

Dated: August 11, 1999.

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*Rear Admiral, U.S. Coast Guard, Commander,  
First Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA100-4093; FRL-6428-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Post-96 Rate of Progress Plan for the Philadelphia Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing limited approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of the three percent per year emission reduction rate-of-progress (ROP) plan for the period 1996-1999 in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). This requirement is commonly known as the Post-96 ROP plan. The intended effect of this action is to propose limited approval of this ROP plan required by the Clean Air Act to ensure progress on reducing emissions of ozone precursors.

**DATES:** Written comments must be received on or before September 24, 1999.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. 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 Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178. Or by e-mail at fernandez.cristina@epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has prepared a technical support document (TSD) for this action. The TSD contains details of Pennsylvania's July 31, 1998

submittal and EPA's evaluation of that submittal. Copies of the TSD are available from the EPA Regional office listed in the ADDRESSES section of this document.

### I. Background

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate, serious, severe, and extreme ozone nonattainment areas to reduce volatile organic compound (VOC) emission 15% from 1990 levels by 1996. That requirement is known as the 15% plan. Section 182(c)(2)(B) of the Act requires serious, severe, and extreme ozone nonattainment areas to reduce emissions of VOC by 3% per year every year from 1996 until their attainment dates. This requirement, known as the Post-96 rate-of-progress (ROP) plan, was originally due by November 15, 1994. However, in a March 2, 1995 memorandum, EPA Assistant Administrator Mary Nichols outlined an alternative attainment demonstration policy that combines the Post-96 ROP plan with the attainment demonstration requirements found in section 182(c)(2)(A) of the Act. This approach consists of two "phases." Phase I requires the states to submit a plan to meet ROP from 1996 to 1999 (the Post-96 ROP plan), and a set of three enforceable commitments. For Phase II, states are required to submit a ROP plan from 1999 to the area's attainment year (commonly referred to as the Post 99 ROP plan), and a modeled attainment demonstration.

The Philadelphia area is classified as a severe ozone nonattainment area. This is a four-state ozone nonattainment area consisting of portions of Delaware, Maryland, New Jersey, and Pennsylvania. For purposes of the Post 96 ROP plan, the four states have maintained the same agreement they reached regarding the 15% ROP plan for the Philadelphia area, namely that each state would secure a 15% reduction, and now a 9% (3% per year for 1997, 1998 and 1999) reduction from its portion of the area's base year inventory. The Pennsylvania portion of the Philadelphia area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. In a May 31, 1995 letter from James Seif, Secretary of Pennsylvania's Department of Environmental Protection to EPA Region III, Pennsylvania committed to participating in the alternative attainment demonstration approach outlined in the March 2, 1995 memorandum.

On July 31, 1998, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to the

Pennsylvania State Implementation Plan (SIP) consisting of the Post-96 plan for the Pennsylvania portion of the Philadelphia severe ozone nonattainment area. EPA received this revision on August 4, 1998. PADEP's July 31, 1998 submittal contains both the 1996 to 1999 ROP reduction, and the additional requirements described in the March 2, 1995 Mary Nichols memorandum. This submittal also includes the 1990 oxides of nitrogen (NO<sub>x</sub>) base year inventory for the Philadelphia nonattainment area. In an October 2, 1998 letter, EPA determined that PADEP's submittal is administratively and technically complete. That completeness determination stopped the 18-month sanctions clock that EPA started on May 7, 1997. The sanctions clock had been started for Pennsylvania's failure to submit the enforceable commitments to adopt (1) additional measures needed for attainment and (2) the remainder of the rules to meet ROP requirements pending modeling results from the Ozone Transport Assessment Group (OTAG), as required by the March 2, 1995 Mary Nichols memorandum. PADEP's complete July 31, 1998 SIP submittal remedied that failure. Therefore, the sanctions clock was halted.

