

Environment for 1996 and 1999. The comments further assert that EPA and the States have not followed a consistent practice in updating SIP modeling to account for changes in vehicle fleets. The comments also assert that EPA cannot rationally approve SIPs that are based on such materially inaccurate assumptions; that continued use of out-dated assumptions is inconsistent with the duty imposed by Clean Air Act section 182(a)(3) to triennially update the emission inventory; and that if the motor vehicle inventory has not been updated to prepare the current SIP submission, it should be disapproved.

Response: All of the SIPs on which we are taking final action are based on the most recent vehicle registration data available at the time the SIP was prepared. The SIPs use the same vehicle fleet characteristics that were used in the most recent periodic inventory update at the time the SIP was prepared. The Metropolitan Washington, DC Ozone Nonattainment Area SIP is based on vehicle registration data from 1996, which was the most recently available data at the time the SIP was prepared and submitted. Clearly the 1999 data could not have been used in motor vehicle emissions projections prepared in the fall of 1998 as documented in Appendix D of the SIP. EPA requires the most recent available data to be used, but we do not require it to be updated on a specific schedule. Therefore, different SIPs base their fleet mix on different years of data. Our guidance does not suggest that SIPs should be disapproved on this basis. Further, EPA does not require states to go back and re-analyze SIP submissions if new data becomes available shortly before EPA takes final action on the SIP. Nevertheless, we do expect that revisions to these SIPs that will be submitted using MOBILE6 (as required in those cases where the SIP is relying on emissions reductions from the Tier 2 standards) will use updated vehicle registration data appropriate for use with MOBILE6, whether it is updated local data or the updated national default data that will be part of MOBILE6. EPA is requiring the Washington area States to revise the attainment budgets using MOBILE6 pursuant to the commitments for conditional approval submitted by the States. The revised budgets must include the most recently available fleet information at the time the budgets are revised.

In addition, we incorporate by reference our responses to comments on these issues found in section II.H (see 66 FR at 614) and in response 20 of section

X. (see 66 FR at 630) of our final rule published January 3, 2001.

3. Credit for National Measures

Comment 1: We received comments stating that states should not be given credit for measures that are not fully implemented. For example, the States are being given full credit for Federal coating, refinishing and consumer product rules that have allegedly been delayed or weakened.

Response 1: On September 11, 1998, EPA promulgated three major regulations to reduce VOC emissions from covering three major categories of consumer and commercial products. The first rule covers 61 categories of architectural and industrial maintenance (AIM) coatings. The second rule covers 24 consumer product categories such as air fresheners, automotive windshield washer fluid, "household" adhesives, cleaners and polishes, hair care products, cleanser, underarm aerosol antiperspirants, insecticides and charcoal lighting fluids. The third rule covers seven categories of automobile refinishing (autobody refinishing) coatings and coating components; automobile refinishing is the process of coating automobiles or parts thereof, including partial body collision repairs, that is subsequent to the original coating applied at an automobile original equipment manufacturing plant.

Architectural and Industrial Maintenance (AIM) Coatings

On March 22, 1995 EPA issued a memorandum³⁰ that provided that states could claim a 20 percent reduction in VOC emissions from the AIM coatings category in ROP and attainment plans based on the anticipated promulgation of a national AIM coatings rule. In developing the attainment and ROP SIPs for their nonattainment areas, states relied on this memorandum to estimate emission reductions from the anticipated national AIM rule. EPA promulgated the final AIM rule in September 1998, codified at 40 CFR part 59, subpart D. In the preamble to EPA's final AIM coatings regulation, EPA estimated that the regulation will result in a 20 percent reduction of nationwide VOC emissions from AIM coatings categories (63 FR 48855, September 11, 1998). The estimated VOC reductions from the final AIM rule resulted in the same level as

those estimated in the March 1995 EPA policy memorandum. In accordance with EPA's final regulation, States have correctly assumed a 20 percent reduction from AIM coatings source categories in its attainment and ROP plans. The basis for the 20 percent reductions achieved by the final rule is documented in the rulemaking docket for the AIM coatings final rule in a memorandum "VOC Emissions Reductions from the Final National Architectural Coatings Rule" from Chris Sarsony, ERG, to Linda Herring, U.S. EPA, dated July 27, 1998 (docket A-92-18, item number IV-B-2).

In accordance with EPA's final regulation, the States have assumed a 20 percent reduction from AIM coatings source categories in their attainment and ROP plans. AIM coatings manufacturers were required to be in compliance with the final regulation within one year of promulgation, except for certain pesticide formulations which were given an additional year to comply. Thus all manufacturers were required to comply, at the latest, by September 2000. Industry confirmed in comments on the proposed AIM rule that 12 months between the issuance of the final rule and the compliance deadline would be sufficient to "use up existing label stock" and "adjust inventories" to conform to the rule (63 FR 48848, September 11, 1998). In addition, EPA determined that, after the compliance date, the volume of nonconforming products would be very low (less than one percent) and would be withdrawn from retail shelves anyway. Therefore, EPA believes that compliant coatings were in use by the Fall of 1999 with full reductions to be achieved by September 2000 and that it was appropriate for the States to take credit for a 20 percent emission reduction in their SIPs.

Autobody Refinish Coatings Rule

Consistent with a November 27, 1994 EPA policy,³¹ many states claimed a 37 percent reduction from this source category based on a proposed rule. However, EPA's final rule, "National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings," published on September 11, 1998 (63 FR 48806), did not regulate lacquer topcoats and will result in a smaller emission reduction of around 33 percent overall nationwide. The 37 percent emission reduction from EPA's

³⁰ "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rules," March 22, 1995, from John S. Seitz, Director, Office of Air Quality Planning and Standards to Air Division Directors, Regions I-X.

³¹ "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," November 29, 1994, John S. Seitz, Director OAQPS, to Air Division Directors, Regions I-X.