ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6841–6]

Motor Vehicle Emissions Budgets in Attainment Demonstrations for the One-Hour National Ambient Air Quality Standard for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rule.

SUMMARY: On December 16, 1999, we (EPA) proposed to approve or conditionally approve and disapprove in the alternative attainment demonstration State implementation plans (SIPs) for ten areas in the eastern United States (64 FR 70317). In today's supplemental notice, we are clarifying and expanding on two issues relating to the motor vehicle emissions budgets in these SIPs. In addition, we are reopening the comment period to take comment on these two issues and to allow comment on any additional materials that were placed in the dockets for the proposed actions close to or after the initial comment period closed on February 14, 2000.

First, we are proposing to clarify what occurs if we finalize conditional or full approval of any of these SIPs based on a State commitment to revise the SIP's motor vehicle emissions budgets in the future. If this occurs, the motor vehicle emissions budgets in the approved SIP will apply for transportation conformity purposes only until the budgets are revised consistent with the commitment and we have found the new budgets adequate. Once we have found the newly revised budgets adequate, then they would apply instead of the previous conditionally or fully approved budgets.

Second, we are proposing that States may opt to commit to revise their emissions budgets 1 year after the release of MOBILE6, as originally proposed on December 16, 1999. Or, States may commit to a new option, *i.e.*, to revise their budgets 2 years following the release of MOBILE6, provided that conformity is not determined without adequate MOBILE6 SIP budgets during the second year.

DATES: Comments must be received on or before August 28, 2000.

ADDRESSES: Written comments on this action should be addressed to the EPA regional offices responsible for the areas addressed by the SIPs we are reopening. Contact names and addresses for these regional offices are included below in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: General questions concerning sections of this document that relate to motor vehicles emissions budgets should be directed to Kathryn Sargeant, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, Michigan 48105, *sargeant.kathryn@epa.gov.* (734) 214–4441.

Comments or questions on our proposed changes to the applicability of budgets in specific areas or on the new information received on area-specific SIPs should be addressed to the appropriate EPA Regional Office representative listed below in **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION: Public dockets for the ten areas addressed by today's action have been established in EPA's Regional Offices. Addresses for these dockets and additional contact information are listed below:

Region I—(1) Greater Connecticut Ozone Nonattainment Area; and (2) The Connecticut Portion of the New York-Northern New Jersey-Long Island Ozone Nonattainment Area

Written comments (in duplicate if possible) on either the Greater CT or the CT portion of the NY-northern NJ ozone nonattainment areas should be sent to: David B. Conroy, EPA Region 1 (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours (9:00 A.M. to 4:00 P.M.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts 02114–2023, telephone (617) 918–1664, and at the Bureau of Air Management, Connecticut Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–5127. Please telephone in advance before visiting.

For general information contact: Jeff Butensky, (617) 918–1665.

Region I—Western Massachusetts—The Springfield (Western Massachusetts) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to: David B. Conroy at the EPA Region I (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours (9:00 A.M. to 4:00 P.M.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts 02114–2023, telephone (617) 918–1664, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, Massachusetts 02108. Please telephone in advance before visiting.

For general information contact: Jeff Butensky (617) 918–1665.

Region II—New York-Northern New Jersey-Long Island (NY–NJ–CT); The New Jersey portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittals and EPA's technical support document are available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866 and at the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

For general information contact: Paul Truchan (212) 637–4249 or Kirk Wieber (212) 637–3381.

Region III—Baltimore (MD) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to David L. Arnold, Chief, Ozone & 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

For general information contact: Cristina Fernandez, (215) 814–2178. Or by e-mail at *fernandez.cristina@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Delaware portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to David L. Arnold, Chief, Ozone & 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 Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19901.