This rulemaking only addresses the portion of PADEP's July 31, 1998 submittal related to the 1996 to 1999 ROP plan, i.e. the Post-96 ROP plan. On June 17, 1999 EPA approved the 1990 NO<sub>x</sub> base year inventory SIP submittal in a separate rulemaking action (64 FR 32424).

Section 182(c)(2)(C) of the Act allows states to substitute emission reductions of NO<sub>x</sub> occurring after 1990 for VOC reductions in the Post-1996 rate of progress plans. VOC and NO<sub>x</sub> reduction measures, whether mandatory under the Act or adopted at the state's discretion, must ensure "real, permanent, and enforceable" emissions reductions. Pennsylvania uses both VOC and NO<sub>x</sub> emission control measures to meet the 9% reduction required for the Post 96 ROP plan.

### II. Base Year Inventory

EPA approved the 1990 base year VOC emissions inventory for Pennsylvania's portion of the Philadelphia area on June 9, 1997 (62 FR 31343). As stated above, EPA approved the 1990 base year NO<sub>x</sub> emissions inventory for Pennsylvania's portion of the Philadelphia area on June 17, 1999 (64 FR 32424).

### III. Post-1996 ROP Plans

#### A. Calculation of Needed Reductions

The process for the calculation of the required reductions is set forth in EPA's guidance document entitled "Guidance on the Post-96 Rate of Progress Plans and the Attainment Demonstration," January 1994. The "target level" of emissions represents the maximum amount of emissions that a nonattainment area can have in the given target year, which in this case is 1999. Section 182(c)(2)(C) of the Act allows states to substitute NO<sub>x</sub> emission reductions that occur after 1990 for VOC emissions in the Post-1996 Plan. EPA issued guidance on the criteria states can use to substitute NO<sub>x</sub> for VOC reductions on December 15, 1993, "NO<sub>x</sub> Substitution Guidance" and follow-up guidance on August 5, 1994, "Clarification of Policy for Nitrogen Oxides (NO<sub>x</sub>) Substitution." The condition for meeting the ROP requirement is that the sum of all

creditable VOC and NO<sub>x</sub> emission reductions must equal 3 percent per year averaged over the three year period 1996 to 1999, for a total of 9 percent. If a state wishes to substitute NO<sub>x</sub> for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO<sub>x</sub> emissions must be developed for the year 1999. Furthermore, growth in both VOC and NO<sub>x</sub> emissions must be offset by emission reductions. Therefore, separate emission target levels for 1999 must be calculated for both VOC and NO<sub>x</sub> emissions.

To calculate the target level of emissions, the required emission reduction is subtracted from the previous milestone's target level. In this case, the 1999 ROP VOC target level is based on the 1996 VOC target level calculated for the 15% plan. EPA granted approval of Pennsylvania's 15% ROP plan for the Philadelphia area on

June 9, 1997 (62 FR 31343). A technical correction to that document was published on January 6, 1998 (63 FR 415). In that plan, the PADEP calculated the 15% ROP target level to be 494.31 tons per day (TPD).

#### 1999 Rate of Progress (ROP) VOC and NO<sub>x</sub> Target Level Calculation

Pennsylvania has elected to substitute NO<sub>x</sub> for VOC emission reductions in its Post-96 ROP plan for the Philadelphia area. In Pennsylvania's plan, growth in VOC emissions from 1996 to 1999 was offset by VOC emission reductions achieved by 1999. Similarly, growth in NO<sub>x</sub> emissions from 1990 to 1999 was offset by NO<sub>x</sub> emission reductions achieved in that same time period. Pennsylvania did not calculate separate VOC and NO<sub>x</sub> target levels. However, EPA was able to calculate VOC and NO<sub>x</sub> target levels using data in Pennsylvania's Post-96 ROP plan. These calculations are shown below.

