

action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), 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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney

General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to convert the conditional approval of the 15% ROP Plan for the Baltimore nonattainment area to a full approval must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: January 14, 2000.

Bradley M. Campbell,
Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart V—Maryland

§ 52.1072 [Amended]

2. In section 52.1072, paragraph (c) is reserved.

3. Section 52.1075 is amended by adding paragraph (g) to read as follows:

§ 52.1075 1990 base year emission inventory.

* * * * *

(g) EPA approves revisions to the Maryland State Implementation Plan amending the 1990 base year emission inventories for the Baltimore ozone nonattainment area, submitted by the Secretary of Maryland Department of the Environment on December 24, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile and non-road mobile source emission inventories for volatile organic compounds and nitrogen oxides in the Baltimore ozone nonattainment area.

4. Section 52.1076 is amended by adding paragraph (c) to read as follows:

§ 52.1076 Control strategies: ozone.

* * * * *

(c) EPA approves as a revision to the Maryland State Implementation Plan, the 15 Percent Rate of Progress Plan for the Baltimore ozone nonattainment area, submitted by the Secretary of Maryland Department of the Environment on October 7, 1998.

[FR Doc. 00-2175 Filed 2-2-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD059-3049a; FRL-6530-8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland, Post-1996 Rate of Progress Plan for Cecil County and Revisions to the 1990 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the State of Maryland State Implementation Plan (SIP). This revision establishes the three percent per year emission reduction rate-of-progress requirement for the period from 1996 through 1999 for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, namely Cecil County, Maryland. EPA is also

approving revisions to the 1990 base year inventory of ozone precursor emissions submitted by the State of Maryland for Cecil County. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 3, 2000 without further notice, unless EPA receives adverse written comment by March 6, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814-2092. Or by e-mail at gaffney.kristeen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Cecil County, Maryland is part of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. The Clean Air Act requires states with severe ozone nonattainment areas to develop plans to reduce emissions of volatile organic compounds (VOCs) from a 1990 baseline by three percent per year averaged over each consecutive three year period through the area's attainment date. This is known as the rate-of-progress (ROP) requirement. The first round of required ROP reductions cover the period 1990-1996 and is commonly known as the 15% ROP plan. The second round of required VOC reductions is commonly known as the Post-1996 ROP plan because it covers the three year time period from 1996-1999. The Post-1996 ROP plan, was due by November 15, 1994 and the

reductions were to be achieved by November 15, 1999. The Clean Air Act also allows for the substitution of emission reductions of nitrogen oxides (NO_x) occurring after 1990 for the Post-1996 VOC rate-of-progress requirements. To qualify for SIP credit under rate of progress plans, emission reduction measures, whether mandatory under the Act or adopted at the state's discretion, must ensure real, permanent, and enforceable emissions reductions.

On March 2, 1995, Assistant Administrator for Air and Radiation, Mary D. Nichols, issued a policy memorandum providing guidance to the states on an alternative approach for meeting the attainment demonstration and rate-of-progress requirements of the Clean Air Act. The policy memorandum established a phased approach for the submittal of the attainment demonstration. Under the first phase, states were to submit a plan with specific control measures, including a plan to show at least a 9% ROP reduction by 1999; interim assumptions or modeling about ozone transport; and enforceable commitments to: (1) Participate in a consultative process to address regional transport, (2) adopt additional control measures as necessary to attain the ozone national ambient air quality standard, and (3) identify any reductions that are needed from upwind areas for the area to meet the ozone standard.

On December 24, 1997, the Maryland Department of Environment (MDE) submitted a SIP for the Phase 1 attainment plans for the Baltimore nonattainment area and Cecil County. Maryland's Phase 1 attainment plan submittal contained the Post-1996 ROP requirements; revisions to the 1990 base year inventories for the Baltimore nonattainment area and Cecil County; revisions to the 15% ROP plans for Baltimore and Cecil County; and enforceable commitments to address the first phase of the attainment plan as discussed above. This rulemaking only addresses the Post-1996 ROP plan and 1990 base year inventory revisions for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, namely Cecil County, Maryland.

