

**§ 952.2 Purpose.**

\* \* \* A Bank may provide advances or grants under its CICA programs except for CIP programs, under which a Bank may only provide advances.

**§ 952.3 [Amended]**

5. Amend § 952.3 by:

a. In the definition of *CICA program* or *Community Investment Cash Advance program*, in paragraph (3), removing the term “REA” and adding, in its place, the word “A”, and removing the terms “RDA” and “UDA” and adding, in their place, the terms “RDF” and “UDF”, respectively, and in paragraph (4), adding the words “advance or grant” before the word “program”;

b. In the definition of *CIP*, removing the words “a CICA program” and adding, in their place, the words “an advance program under CICA”;

c. In the introductory text of the definition of *Housing projects*, removing the words “purchase, construction or rehabilitation” and adding, in their place, the words “purchase, construction, rehabilitation or refinancing (subject to § 952.5(c) of this part)”;

d. Adding, in alphabetical order, a definition of “Median income for the neighborhood”;

e. In the definition of *Provide financing*, removing the words “an advance” in paragraphs (4) and (5) and the word “advance” in paragraph (6), and adding, in their place, the word “funding”;

f. Removing the definition of *RDA* or *Rural Development Advance*;

g. In the definition of *RDA program* or *Rural Development Advance program*, removing the terms “RDA” and “Advance” and adding, in their place, the terms “RDF” and “Funding”, respectively, and removing the words “a program” and adding, in their place, the words “an advance or grant program”;

h. In paragraph (1)(ix) of the definition of *Targeted beneficiaries*, adding the words “or other area that” before the word “qualifies”;

i. In the definition of *Targeted income level*, amending the introductory text of paragraph (3) by removing the term “CICA”; and amending paragraph (4) by removing the words “CICA advances” and adding, in their place, the words “advances or grants”;

j. Removing the definition of *UDA* or *Urban Development Advance*; and

k. In the definition of *UDA program* or *Urban Development Advance program*, removing the terms “UDA” and “Advance” and adding, in their place, the terms “UDF” and “Funding”, respectively, and removing the words “a

program” and adding, in their place, the words “an advance or grant program”, to read as follows:

**§ 952.3 Definitions.**

\* \* \* \* \*

*Median income for the neighborhood.*

In the case of manufactured housing park projects and economic development projects located in a neighborhood, for which current median income data listed in the definition of “median income for the area” in this section is unavailable, median income for the neighborhood means the median income for the neighborhood published by the Federal Financial Institutions Examination Council, or the median income for the neighborhood obtained from another public entity or a private source and approved by the Board of Directors, at the request of a Bank, for use under the Bank’s CICA programs.

\* \* \* \* \*

**§ 952.5 [Amended]**

6. Amend § 952.5 by:

a. In paragraph (a)(3), removing the terms “RDA” and “UDA” and adding, in their place, the terms “RDF” and “UDF”, respectively;

b. In paragraph (c), removing the word “advances” and adding, in its place, the word “funding”;

c. In the heading of paragraph (d), and in paragraphs (d)(2) and (d)(3), removing the term “CICA” wherever it appears; and

d. In paragraphs (d)(5) and (d)(6)(i), removing the words “CICA advances” wherever they appear and adding, in their place, the words “advances made under CICA programs”.

**§ 952.7 [Amended]**

7. Amend § 952.7 by:

a. In paragraph (a), removing the words “by a CICA advance” and adding, in their place, the words “under a CICA program”; and

b. In paragraph (c), removing the word “lending” and adding, in its place, the word “funding”.

Dated: June 29, 2001.

By the Board of Directors of the Federal Housing Finance Board.