For general information contact: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Maryland Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to David L. Arnold, Chief, Ozone & 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

For general information contact: Cristina Fernandez, (215) 814—2178. Or by e-mail at *fernandez.cristina@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to: David L. Arnold, Chief, Ozone & 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 general information contact: Christopher Cripps, (215) 814–2179. Or by e-mail at cripps.christopher@epa.gov.

Region III—Metropolitan Washington (DC–MD–VA) Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to David L. Arnold, Chief, Ozone & 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 District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

For general information contact: Christopher Cripps, (215) 814–2179, at the EPA Region III address above, or by e-mail at cripps.christopher@epa.gov.

Region IV—Atlanta (GA) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to: Scott M. Martin, U.S. Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; and the Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

For general information contact: Scott Martin at (404) 562–9036.

Region V—Chicago-Gary-Lake County (IL; IN); Illinois and Indiana Portions of the Chicago-Gary-Lake County Ozone Nonattainment Area

Written comments (in duplicate if possible) on either the Illinois or Indiana portions should be mailed to: Jay Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Mark Palermo at (312) 886–6082 before visiting the Region 5 Office.)

For general information contact: Edward Doty, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6057, e-mail address doty.edward@epamail.epa.gov.

Region V—Milwaukee-Racine (WI) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Michael G. Leslie at (312) 353–6680 before visiting the Region 5 Office.)

For general information contact: Michael G. Leslie, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6680.

Region VI—Houston-Galveston-Brazoria (TX) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental

Protection Agency, telephone: (214) 665–7214.

Copies of the documents relevant to this action, including the technical support document, are available for public inspection during normal business hours at the following addresses: Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7214; and the Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 2 working days in advance.

For general information contact: Mr. Guy R. Donaldson, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7242.

The contents of this preamble are listed in the following outline:

I. Background Information
A. What Did We Propose On December 16, 1999?
B. What Is Transportation Conformity?
C. What Are Motor Vehicle Emissions Budgets?
D. Which Motor Vehicle Emissions Budgets Usually Apply?
II. What Is EPA Proposing Today?
A. Clarification of the Applicability of Revised Budgets
B. Additional Option for Timing of Budget Revision Following MOBILE6
C. Reopening of the Comment Period
III. Administrative Requirements

I. Background Information

A. What Did We Propose on December 16, 1999?

We proposed to conditionally or fully approve, and in the alternative to disapprove, ozone attainment demonstration (SIPs) for ten areas. The ten areas are described below. Our proposals, all of which were published on December 16, 1999, contain a full explanation of the background and proposed actions for the following areas: Atlanta, 64 FR 70478; Houston-Galveston, 64 FR 70548; Metropolitan Washington, DC, 64 FR 70460; Milwaukee-Racine, 64 FR 70531; Springfield, 64 FR 70319; Greater Connecticut, 64 FR 70332; Baltimore, 64 FR 70397; Chicago-Gary-Lake County, 64 FR 70514 and 64 FR 70496; Philadelphia-Wilmington-Trenton, 64 FR 70412, 64 FR 70428, 64 FR 70444 and 64 FR 70380; and New York-Northern New Jersey-Long Island, 64 FR 70380, 64 FR 70348, 64 FR 70364. For more detail, see the December proposals as cited above.

In order to conditionally or fully approve the attainment demonstration SIPs, we proposed that several areas needed to commit to adopt additional control measures to achieve the level of emissions reductions that we identified as necessary to attain the 1-hour ozone standard. We also proposed that these areas must commit to recalculate and submit revised motor vehicle emissions budgets that include the effects of the measures that are ultimately adopted, if those measures pertain to motor vehicles. We explain the term ''motor vehicle emissions budget'' in item C below.

In addition, we proposed that where a SIP includes the benefits of EPA's Tier 2/Sulfur program, the State must commit to revise the SIP's motor vehicle emissions budgets within 1 year after we release the MOBILE6 model. This commitment would be necessary in order for us to approve the SIP.

Our December 16, 1999 proposals also addressed many other issues that are not directly relevant to today's supplemental proposal. We direct the reader to the December proposals for more details.