On August 17, 1998, MDE submitted additional information and revised mobile emissions modeling for the December 24, 1997 Post-1996 ROP submittal. The revised information was included in Maryland's Phase II attainment plan for the Baltimore nonattainment area and Cecil County. Specifically, the August 17, 1998 submittal requested that the chapter on conformity, including mobile source emission budgets, and Appendix E, including the target levels, emission estimates, projection year estimates and reduction credit estimates contained in the original Phase 1 plan be replaced by the information contained in the August 17, 1998 Phase 2 attainment plan submittal. For this rulemaking action, EPA has evaluated the portions of Maryland's August 17, 1998 submittal that relate to revisions to the Post-1996 ROP plan for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, namely Cecil County, Maryland.

II. Base Year Inventory Revisions

Maryland submitted the original 1990 base year emissions inventory for Cecil County as a SIP revision on March 21, 1994. EPA approved the base year inventory into the SIP on September 27, 1996 (61 FR 50715). As part of the Phase 1 attainment plan submittal of December 24, 1997, Maryland is revising certain portions of the 1990 base year inventory because of refinements, such as updated information on point source emissions, and to correct certain errors in the inventory found while auditing the inventory in preparation for the attainment demonstration modeling.

EPA is approving the revisions to the 1990 base year inventory for the Cecil County. Table 1 below illustrates the inventory revisions that will be approved into the Maryland SIP. A more detailed description of the changes to Maryland's base year inventories and EPA's evaluation are included in the technical support document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

TABLE 1.—REVISED BASE YEAR INVENTORY FOR CECIL COUNTY IN TONS/DAY

	VOC previously approved	VOC revised	Change	NO _x previously approved	NO _x revised	Change
Mobile Sources	7.2	7.2	0	9.3	9.3	0
Point Sources .....	.55	.6	0	0	0	0
Non-road Sources	2.02	2.0	(+.02)	2.5	2.6	(+.1)
Area sources	9.23	8.7	(- .52)	1.1	1.8	(+.7)

TABLE 1.—REVISED BASE YEAR INVENTORY FOR CECIL COUNTY IN TONS/DAY—Continued

	VOC previously approved	VOC revised	Change	NO _x previously approved	NO _x revised	Change
Biogenic Sources	32.96	32.96	0	NA	NA	NA
Total	51.96	51.46	(−.5)	12.9	13.7	(+.8)

III. Post-1996 Rate-of-Progress Plan**A. Calculation of Needed Reductions**

The first step in demonstrating ROP is to determine the target level of allowable emissions in the given target year. The target level of emissions represents the maximum amount of emissions that can be emitted in a nonattainment area in the given target year, which in this case is 1999. The Clean Air Act allows states to substitute NO_x emission reductions that occur after 1990 for VOC emission reductions in the Post-1996 ROP plan. Rate-of-progress is demonstrated when the sum of all creditable VOC and NO_x emission reductions equal at least 3% per year averaged over the three year period 1996–1999, or for a total of 9%. If a state wishes to substitute NO_x for VOC

emission reductions, then a target level of emissions demonstrating a representative combined 9% emission reduction in VOC and NO_x emissions must be developed for the year 1999. MDE has established 1999 target levels for both VOC and NO_x emissions for Cecil County. However, the rate-of-progress control scenario for Cecil County is based on a 9% VOC and a 0% NO_x reduction strategy. Because enough VOC emission reductions exist to demonstrate the full 9% reduction, Maryland assumed no NO_x emission reductions to demonstrate rate-of-progress. Any NO_x emission reductions associated with Maryland's control strategies are considered surplus for the purposes of demonstrating rate-of-progress for 1999.

To calculate the target level of emissions, the percentage of required emission reductions is subtracted from the previously established ROP target level, which in this case would be the 15% ROP plan. For VOCs, the 1999 rate-of-progress VOC target level is based on the 1996 VOC target level calculated in the 15% ROP plan. EPA approved the 1996 VOC target level for Cecil County (14.1 tons per day or TPD) when it approved the Cecil County 15% ROP plan on July 29, 1997 (62 FR 40457). For NO_x, there is no previously established ROP target level, so the 1999 target level is calculated from the 1990 base year inventory. The target level calculations for Cecil County for the year 1999 are taken from the August 17, 1998 Phase 2 attainment plan SIP submittal and are presented below.