**J. Timothy O'Neill,**  
Chairman.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[MD059/71/98/114-3068; FRL-7011-9]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Rate of Progress Plans, Contingency Measures and Corrections to the Base Year Inventories for the Maryland Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area**

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

**ACTION:** Proposed rule and withdrawal of previous proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish the three percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area), namely Cecil County. In conjunction with the ROP plans for Cecil County, EPA is also approving the plans’ contingency measures and corrections to the 1990 base year inventories of ozone precursor emissions. EPA is approving these revisions in accordance with the requirements of the Clean Air Act. In conjunction with this proposed action to approve the ROP plans for Cecil County, EPA is also withdrawing a previous Notice of Proposed Rulemaking to approve the 1999 ROP plan for Cecil County published in the **Federal Register** on February 3, 2000.

**DATES:** Written comments must be received on or before August 13, 2001.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services 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**

The Clean Air Act (the Act) requires that for certain ozone nonattainment areas, states are to submit plans demonstrating a reduction in volatile organic compound (VOC) emissions of at least three percent per year, averaged over each three year consecutive period, through the area's designated attainment date. This is known as the rate-of-progress (ROP) requirement of the Act. The first ROP requirement covers the period 1990–1996 and is commonly known as the 15% Plan. Subsequent ROP milestone years are grouped in three year intervals beginning after 1996 (i.e., ROP milestone years are 1999, 2002, 2005). Section 182(c)(2)(C) of the Act allows states to substitute nitrogen oxides (NO<sub>x</sub>) emission reductions for VOC emission reductions in post 1996 ROP plans. To qualify for SIP credit in ROP plans, emission reduction measures, whether mandatory under the Act or adopted at the state's discretion, must ensure real, permanent and enforceable emission reductions.

Under the Act, the post 1996 ROP plans were due by November 15, 1994. However, on March 2, 1995, EPA issued a policy memorandum establishing an alternative approach for meeting the attainment demonstration and post 1996 ROP requirements of the Act. This policy memorandum established a phased approach for the submittal of the attainment demonstration. In the first phase (the Phase I plan), states were to submit a plan with specific control measures demonstrating at least the first 9 percent ROP reduction for 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.

In the second phase of this approach, (the Phase II plan), states were to submit modeling and attainment plans to show attainment through local and regional controls. For severe ozone nonattainment areas, such as the Philadelphia-Wilmington-Trenton area (the Philadelphia area), the Phase II plan was also to identify the measures needed to demonstrate ROP through the 2005 attainment year. States were to phase-in adoption of rules and implement measures to meet ROP beginning in the period immediately following 1999 and provide for timely

implementation of progress requirements.

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures to be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone. States are required to develop contingency measures in the event an area fails to meet ROP in a given milestone year.

Under EPA's transportation conformity rule, like an attainment plan, an ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes the motor vehicle emissions budgets (MVEBs) to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. States are required to identify motor MVEBs for both NO<sub>x</sub> and VOCs in their ROP plans for all milestone years.

On March 2, 1999, the D.C. Circuit Court ruled that MVEBs contained in submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. Please note that an adequacy finding for MVEBs contained in a submitted control strategy SIP is separate from EPA's completeness determination of the SIP submission, and separate from EPA's action to approve or disapprove the SIP. Therefore, even if the MVEBs in a submitted control strategy SIP have been found adequate for conformity purposes, the SIP itself could later be disapproved. The process for determining the adequacy of submitted SIP budgets is provided in a guidance memorandum dated May 14, 1999 and titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision." You may obtain a copy of this guidance from EPA's conformity website: <http://www.epa.gov/oms/traq> (once there, click on the "Conformity" button). The criteria by which EPA determines whether a SIP's MVEBs are adequate for conformity purposes are found at 40 CFR 93.118(e)(4). Final approval or disapproval of MVEBs occurs in conjunction with final approval or disapproval of the control strategy SIP

which identifies and establishes those budgets.

Cecil County, Maryland is part of the Philadelphia area with an attainment date of 2005. This rulemaking addresses the SIP revisions submitted by the Maryland Department of the Environment (MDE) to satisfy the post 1996 ROP requirements of the Act for Cecil County. In this rulemaking, EPA is proposing to approve Maryland's plans demonstrating ROP in Cecil County from 1996 through the 2005 attainment year into the SIP. Also as part of this rulemaking, EPA is proposing to approve the contingency measures and corrections to the 1990 base year emissions inventories for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area that were submitted in conjunction with the ROP plans.

