ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 039–3012; FRL–5869–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; 15 Percent Rate-of-Progress Plan for the Baltimore Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing conditional approval of the State Implementation Plan (SIP) revision submitted by the State of Maryland for the Baltimore severe ozone nonattainment area to meet the 15 percent rate-of-progress (ROP) requirements (also known as the 15% plan) of the Clean Air Act (the Act). EPA is proposing conditional approval because the 15% plan, submitted by the State of Maryland, will result in significant emission reductions from the 1990 baseline emissions of volatile organic compounds (VOCs) which contribute to the formation of ground level ozone and, thus, will improve air quality. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments on this proposed action must be postmarked by September 4, 1997.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone/Carbon Monoxide, and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Donahue, Ozone/Carbon Monoxide, and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, or by telephone at (215) 566–2095. Questions may also be addressed via email at donahue.carolyn@epamail.epa.gov. Please note that only written comments can be accepted for inclusion in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Act, as amended in 1990, requires ozone nonattainment areas classified as moderate or above to develop plans to reduce VOC emissions by 15% from 1990 baseline levels in the area while accounting for growth from 1990 to 1996. VOCs emitted during the summer months contribute to the formation of ground level ozone.

The Baltimore area is classified as a severe ozone nonattainment area and is subject to the 15% requirement. The Baltimore ozone nonattainment area consists of the Counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, and the City of Baltimore. These areas are subject to Maryland's 15% plan.

The Act sets limitations on the creditability of certain control measures towards reasonable further progress. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g., new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure (RVP)) of gasoline. Furthermore, the Act does not allow credit towards reasonable further progress (RFP) for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were required to be in-place prior to 1990. In addition to these restrictions, a creditable measure must be either in the approved SIP, result from a national rule promulgated by EPA or be contained in a permit issued under Title V of the Act. Any measure must result in real, permanent, quantifiable, and enforceable emission reductions to be creditable toward the 15% goal.

In Maryland, three nonattainment areas are subject to the 15% ROP requirements of the Act. These are Cecil County (part of the Philadelphia-Wilmington-Trenton severe nonattainment area), the Baltimore nonattainment area, and the Maryland portion of the Metropolitan Washington, DC serious nonattainment area. EPA is taking action today only on the Baltimore nonattainment area. Cecil County and the Maryland portion of the Metropolitan Washington, DC nonattainment area are the subjects of separate rulemaking notices.

On April 16, 1997 and May 13, 1997, Maryland submitted draft revised 15% plans for the Baltimore area. Maryland scheduled a public hearing on the proposed revisions to its plan on August 13, 1997. EPA is taking action today on Maryland's July 12, 1995 submittal of its 15% plan with the knowledge that Maryland will be making a formal SIP revision revising that 15% plan.

EPA has reviewed Maryland's July 12, 1995 15% plan submittal and has identified several deficiencies, which prohibit its full approval. A detailed discussion of these deficiencies is included below, in the ANALYSIS portion of this rulemaking action, and also in the Technical Support Document (TSD) prepared by EPA for this action. Copies of the TSD are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice. Due to these deficiencies, it cannot be affirmatively determined that the State's plan achieves the 15% ROP target for reductions in VOCs. Therefore, EPA is proposing conditional approval of this 15% plan.

II. Analysis of the SIP Revision

A. Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15% planning is the 1990 VOC base year emissions inventory. The inventory is broken down into several emissions source categories: Stationary, area, on-road mobile, and off-road mobile. Maryland submitted formal SIP revisions containing the 1990 VOC base year inventory for the Baltimore nonattainment area on July 12, 1995. EPA approved Maryland's 1990 base year inventory submittals on September 27, 1996 (61 FR 50715).

In the Baltimore 15% plan, Maryland submitted a 1990 mobile source base year inventory of 134.2 tons VOC per day (TPD). However, the EPA approved 1990 mobile source base year inventory for the Baltimore nonattainment area is 131.5 TPD. The 1990 mobile source inventory of 134.2 TPD, and the resulting 1990 ROP base year inventory of 346.8 TPD, are used throughout this action; however, as a condition of this rulemaking, Maryland must revise their 15% plan calculations to reflect the approved base year inventory for the Baltimore nonattainment area.

B. Growth in Emissions Between 1990 and 1996

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

Maryland's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the State, please refer to the TSD for this action.

To estimate growth for point, area, and non-road mobile sources, Maryland used acceptable growth factor surrogates such as population, employment and vehicle miles traveled (VMT). The travel demand computer model, MOBILE5a, was used to project growth for on-road sources. The State's methodology for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate growth in emissions in point, area, on-road mobile, and off-road mobile sources from 1990 to 1996 is approvable.