	Tons	Day
VOC Target Level		
1990 Base Year Inventory .....	.....	51.5
(Minus biogenic emissions 33.0 TPD)	− 33.0	
1990 Rate of Progress Base Year Inventory .....	.....	18.5
(Minus non-creditable FMVCP/RVP ¹ 1990–1999)	− 2.1	
1990 Adjusted Base Year Inventory .....	.....	16.4
9% Required Reduction (1996–1999)	*.09	
Rate of Progress Emission reduction requirement .....	.....	1.5
Fleet Turnover Calculation:		
1999 emissions	2.1	
1996 emissions	− 2.1	
Fleet Turnover correction	0.0	
1996 Target Level .....	.....	14.1
Minus Emission Reduction Requirement	− 1.5	
Minus Fleet Turnover Correction	− 0.0	
1999 VOC Target Level .....	.....	12.6
NO_x Target Level		
1990 Base Year Inventory .....	.....	13.7
(Minus non-creditable FMVCP/RVP 1990–1999)	− 1.7	
1990 Adjusted Base Year Inventory .....	.....	12.0
9% Required Reduction (1996–1999)	0.0	
Rate of Progress Emission reduction requirement .....	.....	0.0
Fleet Turnover Calculation:		
1999 emissions	1.7	
1996 emissions	− 1.7	
Fleet Turnover correction .....	.....	0.0
1990 Adjusted Base Year Inventory .....	.....	12.0
Minus Emission Reduction Requirement	− 0.0	
Minus Fleet Turnover Correction	− 0.0	

	Tons	Day
1999 NO _x Target Level	12.0

¹ The 1990 adjusted base year inventory excludes from the baseline the emissions that would be eliminated by the Federal Motor Vehicle Control Program (FMVCP) and Reid Vapor Pressure (RVP) regulations promulgated prior to enactment of the 1990 Clean Air Act amendments.

Maryland has correctly calculated the 1999 target level of emissions for Cecil County following EPA's guidance.

B. Growth Projections

In addition to achieving a 9% reduction in existing emissions, the state's control strategy must also offset any new emissions growth projected to occur between 1996 and 1999.

Therefore, states must project their emission inventories to estimate emissions growth between 1996 and 1999 (the ROP year for the Post-1996 plan). The projected inventories must reflect expected growth in activity, as well as regulatory actions which will affect emission levels.

EPA guidance on projecting emissions growth suggests that emission projections for point sources can be based on information obtained directly from facilities and/or permit applications. Area and mobile source emission projections may be developed from information from local planning agencies. In the absence of source-specific data, credible growth factors must be developed from accurate forecasts of economic variables and the activities associated with the variables. Economic variables that may be used as indicators of activity growth are: product output, value added, earnings, and employment. Population can also serve as a surrogate indicator.

Economic data and models which provide acceptable growth factors for emission projections include the U.S. Department of Commerce Bureau of

Economic Analysis (BEA) forecasts for states and metropolitan statistical areas; the Economic Growth Analysis System (E-GAS), which models economic growth and estimates corresponding increases in emissions-producing activity; and the Emissions Preprocessor System for urban airshed modeling, which produces spatially and temporally resolved emission inventories for input into urban airshed models.

1. Point Source Growth

Cecil County is rural in nature, lacks a base of heavy industry and has no existing major point sources of NO_x. Therefore, Maryland predicts no growth in either VOC or NO_x point source emissions between 1996 and 1999.

2. Area Source Growth

Growth factors from the BEA were used for area sources. Maryland chose BEA over E-GAS for area source growth estimates, because two area source categories, consumer and commercial products and new motor vehicle refinishing were projected by E-GAS to decrease over the next ten years due to a predicted population decrease. Because this directly contradicts industry projections and Maryland's expectations, E-GAS was not used for area source predictions. The use of BEA or E-GAS is acceptable.

3. Mobile Source Growth

Mobile source growth in Cecil County is based on vehicle miles traveled

(VMT) trends from 1986–1991. The 1990 base year inventory for Cecil County was based on Highway Performance Monitoring System data because the county is not part of an urban transportation network. The Maryland Department of Transportation and the Wilmington Area Planning Council have developed a link-based transportation modeling technique to provide a detailed analysis of travel patterns in the Cecil County-Wilmington area. Mobile source emissions estimates and VOC target levels for 1999 were developed using the link-based travel estimates. This is an acceptable approach.