**II. Maryland's SIP Revisions**

Although Maryland's SIP revision submittals for Cecil County's Phase I and Phase II plans, discussed below, also included Phase I and Phase II plan revisions for the Baltimore severe ozone nonattainment area (the Baltimore area) and revisions for the Maryland portion of the Metropolitan Washington, D.C. serious ozone nonattainment area (the Washington, D.C. area); this proposed rulemaking pertains to the post 1996 ROP plans for the Cecil County portion of the Philadelphia area. Also as part of this rulemaking, EPA is proposing to approve the plans' contingency measures and corrections to the 1990 base year emissions inventories for the Maryland portion of the Philadelphia area (Cecil County) that were submitted in conjunction with the ROP plans. The attainment demonstration plan portion of Cecil County's Phase II plan submitted by Maryland for the Philadelphia area is the subject of a separate rulemaking. Likewise, the Phase I and Phase II plans SIP revisions submitted by MDE pertaining to the Baltimore and Washington, D.C. areas either are or have been the subject of separate rulemakings.

Under the phased approach, MDE submitted the Phase I plan for Cecil County on December 24, 1997 and the Phase II plan for Cecil County on April 24, 1998, with a supplemental submittal on August 18, 1998. MDE subsequently revised portions of both its Phase I and Phase II plan submittals for Cecil County and submitted those revisions to EPA as SIP revisions on December 21, 1999 and December 28, 2000. Descriptions of the submitted SIP revisions related to the ROP plans for Cecil County are provided below.

On December 24, 1997, Maryland submitted a SIP revision for the Phase I plan for Cecil County. Maryland's December 24, 1997 Phase I plan submittal contained:

- The first 9 percent ROP demonstration for the 1999 milestone year;
- Corrections to the 1990 base year emissions inventories for Cecil County; and
- Enforceable commitments to address the first phase of the attainment plan.

On April 24, 1998, MDE submitted a SIP revision for the Phase II plan for Cecil County. EPA asked MDE to submit additional technical information for the Phase II plan. MDE submitted this additional information as a supplement to its Phase II plan on August 18, 1998. The Phase II plan contained the 2005 attainment demonstration and the ROP demonstrations for milestone years 2002 and 2005. The Phase II plan also contained additional information and revised mobile emissions modeling for the December 24, 1997 Phase I ROP submittal. Specifically for Cecil County, the Phase II plan SIP revision requested that the chapter on conformity, including MVEBs, and appendix E, including the target levels, emission estimates, projection year estimates and reduction credit estimates for 1999 contained in the original Phase I plan be replaced by the information contained in the Phase II plan submittal.

On December 3, 1999, MDE submitted a draft SIP revision to EPA for parallel processing. On December 21, 1999, MDE submitted the formal SIP revision. This SIP revision modified the Phase II plan for Cecil County. Specifically, this SIP revision revised the MVEBs for Cecil County for the ROP milestone years 2002 and 2005. EPA determined these MVEBs adequate for use in conformity determinations on May 31, 2000. That determination became effective on June

23, 2000 (see 65 FR 36441, published June 8, 2000).

On December 28, 2000, MDE submitted a SIP revision again modifying the Phase II plan for Cecil County. This SIP revision consisted of new mobile source modeling that used updated 1999 vehicle registration data to project mobile emissions growth in Cecil County. The plan also modified the MVEBs for 2005 for Cecil County to reflect the emission reduction benefits of the Federal Tier 2/Sulfur-in-Fuel regulation. EPA determined these MVEBs adequate for use in conformity determinations on March 26, 2001. That determination became effective on April 27, 2001 (see 66 FR 18928, published April 12, 2001). This SIP submittal also provided more information and revised the Cecil County ROP demonstrations for the milestone years 1999, 2002 and 2005.

### III. EPA Rulemaking History on Cecil County ROP Plans

On July 29, 1997, EPA approved Maryland's 15 percent ROP plan for Cecil County as a SIP revision (62 FR 40457).

