Mobile Source control measures:	
Non-Road:	
Reformulated Gasoline	4.0
New Engine Standard	12.0
On-Road:	
Reformulated Gasoline	56.6
Tier I—New Vehicle Program	4.1
Low Emission Vehicle	3.3
Enhanced Inspection & Maintenance, July 1999 Emission Reduction Using Phase-in Cutpoints	22.2
Pressure/Purge Programs July 1999 Emission Reduction	19.8
Full Inspection Cycle Completed in November 1999	30.6
Stationary Source control measures: Parts 212, 228, 229, 234—VOC RACT	24.34
Area Source control measures:	
Auto Body Refinishing	5.7
Commercial Bakeries (Part 212)	2.1
Consumer Products	12.1
Graphic Art Facilities	0.7
Stage II for 1.2 to 2.5K Gal/Yr Stations	1.6
Stage II for LOCMA	0.4
Transit/Loading Losses	0.5
Total VOC reductions	200.04
Surplus	2.84
Reductions not credited in today's action—Stationary Source control measures: Capped/shut down Emissions	2.27

Measures Achieving the Projected Reductions. New York has provided a plan to achieve the reductions required for the New York Metropolitan Area. The following is a concise description of each control measure New York used to achieve emission reduction credit within its 15 Percent ROP Plan. All of the New York measures have been adopted and submitted as SIP revisions. EPA has previously approved most of the control measures, including interim approval of the enhanced vehicle I/M program.

Mobile source control measures.
Reformulated Gasoline. Section 211(k)

of the Act requires that after January 1, 1995 in severe and above ozone nonattainment areas, only reformulated gasoline (RFG) be sold or dispensed. RFG is reformulated to burn cleaner and produce fewer evaporative emissions. Specifically, RFG Phase I (1995—1999) must achieve reductions in VOCs of 15 to 17 percent and no increase in NOx from 1990 baseline gasoline emission levels. RFG Phase II (2000+) must achieve reductions in VOCs of 25 to 29 percent and reductions in NOx of five to seven percent from 1990 baseline emissions. EPA agrees with the reductions toward New York's ROP that

were calculated due to the sale of RFG for both on-road and off-road use.

New Engine Standards. In November 1994, EPA provided guidance entitled, "Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standard" for calculating future years' emission benefits from new engines proposed standards. The small gasoline engine standards, except recreational marine vessels, are being implemented in two phases starting with 1997 engine model year for both VOC and NOx and additional phase II exhaust and evaporative emission standards effective by 2001 engine model year. On

September 7, 1994, EPA issued a memo entitled, "Advance Emission Reduction Credits for Small Nonroad Gasoline Engines", which stated that advance reductions are available starting in 1994 based upon manufacturers introducing lower-emitting small gasoline engines into the market earlier than required by EPA's phase I rule. New York calculated the expected emission reductions from the proposed new engine standards for VOC and NO_x based upon EPA's guidance. Further, on July 3, 1995 (60 FR 34581), EPA promulgated the first phase and on March 30, 1999 (64 FR 15208), EPA promulgated the second phase of the regulations to control emissions from new nonroad spark-ignition engines. These regulations are contained in the Code of Federal Regulations (CFR), Title 40, "Part 90—Control of Emissions From Nonroad Spark-Ignition Engines."

EPA has determined that the first phase of the new nonroad standards will cause a reduction of VOC emissions by 13.1 percent in 1997, 19.5 percent in 1998 and 23.9 percent in 1999 nationally. New York's estimated emission reductions, based upon EPA's earlier guidance, is conservative with respect to the reductions estimated by EPA in the 1995 Phase I regulations for new nonroad spark-ignition engines. EPA agrees with New York's calculated emission reductions associated with the Phase I new engine standards.

Tier I—New Vehicle Standards & Low Emission Vehicle Program. EPA promulgated standards for 1994 and later model year light-duty vehicles and light-duty trucks (56 FR 25724). Since the standards were adopted after the Clean Air Act Amendments of 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. On April 28, 1992, New York adopted revisions to Part 218, "Emission Standards for Motor Vehicles and Motor Vehicle Engines" to incorporate the California low emission vehicle (LEV) standards as a part of New York's new motor vehicle emission control program. The New York State effective date as a result of the revisions to Part 218 was November 22, 1992. On January 6, 1995 (60 FR 2025), EPA published a final notice approving the revisions to Part 218 as a revision to the SIP. EPA agrees that the State's adopted LEV program will provide additional reductions which can be attributed to New York's 1996 ROP plan. EPA agrees with the emission reductions calculated by New York due to vehicle turnover combined with the FMVCP and the LEV program.

Enhanced I/M. On March 27, 1996 New York submitted revisions to its

existing Inspection and Maintenance (I/M) program to satisfy applicable requirements of the Act and the 1995 National Highway Systems Designation Act (NHSDA). On November 27, 1996 (61 FR 60242) EPA proposed conditional interim approval of this submittal. The reader is referred to that proposal for the details on the enhanced I/M program and EPA's findings.