B. What Is Transportation Conformity?

Transportation conformity is a Clean Air Act (CAA) requirement for metropolitan planning organizations and the U.S. Department of Transportation to ensure that federally supported highway and transit activities are consistent with (''conform to'') the SIP. Conformity to a SIP means that an action will not cause or contribute to new violations; worsen existing violations; or delay timely attainment.

The conformity requirements are established by CAA section 176(c). We issued the transportation conformity rule (40 CFR part 93) to implement this CAA requirement.

C. What Are Motor Vehicle Emissions Budgets?

As described in CAA section 176(c)(2)(A), attainment demonstrations necessarily include estimates of motor vehicle emissions to help areas reach attainment. These estimates act as a budget or ceiling for emissions from motor vehicles, and are used in conformity to determine whether transportation plans and projects conform to the attainment SIP. In order for transportation plans and projects to conform, estimated emissions from transportation plans and projects must not exceed the emission budgets contained in the attainment demonstration.

D. Which Motor Vehicle Emissions Budgets Usually Apply?

According to the transportation conformity rule, motor vehicle emissions budgets (''budgets'') in a submitted SIP apply for conformity purposes even before we have approved the SIP, under certain circumstances. First, there must not be any other approved SIP budgets that have been established for the same timeframe and with respect to the same CAA requirements. For example, if there is already an approved attainment demonstration SIP that establishes budgets for the attainment date, and the State submits a revision to those budgets, the newly submitted budgets do not apply for conformity purposes until we have approved them into the SIP.

Second, submitted SIP budgets cannot be used before we have approved the SIP unless we have found that the submitted SIP budgets are adequate for conformity purposes. Our process for determining adequacy is explained at 40 CFR 93.118(e) and EPA's May 14, 1999 memo entitled, ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.''

For more details about the applicability of submitted and approved budgets, see 61 FR 36117 (July 9, 1996) and 62 FR 43783 (August 15, 1997).

II. What Is EPA Proposing Today?

Today, we are proposing to supplement and clarify our December 16, 1999 proposals to conditionally or fully approve (and disapprove in the alternative) the attainment demonstration SIPs for ten areas. As discussed below, our supplemental notice addresses two issues specifically pertaining to the motor vehicle emissions budgets in these SIPs.

In addition, we are reopening the comment period so the public may comment on these two issues and may consider and comment on any additional materials that have been placed in the docket for each of these proposed rules close to or after the February 14, 2000 date of the initial comment period. We are also reopening the comment period for all issues with respect to the Pennsylvania portion of the Philadelphia-Wilmington-Trenton nonattainment area based on requests received from the State of Pennsylvania and other interested parties during the initial comment period.

A. Clarification of the Applicability of Revised Budgets

1. How Are We Proposing to Clarify the Applicability of Revised Budgets?

In today's notice, we are proposing to clarify what occurs if we finalize approval or conditional approval of any of the December 16, 1999 SIPs based on a State commitment to revise the budgets in the future. If this occurs, the approved SIP budgets will apply for conformity purposes only until the revised budgets have been submitted and we have found the submitted budgets to be adequate for conformity purposes.

In other words, when the State submits revised budgets as they have committed, those revised budgets will apply for conformity purposes as soon as we have found those budgets to be adequate for conformity purposes and our adequacy finding is effective. The revised budgets would then replace the budgets in the approved (or conditionally approved) attainment demonstration SIP, provided that (as we expect) the revised budgets are submitted as a revision to part of the attainment demonstration SIP and are established for the same year as those in the approved SIP.

2. Why Are We Proposing to Clarify the Applicability of Revised Budgets?

In December 1999, we proposed that we would not approve the attainment demonstration SIPs from certain areas unless the States commit to revise the SIPs' budgets in the future. As described in section I.A. of this preamble, emissions budgets must be revised to reflect the effects of additional control measures that a State has committed to adopt. The budgets must also be revised within 1 year after we release MOBILE6, if the budget that is approved reflects the benefits of our Tier 2/Sulfur regulation.