On February 3, 2000, EPA published a direct final rule approving the 1999 ROP plan, submitted by MDE on December 24, 1997, for Cecil County (65 FR 5252). On that same day, February 3, 2000, EPA published a companion notice of proposed rulemaking to approve that 1999 ROP plan for Cecil County (65 FR 5296). Because EPA received adverse comments during the public comment period, it withdrew the direct final rule on March 28, 2000 (65 FR 16320). Since the time of EPA's February 3, 2000 proposed approval action on the 1999 ROP plan, MDE submitted a SIP revision to revise the 1999 ROP demonstration for Cecil County. As stated previously, that SIP revision was submitted on December 28, 2000.

Because MDE has revised the 1999 ROP plan for which EPA proposed

approval on February 3, 2000, EPA is, hereby, withdrawing that previous proposed approval action on the 1999 ROP plan for Cecil County. EPA is, today, proposing to approve the revised 1999 ROP plan in conjunction with the 2002 and 2005 ROP plans. As stated previously, as part of this rulemaking, EPA is proposing to approve the plans' contingency measures and corrections to the 1990 base year emissions inventories for the Maryland portion of the Philadelphia area (Cecil County) that were submitted in conjunction with the ROP plans.

### IV. EPA Evaluation of Maryland's Submittals

#### A. Corrections to the 1990 Base Year Emissions Inventory for Cecil County

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

EPA is approving the corrections to the 1990 base year inventories for Cecil County. Table 1 below illustrates the corrections 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 proposed 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 PER DAY

|                        | VOC<br>previously<br>approved | VOC revised | Change | NO <sub>x</sub><br>previously<br>approved | NO <sub>x</sub> revised | Change |
|------------------------|-------------------------------|-------------|--------|---|-------------------------|--------|
| Mobile Sources .....   | 7.2                           | 7.2         | 0      | 9.3                                       | 9.3                     | 0      |
| Point Sources .....    | .55                           | .6          | (+.05) | 0   | 0                       | 0      |
| Nonroad Sources .....  | 2.02                          | 2.0         | (-.02) | 2.5                                       | 2.6                     | (+.1)  |
| Area Sources .....     | 9.23                          | 8.7         | (-.53) | 1.1                                       | 1.8                     | (+.7)  |
| Biogenic Sources ..... | 32.96                         | 32.96       | 0      | NA  | NA                      | NA     |
| Total .....            | 51.96                         | 51.46       | (-.5)  | 12.9                                      | 13.7                    | (+.8)  |

*B. Rate-of-Progress Plans*

## 1. Calculation of Needed Reductions

The first step in demonstrating ROP is to determine the target level of allowable emissions in the given ROP milestone year. The target level of emissions represents the maximum amount of emissions that can be emitted in a nonattainment area in the given ROP milestone year, which in this case is 1999, 2002 and 2005. The Act allows states to substitute NO<sub>x</sub> emission reductions that occur after 1990 for VOC emission reductions in post 1996 ROP plans. The required ROP is demonstrated when the sum of all creditable VOC and NO<sub>x</sub> emission reductions equal at least 3 percent per year averaged over a three year period (i.e., 1996–1999), for a total of 9 percent. If a state wishes to substitute NO<sub>x</sub> for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO<sub>x</sub> emissions must be developed for that milestone year. The MDE has

established target levels for both VOC and NO<sub>x</sub> emissions for Cecil County. However, the ROP control scenario for Cecil County is based solely on a VOC reduction strategy. Because enough VOC emission reductions exist to demonstrate the full 9 percent reduction for all ROP milestone years, Maryland assumed no NO<sub>x</sub> emission reductions to demonstrate ROP. The process for calculating the target level is as follows:

1. Develop the base year inventory.
2. Develop the 1990 ROP base year inventory (by subtracting biogenic emissions and sources located outside the nonattainment area from the base year inventory).
3. Calculate the 1990 adjusted base year inventory (this part 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).<sup>1</sup>
4. Calculate the 3 percent per year reduction required to demonstrate ROP for each consecutive three year milestone interval (multiply the adjusted base year inventory by 0.09).