C. Calculation of Target Level Emissions

EPA has interpreted section 182(b) of the Act to require that the base year VOC emission inventory be adjusted to account for reductions that would occur from the pre-1990 FMVCP and RVP programs. First, the State calculated the non-creditable reductions from the pre-1990 FMVCP and RVP programs and subtracted those emissions from the 1990 ROP inventory. This yields the 1990 ''adjusted base year inventory.'' The target level is the 1990 ROP inventory less the sum of the following:

1. 15% of the adjusted base year inventory,

2. The sum of the non-creditable reductions from the pre-1990 FMVCP and RVP programs,

3. And reductions resulting from post-1990 correctons to existing motor vehicle inspection and maintenance (I/M) programs or corrections to RACT rules.

There were no post 1990 emission reductions attributed to RACT corrections or I/M corrections in the Baltimore nonattainment area, and the 15% plan correctly claimed zero reductions in the target level calculation. The table below summarizes the calculations for the 1996 VOC target level for the entire Baltimore ozone nonattainment area.

CALCULATION OF REQUIRED REDUCTIONS FOR THE BALTIMORE NONATTAINMENT AREA 15% PLAN (TONS PER DAY)

1	1990 ROP Inventory	346.8
2	1990 Adjusted Base Year Inventory	307.1
3	FMVCP/RVP Adjustment (Line 1 less line 2)	39.7
4	15% Reduction Requirement = 15% of Adjusted Base Year (.15 x Line 2)	46.1
5	RACT Corrections and I/M Corrections	0.0
6	Total 15% & Non-creditable Reductions (Sum of lines 3, 4, and 5)	85.8
7	Projected Growth 1990 to 1996	27.2
8	Required Emission Reductions (15% plus growth—line 4 plus line 7)	73.3
9	Total Reductions Claimed in 15% Plan	76.8
10	Target Level (line 1 less line 6)	261.0

The emission reduction required to meet the 15% ROP requirement equals the sum of 15% of the adjusted base year inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996, plus reductions that resulted from corrections to the I/M or VOC RACT rules that were required to be in place before 1990. The target level, line 10 of the table, is the 1990 ROP inventory less the base 15% reduction (line 4 of the table) and less all non-creditable emission reductions (lines 3 and 5 of the table). EPA believes that the target level of 261.0 TPD has been properly calculated in accordance with EPA guidance.

D. Control Strategies in the 15% Plan

The specific measures adopted (either through state or federal rules) for the Baltimore nonattainment area are addressed, in detail, in the State's 15% plan. The following is a brief description of each control measure Maryland has claimed credit for in the submitted 15% plan, as well as the results of EPA's review of the use of that strategy towards the Act's 15% ROP requirement.

Reformulated Gasoline (RFG)

Section 211(k) of the Act requires that, beginning January 1, 1995, only RFG be sold or dispensed in ozone nonattainment areas classified as severe or above. Thus, RFG is required in the Baltimore nonattainment area. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. The State claims a reduction of 12.4 TPD from its 1996 projected uncontrolled on-road mobile source emissions, accounting for vehicular and refueling benefits, using the MOBILE5a model to determine the emission benefit. EPA has reviewed the Maryland submittal's calculation of the benefits for this measure and finds that the amount of reduction Maryland claims is creditable, but has not been documented as required by the Act.

In order to address these documentation and modeling issues, as well as the requirements of the National Highway Systems Designation Act (NHSDA), EPA is requiring Maryland to recalculate the mobile source credits for enhanced I/M program, RFG and FMVCP (Tier I). The use of RFG will also result in reduced emissions from off-road engines such as motors for recreational boats and lawn mower engines, commonly used in summer months. The benefits from RFG and Tier I must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures must be included in the 1999 target level calculation run. This remodeling assessment will therefore remove any

potential for ''double-counting'' the credit accorded to individual mobile source measures. While EPA will require Maryland to document and remodel the credits derived from RFG under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 12.4 TPD emission benefit claimed in Maryland's 15% plan from the RFG program is creditable.

Off-Road Use of Reformulated Gasoline

Maryland claims a reduction of 1.4 TPD from its 1996 projected uncontrolled off-road mobile source emissions. Maryland used guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits for non-road equipment which are in a nonattainment area that uses Federal Phase I RFG. Maryland has correctly used the guidance to quantify the VOC emission reductions for this measure. EPA had determined that the 1.4 TPD emission benefit claimed in Maryland's 15% plan is creditable.

Post 1990 Federal Motor Vehicle Control Program (Tier I)

EPA promulgated a national rule establishing ''new car'' standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Act was amended in 1990, the resulting emission reductions are creditable toward the 15% reduction goal. Due to the three-year phase-in period for this program and the associated benefits stemming from fleet turnover, the reductions prior to 1996 are somewhat limited. Maryland claimed a reduction of 1.4 TPD from the Tier I using the MOBILE5a model to determine the emission benefits. EPA has reviewed the methodology used by Maryland in calculating the benefits for this measure and finds that the amount of reduction Maryland claims is creditable, but has not been documented as required by the Act.