Since we are proposing to approve budgets only because the States have committed to revise them, we want our approval of the budgets to last only until adequate revised budgets are submitted pursuant to the commitments. We believe the revised budgets should apply as soon as we find them adequate; we do not believe it is appropriate to wait until we have approved the revised attainment demonstration SIP. This is because we know now that once we have confirmed that the revised budgets are adequate, they will be more appropriate than the originally approved budgets for conformity purposes.

Specifically, once an area has adopted additional measures that affect motor vehicle emissions, an appropriate motor vehicle emissions budget must reflect those measures. Otherwise, the budget would not be the level of motor vehicle emissions that is consistent with the attainment demonstration; it would be inappropriately large.

In addition, we know now that we cannot accurately estimate the benefits of the Tier 2 program until we release the MOBILE6 model. We are proposing to approve budgets based on interim approximations of Tier 2 benefits only because the States are committing to recalculate the budgets using MOBILE6 in a timely fashion.

If we do not clarify our proposed approval of the budgets, States will revise their budgets as they have committed, but they will not be able to start using them quickly for conformity purposes. This would defeat the purpose of our original requirement for the budgets to be revised quickly. In contrast, according to today's proposal, the revised budgets could be used for conformity after we have completed our adequacy review process, which we have committed to complete within 90 days after revisions are submitted, provided they are adequate.

This supplemental notice does not propose any change to the existing transportation conformity rule or to the way it is normally implemented with respect to other submitted and approved SIPs, which do not contain commitments to revise the budgets.

3. How Does the 18-Month Clock Apply With Respect to These Budget Revisions?

Section 93.104(e)(2) of the conformity rule requires conformity of the transportation plan and transportation improvement program (TIP) to be redetermined within 18 months following the date of a State's initial submission of each SIP establishing a budget.

As described at 60 FR 44792 (August 29, 1995), the first submission of a given type of SIP that establishes a budget (*e.g.,* an ozone attainment demonstration) starts the 18-month clock for redetermining conformity. However, the 18-month clock is unaffected by subsequent changes to that submitted SIP.

Therefore, the revisions to the attainment demonstration SIPs to reflect additional measures or MOBILE6 will not start a new 18-month clock. Of course, whenever conformity is eventually determined in accordance with the 18-month clock, the demonstration must use whatever budgets are applicable at that time. If an initial submission starts the 18-month clock but then is changed and the revised budgets are found adequate, any subsequent conformity determination must use the new, adequate budgets.

Section 93.104(e)(3) also requires conformity of the transportation plan and TIP to be redetermined 18 months following our approval of a SIP that establishes or revises a budget. If we conditionally approve an ozone attainment demonstration, an 18-month clock will be started on the effective date of our conditional approval. A subsequent conversion of the conditional approval to full approval will not start another 18-month clock, unless the budgets we are approving have changed since the conditional approval.

B. Additional Option for Timing of Budget Revision Following MOBILE6

1. What Is the Additional Option?

In our December 16, 1999 proposal to approve and/or disapprove SIPs for ten urban areas, we stated that if a SIP relied on Tier 2 benefits to demonstrate attainment, States would need to commit to revise their motor vehicle emissions budgets within 1 year after we release MOBILE6, in order for us to approve the SIP.

We proposed that States recalculate their budgets using MOBILE6 because the emission reduction benefits of Tier 2 cannot be properly estimated until MOBILE6 is released. The estimates of Tier 2 benefits that are currently in submitted SIPs are interim approximations.