Conditional approval was proposed because the March 27, 1996 New York submittal did not include (1) an indication of when the Consumer Price Index adjustments to the \$450 repair cost waiver would take effect; (2) the modeling demonstrating that the proposed I/M program would achieve the required emission reductions; and (3) written test procedures, pass/fail standards, and equipment specifications. That notice called for New York to commit within 30 days to correct these major deficiencies in the submittal as identified above, by specific dates. On December 20, 1996, New York committed to correct the deficiencies by the timelines stipulated in EPA's November 27, 1996 proposed conditional interim approval. New York has since submitted the necessary material as committed to in the December 20, 1996 letter. On October 24, 1997 (62 FR 55343) EPA granted a final interim approval of New York's enhanced I/M program under section 110 which strengthens the SIP, as well as an interim approval under section 348 of the NHSDA. Interim approval was granted for 18 months, or until May 24, 1999, for New York to correct six minor, or de minimus, deficiencies related to the Act requirements for enhanced I/M and provide EPA with an enhanced I/M program effectiveness demonstration. The reader is referred to EPA's October 24, 1997 interim approval for the details on the enhanced I/M program supplemental submittals and EPA's findings.

On May 20, 1999, New York submitted to EPA a final revision to the New York enhanced I/M program which addressed the six minor, or de minimus, deficiencies relating to the Act requirements for enhanced I/M. In addition, on May 24, 1999 New York submitted to EPA an enhanced I/M program evaluation report/program effectiveness demonstration. EPA is in the process of reviewing these submittals for technical adequacy and approvability and will be acting on these submittals in a separate **Federal Register** notice.

By today's action, EPA proposes to approve emission credits for the 15 Percent ROP and 9 Percent RFP Plans, pending EPA's verification of New

York's enhanced I/M program's effectiveness, under section 348 of the NHSDA. If EPA determines New York's enhanced I/M program effectiveness demonstration indicates a shortfall in emission reductions compared to the emission reductions credited in the 15 Percent ROP and/or 9 Percent RFP Plans, EPA will propose to disapprove the 15 Percent ROP and/or 9 Percent RFP Plans. EPA final action will be based on EPA's evaluation of New York's demonstration of the enhanced I/M program's effectiveness. If New York's demonstration indicates a shortfall in emission reductions compared to the emission reductions credited in the 15 Percent ROP and 9 Percent RFP Plans, New York would need to find additional emission reduction credits. Failure of New York to make up for an emission shortfall may subject them to sanctions and imposition of a Federal Implementation Plan. The credits provided by the enhanced I/M program for those plans may be adjusted based on EPA's evaluation of the enhanced I/M Program's performance.

Enhanced I/M "as soon as practicable". Section 182(b)(1) of the Act requires that states containing ozone nonattainment areas classified as moderate or above prepare SIPs that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15 Percent ROP Plans originally submitted to EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, many states became concerned over the cost and convenience issues related to enhanced I/M programs as they were originally envisioned.

In a response to these concerns in September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs. Subsequently, Congress enacted the NHSDA, which provided states significantly more flexibility in determining the design of their respective enhanced I/M programs. The substantial lead time required for states to redesign and set up the necessary infrastructure of enhanced I/M programs in accordance with the NHSDA precluded them from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many states upon enhanced I/M programs to help achieve the 15 percent VOC emissions reduction required under section 182(b)(1), and the recent NHSDA and regulatory changes

regarding enhanced I/M programs, EPA recognized that it was no longer possible for many states to achieve the portion of the 15 percent reductions that is attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15 Percent ROP Plans would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue redesign of enhanced I/M programs to receive emission reduction credit from these programs within their 15 Percent ROP Plans, even though the emissions reductions from the enhanced I/M program will occur after November 15, 1996.

Specifically, EPA can propose approval of 15 Percent ROP Plans if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15 Percent ROP Plan measures, will achieve the 15 percent level as soon as practicable after November 15, 1996. To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15 percent level is achieved. EPA does not believe that measures meaningfully accelerate the 15 percent date if they provide only an insignificant amount of reductions.

In the case of New York, they have submitted a 15 Percent ROP Plan that would achieve the amount of reductions needed from enhanced I/M by November 15, 1999. New York has submitted a 15 Percent ROP Plan that achieves all other reductions by 1996. In addition, EPA is pursuing federal rulemaking on a national scope which will result in additional emission reductions. EPA proposes to determine that this SIP does contain all measures, including enhanced I/M, that achieves the required reductions as soon as practicable.

EPA has examined other potentially available SIP measures to determine if they are practicable for New York and if they would meaningfully accelerate the date by which the area reaches the 15 percent level of reductions. In most cases New York has already adopted and implemented stationary control measures that other states are considering or which other states have included in their 15 Percent ROP Plans. Moreover, there are no measures that would achieve the 15 Percent reduction faster than the measures in New York's SIP. EPA proposes to determine that the SIP does contain the appropriate measures.