In order to address these documentation and modeling issues, as well as the requirements of the NHSDA, EPA is requiring Maryland to recalculate the mobile source credits for enhanced I/M, RFG, and Tier I. The benefits from RFG and Tier I must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures must be included in the 1999 target level calculation run. This remodeling assessment will, therefore, remove any potential for ''double-counting'' the credit accorded to individual mobile source measures. While EPA will require Maryland to remodel the credits derived from Tier I under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 1.4 TPD emission benefit claimed by Maryland in its 15% plan from Tier I is creditable.

Architectural and Industrial Maintenance Coatings (AIM)

In EPA's most recent policy memorandum on AIM credits, ''Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coatings Rule'', dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. Maryland claimed a 20% reduction in AIM emissions under its 15% plan, which is a reduction of 6.5 TPD from their 1996 projected uncontrolled AIM coating emissions. In the March 7, 1996 memorandum, EPA allowed states to continue to claim a 20% reduction of total AIM emissions from the national rule in their 15% plans although the emission reductions are not expected to occur until April 1997. As a result of legal challenges to the proposed national rule, EPA has negotiated a compliance date of no earlier than January 1, 1998. Even though the promulgation date for this rule is now months beyond the end of 1996, it is EPA's intention to still allow the amount of credit specified for the AIM rule in the memorandum in states' 15% plans. EPA believes this is justified in light of the significant delays in proposing the rule. Furthermore, EPA believes the State has a significantly limited ability to effectuate reductions from this measure through the state adoption process any sooner than EPA's rulemaking schedule. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan, the State is responsible for developing measures to make up the shortfall.

Use of emissions reductions from EPA's expected national AIM rule is acceptable towards the 15% plan target. Therefore, the 6.5 TPD in Maryland's 15% plan are creditable.

Consumer and Commercial Products

Section 183(e) of the Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the ROP requirement. However, Maryland claimed a 7.5% reduction or the equivalent reduction of 1.7 TPD from its 1996 projected uncontrolled consumer and commercial products emissions in its 15% plan, based on a 1992 California Air Resources Board (CARB) technical support document entitled ''Proposed Amendments to the Statewide Regulation to Reduce VOC Emissions from Consumer Products.''

For the reasons discussed above under the AIM rule regarding delayed implementation of national rules, the EPA believes the 1.7 TPD projected reduction in Maryland's 15% plan is creditable. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan, the State is responsible for developing measures to make up the shortfall.

Autobody Refinishing

In a November 29, 1994 memorandum, ''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,'' EPA set forth policy on the creditable reductions to be assumed from the national rule for autobody refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). However, Maryland has adopted a state autobody refinishing regulation, approved by EPA in a separate rulemaking action. This state rule allows for a 45% reduction from current emissions in the 15% plans, according to a recommendation by the State and Territorial Air Pollution Program Administrators (STAPPA) in a guidance document entitled Meeting the 15-Percent Rate of Progress Requirements Under the Clean Air Act: A Menu of Options. From this regulation, Maryland claimed a reduction of 5.0 TPD from their 1996 projected uncontrolled autobody emissions in its 15% plan. EPA has determined that this 5.0 TPD reduction claimed in Maryland's 15% plan for the Baltimore area is creditable toward the 15% ROP requirement. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan,

the State is responsible for developing measures to make up the shortfall.

Stage II Vapor Recovery

Section 182(b)(3) of the Act requires all owners and operators of gasoline dispensing systems in moderate and above ozone nonattainment areas to install and operate a system for gasoline vapor recovery (known as Stage II) of emissions from the fueling of motor vehicles. Stage II vapor recovery is a control measure which substantially reduces the VOC emissions during the refueling of motor vehicles at gasoline service stations. The Stage II vapor recovery nozzles at gasoline pumps capture the gasoline-rich vapors displaced by liquid fuel during the refueling process. On November 15, 1992, Maryland submitted a revision to its SIP to require the Stage II controls in all counties of the Baltimore ozone nonattainment area.

Maryland had no pre-1990 Stage II controls in the Baltimore nonattainment area. Stage II is a creditable measure in counties where these controls were not required before 1990. Maryland estimates that the control measure will result in a reduction of 7.4 TPD. The Maryland 15% plan states that Maryland used the MOBILE5a model in conjunction with gasoline throughput to determine the creditable emission reduction. For this mobile source measure, the State submitted limited documentation with regard to the MOBILE5a runs and calculations done to determine credit. However, EPA has no reason to dispute Maryland's methodology. This measure and the 7.4 TPD is creditable toward the 15% requirement of Maryland's 15% plan.

Seasonal Restrictions on Open Burning

Maryland has amended COMAR 26.11.07 to institute a ban on open burning during the peak ozone season in Maryland's severe and serious ozone nonattainment areas. Maryland considers the months of June, July, and August the peak ozone season, because that is when ambient levels of ozone in Maryland are usually the highest. This ban on open burning affecting the Baltimore severe ozone nonattainment area is a measure to reduce VOC emissions. During the peak ozone season, the practice of burning for the disposal of brush and yard waste as a method of land clearing will be banned. These revisions were adopted on May 1, 1995, and effective on May 22, 1995. Maryland submitted these revisions to EPA as a SIP revision on July 12, 1995. EPA's direct final approval of these revisions into the Maryland SIP was signed on January 31, 1997.