4. Non-Road Mobile Source Growth

Maryland used E-GAS growth factors for determining future emissions of non-road sources. These inventories were estimated as a product of equipment population, activity rates and emission factors. Population and value added were also used as surrogate indicators where appropriate. Emissions were projected by multiplying 1990 emissions by the E-GAS growth factor.

Maryland has used appropriate methodology to project emissions growth in all source categories. The growth estimates are approvable. The projection year inventories for 1999 for Cecil County are shown in Table 2 below. Total 1999 growth projections for VOCs are 2.9 TPD and 3.4 TPD for NO_x.

TABLE 2.—PROJECTION YEAR (UNCONTROLLED) INVENTORIES FOR CECIL COUNTY (TONS/DAY)

Source category	1990 VOC baseline	1999 VOC projected	1990 NO _x baseline	1999 NO _x projected
Point	0.6	0.6	0	0
Mobile	7.2	9.5	9.3	12.4
Non-road	2.0	2.3	2.6	2.8
Area	8.7	9.0	1.8	1.9
Total	18.5	21.4	13.7	17.1

C. Evaluation of Control Measures

The purpose of the Post-1996 ROP plan is to demonstrate how the State has reduced emissions 3% per year between the years 1996 and 1999, for a 9% total reduction. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and before November 15, 1999 and are real, permanent, quantifiable and federally enforceable.

A short description of each of the control measures implemented by Maryland follows.

1. Stationary Source Controls

a. Seasonal Open Burning Ban. On May 1, 1995, Maryland instituted 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. During the peak ozone season, the practice of burning for the disposal of brush and yard waste as a method of land clearing has been banned. This ban on open burning reduces both VOC and NO_x emissions. EPA approved Maryland's open burning ban (COMAR

26.11.07) into the SIP on January 31, 1997. MDE estimates 4.4 TPD VOC and 0.9 TPD NO_x emission reductions from the open burning ban in Cecil County. These reductions are creditable in the Post-1996 Plan.

b. Consumer and Commercial Products National Rule. On September 11, 1998, EPA issued a final rule (63 FR 48819) to reduce the VOC content of 24 categories of household consumer and commercial products by 20% from levels emitted in 1990. The regulation applies to 24 types of household consumer products, such as cleaning products, personal care products, and a variety of insecticides. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the ROP requirement. Maryland claimed a 20% reduction from their 1999 projected uncontrolled consumer and commercial products emissions in the Post-1996 ROP plan in Cecil County. EPA has determined that 0.1 TPD VOCs in Cecil County are creditable emission reductions.

c. Stage I Vapor Recovery. Stage I vapor recovery systems control vapor emissions at gasoline dispensing facilities that result from unloading gasoline from a tank truck into a storage tank. The vapors displaced in the storage tank by the liquid gasoline are retrieved into the tank truck and transported back to the refinery. Stage 1 vapor recovery controls were implemented in Cecil County on April 26, 1992. EPA approved Maryland's Stage I vapor recovery regulation into the Maryland SIP (60 FR 2018). Maryland claimed 0.8 TPD VOCs emission reductions in 1999 for Cecil County, which are creditable toward the Post-1996 ROP plan.

d. Autobody Refinishing. Maryland adopted an autobody refinishing regulation, COMAR 26.11.19.23, to control VOC emissions emanating from the evaporation of solvents used in the coating, drying and clean-up process. Maryland's regulation was approved into the SIP on August 4, 1997 (62 FR 41853). From this regulation, Maryland claimed a reduction of 0.2 TPD VOC emissions in Cecil County, which are creditable toward the ROP requirement.

e. Architectural and Industrial Maintenance (AIM) Coatings Reformulation. On September 11, 1998, EPA promulgated a national rule (63 FR 48848) for reducing VOCs emissions from architectural and other industrial coatings. Architectural coatings are commonly applied by consumers and contractors, and include exterior and interior paints, industrial maintenance coatings, wood and roof coatings,

primers, and traffic paints. Manufacturers and importers are required to comply with requirements by September 1999. States are allowed to assume a 20% reduction in VOCs from 1990 emission levels in their ROP plans. Maryland claimed a 20% reduction in VOC emissions in Cecil County or 0.2 TPD. These emission reductions are creditable in the Post-1996 ROP plan.

f. Surface Cleaning and Degreasing. This measure strengthens an existing Maryland regulation for surface cleaning (also called cold cleaning and degreasing) devices and operations to require more stringent emission control requirements and enlarges the field of applicable sources. This regulation controls VOC emissions from surface cleaning/degreasing operations, such as gasoline stations, autobody paint shops and machine shops that fall into the area source category. Maryland's surface cleaning and degreasing regulation (COMAR 26.11.19.09) was approved into the SIP on August 4, 1997 (62 FR 41853). In Cecil County, 0.2 TPD VOC emission reductions achieved through this measure are creditable.