Pressure/Purge Programs. The 1992 I/M regulation requires that the enhanced I/M program include measures to curtail evaporative emissions from vehicle fueling systems. One such measure includes a functional check of the fuel tank integrity through pressurization. For a fraction of the emission reduction credit, EPA later allowed use of a test that checks only the integrity of the vehicle gas cap. New York has opted to perform this version of the test and submitted calculated emission reductions based on its use.

Full Inspection Cycle. In November 1998, New York began mandatory testing under the new inspection program. Although initial operating problems were identified, most of the vehicles covered under the program have thus far been tested. A legal challenge to the State's authority by non-implementing stations briefly allowed the use of the old test procedure during the early part of 1999. However, only a small portion of the covered vehicles was affected and New York estimates that the vast majority of the vehicles will have been tested by November 1999. Pending the verification of New York's enhanced I/M program's effectiveness, this will allow New York to meet the emission credit portion calculated in its 15 percent plan submittal.

Stationary source control measures. Parts 212, 228, 229, 234—VOC RACT. New York has submitted adopted revisions to Part 212, "General Process Emission Sources" which expanded the coverage of the regulation to require RACT on all major VOC process sources not covered in EPA issued control techniques guidelines (CTG) documents (referred to as "non-CTG major sources") and NO_x process sources throughout New York State and those not previously regulated in the New York Metropolitan Area. The New York State effective date as a result of the amendments to Part 212 was September 22, 1994. Although Part 212 is pending EPA rulemaking action, EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

New York submitted adopted revisions to Part 228, "Surface Coating Processes," Part 229, "Petroleum and Volatile Organic Liquid Storage," and Part 234, "Graphic Arts" which became New York State effective on April 4, 1993. These revisions extended the applicability of New York's RACT rules for sources covered by pre-enactment CTGs statewide and also added control requirements for some non-CTG RACT sources. On December 23, 1997 (62 FR 67004), EPA published a final notice

approving these rules as a revision to the SIP. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of these rules.

Area source control measures: Auto Body Refinishing. On September 11, 1998 (63 FR 48806), EPA promulgated 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. Use of emissions reductions from EPA's national rule is creditable toward ROP and RFP plans. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Commercial Bakeries (Part 212). As stated above, New York submitted adopted revisions to Part 212 "General Process Emission Sources." Commercial bakeries had previously been exempt from the control requirements of Part 212, however, the revisions to Part 212 subject commercial bakeries to control requirements and includes a provision which sets forth a deadline in which bakeries must apply for a certificate to operate. Although Part 212 is pending EPA rulemaking action, EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Consumer Products. On September 11, 1998 (63 FR 48819) EPA promulgated a national rule to control VOC emissions from household consumer products, such as cleaning products, personal care products, and a variety of insecticides. EPA's regulation is based on best available controls, as defined under the Act, and sets specific VOC content limits on 24 consumer product categories (some product categories are divided into subcategories). VOC limits would be met by the pollution prevention method of product reformulation. Use of emissions reductions from EPA's national rule is creditable toward ROP and RFP plans. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Graphic Arts Facilities (Part 234). As stated above, New York submitted adopted revisions to Part 234, "Graphic Arts", which became New York State effective on April 4, 1993. These amendments extended the applicability of regulations currently in force in the NYCMA to the major VOC facilities in LOCMA. Control requirements for screen printing operations and

lithographic printing processes (both which are non-CTG categories) have been mandated. Part 234 also has opacity limitations and provisions for the handling, storage, and disposal of VOC. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Stage II for 1.2 to 2.5K Gal/Yr Stations (Part 230). New York submitted adopted revisions to Part 230 "Gasoline Dispensing Sites and Transport Vehicles" which became New York State effective on September 22, 1994. The revisions to Part 230 lowered the applicability of the Stage II gasoline vapor recovery systems, which capture gasoline vapors during the refueling of motor vehicles, within the NYCMA. On April 30, 1998 (63 FR 23665), EPA published a final notice approving the revisions to Part 230 into the SIP. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Stage II for LOCMA (Part 230). New York submitted adopted revisions to Part 230 "Gasoline Dispensing Sites and Transport Vehicles" which became New York State effective on September 22, 1994. The revisions to Part 230 expanded the applicability of all the gasoline vapor control measures which are required in the NYCMA, into the LOCMA and expanded the applicability to cover additional gas stations. On April 30, 1998 (63 FR 23665), EPA published a final notice approving the revisions to Part 230 into the SIP. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Transit/Loading Losses. New York submitted adopted revisions to Part 230 "Gasoline Dispensing Sites and Transport Vehicles" which became New York State effective on September 22, 1994. The revisions to Part 230 expanded the requirements of Stage I gasoline vapor recovery systems to gasoline dispensing facilities located in the LOCMA. All gasoline transport vehicles which convey gasoline either to or from gasoline loading terminals or gasoline bulk plants are to be equipped with a vapor control system or equivalent method. On April 30, 1998 (63 FR 23665), EPA published a final notice approving the revisions to Part

230 into the SIP. EPA agrees with the reductions projected in the New York 15 Percent ROP Plan due to the implementation of this rule.