#### VOC:

1. 1990 ROP base year inventory = 1990 base year inventory minus biogenic emissions ..... 732 – 116 = 616 TPD.
2. 1990 adjusted base year inventory = 1990 ROP base year inventory minus 1990 to 1999 Federal Motor Vehicle Control Program (FMVCP) and Reid Vapor Pressure (RVP) reductions. 616 – 39 = 576 TPD.
3. Required reductions = 0.5% × 1990 adjusted base year inventory ..... 0% × 576 = 0 TPD.
4. 1999 ROP target level = 1996 target minus required reduction minus fleet turnover correction ..... 494 – 0 – 6 = 488 TPD.
5. Reductions needed for ROP and to offset growth (rounded to nearest ton) = 1999 uncontrolled emissions minus 1999 target. 625 – 488 = 137 TPD.

#### NO<sub>x</sub>:

1. 1990 ROP base year inventory (sum of all point, area, and mobile source emissions) ..... 440 TPD.
2. 1990 adjusted base year inventory = 1990 ROP base year inventory minus 1990 to 1999 FMVCP/RVP reductions. 440 – 20 = 420 TPD.
3. Required reduction = 9% × 1990 adjusted base year inventory ..... 9% × 420 = 38 TPD.
4. 1999 ROP target level = 1990 ROP base year inventory minus required reduction minus 1990 to 1999 FMVCP/RVP reductions. 440 – 38 – 20 = 382 TPD.
5. Reductions needed for ROP and to offset growth (rounded to nearest ton) = 1999 uncontrolled emissions minus 1999 target. 455 – 382 = 73 TPD.

#### B. Growth Projections (1990–1999)

States must include control measures in their Post-1996 ROP plans to offset the emissions growth projected to occur after 1996. Therefore, states must project their emission inventories to estimate emissions growth between 1996 and 1999. EPA's document entitled "Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration" provides guidance to states on how to calculate growth. The projected inventories must reflect expected growth in activity, as well as regulatory actions which will affect emission levels. EPA guidance provides that emission projections for point sources can be based on information obtained directly from facilities and/or permit applications. Area and mobile source emission projections may be developed from information from local

planning agencies. In the absence of source-specific data, credible growth factors must be developed from accurate forecasts of economic variables and the activities associated with the variables. Economic variables that may be used as indicators of activity growth are: product output, value added, earnings, and employment. Population can also serve as a surrogate indicator. Economic data and models which provide acceptable growth factors for emission projections include the U.S. Department of Commerce Bureau of Economic Analysis (BEA) forecasts for states and metropolitan statistical areas; the Economic Growth Analysis System (E-GAS), which models economic growth and estimates corresponding increases in emissions-producing activity; and the Emissions Preprocessor System for urban airshed modeling, which produces spatially and temporally-

resolved emission inventories for input into urban airshed models.

#### Growth Factor Methodology

PADEP's Post-96 ROP plan uses growth factors from the BEA projection factor software (BEAFAC) for point sources, most area sources, and non-road mobile emissions sources. PADEP's Post-96 ROP plan assumes linearity of the BEA data, and uses linear interpolation of BEA factors from the years 1988, 1995, and 2000 to generate estimates for 1990 and 1999. BEA data from 1973 and 1979 was excluded, since the economic changes in Pennsylvania in those years creates a nonlinearity in the interpolation. BEA data from 2010 and 2040 was excluded because of PADEP's lack of confidence in its accuracy.

**Point Source Emissions Growth Calculation**

PADEP summed the emissions for each 2-digit Standard Industrial Classification (SIC), which is industrial source category based, and applied the growth factor to the entire emissions attributable to that 2-digit SIC grouping. For its point source inventory, Pennsylvania matched BEA growth projections for 57 industrial categories to similar two-digit SIC codes used in the inventory. All of the BEA growth projections were increases except for small decreases in nine categories. These are: metal mining, coal mining, oil and gas extraction, tobacco products,

apparel, leather and leather products, primary metal industries, electronic and other electrical equipment, and water transportation.

**Area Source Growth Emissions Growth Calculation**

With the exception of gasoline marketing, growth factors from the BEA's projection factor software, BEAFAC, were used for area sources. For the most part, employment and population factors were utilized. Gasoline marketing growth is determined by growth in vehicle miles traveled (VMT), and is calculated using MOBILE5.