The following open fires are not prohibited, as long as all reasonable means are used to minimize smoke:

1. For cooking of food on noncommercial property (cook outs),
2. For recreational purposes (camp fires),
3. For prevention of fire hazards that cannot be abated by any other means,
4. For the instruction of fire fighters or the testing of fire fighter training systems fueled by propane or natural gas,
5. For protection of health & safety when disposal of hazardous waste is not possible by any other means,
6. For burning pest infested crops or agricultural burning for animal disease control,
7. For good forest resource management practices,
8. For the burning of excessive lodging for the purpose of re-cropping, and
9. For testing fire fighting training systems.

This ban is in effect during the ''peak ozone season''. During the remainder of the year (September 1–May 31) Maryland's existing open fire regulations apply. Current regulations require that a permit be obtained before open burning can take place.

The State of Maryland claimed 3.85 TPD emissions reductions from the seasonal open burning ban in the Baltimore area. Maryland assumed 100% rule effectiveness to attain this emission reduction. However, the State did not submit any documentation substantiating why the default value of 80% rule effectiveness should not be applied to this measure.

Rule effectiveness is an estimate of how effectively a rule is implemented, and is used as a percentage of total available reductions from a control measure. Pursuant to EPA guidance, control measures are subject to a rule effectiveness adjustment, unless clearly documented reasons as to why they should not be subjected are included in the submittal. Therefore, the State of Maryland can claim 3.1 TPD emissions reductions from the seasonal open burning ban (80% of 3.85 TPD). EPA has determined that this emission benefit is creditable to the Baltimore nonattainment area 15% plan.

Lithographic Printing

This measure regulates emissions from formerly uncontrolled small lithographic printing operations, such as heatset web, non-heatset web, non-heatset sheet-fed, and newspaper non-heatset web operations. VOCs are emitted from the inks, fountain solutions and solvents used to clean the printing presses. This measure is modeled on EPA's draft documents ''Offset Lithographic Printing Control Techniques Guideline'' and ''Alternative Control Techniques Document: Offset Lithographic Printing'' announced in the **Federal Register**, November 8, 1993.

Maryland claimed an emission reduction from lithographic printing sources of 0.5 TPD for the Baltimore nonattainment area. EPA is approving Maryland's lithographic printing regulation in a separate rulemaking action. Therefore, the 0.5 TPD reduction claimed in the 15% plan for the Baltimore nonattainment area from sheet-fed and web lithographic printing operations is creditable toward the 15% ROP requirement.

Surface Cleaning Operations

This measure amends the Maryland regulation for surface cleaning (also called cold cleaning and degreasing) devices and operations for area sources and requires more stringent emission control requirements and enlarges the field of applicable sources. Maryland's 1996 projection year inventory in this source category is 11.0 TPD. Maryland estimates that this rule would result in a 50% reduction of emissions resulting in 5.5 TPD reduction credits. EPA is approving Maryland's surface cleaning and degreasing regulation in a separate rulemaking action. Therefore, the 5.5 TPD reduction claimed in the 15% plan for the Baltimore nonattainment area from surface cleaning and degreasing is creditable toward the 15% ROP requirement.

Reasonably Available Control Technology (RACT)

Section 184(b)(1)(B) of the Act requires areas in the Ozone Transport Region (OTR) to implement RACT regulations for all VOC sources that have the potential to emit 50 TPY or more. In addition, section 182(b)(2) requires states to implement RACT regulations on all ''major'' sources of VOC in moderate or above ozone nonattainment areas. Major VOC sources are those with the potential to emit at least 100 TPY in moderate areas, 50 TPY in serious areas, and 25 TPY in severe areas. Because Maryland is in the OTR, the State is required to implement RACT regulations for all sources with the potential to emit 50 TPY or more, throughout the state. Furthermore, in Maryland's severe ozone nonattainment areas, RACT is required for all VOC sources with the potential to emit 25 TPY or more.

Several of the regulations submitted by Maryland on July 12, 1995 establish

RACT for major VOC sources, and therefore fulfill, in part, Maryland's obligations under both section 182 of the Act and its generic RACT regulation. These RACT regulations, for expandable polystyrene products, yeast production, bakeries, and screen printing, have been approved into the Maryland SIP in a separate rulemaking action. EPA has determined that the 1.4 TPD reduction claimed by Maryland from RACT on these four categories is creditable toward the 15% ROP requirement for the Baltimore nonattainment area.

Federal Air Toxics

This measure addresses sources required to comply with federal air toxics requirements that have or will achieve VOC reductions between 1990 and 1996. Federal rules that may achieve these reductions include National Emission Standards for Hazardous Air Pollutants (NESHAP) for vinyl chloride production plants and benzene emissions from equipment leaks, benzene storage vessels, coke by-product recovery plants, benzene transfer operations, and waste operations, or maximum available control technology (MACT) standards for coke ovens, dry cleaners, and chromium electroplating.