Measures Not Creditable in Today's Action. Capped/shutdown emissions. Certain facilities chose permit limits on their hours of operation to "cap" their facilities potential emissions below an annual level which reflected their actual hours of operation and emissions. These "capping out" provisions are included in a number of New York VOC and NO_x RACT regulations. The "capping out" provision exempts the facility from RACT requirements and/or Title V permitting requirements. In the projection inventory, New York adjusted emissions to account for those facilities that have "capped out". In addition, New York adjusted emissions to account for those facilities that have ceased or shutdown operations since the 1990 base year emissions inventory was compiled.

While EPA acknowledges that capped/shutdown facilities may have resulted in emission reductions, the documentation New York provided is not sufficient to determine whether these reductions are real, permanent and enforceable. Further, without this documentation, EPA is unable to verify whether the emission reduction credits associated with capped/shutdown facilities are not "double counted" or, more simply, used more than once (i.e., reductions cannot be used for offsets and to meet the 15 percent ROP requirement). Because of the uncertainties associated with both capped and shutdown emissions, EPA is considering these emissions reductions to be noncreditable at this time with respect to New York's Phase I Ozone SIP.

15 Percent ROP Plan Evaluation. New York has identified the control measures necessary for achieving the required emission reductions and all the measures have been adopted and implemented. EPA is proposing to find that the 15 Percent ROP Plan contains the necessary measures as identified in Table 3A to achieve the required emission reductions. The Plan also satisfies the requirement of achieving these reductions "as soon as practicable" and there are no remaining measures which could be implemented

any sooner to offset the delay in the enhanced I/M program. Therefore, EPA proposes to approve emission credits for the 15 Percent ROP, pending EPA's verification of New York's enhanced I/M program's effectiveness. If EPA determines New York's enhanced I/M program effectiveness demonstration indicates a shortfall in emission reductions compared to the emission reductions credited in the 15 Percent ROP Plan, EPA will propose to disapprove the 15 Percent ROP Plan. EPA final action will be based on EPA's evaluation of New York's demonstration of the enhanced I/M program's effectiveness.

C. What Are the Act Requirements for an Approvable 9 Percent Reasonable Further Progress Plan and What Does New York's 9 Percent Plan Consist Of?

Section 182(c)(2)(B) of the Act requires ozone nonattainment areas with classifications of serious and above to develop plans to reduce area-wide VOC emissions by 3 percent per year averaged over the next three-year period (1997–1999) from a 1990 baseline. This is referred to as the 9 Percent RFP Plan. The plan was to be submitted by November 15, 1994 and the reductions are required to be achieved by November 15, 1999. The Act also sets limitations on the creditability of certain types of reductions.

The target emission reductions were calculated in accordance with EPA guidance. The reader is referred to "Guidance On The Post 1996 Rate of Progress Plan and the Attainment Demonstration," (EPA-452/R-93-015).

Section 182(c)(2)(C) of the Act allows NO_x reductions to be substituted for VOC reductions for RFP demonstrations provided states demonstrate through modeling that NO_x reductions are needed in the nonattainment area. New York has shown that NO_x reductions will contribute toward attaining the ozone standard (See section IV. A., Modeling discussion below). New York has demonstrated that every ton of NO_x is equivalent to approximately 1.2 tons of VOC in the New York Metropolitan Area on percent of total inventory basis. Table 3B includes columns showing the VOC and NO_x reductions that will result from the implementation of the control measures.

TABLE 3B.—SUMMARY OF NEW YORK'S 9 PERCENT RFP PLAN

	New York metropolitan area (tons/day)	
	VOC ²	NO _x ²
Required VOC reductions needed to meet 9 Percent Plan	130.76	.....

TABLE 3B.—SUMMARY OF NEW YORK'S 9 PERCENT RFP PLAN—Continued

	New York metropolitan area (tons/day)	
	VOC ²	NO _x ²
Creditable Reductions—1996 Surplus	5.11	.....
Mobile source control measures:		
Non-Road:		
Reformulated gasoline and New Engine Standards	9	5
On-Road:		
Reformulated gasoline	4	3.9
Tier I—New Vehicle Program	20.3	43.4
Low Emission Vehicle	3.2	7.4
Enhanced Inspection & Maintenance July 1999 Emission Reduction Using Phase-in Cutpoints .....	.....	22.2
Full Inspection Cycle Completed in November 1999 .....	.....	15.3
Stationary source control measures:		
Parts 212, 228, 229—VOC RACT	0.32	.....
MACT (Federal Measures)	3.19	.....
OTC Phase II Baseline (Part 227–3) .....	.....	135.65
Part 227–2 .....	.....	6.89
Area source control measures:		
Consumer Products	0.1	.....
Hospital Sterilizers	0.1	.....
Municipal Solid Waste Landfills	4.9	.....
Surface Cleaning	18.3	.....
Total reductions	68.52	³ 239.74
VOC Shortfall	62.24	.....
VOC and NO _x Equivalent Surplus	75.44	⁴ 62.87
Reductions not credited in today's action—Capped/Shutdown Emissions	0.15	2.95

² VOC emission reductions claimed occur from 1997 through 1999. NO_x emission reductions claimed occur from 1990 through 1999.