**Nonroad Engine Emissions Growth Calculation**

Growth factors from the BEA were used for non-road mobile sources.

**Section 6.5, Highway Vehicle Emissions Growth Calculation**

Vehicle miles traveled (VMT) growth was projected by a travel-demand computer model for the Philadelphia area. The MOBILE5 model was run, and then meshed with the VMT data using Pennsylvania's Post Processor for Air Quality (PPAQ) to determine 1999 projected highway emissions. VMT data for 1990 and 1999 is summarized in the following table.

**APPENDIX V.—VMT GROWTH, 1990–1999**

County	1990 VMT (miles)	1999 VMT (miles)	Growth as % of 1990 VMT (percent)
Bucks .....	12,850,048	14,829,484	1.15
Chester .....	10,147,864	12,712,974	1.25
Delaware .....	8,279,044	10,201,547	1.23
Montgomery .....	16,839,969	19,653,334	1.17
Philadelphia .....	16,485,464	17,352,364	1.05
Total .....	64,602,389	74,749,703	1.16

**Summary of Projected Emissions Growth, 1990–1999 in PADEP's Post-96 ROP Plan**

sector, from the PADEP's Post-96 ROP plan:

The following tables summarize VOC and NO<sub>x</sub> emissions growth, by source

**VOC EMISSIONS GROWTH FOR THE PHILADELPHIA AREA, 1990–1999**

[1990 base year and 1999 projected uncontrolled emission inventories (tpd)]

	Point	Area	Highway	Nonroad	Total
1990 Emissions .....	152.75	194.35	187.89	80.56	615.55
Growth .....	9.75	8.51	– 11.03	2.07	9.30
Growth as % of 1990 Emissions .....	6.4%	4.4%	– 5.9%	2.6%	1.5%
1999 Emissions .....	162.50	202.86	176.86	82.63	624.85

**NO<sub>x</sub> Emissions Growth for the Philadelphia Area, 1990–1999**

[1990 base year and 1999 projected uncontrolled emission inventories (tpd)]

	Point	Area	Highway	Nonroad	Total
1990 Emissions .....	161.90	47.12	158.32	72.20	439.54
Growth .....	15.59	– 0.11	– 1.94	2.17	15.71
Growth as % of 1990 Emissions .....	9.6%	– 0.2%	– 1.2%	3.0%	3.6%
1999 Emissions .....	177.49	47.01	156.38	74.37	455.25

**EPA evaluation:** The Commonwealth's growth projection methodologies are acceptable, as listed in EPA's inventory preparation guidance and guidance for growth factor estimation.

**C. EPA's Evaluation of Control Measures**

The purpose of the Post-1996 ROP plan is to demonstrate how the State has

reduced emissions 3% per year between the years 1996 and 1999, for a total 9% reduction. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and are real, permanent, quantifiable and federally enforceable. A short description of each of the control measures selected by Pennsylvania follows.

**Reformulated Gasoline (RFG)**

This is a federally implemented control measure. Section 211(k) of the CAA requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or worse. As a severe area, Philadelphia benefits from the emission reductions from this program. PADEP claims a VOC emission

reduction of 22.41 TPD and a NO<sub>x</sub> reduction of 0.43 TPD from this measure.

Fully creditable reductions: 22.41 TPD VOC and 0.43 TPD NO<sub>x</sub>.

#### Enhanced I/M

On 1/28/98, EPA granted conditional interim approval of Pennsylvania's enhanced I/M program. PADEP made submittals to satisfy all conditions of this rulemaking. On June 8, 1999, EPA lifted the interim nature of its conditional interim approval (64 FR 30399). On June 17, 1999 (64 FR 32411), EPA converted its conditional approval of Pennsylvania's enhanced I/M program to full approval. The emission reductions from the fully approved enhanced I/M are fully creditable.

Fully creditable reductions: 59.28 TPD VOC, and 32.29 TPD NO<sub>x</sub>.