Maryland claimed 0.4 TPD from this control measure. Credit is allowable from MACT and NESHAP; thus, 0.4 TPD from federal air toxics is fully creditable toward Maryland's 15% plan for the Baltimore nonattainment area.

Enhanced Rule Compliance

This measure increases the effectiveness of existing regulations by enhancing rule compliance through increased or enhanced inspections and other enforcement activities. In the 15% plan, rule effectiveness (RE) improvements are targeted at tank truck unloading operations at gasoline dispensing facilities and at specified bulk terminals.

RE reflects the ability of a regulatory program to achieve all the emission reductions that could have been achieved by full compliance at all times. The precise degree to which all affected sources comply with a particular regulation is almost impossible to determine unless emissions are continuously monitored at all times or unless the reductions are achieved through an irreversible process change. Measures for improving RE include activities undertaken by the regulating agency to improve inspections and/or deter violations, or activities undertaken by the sources. For the regulating agency the improvements can include enhanced training of inspectors, increased inspection frequency or scope, activities such as periodic workshops to inform sources of their obligations, and increased publicity of the issuance of notices of violation and fines. Measures imposed upon sources include improved operator training, improved recordkeeping such as daily operation and maintenance logs, increased testing frequencies and improved written operation and maintenance procedures. (RE can also be improved when underlying legislation increased after 1990 the severity of civil and criminal sanctions under the relevant state's laws.) To estimate the affect on RE a particular improvement will have the methodology of the matrix in Appendix C to the guidance document ''Rule Effectiveness: Integration of Inventory, Compliance and Assessment Applications'' (EPA–452/R–94–001, January 1994) must be used. The state must also commit to perform a Stationary Source Compliance Division (SSCD) Protocol Study or perform in lieu of the SSCD protocol the study specified in the memorandum from Susan E. Bromm, Director, Chemical/Commercial and Municipal Division, Office of Compliance, entitled ''Transmittal of Rule Effectiveness Protocol for the 1996 Demonstration'' dated December 22, 1994.

Maryland has claimed a 6.3 TPD reduction from enhanced rule compliance for the Baltimore nonattainment area. This is enforceable under the state approved Title V program, but EPA cannot credit this claim because the State needs to submit this control measure as part of the State Implementation Plan (SIP). Also, Maryland must submit to EPA further documentation of its claims, i.e., source-specific rule effectiveness worksheets to support enhanced rule compliance claims in Maryland's 15% plan for the Baltimore area.

State Air Toxics

This measure addresses stationary sources that are covered by Maryland's air toxics regulations that have achieved VOC reductions above and beyond current federally enforceable limits. In general, Maryland's air toxics regulations cover any source required to obtain a permit to construct or an annually renewed state permit to operate. Maryland claimed 0.9 TPD from state air toxics in the Baltimore nonattainment area. This measure is creditable and enforceable under the State's Title V program.

Enhanced Vehicle Inspection & Maintenance (I/M) Program

Most of the 15% SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial difficulties with these enhanced I/M programs, only a few states are currently actually testing cars using their original enhanced I/M protocols.

In the case of the Baltimore nonattainment area, Maryland has submitted a 15% SIP that would achieve the amount of reductions needed from I/M by November 1999. On March 27, 1996, Maryland submitted an enhanced I/M SIP revision that calls for I/M program implementation in counties in the Baltimore nonattainment area. The Maryland enhanced I/M program is a biennial program with implementation required to begin no later than November 15, 1997. The enhanced I/M submittal consists of its enabling legislation, a description of the I/M program, proposed regulations, and a good faith estimate that includes the State's basis in fact for emission reductions claimed from the I/M program. On October 31, 1996, EPA proposed conditional approval of the March 27, 1996 enhanced I/M SIP revision (61 FR 56183).

The proposed conditional approval listed numerous minor and major deficiencies, and required Maryland to submit a letter within 30 days committing to correct the deficiencies. Maryland submitted a letter dated December 23, 1996 (through an extension of the 30 days to January 2, 1997 (61 FR 64307, December 4, 1996)) committing to meet the requirements of full approval outlined in the October 31, 1996 proposed rulemaking. Full approval of Maryland's 15% plan is contingent on Maryland satisfying the conditions of the conditional approval of its enhanced I/M SIP by a date certain within one year of final conditional approval, and receiving final full EPA approval of its enhanced I/M program. If Maryland corrects the deficiencies by that date and submits a new enhanced I/M SIP revision, EPA will conduct rulemaking to approve that revision. If Maryland fails to fulfill a condition required for approval, and its I/M program converts to a disapproval, then the conditional approval of Maryland's 15% plan would also convert to a disapproval.