³ Of the available 239.74 tpd NO_x emissions reductions credits, 125 tpd are used to meet the growth in NO_x emissions and 51.87 tpd to cover the VOC shortfall (51.87 tpd of NO_x is equivalent to 62.24 tpd VOC), 62.87 tpd NO_x are surplus.

⁴ 62.87 tons/day of NO_x surplus converts to 75.44 tons/day of VOC equivalent in the New York Metropolitan Area.

Measures Achieving the Projected Reductions. New York has provided a plan to achieve the reductions required for the New York Metropolitan Area. The following is a concise description of each control measure New York used to achieve the emission reduction credit within its 9 Percent RFP Plan. All of the State's measures used in the 9 Percent RFP Plan have been adopted and submitted as SIP revisions. EPA has previously approved most of the control measures, including interim approval of the enhanced vehicle I/M program.

Mobile Source Measures: New Engine Standard. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is only taking the additional VOC credit that would be generated for the years 1997–1999 and utilizing the substitution of the NO_x emission reduction credits generated for the years 1990–1999. EPA agrees with the calculated emission reductions associated with the New Engine Standard.

Reformulated Gasoline. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is only utilizing the substitution of the NO_x emission reduction credits generated for

the years 1990–1999. EPA agrees with the calculated emission reductions associated with reformulated gasoline.

Enhanced Inspection and Maintenance. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is utilizing the substitution of the NO_x emission reduction credits generated for the years 1990–1999. See above discussion for EPA's action on New York's enhanced I/M emission credits for the 9 Percent RFP Plan.

Low Emissions Vehicle Program. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is utilizing the substitution of the NO_x emission reduction credits generated for the years 1990–1999. EPA agrees with the calculated emission reductions associated with New York's low emission vehicle program.

Stationary Source Control Measures. Parts 212, 228, 229—VOC RACT. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is only taking the additional VOC credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with these VOC RACT measures.

OTC Phase II Baseline (Part 227–3)—NO_x MOU/NO_x RACT. On January 12, 1999, New York adopted revisions to Part 227–3 “Pre 2003 Nitrogen Oxides Emissions Budget and Allocation Program,” which incorporate the NO_x MOU requirements. The OTC NO_x MOU calls for states to reduce NO_x emissions from boilers and indirect heat exchangers with heat inputs greater than 250 million BTU per hour. These emission reductions will be realized in two phases, first in 1999 and again in 2003. Part 227–3 became effective on March 5, 1999 and sources are required to be in compliance with the first phase by May 1, 1999. On April 29, 1999, NYSDEC submitted to EPA a SIP revision which included the revisions to Part 227–3. EPA will be acting on the April submittal in the near future. EPA agrees with the calculated emission reductions associated with this NO_x RACT measure, however, only the first phase of reductions will be creditable towards New York's 9 Percent RFP Plan.

Part 227–2—NO_x RACT. On January 19, 1994 and January 27, 1999, New York adopted revisions to Part 227–2, “Stationary Combustion Installations” to comply with the Act provisions to implement NO_x RACT. On April 29, 1999, NYSDEC submitted to EPA a SIP

revision which included the revisions to Part 227-2. Subpart 227-2 requires the following major source of NO_x to achieve RACT by May 31, 1995: (1) very large boilers (>250 mmBTU/hr); (2) large boilers (>100-250 mmBTU/hr); (3) Mid-size boilers (>50-100 mmBTU/hr); (4) small boilers (<50 mmBTU/hr); (5) combustion turbines; (6) stationary internal combustion engines; (7) other combustion sources (not specifically covered under separate New York regulations). EPA will be acting on the April submittal in the near future. EPA agrees with the calculated emission reductions associated with this NO_x RACT measure.

MACT (Federal Measures). For the 1999 projected emissions reductions, VOC emissions reductions from specific source categories were adjusted according to RACT (promulgated New York regulations discussed previously) and Maximum Achievable Control Technology (MACT—promulgated federal regulations regarding National Emission Standards for Hazardous Air Pollutants). In most cases there was a New York rule in place and RACT was applied. Where MACT was in effect and it was more stringent than RACT, it took the place of RACT. In order for RACT or MACT to have been creditable, it had to have a compliance date prior to November 15 of the projection year (*i.e.*, 1999 for creditable reductions towards the 9 Percent RFP plan). New York took credit for the following MACT standards in the 9 Percent RFP plan:

(1) 40 CFR 63.190 subpart I—Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (59 FR 19402).