#### Federal Motor Vehicle Control Program (FMVCP) and Tier I Vehicle Emission Standard (Tier I)

This is a federally implemented control measure. The MOBILE5 model automatically applies FMVCP controls (unless that feature is disabled). PADEP claims a VOC emission reduction of 6.92 TPD and a NO<sub>x</sub> reduction of 14.84 TPD from this measure.

Fully creditable reductions: 6.92 TPD VOC, and 14.84 TPD NO<sub>x</sub>.

#### Stage II Vapor Recovery

EPA approved Pennsylvania's Stage II vapor recovery regulation on December 13, 1995 (60 FR 63938). The federally approved Stage II regulation requires the use of vapor recovery nozzles at gas stations through a phased compliance schedule but the last group of stations (pumping less than 100,000 gallons of gasoline per month) were required to comply with this requirement by no later than February 8, 1994 in all moderate and above ozone nonattainment areas. PADEP claimed a 17.71 TPD VOC emission reduction from the implementation of this regulation.

Fully creditable reductions: 17.71 TPD VOC.

#### OTC NO<sub>x</sub> MOU (Phase II)

The 1990 Clean Air Act amendments created the northeast Ozone Transport Region (OTR) in recognition that ozone

is a regional problem that requires a regional planning approach. The OTR includes the States of Maine, New Hampshire, Massachusetts, Vermont, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Washington DC, and portions of northern Virginia. The Ozone Transport Commission (OTC) is a planning body composed of representatives of each of the OTR states. On September 27 1994, the OTC initiated a major agreement to cut emissions of NO<sub>x</sub> from power plants and other large stationary NO<sub>x</sub> sources. The agreement put forth was a Memorandum of Understanding (MOU) that committed states in the OTR to reduce NO<sub>x</sub> emissions in three phases. The first phase of NO<sub>x</sub> reductions outlined in the MOU was NO<sub>x</sub> RACT level of control. The second and third phases are more stringent than RACT. Pennsylvania was a signatory to the OTC NO<sub>x</sub> MOU, and has adopted and implemented Phase II controls.

Pennsylvania adopted its OTC NO<sub>x</sub> MOU rules, Title 25 Pennsylvania Code Chapters 121 and Chapter 123—Nitrogen Oxides Allowance Requirements, on September 16, 1997. The requirements became effective on November 1, 1997. PADEP submitted the rules to EPA as a SIP revision on December 29, 1997. On January 26, 1999, EPA proposed approval of PADEP's NO<sub>x</sub> MOU rule (64 FR 3906). The emission reductions claimed by Pennsylvania for this control measure are not fully approvable as creditable toward ROP requirements until EPA takes final action to fully approve Pennsylvania's NO<sub>x</sub> MOU regulation into the SIP. PADEP's claims a 27.37 TPD emission reduction from this measure.

Reductions: 27.37 TPD NO<sub>x</sub>.

(not fully approvable as creditable until EPA fully approves PADEP's NO<sub>x</sub> MOU rule)

#### RACT

PADEP claims a 10 TPD VOC emission reduction and a 6 TPD NO<sub>x</sub> emission reduction from RACT controls. In severe ozone nonattainment areas, the Act requires RACT controls on all VOC sources for which EPA has issued a control techniques guideline (CTG). RACT controls are also required on all

non-CTG sources of VOC and on NO<sub>x</sub> sources with the potential to emit (PTE) 25 tons per year (TPY) or greater. In the Philadelphia area, by definition, VOC and NO<sub>x</sub> sources with PTE 25 PTE or more are defined as "major sources." Compliance was required by May 31, 1995.