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 (60 FR 48029). Subsequently, Congress enacted the NHSDA, which provides states with additional flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded states that revise their enhanced I/M programs 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% VOC emissions reduction required under section 182(b)(1) of the Act, the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA has determined that that it is no longer possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15% SIPs would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996. The provisions for crediting reductions for enhanced I/M programs is contained in two documents: ''Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' note from John Seitz and Margo Oge, dated August 13, 1996, and ''Modelling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance'', memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.

Specifically, EPA is proposing approval of 15% SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable, pursuant to a February 12, 1997 memorandum from John Seitz and Richard Ossias entitled, ''15 Percent VOC SIP Approvals and the ''As Soon As Practicable'' Test''. 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% level is achieved. EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

EPA has examined other potentially available SIP measures to determine if they are practicable for the Baltimore area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions. EPA proposes to determine that the SIP does contain the appropriate measures. The TSD for this action contains a discussion of other measures available for 15% plans. Maryland has taken credit for several of these measures (or essentially similar measures), such as RFG, revised surface cleaning rules, etc., in the 15% plan; and taken credit for measures that EPA must promulgate under section 183(e) such as AIM coatings, and a consumer and commercial products rule. Provided below is a tabular summary of this analysis. Measures for which Maryland took credit in the 15% ROP plan are identified in the table below as ''In 15% Plan'' and are not available as a possible alternative to I/M. The other programs that Maryland included in the 15% ROP plan result in only a possible 4.54 TPD reduction and do not deliver, in the aggregate, anything close to the reductions achieved by enhanced I/M.

MARYLAND 15% PLAN—BALTIMORE NONATTAINMENT AREA

Measures considered	Potential VOC reduction (tons/day)
Area Source Measures:	
AIM Coatings—Federal Rule	In 15% Plan
Wood Products Coating—Reformulation	In 15% Plan
Consumer Solvents—Federal Rule	In 15% Plan
Solvent Cleaning—Substitution/Equipment	In 15% Plan
Graphic Arts—Web Offset Control	1.10
Autobody Refinishing—ACT control	In 15% Plan
Landfills—Federal Rule	In 15% Plan
Other Dry Cleaning—SCAQMD 1102	0.01
Stage I Enhancement—P/V Vents	2.31
Stage II—Vapor Recovery	In 15% Plan
Nonroad Gasoline—Reformulated Gasoline	In 15% Plan
Point Source Measures:	
Other Dry Cleaning—SCAQMD 1102	0.08
Landfills—National rule, early implementation	In 15% Plan
Stage I—P/V Vents	0.11
Flexographic Printing—MACT early implementation	In 15% Plan
Gravure Printing—MACT early implementation	0.93
Web Offset Lithography—ACT control	In 15% Plan
Non-mandated On-Road Mobile Measures:	
Reformulated Gasoline	In 15% Plan
I/M Reductions:	
High Enhanced in 15% Plan	In 15% Plan

EPA has determined that the enhanced I/M program is the only measure that will significantly accelerate the date by which the 15% requirement will be achieved. EPA proposes to determine that Maryland's 15% plan does contain all measures, including enhanced I/M, that achieves reductions as soon as practicable. EPA proposes to allow enhanced I/M reductions which occur out until November 15, 1999 to count toward the

15% emission reduction level for the 15% plan, since in doing so, the state will reach a 15% VOC reduction as soon as practicable.

Maryland claimed a total of 16.8 TPD credit for this measure. In its July 12, 1995 15% plan submittal, Maryland evaluated the I/M program using EPA's MOBILE5a model with assumptions that called for implementation of a centralized, IM240 test with pressure and purge testing, and a program start date of January 1, 1995. Since the time of the July 12, 1995 submittal, Maryland has revised its enhanced I/M program and submitted the redesigned program to EPA.

Maryland's I/M program is a biennial, centralized program network using IM240 testing equipment scheduled to begin testing by November 1997. Maryland has designed its centralized network of testing stations to accommodate biennial testing. EPA has determined that Maryland cannot accelerate the reductions by initially requiring annual testing because:

1. Without additional testing stations other requirements of the enhanced I/M rule relating to motorist convenience would suffer. Motorist convenience is one important aspect that affects public acceptance and effectiveness of the I/M program.

2. Additional infrastructure changes (e.g. more testing equipment, enlarging or building new testing stations, and the hiring and training of additional inspectors) to the enhanced I/M program would not come on-line in time to afford a substantial increase in the amount of reductions realized before November 15, 1999.

3. The cost effectiveness of the program would be adversely affected because the additional costs would not result in a corresponding amount of reductions.

EPA proposes to determine that the I/M program for the Baltimore area does achieve reductions from enhanced I/M as soon as practicable.