2. Mobile Source Controls

a. Federal Motor Vehicle Control Program—Tier I. The Clean Air Act required EPA to issue federal emission standards for new motor vehicles. The Tier I motor vehicle standards were promulgated on June 5, 1991 (56 FR 25724) and include exhaust ("tailpipe") emission standards and better evaporative emission controls demonstrated through new federal evaporative test procedures. Both VOC and NO_x emissions from passenger vehicles and light-duty trucks are reduced as a result of these standards. Tier I standards were phased in beginning with model year 1994 vehicles. Emission reductions associated with Tier 1 standards can be determined through use of EPA's mobile emissions model, MOBILE5b. The following emission reductions from Tier 1 standards are creditable through 1999 in Cecil County: VOCs 0.2 TPD and NO_x 0.8 TPD.

b. Enhanced Inspection and Maintenance Program. Under section 182 of the Act, Maryland was required to adopt an enhanced inspection and maintenance (I/M) program. Enhanced I/M programs reduce the emissions created by vehicles through periodic testing and, if needed, repair of the vehicle's tailpipe emissions and evaporative systems. Maryland has adopted regulations and began implementing the enhanced I/M program in 1997. EPA approved

Maryland's enhanced I/M program on October 29, 1999 (64 FR 58340). Emission reductions associated with enhanced I/M can be determined through use of EPA's mobile emissions model MOBILE5b. Maryland claimed creditable emission reductions of 1.8 TPD of VOCs and 1.4 TPD of NO_x in Cecil County from the enhanced I/M program.

c. Reformulated Gasoline Federal Rule—Phase 1. The Act requires, beginning January 1, 1995, that only reformulated gasoline (RFG) be sold or dispensed in ozone nonattainment areas classified as severe or worse. Gasoline for use in motor vehicles is reformulated to reduce VOC combustion by-products and to produce fewer evaporative VOC emissions. The Act requires a reduction in VOC and toxic emissions from gasoline of 15% over base year levels beginning in 1995 and a 25% requirement beginning in the year 2000 (Phase 2 RFG). The RFG program was implemented by EPA through a national rule (59 FR 7716). Cecil County is designated as a severe nonattainment area and, therefore, subject to RFG requirements. Emission reductions associated with RFG can be determined through use of EPA's mobile emissions model MOBILE5b. Maryland has claimed 0.3 TPD creditable VOC emission reductions associated with Phase 1 RFG in Cecil County.

d. Stage II Gasoline Vapor Recovery. 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 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. EPA approved Maryland's Stage II regulation, COMAR 26.11.24, on June 9, 1994. Stage II is a creditable measure in counties where these controls were not required before 1990. Emission reductions associated with Stage II Vapor Recovery and On Board Vapor Recovery systems can be determined through use of EPA's mobile emissions model MOBILE5b. In Cecil County, 0.3 TPD are creditable VOC reductions.

3. Non-Road Mobile Source Controls

a. Non-Road Small Gasoline Engines. In July 1995, EPA finalized the first federal regulations affecting small non-road spark-ignition (SI) engines at or below 19 kilowatts (kW), or 25

horsepower. The standards set allowable exhaust levels for hydrocarbons, carbon monoxide, and NO_x from small engines of 25 HP or less. The regulations took effect for most new handheld (chainsaws and leaf blowers, etc.) and non-handheld (lawn mowers, garden tractors, tillers, etc.) engines beginning in model year 1997 and are expected to result in a 32% reduction in hydrocarbon emissions from these engines. On November 24, 1994, EPA issued a guidance memorandum to states regarding calculation of the emission reduction benefit of various non-road engine standards for the purposes of rate-of-

progress planning. See "Future Non-road Emission Reduction Credits for Court-Ordered Non-road Standards", from Philip A. Lorang, Director, Emission Planning and Strategies Division. This memorandum advised states to assume in 1999 a 22.9% reduction in VOCs for the non-road portion of the inventory affected by these standards. Maryland has claimed 0.4 TPD reduction in VOC emissions from this control measure.