On February 4, 1994, PADEP submitted a revision to its SIP for the control of VOC and NO<sub>x</sub> emissions from major sources (Pennsylvania Chapters 129.91 through 129.95). This submittal was amended with a revision on May 3, 1994 correcting and clarifying the presumptive NO<sub>x</sub> RACT requirements under Chapter 129.93. The SIP revision consists of new regulations which require sources that have the PTE 25TPY or more of VOC (not already subject to RACT under a category specific SIP regulation developed pursuant to a CTG) or NO<sub>x</sub> in the Philadelphia area to comply with RACT by May 31, 1995. While the new regulations contain specific provisions requiring major non-CTG VOC and major NO<sub>x</sub> sources to implement RACT, the regulations do not contain specific emission limitations in the form of a specified overall percentage emission reduction requirement or other numerical emission standards. Instead, the regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO<sub>x</sub> sources. For other major NO<sub>x</sub> sources, and all subject major non-CTG VOC sources, the submittal contains a "generic" RACT provision. A generic RACT regulation is one that does not impose specific up-front emission limitations but instead allows for future case-by-case determinations. This regulation allows PADEP to make case-by-case RACT determinations that are then submitted to EPA as revisions to the Pennsylvania SIP. PADEP takes credit for emission reductions from source-specific controls on a number of VOC and NO<sub>x</sub> sources in the Philadelphia area.

The following table lists the specific sources that PADEP takes credit for in the Post-96 ROP plan, and the emission reductions claimed for each source. Note that the NO<sub>x</sub> sources listed are not covered by the OTC NO<sub>x</sub> MOU.

EMISSION REDUCTIONS CLAIMED FOR VOC AND NO<sub>x</sub>

Source	VOC Reductions Claimed (TPD)
Fasson—Division of Avery .....	6.54
PECO Energy—Cromby .....	0.03
ICI/NP .....	0.27
Norwood Industries .....	2.12

EMISSION REDUCTIONS CLAIMED FOR VOC AND NO<sub>x</sub>—Continued

Source	VOC Reductions Claimed (TPD)
Philadelphia Baking .....	0.12
Nabisco .....	0.33
Continental Baking .....	0.41
Total VOC Reduction Claimed .....	9.82
Source	NO <sub>x</sub> Reductions Claimed (TPD)
PECO Energy—Cromby .....	3.62
Transcontinental Gas Pipeline .....	0.01
Sun Refining & Marketing .....	1.99
Philadelphia Baking .....	0.01
Total NO <sub>x</sub> Reduction Claimed .....	5.63

On February 23, 1998, EPA granted conditional limited approval to PADEP's generic VOC and NO<sub>x</sub> RACT regulations. The conditions required to be met in order for EPA to convert its conditional limited approval to limited approval were that Pennsylvania submit all case-by-case RACTs to EPA as SIP revisions within one year of the effective date of EPA's final conditional approval (i.e. by April 22, 1999), and certify either (1) that there are no additional sources to which the RACT requirement is applicable, or (2) demonstrate that the emissions remaining from the sources subject to the RACT requirements are de minimis. On April 22, 1999, Pennsylvania submitted a demonstration to meet the conditions set forth in this notice. Once EPA approves all of PADEP's case-by-case RACT determinations as SIP revisions, EPA will convert its limited approval of Pennsylvania's generic RACT rule to a full approval.

The reductions from RACT are not fully approvable as creditable in the Post 96 ROP plan for the Philadelphia area until EPA approves as SIP revisions those specific case-by-case RACT determinations for which credit is claimed. While Pennsylvania has submitted all of the RACTs listed above, only one of these has been SIP approved. Because the RACT for ICI/NP is the only one approved into the SIP, it is the only source with a fully approvable creditable emission reduction, 0.27 TPD VOC. Emission reductions from the additional sources will become fully approvable as creditable when EPA approves the source-specific SIP revisions. Therefore, the remaining emission reductions that PADEP has claimed (9.82 minus the 0.27 from ICI/NP = 9.55 TPD VOC, and 5.63 TPD NO<sub>x</sub>) are not fully approvable

as creditable until EPA fully approves each source-specific SIP revision.

PADEP needs 3.42 TPD of the 6.54 TPD VOC emission reduction it claims from one source, Fasson (located in Bucks County) to meet the 1999 ROP target. The credits from the VOC and NO<sub>x</sub> RACT sources in PADEP's plan would provide a buffer to ensure that the ROP target is met.