The ROP milestone years are 1999, 2002 and 2005.

5. Calculate the fleet turnover correction term for the three year period. The fleet turnover correction is the difference between the FMVCP/RVP emission reductions calculated in step #3 and the previous milestone year's FMVCP/RVP emission reductions.

6. Calculate the target level of emissions for the milestone year, by subtracting #4 and #5 from the previously established target level for the area. For the 1999 milestone year, the VOC target level for 1996 was established in the 15 percent plan. For NO<sub>x</sub>, there is no 1996 target level, so the 1999 target level is calculated from the NO<sub>x</sub> adjusted base year inventory.

Tables 2 and 3 below summarize the target level calculations for both NO<sub>x</sub> and VOCs for Cecil County for the 1999, 2002 and 2005 ROP milestone years. Maryland has correctly calculated the 1999, 2002 and 2005 target level of emissions for Cecil County following EPA's guidance and the approach outlined above.

TABLE 2.—VOC TARGET LEVELS IN TONS PER DAY

[Based upon 9 percent control strategy]

|   | 1999    | 2002    | 2005    |
|---|---------|---------|---------|
| 1990 Base Year Inventory .....                        | 51.5    | 51.5    | 51.5    |
| (Minus Biogenic Emissions) .....                      | (−33.0) | (−33.0) | (−33.0) |
| 1990 Rate of Progress Base Year Inventory .....       | 18.5    | 18.5    | 18.5    |
| (Minus Non-creditable FMVCP/RVP 1990–1999) .....      | (−2.1)  | (−2.3)  | (−2.6)  |
| 1990 Adjusted Base Year Inventory .....               | 16.4    | 16.2    | 15.9    |
| 9 Percent Required Reduction (1996–1999) .....        | *.09    | *.09    | *.09    |
| Rate of Progress Emission Reduction Requirement ..... | 1.5     | 1.5     | 1.4     |
| Fleet Turnover Correction .....                       | 0.0     | 0.2     | 0.1     |
| Target Level from Previous Milestone Year .....       | 14.1    | 12.6    | 10.9    |
| (Minus Emission Reduction Requirement) .....          | (−1.5)  | (−1.5)  | (−1.4)  |
| (Minus Fleet Turnover Correction) .....               | (−0.0)  | (−0.2)  | (−0.1)  |
| Target Level .....                                    | 12.6    | 10.9    | 9.4     |

TABLE 3.—NO<sub>x</sub> TARGET LEVELS IN TONS PER DAY

[Based upon 0 percent control strategy]

|   | 1999   | 2002   | 2005   |
|---|--------|--------|--------|
| 1990 Base Year Inventory .....                        | 13.7   | 13.7   | 13.7   |
| (Minus Non-creditable FMVCP/RVP 1990–1999) .....      | (−1.7) | (−1.9) | (−2.0) |
| 1990 Adjusted Base Year Inventory .....               | 12.0   | 11.8   | 11.7   |
| 0 Percent Required Reduction .....                    | 0      | 0      | 0      |
| Rate of Progress Emission Reduction Requirement ..... | 0.0    | 0.0    | 0.0    |
| Fleet Turnover Correction .....                       | 0.0    | 0.2    | 0.1    |
| Target Level from Previous Milestone Year .....       | 12.0   | 12.0   | 11.8   |
| (Minus Emission Reduction Requirement) .....          | (−0.0) | (−0.0) | (−0.0) |
| (Minus Fleet Turnover Correction) .....               | (−0.0) | (−0.2) | (−0.1) |
| Target Level .....                                    | 12.0   | 11.8   | 11.7   |

<sup>1</sup> Section 182(b)(2)(B) of the Act defines the baseline year of emissions as “the total amount of actual VOC and NO<sub>x</sub> emissions from all anthropogenic sources in the area during the

calendar year of enactment of the Clean Air Act amendments. This section prohibits from the baseline the emissions that would be eliminated by the FMVCP regulations promulgated by January 1,

1990, and the RVP regulations promulgated by the time of enactment.