In this supplemental notice we are proposing that the affected States may have a 1-year extension of time to revise their emissions budgets, under certain circumstances. Specifically, a State may commit to revise its SIP's budgets within 2 years after MOBILE6 is released, if the State also commits that conformity will not be determined during the additional year unless there are adequate SIP budgets in place that were developed using MOBILE6 [1]. As part of this commitment, we also are proposing that States inform affected metropolitan planning organizations and their State transportation departments of this requirement.

States may opt to commit to revise their emissions budgets 1 year after the release of MOBILE6, as originally proposed on December 16, 1999. Or, States may commit to the new option, *i.e.,* to revise their budgets 2 years

[1] This concept was discussed in a letter dated March 6, 2000 from John S. Seitz, Director, Office of Air Quality Planning and Standards to Ralph Marquez, Commissioner, Texas Natural Resources Conservation Commission.

following the release of MOBILE6, provided that conformity is not determined without adequate MOBILE6 SIP budgets during the second year. Any SIPs that rely on Tier 2 benefits must be accompanied by one of these two types of commitments in order for us to find the budgets adequate for conformity purposes, and in order for us to finalize approval of the SIP. The commitment must be subject to a public hearing and fully enforceable as part of the SIP before we can finalize approval of the SIP.

2. How Is ''Release of MOBILE6'' Defined?

We will publish a notice of availability in the **Federal Register** that announces the formal release of MOBILE6. The date of publication of that **Federal Register** notice will constitute ''release of MOBILE6'' for the purposes of the commitments discussed in this supplemental proposal.

3. Why Are We Proposing This Additional Option?

We are proposing to provide States with this additional option in response to a comment on the December 16, 1999 proposal. That comment indicated that in some areas, allowing more than 1 year to revise and adopt a new motor vehicle emissions budget based on the MOBILE6 model would better suit an area's schedule for SIP revisions and updates.

We believe that allowing areas an additional year to revise their budgets using MOBILE6 will not cause any environmental harm as long as during that time there are no new conformity determinations that rely on the older MOBILE5 budgets.

C. Reopening of the Public Comment Period

The EPA is reopening the comment period for 30 days to take comment on the proposed approach, discussed above. In addition, we are reopening the comment period for all ten areas to address additional information that has been placed in the docket close to or since the initial comment period concluded on February 14, 2000. In general, these materials consist of motor vehicle emissions budgets, and revised or additional commitments or reaffirmations submitted by the States. Interested persons should contact the appropriate regional contact listed in the **SUPPLEMENTARY INFORMATION** section with any questions regarding whether new information has been placed in the docket for a specific proposed action.

In addition, based on requests received during the initial comment period, EPA is reopening the comment period for 30 days with respect to all issues concerning the Pennsylvania portion of the Philadelphia-Wilmington-Trenton area.

We are not, however, reopening the separate comment period on the adequacy of motor vehicle emissions budgets, which was started by notification on our adequacy website. Notably, comments on the adequacy of motor vehicle emissions budgets are accepted through a distinct, administrative process established by our conformity regulations, known as adequacy review. That process was not started for any area covered by today's notice until all materials relevant to the budgets had been submitted.

III. Administrative Requirements

A. Executive Order 12866

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

B. 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 Executive Order 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.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, 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 proposed 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 Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the 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 13132, because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The 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 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 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 create any new requirements, I certify 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on a State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new requirements. Therefore, I certify that such a proposed disapproval action will not have a significant economic impact on a substantial number of small entities because it would not remove existing requirements nor would it substitute a new Federal requirement.

The EPA's alternative proposed disapproval of the State request under section 110 and subchapter I, part D of the CAA would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates Reform Act

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

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve 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 proposed action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the CAA does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed disapproval because it would affect only the State governments, which are not small governments.

G. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the National Technology Transfer and Advancement Act of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to the regulatory actions in this supplemental notice. Today's actions do not require the public to perform activities conducive to the use of VCS.

H. Paperwork Reduction Act

This supplemental notice of proposed rule does not impose any new information collection requirements from EPA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 20, 2000.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 00–19122 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–U