plan to take no further action in relation to this proposed rule. If we receive written adverse comments which we have not addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Written comments must be received on or before September 5, 2001.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. You may inspect copies of the documents relevant to this action during normal business hours at the following location:

Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Michael G. Leslie at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680.

SUPPLEMENTARY INFORMATION:

Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: July 23, 2001.

David Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–19459 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD057/71/98/115–3074; FRL–7025–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Rate of Progress Plans and Contingency Measures for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: 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 Baltimore severe ozone nonattainment area (the Baltimore area). In conjunction with the ROP plans for Baltimore, EPA is also proposing to approve the plans' contingency measures for failure to meet ROP. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before September 5, 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. Clean Air Act Requirements

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, grouped in consecutive three year periods, through the area's designated attainment date. This is known as the rate-of-progress requirement of the Act. The first ROP requirement covers the period 1990–1996 and is commonly known as the 15 Percent Plan. Subsequent ROP milestone years are grouped in three year intervals beginning after 1996 (*i.e.,* ROP milestone years for Baltimore are 1999, 2002, 2005). Section 182(c)(2)(C) of the Act allows states to substitute nitrogen oxides (NO_X) 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 plans to show attainment through local and regional controls. For severe ozone nonattainment areas such as Baltimore, 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 national ambient air quality standard. Maryland is required to identify motor MVEBs for both NO_X and VOCs in the Baltimore 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.

The attainment date for the Baltimore severe ozone nonattainment area is 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 the Baltimore ozone nonattainment area. In this rulemaking, EPA is proposing to approve Maryland's plans demonstrating ROP in the Baltimore nonattainment area through the 2005 attainment year. Also as part of this rulemaking, EPA is proposing to approve the contingency measures that were submitted with the Baltimore ROP plans.

II. Maryland's SIP Revisions

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

Under the phased approach, MDE submitted the Phase I plan for the Baltimore area on December 24, 1997 and the Phase II plan 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 the Baltimore area 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 the Baltimore area are provided below.

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

(1) The first nine percent ROP demonstration for the 1999 milestone year;

(2) Corrections to the 1990 base year emissions inventories;

(3) Revisions to the 15 Percent plan for Baltimore; and

(4) 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 the Baltimore nonattainment area. EPA asked MDE to submit additional technical information for the Phase II plan. MDE submitted the Phase II supplement 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 the Baltimore nonattainment area, 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 the Baltimore nonattainment area. Specifically, this SIP revision revised the MVEBs for the Baltimore nonattainment area for the ROP milestone years 2002 and 2005. EPA determined these MVEBs adequate for use in conformity determinations on February 15, 2000. That determination became effective on March 8, 2000 (see 65 FR 8701 published February 22, 2000).

On December 28, 2000, MDE submitted a SIP revision again modifying the Phase II plan for the Baltimore nonattainment area. This plan revision modified the attainment demonstration plan's MVEBs (for 2005) to reflect the emission reduction benefits of the Federal Tier 2/Sulfur-in-Fuel regulation. This revision was required because the attainment demonstration plan for the Baltimore area, for which EPA proposed approval on December 16, 1999 (64 FR 70397), includes emission reduction benefits from the Federal Tier 2/Sulfur-in-Fuel regulation. EPA determined these MVEBs adequate for use in conformity determinations on June 19, 2001. That determination became effective on June 20, 2001 (see 66 FR 35421 published July 5, 2001).

The ROP plans that are the subject of this proposed rulemaking do not include emission reduction benefits from the Federal Tier 2/Sulfur-in-Fuel regulation as those reductions are not necessary to demonstrate ROP. Consequently, the MVEBs identified and established in these ROP plans do not reflect the emission reduction benefits of the Federal Tier 2/Sulfur-in-Fuel regulation. It must be noted, therefore, that for the year 2005, the more restrictive MVEBS established and identified in revised attainment demonstration plan submitted by MDE on December 28, 2000 (and found adequate by EPA on June 19, 2001), are the applicable MVEBs to be used in transportation conformity demonstrations for the Baltimore area.