(2) 40 CFR 63.1310 subpart JJ—Standards for Group IV Polymer and Resins (61 FR 48208).

(3) 40 CFR 63.100 subpart F—Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry (59 FR 19402).

(4) 40 CFR 63.460 subpart T—Halogenated Solvent Cleaning (59 FR 61801).

(5) 40 CFR 63.640 subpart CC—Petroleum Refineries (60 FR 43244).

(6) 40 CFR 63.820 subpart KK—Standards for the Printing and Publishing Industry (61 FR 27131).

(7) 40 CFR 63.420 subpart R: Gasoline Distribution (59 FR 64303).

EPA agrees with the calculated emission reductions associated with the federal MACT standards.

Area Source Control Measures: Consumer Products. This is the same measure as contained in New York's 15 Percent ROP Plan except New York's 9 Percent RFP Plan is only taking the

additional VOC credit that would be generated for the years 1997-1999. EPA agrees with the calculated emission reductions associated with consumer products.

Hospital Sterilizers. For 1999 the New York Metropolitan Area will be affected by the federal MACT for ethylene oxide sterilizers. The MACT requires all ethylene oxide sterilizers to be permitted. This permit requirement subsequently subjects them to the control requirements of Part 212, "General Process Emission Sources". EPA agrees with the calculated emission reductions associated with hospital sterilizers.

Municipal Solid Waste Landfills. For 1999, federally adopted New Source Performance Standards and a New York State adopted regulation for Municipal Solid Waste Landfills will be in effect for certain new and existing landfills respectively in the New York Metropolitan Area. On March 12, 1996 (61 FR 9919), the EPA promulgated in the **Federal Register** standards of performance for new sources for municipal solid waste landfills and emission guidelines for existing municipal solid waste landfills. These regulations and guidelines were promulgated as subparts WWW and CC of 40 CFR part 60. On September 22, 1998, New York adopted revisions to Part 360.2 "Landfills", which became effective on November 21, 1998. These revisions make enforceable the requirements as outlined in EPA's emission guidelines. On July 19, 1999 (64 FR 38582), EPA published a final notice approving the revisions to Part 360.2. EPA agrees with the calculated emission reductions associated with the Municipal Solid Waste Landfills.

Surface Cleaning. For 1999, facilities located in the New York Metropolitan Area will be subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for halogenated solvent cleaning (NESHAP—40 CFR 63.460, subpart T). Subpart T applies to facilities that use any of the following halogenated hazardous air pollutant solvents, which have also been identified as VOC's: (1) trichloroethylene (TCE); (2) carbon tetrachloride (CT); and (3) chloroform (C). EPA agrees with the calculated emission reductions associated with surface cleaning.

Measures Not Creditable in Today's Action. Capped/shutdown emissions. As discussed under the 15 Percent ROP Plan section, because of the uncertainties associated with both capped and shutdown emissions, EPA is considering these emissions reductions to be noncreditable at this time with

respect to New York's Phase I Ozone SIP.

9 Percent RFP Plan Evaluation. New York has identified the control measures necessary for achieving the required emission reductions and all the measures have been adopted and implemented. EPA is proposing to find that the 9 Percent RFP Plan contains the necessary measures as identified in Table 3B to achieve the required emission reductions. EPA proposes to approve emission credits for the 9 Percent RFP Plan, pending EPA's verification of New York's enhanced I/M program's effectiveness. However, as discussed under the 15 Percent ROP Plan section, if EPA determines New York's enhanced I/M program effectiveness demonstration indicates a shortfall in emission reductions compared to the emission reductions credited in the 9 Percent RFP Plan, EPA will propose to disapprove the 9 Percent RFP Plan. EPA final action will be based on EPA's evaluation of New York's demonstration of the enhanced I/M program's effectiveness.

IV. What Other Phase I Required Elements Has New York Satisfied in Their Submittal?

New York's submittal is intended to fulfill EPA's Phase I requirements ("Ozone Attainment Demonstrations," March 2, 1995 memo from Mary Nichols) and in addition to the previously mentioned SIP elements, includes the following Phase I required elements: modeling efforts completed to date; Ozone Transport Commission NO_x MOU; enforceable commitments for Phase II; clean fuel fleet program; analysis of growth in emissions due to increases in VMT; and photochemical assessment monitoring stations network.

A. What Modeling Work Was Submitted by New York?

As part of New York's initial submittal of the 15 and 9 percent plans, New York submitted a preliminary modeling analysis using assumptions about transported ozone and precursors, as required by the March 2, 1995 memo.

Photochemical grid modeling is used to support New York's submittal in two ways: first, meet the requirements set out in EPA's March 2, 1995 memo for a preliminary modeling analysis and to support the State's ability to use reductions in VOC and NO_x emissions as part of its ROP and RFP Plans.