## 2. Growth Projections (1990–2005)

ROP must be demonstrated net of all new emissions growth in the area. Therefore, states must include adequate emission reductions in their ROP plans to offset the emissions growth projected to occur after 1990. States account for growth by projecting their 1990 base year emission inventories to estimate emissions growth between 1990 and the attainment year. The projected inventories must reflect expected growth in activity, as well as regulatory actions which will affect emission levels. EPA guidance says 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. Mobile source emissions projections can be estimated using EPA's MOBILE5 emissions model.

The methodologies used by Maryland to project emissions growth and EPA's

evaluation are discussed in the TSD prepared in support of this proposed rulemaking action. The 1999 projection year inventories for Cecil County were revised in the Phase II plan submitted by Maryland in August 1998. Maryland then further revised the mobile source growth estimates for Cecil County in the December 28, 2000 SIP submittal. Maryland used appropriate methodologies to project emissions growth in all source categories. A summary of the projection year inventories for NO<sub>x</sub> and VOCs through the 2005 attainment year is shown in Tables 4 and 5 below. The EPA has determined that these growth estimates are approvable.

TABLE 4.—PROJECTED (UNCONTROLLED) VOC EMISSIONS FOR CECIL COUNTY IN TONS PER DAY

| Source category | 1990 VOC baseline | 1999 VOC projected | 2002 VOC projected | 2005 VOC projected |
|-----------------|-------------------|--------------------|--------------------|--------------------|
| Point .....     | 0.6               | 0.6                | 0.6                | 0.6                |
| Mobile .....    | 7.2               | 10.3               | 11.5               | 12.2               |
| Nonroad .....   | 2.0               | 2.3                | 2.4                | 2.5                |
| Area .....      | 8.7               | 9.0                | 9.1                | 9.2                |
| Total .....     | 18.5              | 22.2               | 23.6               | 24.5               |

TABLE 5.—PROJECTED (UNCONTROLLED) NO<sub>x</sub> EMISSIONS FOR CECIL COUNTY IN TONS PER DAY

| Source category | 1990 NO <sub>x</sub> baseline | 1999 NO <sub>x</sub> projected | 2002 NO <sub>x</sub> projected | 2005 NO <sub>x</sub> projected |
|-----------------|-------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Point .....     | 0                             | 0                              | 0                              | 0                              |
| Mobile .....    | 9.3                           | 12.7                           | 13.2                           | 13.4                           |
| Nonroad .....   | 2.6                           | 2.8                            | 3.0                            | 3.0                            |
| Area .....      | 1.8                           | 1.9                            | 2.0                            | 2.2                            |
| Total .....     | 13.7                          | 17.4                           | 18.2                           | 18.6                           |

## 3. Evaluation of Emission Control Measures

The purpose of the ROP plan is to demonstrate how the State has reduced emissions 3 percent per year grouped in three year intervals, through the area's attainment year. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and are real, permanent, quantifiable, federally enforceable and they occurred by the applicable ROP milestone year. An evaluation of each of

the control measures implemented by Maryland in Cecil County can be found in the TSD prepared for this rulemaking. Table 6 below provides a summary of the control measures used by Maryland to achieve ROP in Cecil County. All control measures in the ROP demonstration have been adopted and implemented by the State of Maryland or are Federal measures being implemented nationally. All state control measures have been fully approved by EPA into the Maryland SIP

and are permanent and enforceable. The mobile source control programs includes the total amount of reductions associated with enhanced vehicle inspection and maintenance, Tier 1 motor vehicle emission standards, reformulated gasoline, Stage II vapor recovery controls at gas stations, the National Low Emissions Vehicle program, highway heavy duty engine standards, and FMVCP/RVP reductions. EPA's MOBILE5b emissions model was used to generate emission reductions.