Fully creditable reductions: 0.27 TPD VOC

Additional reductions: 9.55 TPD VOC and 5.63 TPD NO<sub>x</sub>

(Not fully approvable as creditable until EPA fully approves the case-by-case SIP revisions)

#### Autobody Refinishing Coatings

According to EPA's guidance and proposed national autobody refinishing rule, PADEP claimed a 37% reduction from this source category. PADEP used projected 1999 uncontrolled VOC emissions of 18.34 TPD to calculate a 6 TPD emission reduction.

This is a federally implemented control measure. EPA's final rule, "National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings," was published on September 11, 1998 (63 FR 48806). This rule will result in a 36% VOC reduction for areas such as Philadelphia that are currently unregulated for this source category.

EPA reviewed the area source emissions data and projections included in the plan, and determined that the 1999 projected uncontrolled VOC emissions for autobody refinish coatings is 17.176 TPD.

Fully creditable reductions: 36% × 17.176 = 6.18 TPD VOC

#### Consumer Products

PADEP claims a 20% reduction from this control measure, and states that the 1999 uncontrolled VOC emissions from this source category are 33 TPD. This is

a federally implemented control measure. The final rule "National Volatile Organic Compound Emission Standards for Consumer Products," (63 FR 48819), published on September 11, 1998, results in a 20% reduction. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data* and concluded that PA used the overall consumer & commercial products emission factor, 6.3 pounds per capita annually, to calculate the 1999 projected emissions for this source category. EPA's consumer products rule only covers a subset of that source category, and the proper emission factor is 3.9 pounds per capita annually, as specified in the June 22, 1995 memorandum from John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards, entitled "Regulatory Schedule for Consumer and Commercial Products under section 183(e) of the Clean Air Act." Therefore, PADEP overestimated the creditable emission reduction by a factor of 1.62 (6.3 ÷ 3.9 = 1.62).

The 1999 projected uncontrolled emission from the entire consumer products source category in the Philadelphia area is 33.205 TPD. Therefore, the 1999 uncontrolled emissions from the sources covered by the consumer products rule is 20.497 TPD (33.205 ÷ 1.62).

Fully creditable reductions: 20% × 20.497 = 4.10 TPD VOC

#### Architectural and Industrial Coatings

PADEP claims a 15% reduction from this measure, and states that the uncontrolled emissions from this category are approximately 40 TPD, and the resulting emission reduction is 7 TPD. This is a federally implemented control measure. EPA's final rule, "National Volatile Organic Compound

Emission Standards for Architectural Coatings," (63 FR 48848), published on September 11, 1998, results in a 20% reduction. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data*, to determine the 1999 projected uncontrolled VOC emissions for architectural coatings. Uncontrolled emissions from architectural surface coatings, high performance industrial coatings, and other special purpose coatings total 36.325.

Fully creditable reductions:  $20\% \times 36.325 = 7.27$  TPD VOC

Treatment, Storage, and Disposal Facilities (TSDFs)

In the plan, PADEP states that the federally-implemented Phase II TSDF standards require 93% control of emissions from this source category. PADEP states that, using an 80% rule effectiveness factor, emission reductions from this control measure equal about 10 TPD. This is a federally implemented

control measure. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data*, to determine the 1999 projected uncontrolled VOC emissions for TSDFs to be 12.689 TPD.

EPA promulgated Phase I of the TSDF national rule on June 21, 1990 (55 FR 25454). In a May 6, 1993 policy memo, "Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures," from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch and Susan Wyatt, Chief, Chemicals and Petroleum Branch, to Air Branch Chiefs, Regions I-X, EPA specified that the maximum reduction limit that states could claim for Phase II of the national TSDF regulation is 93% of total TSDF emissions. The Phase II TSDF rule was published in the **Federal Register** on December 6, 1994 (59 FR 62896) and subsequently amended on February 9, 1996 (61 FR 4903) and November 25, 1996 (61 FR 59932). Final compliance with the Phase II

requirements is required by no later than December 8, 1997. Using an 80% rule effectiveness factor, creditable emission reductions from this control measure equal 9.44 TPD.