The modeling predicts that ozone will be reduced if emissions of VOC or of NO_x are reduced. This is based on modeling the impact of proportionally reducing emissions of VOC and NO_x together and separately and showing

that the peak ozone concentration is reduced. Thus, emissions of either VOC and NO_x can be reduced to improve ozone air quality in New York and either can be used in the 15 Percent ROP and 9 Percent RFP Plans to the extent allowed in the Act.

New York has since submitted additional modeling analyses as part of their Phase II Ozone Attainment Plan. EPA will act on the Phase II Ozone Attainment Plan in a separate **Federal Register** notice.

EPA is proposing to accept New York's modeling efforts as fulfilling EPA's Phase I requirements.

B. Did New York Satisfy the Ozone Transport Commission NO_x MOU Requirement?

EPA is proposing that New York has satisfied EPA's Phase I requirement for NO_x Memorandum of Understanding (MOU). In September 1994, the Ozone Transport Commission agreed to develop a regional program to achieve significant reduction in NO_x emissions from large combustion sources. On September 27, 1994, New York signed the MOU which formalized this program. EPA's March 2, 1995 policy requires states to provide an enforceable commitment to implement the NO_xMOU, which New York did in a June 15, 1995 letter to EPA. On January 12, 1999, New York adopted revisions to Part 227-3 "Pre 2003 Nitrogen Oxides Emissions Budget and Allocation Program," which incorporate the NO_x MOU requirements. Part 227-3 became effective on March 5, 1999. On April 29, 1999, NYSDEC submitted to EPA a SIP revision which included the revisions to Part 227-3. EPA will be acting on the April submittal in the near future.

C. What Commitments to Future Actions Were Included in New York's Submittal?

As part of New York's submittal of the Phase I SIP revision, New York made commitments to the following EPA March 2, 1995 policy requirements: (1) participate in the consultative process to address regional transport; (2) adopt additional control measures as necessary to attain the ozone standard, meet rate of progress requirements, and eliminate significant contribution to nonattainment downwind; and (3) identify any reductions that are needed from upwind areas for the area to meet the ozone standard.

New York has since submitted a Phase II Ozone Attainment Plan which address the commitments made in their Phase I plan. EPA is proposing to accept the commitments made by New York as satisfying EPA's Phase I requirements and will act on these elements in

conjunction with Phase II in the near future.

D. Has New York Satisfied the Phase I Clean Fuel Fleet Requirement?

With regards to fulfilling EPA's Clean Fuel Fleet Program (CFFP) Phase I requirement ("Ozone Attainment Demonstrations," March 2, 1995 memo from Mary Nichols), New York has done so by adopting and submitting to EPA a LEV program to be used as a substitute measure for CFFP.

Section 182(c)(4) of the Act requires that serious or above ozone and carbon monoxide nonattainment areas implement a CFFP. The Federal CFFP requires that light and heavy duty fleets of ten or more vehicles in the covered areas assure that a percentage of their annual new vehicle purchases be clean fueled vehicles. The Act also allows states to opt out of the CFFP with a substitute program or programs which achieve equivalent long term emission reductions. On January 6, 1995 (60 FR 2022) EPA approved New York's opt out of the light duty CFFP with its LEV program. The LEV program will cover all the vehicles in the New York Metropolitan Area (as well as the rest of New York State), of which the light duty vehicles covered by the CFFP would be only a subset. Since that time New York has proposed to also opt out of the heavy duty portion of the CFFP with the LEV program. New York is confident that the LEV program will generate enough long term emission reduction credits to be used as a substitute measure for the heavy duty CFFP as well and still have surplus credit left over from the far reaching LEV program. EPA will be acting on the heavy duty CFFP opt-out in a separate **Federal Register** notice. New York is taking credit for the LEV program in the 1996 and 1999 ROP plans and no credit is being assigned to the CFFP program in these plans (*i.e.*, there is no "double counting" of credits). EPA agrees with this treatment of the LEV program. With respect to New York's use of LEV as a substitute for the CFFP, equivalency is measured in the long term, *i.e.* by the year 2010, therefore its use in that capacity will have no bearing on the State's 1996 and 1999 ROP plans.

E. Does New York Need To Offset Growth in Emissions From Growth in VMT?

New York has indicated in its Phase I SIP submittal, that it will not need to offset growth in emissions from growth in VMT until at least the year 2007, the year New York is required to demonstrate attainment. New York has also chosen to comply with the Act's

RFP milestone and attainment requirements using measures other than Transportation Control Measures (TCMs).

Section 182(d)(1)(A) of the Act requires states containing ozone nonattainment areas classified as "severe" under section 181(a) of the Act to adopt TCMs in order to offset growth in emissions from growth in VMT, and to attain reductions in motor vehicle emissions as necessary to comply with the Act's RFP milestone and attainment requirements.