TABLE 6.—SUMMARY OF ROP EMISSION CONTROL MEASURES FOR CECIL COUNTY IN TONS PER DAY

| Control measure   | 1999 VOC reduction | 1999 NO <sub>x</sub> reduction | 2002 VOC reduction | 2002 NO <sub>x</sub> reduction | 2005 VOC reduction | 2005 NO <sub>x</sub> reduction |
|---|--------------------|--------------------------------|--------------------|--------------------------------|--------------------|--------------------------------|
| Architectural coatings .....  | 0.2                | 0.0                            | 0.2                | 0.0                            | 0.2                | 0.0                            |
| Consumer and commercial products .....  | 0.1                | 0.0                            | 0.1                | 0.0                            | 0.1                | 0.0                            |
| Antibody refinishing .....  | 0.2                | 0.0                            | 0.2                | 0.0                            | 0.2                | 0.0                            |
| Surface cleaning .....  | 0.2                | 0.0                            | 0.2                | 0.0                            | 0.2                | 0.0                            |
| Gasoline vapor recovery at tank loading .....   | 0.8                | 0.0                            | 0.8                | 0.0                            | 0.8                | 0.0                            |
| Printing operations (screen, lithographic, flexographic and rotogravure combined) ..... | 0.1                | 0.0                            | 0.1                | 0.0                            | 0.1                | 0.0                            |

TABLE 6.—SUMMARY OF ROP EMISSION CONTROL MEASURES FOR CECIL COUNTY IN TONS PER DAY—Continued

| Control measure                      | 1999 VOC reduction | 1999 NO <sub>x</sub> reduction | 2002 VOC reduction | 2002 NO <sub>x</sub> reduction | 2005 VOC reduction | 2005 NO <sub>x</sub> reduction |
|--------------------------------------|--------------------|--------------------------------|--------------------|--------------------------------|--------------------|--------------------------------|
| Nonroad heavy duty diesel .....      | 0.0                | 0.2                            | 0.0                | 0.3                            | 0.0                | 0.5                            |
| Nonroad small gas engines .....      | 0.4                | 0.0                            | 0.5                | 0.0                            | 0.8                | 0.0                            |
| Locomotive engines .....             |                    |                                | 0.0                | 0.1                            | 0.0                | 0.2                            |
| Open burning ban .....               | 3.5                | 0.7                            | 3.5                | 0.7                            | 3.5                | 0.7                            |
| Mobile source control programs ..... | 6.2                | 4.9                            | 8.4                | 6.3                            | 9.5                | 7.4                            |
| Total .....                          | 11.7               | 5.8                            | 14.0               | 7.4                            | 15.4               | 8.8                            |

## 4. Summary of ROP Evaluation

Maryland's ROP demonstration for Cecil County is summarized in tons per

day in Table 7 below. The table shows that the projected control strategy inventories are less than or equal to the target level for each milestone year,

therefore, the ROP plans demonstrate that the 9 percent reduction, net of growth, requirement is met in Cecil County.

TABLE 7.—CECIL COUNTY ROP DEMONSTRATION IN TONS PER DAY

| Cecil County  | 1999 VOC | 1999 NO <sub>x</sub> | 2002 VOC | 2002 NO <sub>x</sub> | 2005 VOC | 2005 NO <sub>x</sub> |
|---|----------|----------------------|----------|----------------------|----------|----------------------|
| Projected Uncontrolled Emissions (refer to tables 4 and 5) (includes growth) .....          | 22.2     | 17.4                 | 23.6     | 18.2                 | 24.5     | 18.6                 |
| Reductions From Creditable Emission Control Measures (refer to table 6) .....               | 11.7     | 5.8                  | 14.0     | 7.4                  | 15.4     | 8.8                  |
| Emissions Level Obtained (projected uncontrolled emissions minus emission reductions) ..... | 10.5     | 11.6                 | 9.6      | 10.8                 | 9.1      | 9.8                  |
| Projected Target Levels (refer to tables 2 and 3) .....                                     | 12.6     | 12.0                 | 10.9     | 11.8                 | 9.4      | 11.7                 |
| Surplus Emission Reductions (target levels minus emissions level obtained) .....            | 2.1      | 0.4                  | 1.3      | 1.0                  | 0.3      | 1.9                  |

## C. Motor Vehicle Emissions Budgets

Under EPA's transportation conformity rule, like an attainment plan, an ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes

the motor vehicle emissions budgets (MVEBs) to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air

quality violations, worsen existing violations, or delay timely attainment of the NAAQS. States are required to identify motor MVEBs for both NO<sub>x</sub> and VOCs in their ROP plans for all milestone years. These budgets are illustrated in Table 8 below.