Because Maryland's revised I/M program is designed to meet EPA's high-enhanced performance standard and will achieve essentially the same number of testing cycles between start-up and November 1999 as that modeled in the 15% plan, EPA believes that Maryland's program will achieve 16.8 TPD of reductions by 1997. However, EPA believes that Maryland is best able to perform the definitive determination because Maryland will use the same highway network model that was used to determine the 1990 base year inventory and the 1996 on-road VOC emissions budget used for transportation conformity purposes. (The same highway network model is also used for conformity determinations.) EPA believes it would be appropriate to condition approval of the 15% ROP upon Maryland remodeling the I/M benefits to reflect all relevant parameters (start date, network type, test types for exhaust and purge/pressure testing, waiver rates, cut points, etc.) of the revised, enhanced I/M program and show the I/M reductions needed to make the 15% reduction are achieved by no later than November 15, 1999. In performing this demonstration, the State should ensure that Tier I and RFG benefits are considered. Benefits should not be separated out on a tons per day basis for each control measure, but rather all mobile source measures should be evaluated in the 1999 ''target level'', as defined in the December 23, 1996 memorandum, calculation run. EPA would further condition that such modeling would be done in accordance with EPA guidance. EPA's guidance for remodeling I/M for 15% plans includes: (1) A note to the Regional Division Directors from John Seitz and Margo Oge dated August 13, 1996 entitled ''Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M Guidance for Recalculation,'' and (2) a joint memorandum from Gay MacGregor and Sally Shaver dated December 23, 1996 entitled ''Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance.''

As it relates to Maryland's I/M program, EPA proposes a conditional approval of the 16.8 TPD reduction from enhanced I/M in the Baltimore nonattainment area, provided Maryland meets the conditions of the October 31, 1996 conditional approval of the enhanced I/M program; receives full EPA approval of its enhanced I/M program; and remodels it's enhanced I/M program using the appropriate, updated parameters (e.g., appropriate start date, etc.).

Further, EPA makes this conditional approval of the 15% plan contingent upon Maryland maintaining a mandatory I/M program. EPA will not credit any reductions toward the 15% ROP requirement from a voluntary enhanced I/M program. Since the State's 15% plan claims 16.8 TPD from the implementation of a mandatory, centralized, IM240 plan, any changes to I/M which would render the program voluntary or discontinued would cause a shortfall of credits in the 15% reduction goal. EPA is, therefore, proposing in the alternative to convert this action automatically to a proposed disapproval should the State make the I/M a voluntary measure.

E. Emission Control Measures Not Evaluated

EPA is not taking action at this time on the following control measures contained in the Maryland 15% Plan submitted July 12, 1995:

Municipal Landfill Emissions

This control measure is a state control program regulating VOC emissions from municipal landfills, utilizing landfill gas capture and destruction systems. Maryland estimated that this rule would result in a reduction of 1.2 TPD. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 1.2 TPD reduction toward the 15% ROP requirement in this rulemaking.

Pesticide Reformulation

This measure requires the use of low-VOC content pesticides for consumer, commercial and/or agricultural use. Maryland claims that this measure results in a reduction of 2.9 TPD by applying a 40% overall reduction to the 1996 base year projection emissions for pesticide application. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 2.9 TPD reduction toward the 15% ROP requirement in this rulemaking.

F. Reasonable Further Progress

The table below summarizes the proposed creditable measures and those measures which EPA is not taking action on in this rulemaking from Maryland's 15% plan for the Baltimore nonattainment area.

SUMMARY OF CREDITABLE EMISSION REDUCTIONS IN THE STATE OF MARYLAND'S 15% PLAN FOR THE BALTIMORE SEVERE OZONE NONATTAINMENT AREA (TONS/DAY)

Creditable Reductions:	
FMVCP Tier I	1.2
Reformulated Gasoline	13.8
Autobody Refinishing	5.0
AIM	6.5

SUMMARY OF CREDITABLE EMISSION REDUCTIONS IN THE STATE OF MARYLAND'S 15% PLAN FOR THE BALTIMORE SEVERE OZONE NONATTAINMENT AREA (TONS/DAY)—Continued

Federal Air Toxics	0.4
State Air Toxics	0.9
Consumer and Commercial Products	1.7
Enhanced Rule Compliance	6.3
Seasonal Open Burning Restrictions	3.1
Lithographic Printing	0.5
RACT	1.4
Surface Cleaning and Degreasing	5.5
Stage II Vapor Recovery	7.4
Enhanced Inspection & Maintenance	16.8
Total Creditable	70.5
Measures EPA is not Taking Action on in this Rulemaking:	
Municipal Landfills	1.2
Pesticide Reformulation	2.9
Total No Action	4.1

EPA has evaluated the July 12, 1995 Maryland submittal for consistency with the Act, applicable EPA regulations, and EPA policy. On its face, Maryland's 15% plan achieves the required 15% VOC emission reduction to meet the 15% ROP requirements of section 182(b)(1) of the Act. However, there are measures included in the Maryland 15% plan, which may be creditable towards the Act requirement but which are insufficiently documented for EPA to take action on at this time. While the amount of creditable reductions for certain control measures has not been adequately documented to qualify for Clean Air Act approval, EPA has determined that the submittal for Maryland contains enough of the required structure to warrant conditional approval. Furthermore, the July 12, 1995 submittal strengthens the SIP.