Because current modeling does not indicate a need for TCMs to offset a growth in emissions before 2007, EPA is proposing to approve the part of the ozone SIP that determines that New York is not required to adopt specific, enforceable TCMs to meet the TCM offset requirement. EPA is also proposing to approve the states decision to comply with the RFP milestone and attainment requirements using measures other than TCMs.

F. Has New York Submitted an Approvable Photochemical Assessment Monitoring Station Network?

NYSDEC submitted its photochemical assessment monitoring station network (PAMS) Network Plan which was reviewed and found approvable on September 21, 1998 by EPA and was judged to satisfy the requirements of 40 CFR 58.40(a).

Section 182(c)(1) of the Act and the General Preamble (57 FR 13515) require that EPA promulgate rules for enhanced monitoring of ozone, NO_x and VOCs (see 58 FR 8452, February 12, 1993) and that states classified serious and above develop and operate a PAMS. NYSDEC has been establishing its PAMS network according to its approved Work Plan and implementation schedule. The two PAMS sites approved by EPA, one in the Bronx and the other in Queens, have been operating since 1994 and 1997, respectively. EPA is proposing to approve New York's PAMS network.

V. Are New York's Transportation Conformity Budgets Approvable?

By virtue of proposing approval of the 15 Percent ROP Plan and 9 Percent RFP Plan, EPA is also proposing approval of the motor vehicle conformity emissions budgets for VOC and NO_x. For the 1999 analysis year and later, conformity determinations addressing VOC and NO_x must demonstrate consistency with the 9 Percent RFP Plan revision's VOC and NO_x motor vehicle emissions budget. Table 4 summarizes New York's Emission Budgets.

TABLE 4.—EMISSION BUDGETS FOR CONFORMITY

County	1996		1999	
	VOC tons/day	tons/ dayNO _x	VOC tons/day	NO _x tons/day
Bronx	22.2	23.6	18.0	20.6
Kings	36.5	31.8	29.7	27.6
Nassau	71.0	69.2	60.0	61.4
New York	35.1	21.0	27.9	18.5
Orange (LOCOMA)	5.1	9.2	4.9	8.7
Queens	47.9	44.4	39.0	38.8
Richmond	13.0	13.1	11.1	11.9
Rockland	16.9	20.5	14.3	18.4
Suffolk	62.3	75.7	53.6	68.0
Westchester	43.1	54.5	36.1	48.7
Total	353.2	362.8	294.7	322.6

EPA is proposing to approve New York's emission budgets.

VI. What Are EPA's Phase I Findings?

On July 3, 1996, EPA notified the Governor of New York that EPA was making a finding of failure to submit all the Act elements required to fulfill the March 2, 1995 "Ozone Attainment Demonstration" policy as committed to by New York. With New York's submittals of September 4, 1997 and February 2, 1999 (Phase I SIP revision), and December 19, 1997 (Clean Fuel Fleets Program SIP revision), New York has now submitted all the Phase I requirements.

VII. What Are EPA's Conclusions?

EPA has evaluated these submittals for consistency with the Act, applicable EPA regulations, and EPA policy. EPA is proposing approval of New York's: revisions to the 1990 base year ozone emission inventory (for all ozone nonattainment areas in New York); the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring station network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions; modeling efforts completed to date; transportation conformity budget; and enforceable commitments for Phase II. EPA is also proposing to approve emission credits for the 15 Percent ROP and 9 Percent RFP Plans, pending EPA's verification of New York's enhanced I/M program's effectiveness. If EPA determines New York's enhanced I/M program effectiveness demonstration indicates a shortfall in emission reductions compared to the emission reductions credited 15 Percent ROP and/or 9 Percent RFP Plans, EPA will propose to disapprove the 15 Percent ROP and/or 9 Percent RFP Plans. EPA final action will be based on EPA's

evaluation of New York's demonstration of the enhanced I/M program's effectiveness.

VIII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on

federalism, Executive Order 13132, [64 FR 43255 (August 10, 1999),] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, [52 FR 41685 (October 30, 1987),] on federalism still applies. This rule will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only one state, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This proposed SIP approval is not subject to E.O. 13045 because it proposes approval of a state program implementing a Federal standard, and it is not economically significant under E.O. 12866.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the 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 create any new requirements, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its

actions concerning SIPs on such grounds. *Union Electric Co., versus U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual 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 proposed approval action does not include a federal mandate that may result in estimated annual 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: October 21, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99-28725 Filed 11-2-99; 8:15 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[MD054-3044b; FRL-6456-7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Proposed Revision to Section 111(d) Plan Controlling Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to Maryland's Section 111(d) plan for the purpose of controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills. In the final rules section of the **Federal Register**, EPA is approving this plan revision. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by December 3, 1999.

ADDRESSES: Comments may be mailed to Harold A. Frankford, Office of Air Programs, Mail Code 3AP20, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (215) 814-2108, or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the Rules and Regulations section of the **Federal Register**.