b. Non-Road Heavy Duty Diesel Engines. EPA promulgated final regulations applicable to non-road compression-ignition engines at or above 37 kilowatts on June 17, 1994 (59

FR 31306). These emissions standards affect non-road engines over 50 horsepower (such as bulldozers) and are being phased-in from 1996 to 2000 based on engine power. According to the November 24, 1994 Philip Lorang memorandum, states should assume in 1999 a 7.8% reduction in NO_x for the non-road portion of the inventory affected by the non-road heavy duty diesel standards. Maryland has claimed 0.2 TPD reduction in NO_x emissions in 1999 from this control measure.

Table 3 below summarizes the emission reductions from the control measures used in the Cecil County Post-1996 ROP plan.

TABLE 3.—CECIL COUNTY POST-1996 ROP PLAN MEASURES

Measure	1999 VOC reduction (TPD)	1999 NO _x reduction (TPD)	Cred-itable
Architectural Coatings	0.2	.....	Yes.
Consumer and Commercial Products	0.1	.....	Yes.
Autobody Refinishing	0.2	.....	Yes.
Surface Cleaning	0.2	.....	Yes.
Stage 1 Vapor Recovery	0.8	.....	Yes.
Tier 1 Federal Motor Vehicle Standards	0.2	0.8	Yes.
Enhanced I/M	1.8	1.4	Yes.
Reformulated Gasoline	0.2	.....	Yes.
Stage 2 Vapor Recovery	0.3	.....	Yes.
Non-road Heavy Duty Diesel Engine Standards .....	.....	0.2	Yes.
Non-road Small Gas Engine Standards	0.4	.....	Yes.
Open Burning	4.4	0.9	Yes.
Total	8.8	3.3	

D. Summary of Evaluation

Maryland's rate-of-progress requirements for Cecil County are summarized in Table 4.

TABLE 4

	VOC	NO _x
Projected 1999 Uncontrolled Emissions	22.2	17.4
Reductions From Creditable Measures (includes growth)	8.8	3.3
Reductions from FMVCP/RVP	3.7	2.7
Emissions Level Obtained in 1999	9.7	11.4
Projected 1999 Target Level	12.6	12.0
Surplus	2.9	0.6

EPA's review of Maryland's submittal indicates that the State has adopted and implemented adequate measures in the Cecil County to achieve the goal of a 9% reduction in ozone precursor emissions between 1996 and 1999. EPA is approving the Post-1996 ROP plan for the Cecil County portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. Additionally, EPA is approving revisions to the 1990 base year inventory for Cecil County. EPA has

determined that the requested revisions to the inventory satisfy the relevant requirements of the Act and EPA guidance on inventory development.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the Post-1996 ROP Plan for

Cecil County if adverse comments are filed. This rule will be effective on April 3, 2000 without further notice unless EPA receives adverse comment by March 6, 2000. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties

interested in commenting must do so at this time.

IV. Final Action

EPA is approving the Post-1996 ROP plan for the Cecil County portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area, submitted by the State of Maryland on December 24, 1997, as modified on August 17, 1998. EPA is also approving revisions to 1990 base year VOC and NO_x emission inventories for Cecil County submitted by the State of Maryland on December 24, 1997.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), 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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement

for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve Maryland's Post-1996 ROP plan for Cecil County must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: January 14, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart V—Maryland

2. Section 52.1075 is amended by adding paragraph (h) to read as follows:

§ 52.1075 1990 base year emission inventory.

* * * * *

(h) EPA approves revisions to the Maryland State Implementation Plan amending the 1990 base year emission inventories for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, submitted by the Secretary of Maryland Department of the Environment on December 24, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile and non-road mobile source emission inventories for volatile organic compounds and nitrogen oxides in the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area.

3. Section 52.1076 is amended by adding paragraph (e) to read as follows:

§ 52.1076 Control strategies: ozone.

* * * * *

(e) EPA approves as a revision to the Maryland State Implementation Plan, the Post-1996 Rate of Progress Plan for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, submitted by the Secretary of Maryland Department of the Environment on December 24, 1997, and as modified on August 17, 1998.

[FR Doc. 00-2173 Filed 2-2-00; 8:45 am]

BILLING CODE 6560-50-U