Fully creditable reductions:  $93\% \times 80\% \times 12.698 = 9.44$  TPD VOC.

#### *D. EPA Evaluation of Rate of Progress Plan*

EPA's review of this Pennsylvania submittal indicates that the Commonwealth has adopted, submitted and implemented adequate measures to achieve the Act's required 9 percent reduction in ozone precursor emissions between 1996 and 1999 and offset VOC growth with VOC reductions in that same period. As shown in the table below, the emission reductions from the measures in PADEP's Post-96 plan will meet the 9% requirement. When all measures are fully SIP approved, they will result in fully creditable emission reductions of 9% for NO<sub>x</sub> and 0% for VOC.

EMISSION REDUCTIONS IN THE PHILADELPHIA POST-96 ROP PLAN (TPD)

Control Measures	VOC		NO <sub>x</sub>	
	Fully creditable	Not yet creditable*	Fully creditable	Not yet creditable*
RFG .....	22.41	.....	0.43	.....
Enhanced I/M .....	59.28	.....	32.29	.....
FMVCP/Tier 1 .....	6.92	.....	14.84	.....
Stage II .....	17.71	.....	.....	.....
NO <sub>x</sub> MOU .....	.....	.....	.....	27.37
RACT & Source-Specific VOC Controls .....	0.27	9.55	.....	5.63
AIM .....	7.27	.....	.....	.....
Autobody Refinishing .....	6.18	.....	.....	.....
Consumer Products .....	4.10	.....	.....	.....
TSDF Controls .....	9.44	.....	.....	.....
Subtotals .....	133.58	9.55	47.56	33.00
Total Reductions .....	143.13		80.56	
Required Reductions .....	137		73	

\* These emission reductions will not be fully approvable as creditable until EPA fully approves the related control measures into the Pennsylvania SIP.

EPA cannot propose full approval of the plan until all underlying measures from which emission reductions are credited are fully approved into Pennsylvania's SIP. Therefore, EPA cannot fully approve the Post 96 ROP plan until the OTC NO<sub>x</sub> MOU rule and the source specific SIP revision for Fasson in Bucks County are fully approved. EPA is proposing limited approval of the Post-1996 ROP plan for the Pennsylvania portion of the Philadelphia area on the basis that it strengthens the SIP. The limited approval would remain until EPA fully approves the NO<sub>x</sub> MOU rule, and the source-specific SIP revision for Fasson needed to meet the target.

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

#### **Proposed Action**

EPA is proposing limited approval of the Post-96 ROP plan for the Pennsylvania portion of the Philadelphia severe ozone nonattainment area, submitted by the

Commonwealth of Pennsylvania on July 31, 1998.

#### **Administrative Requirements**

##### *A. Executive Orders 12866*

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

##### *B. Executive Order 12875*

Under E.O. 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. If EPA complies by consulting, E.O. 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 written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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 E.O. 12875 do not apply to this rule.

#### *C. Executive Order 13045*

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

#### *D. Executive Order 13084*

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 complies by consulting, E.O. 13084 requires EPA to

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 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 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 sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### *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 this proposed approval action, proposing limited approval of Pennsylvania's July 31, 1998 Post-96 ROP plan for its portion of the Philadelphia severe ozone nonattainment area, 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, Nitrogen dioxide, Ozone.

Dated: August 12, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

[FR Doc. 99-22047 Filed 8-24-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[CO-001-0032b; FRL-6410-8]

### Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of a Related Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing approval of the Colorado Springs carbon monoxide redesignation request, maintenance plan, and revisions to Colorado's Regulation No. 13 "Oxygenated Fuels Program". The redesignation request and maintenance plan were submitted by the Governor on August 19, 1998. The revisions to Regulation No. 13 were submitted by the Governor on October