TABLE 8.—MOTOR VEHICLE EMISSION BUDGETS FOR CECIL COUNTY IN TONS PER DAY

|            | VOC | NO <sub>x</sub> |
|------------|-----|-----------------|
| 1999 ..... | 4.4 | 7.8             |
| 2002 ..... | 2.7 | 6.3             |
| 2005 ..... | 2.6 | 5.6             |

As explained previously, EPA determined the MVEBs identified and established in the December 21, 1999 submittal of the ROP plans adequate for use in conformity determinations on May 31, 2000. That determination became effective on June 23, 2000 (see 65 FR 36441, published June 8, 2000). Most recently, EPA determined the MVEBs identified and established in the December 28, 2000 submittal adequate for use in conformity determinations on March 26, 2001. That determination became effective on April 27, 2001 (see 66 FR 18928, published April 12, 2001).

## D. Contingency Measures

Section 172(c)(9) of the Act requires moderate and above ozone

nonattainment areas to adopt contingency measures to be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone. EPA issued guidance that allows states to implement their contingency measures early, provided the measures are not needed now to demonstrate ROP. EPA does not believe it is logical to penalize areas that are taking extra steps to implement contingency measures early, nor should states be required to backfill for the

early activation of contingency measures.

In the Cecil County ROP plan, Maryland outlines its approach for using already implemented control measures for contingency purposes. The EPA encourages the early implementation of required control measures and of contingency measures as a means of guarding against failure to meet a milestone or to attain. Maryland has adopted more emission control programs than is necessary to demonstrate ROP in the Cecil County area. These extra or "surplus" emission reductions are shown in Table 7 above. Maryland's plan for Cecil County shows an adequate amount of emission reductions have occurred beyond those

required for ROP, and therefore, any surplus emission reductions can be considered as early implementation of contingency measures. Surplus emission reductions associated control measures that are either not required in the nonattainment area by the Act, nor are Federal measures may be used for contingency purposes. Maryland has adopted two such measures (controls on open burning and the National Low Emissions Vehicle program), which are available for consideration as the early implementation of contingency measures. Pursuant to EPA guidance, the requirements of the Act with regard to providing contingency measures should the area fail to achieve ROP, have been satisfied in the Cecil County portion of the Philadelphia area.

EPA's review of Maryland's SIP revisions indicates that the post 1996 ROP requirements of the Act have been met for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA is proposing to approve the post 1996 ROP plans for Cecil County for milestone years 1999, 2002, and 2005 that were submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000. EPA is soliciting public comments on its proposal to approve these post 1996 ROP plans, corrections to the base year inventories and the contingency measures as discussed in this document. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document.

#### V. Proposed Action

EPA is proposing to approve the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000. EPA is also proposing to approve corrections to the 1990 base year emissions inventories for Cecil County, submitted on December 24, 1997. EPA is also proposing to approve the contingency plans for failure to meet ROP for Cecil County, submitted in conjunction with the ROP demonstrations.

#### VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to

review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Public Law 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve 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 proposed 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 proposed 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 proposed rule to approve the post 1996 ROP plans for the Cecil County, Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

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

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

Dated: July 5, 2001.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[FRL-7012-2]

RIN 2060-AG85

#### Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Idaho National Engineering and Environmental Laboratory Proposed for Disposal at the Waste Isolation Pilot Plant

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability; opening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA, or "we") is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents on waste characterization programs applicable to certain transuranic (TRU) radioactive waste at the Idaho National Engineering and Environmental Laboratory (INEEL)