Based on EPA's preliminary review of the draft revised 15% plan for the Baltimore nonattainment area, sent to EPA for comment by the State on April 16, 1997, EPA believes that the amount of VOC reduction that Maryland needs to satisfy the 15% ROP requirement in the Baltimore area may be lower than the 70.5 TPD accounted for with creditable measures in the July 12, 1995 submittal. The draft revised plan includes revised information for the 1990 base year inventory and actual growth between 1990 and 1996, as opposed to projected growth. The effect of these revisions may lower the amount of creditable emission reductions Maryland needs to achieve the 15% ROP requirement.

III. Proposed Action

In light of the above deficiencies and to conform with EPA's proposed conditional approval of Maryland's I/M program, EPA is proposing conditional approval of this SIP revision under section 110(k)(4) of the Act.

EPA is proposing conditional approval of the Maryland 15% plan for the Baltimore nonattainment area if Maryland commits, in writing, within 30 days of EPA's proposal to correct the deficiencies identified in this rulemaking. These conditions are described below. If the State does not make the required written commitment to EPA within 30 days, EPA is proposing in the alternative to disapprove the 15% plan SIP revision. If the State does make a timely commitment, but the conditions are not met by the specified date within one year, EPA is proposing that the rulemaking will convert to a final disapproval. EPA would notify Maryland by letter that the conditions have not been met and that the conditional approval of the 15% plan has converted to a disapproval. Each of the conditions must be fulfilled by Maryland and submitted to EPA as an amendment to the SIP. If Maryland corrects the deficiencies within one year of conditional approval, and submits a revised 15% plan as a SIP revision, EPA will conduct rulemaking to fully approve the revision. In order to make this 15% plan approvable, Maryland must fulfill the following conditions by no later than 12 months after EPA's final conditional approval:

1. Maryland's 15% plan calculations must reflect the EPA approved 1990 base year emissions inventory (61 FR 50715, September 27, 1996).

2. Maryland must meet the conditions listed in the October 31, 1996 conditional I/M rulemaking notice, including its commitment to remodel the I/M reductions using the following two EPA guidance memos: ''Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' note from John Seitz and Margo Oge dated August 13, 1996, and ''Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance,'' from Gay MacGregor and Sally Shaver dated December 23, 1996.

3. Maryland must remodel to determine affirmatively the creditable reductions from RFG and Tier I in accordance with EPA guidance.

4. Maryland must submit a SIP revision amending the 15% plan with a determination using appropriate documentation methodologies and credit calculations that the 70.5 TPD reduction, supported through creditable emission measures in the submittal, satisfies Maryland's 15% ROP requirement for the Baltimore area.

After making all the necessary corrections to establish the creditability of chosen control measures, Maryland must demonstrate that 15% emission reduction is obtained in the Baltimore nonattainment area as required by section 182(b)(1) of the Act and in accordance with EPA's policies and guidance.

Further, EPA makes this conditional approval of the 15% plan contingent upon Maryland maintaining a mandatory I/M program. EPA will not credit any reductions toward the 15% ROP requirement from a voluntary enhanced I/M program. Since the State's 15% plan claims 16.8 TPD from the implementation of a mandatory, centralized, IM240 plan, any changes to I/M which would render the program voluntary or discontinued would cause a shortfall of credits in the 15% reduction goal. EPA is, therefore, proposing in the alternative to convert this action automatically to a proposed

disapproval should the State make the enhanced I/M program a voluntary measure.

EPA and the Maryland Department of the Environment have worked closely since the July 1995 submittal to resolve all the issues necessary to fully approve the 15% plan. Maryland is aware of the above deficiencies and has addressed many of the above-named deficiencies in the draft revised plan. Maryland has stated that it intends to submit additional information to address all deficiencies within the 15% plan. Therefore, while some deficiencies currently remain in the 15% plan, EPA believes that these issues will be resolved no later than 12 months after EPA's final conditional approval. EPA will consider all information submitted as a supplement or amendment to the July 1995 submittal prior to any final rulemaking action.

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

IV. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional approvals of SIP submittals 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 impose any new requirements, EPA certifies 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 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).

If the conditional approval is converted to a disapproval under section 110(k), based on the 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 its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

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 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 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 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.

The Regional Administrator's decision to approve or disapprove the SIP revision pertaining to the Maryland 15% plan for the Baltimore area will be based on whether it meets the requirements of section 110(a)(2)(a)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Dated: July 22, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 97–20575 Filed 8–4–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–150–9711b; FRL–5866–2]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Maintenance Plan for Knox County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Tennessee for the purpose of revising the Ozone Maintenance plan and emission projections for Knox County. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives 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. The 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: To be considered, comments must be received by September 4, 1997.

ADDRESSES: Written comments on this action should be addressed to Benjamin Franco at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN150–01–9711. The Region 4 office may have additional background documents not available at the other locations.