However, Maryland's December 28, 2000 submittal did revise the Baltimore ROP demonstrations for the milestone years 2002 and 2005. During the review of the revisions to the ROP plans contained in the December 28, 2000 SIP submittal, EPA requested additional technical support documentation from MDE. The MDE submitted this additional technical support to EPA on

July 2, 2001. This information has been added to the docket for this proposed rulemaking and includes:

(1) Rule effectiveness adjustments to several stationary source control measures;

(2) Adjustments to the VOC and NO_X target levels for 1999, 2002 and 2005 to account for the application of rule effectiveness on certain stationary source control measures; and

(3) Revisions to the emission reduction benefits from Maryland's auto body refinishing rule, NO_X RACT rule, NO_X Budget rule (based upon the Ozone Transport Commission's model rule to require additional NO_X reductions, beyond RACT, from certain major sources beginning in May of 1999) and its NO_X SIP Call rule. The revised emission reduction benefits reflect the final state-adopted regulations for these control programs.

III. EPA Evaluation of Maryland's Submittals

A. Rate-of-Progress Plans

(1) Calculation of Needed Reductions—The first step in demonstrating ROP is to determine the target level of allowable emissions for each 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 or 2005. The Act allows states to substitute NO_X emission reductions for VOC emission reductions in post 1996 ROP plans. The required ROP is demonstrated when the sum of all creditable VOC and NO_X emission reductions equal at least 3 percent per year grouped in three year periods (*i.e.,* 1996–1999), or for a total of 9 percent. If a state wishes to substitute NO_X for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO_X emissions must be developed for that milestone year.

The attainment demonstration modeling for the Baltimore area establishes that NO_X reductions are necessary to bring the area into attainment. EPA proposed to approve the attainment demonstration for the Baltimore area in the **Federal Register** on December 16, 1999. Because NO_X reductions are necessary for attainment, Maryland is also using NO_X reductions to demonstrate ROP in the Baltimore area. MDE developed NO_X target levels to account for the NO_X substitution. The process for calculating the target levels is as follows:

(a) Develop the base year emissions inventories for NO_X and VOCs.

(b) Develop the 1990 ROP base year inventory (for VOCs only by subtracting biogenic emissions and sources located outside the nonattainment area from the base year inventory).

(c) Calculate the 1990 adjusted base year inventories (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).[1]

(d) 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.

(e) 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.

(f) 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_X, there is no 1996 target level, so the 1999 target level is calculated from the NO_X base year inventory.

Tables 1 and 2 below summarize the target level calculations for both NO_X and VOCs for the 1999, 2002 and 2005 ROP milestone years. The target level calculations show, using a combination of VOC and NO_X emission reductions, at least a 9 percent total reduction for all milestone years. Maryland has correctly calculated the 1999, 2002 and 2005 target levels for the Baltimore area following EPA's guidance and the approach outlined above.

TABLE 1.—BALTIMORE AREA VOC TARGET LEVELS IN TONS PER DAY

	1999	2002	2005
1990 Base Year Inventory	523.3	523.3	523.3
(Minus biogenic emissions)	(−180.0)	(−180.0)	(−180.0)
1990 Rate of Progress Base Year Inventory	343.3	343.3	343.3
(Minus non-creditable FMVCP/RVP)	(−44.5)	(−48.0)	(−49.2)
1990 Adjusted Base Year Inventory	298.8	295.3	294.1
ROP Percentage Reduction	*.15	*2.5	*3.5
ROP Emission Reductions	.45	7.38	10.29
Fleet Turnover Correction	0.0	3.5	1.2
Target Level from Previous Milestone Year	253.3	252.85	241.97
(Minus Emission Reduction Requirement)	(−.45)	(−7.38)	(−10.29)
(Minus Fleet Turnover Correction)	(−0.0)	(−3.5)	(−1.2)
Target Level	252.85	241.97	230.48

TABLE 2.—BALTIMORE AREA NO_X TARGET LEVELS IN TONS PER DAY

	1999	2002	2005
1990 Base Year Inventory	467.9	467.9	467.9
(Minus non-creditable FMVCP/RVP)	(−32.3)	(−35.0)	(−35.4)
1990 Adjusted Base Year Inventory	435.6	432.9	432.5
ROP Percentage Reduction	*8.85	*6.5	*5.5

[1] Section 182(b)(2)(B) of the Act defines the baseline year of emissions as ''the total amount of actual VOC and NO_X 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.

TABLE 2.—BALTIMORE AREA NO_X TARGET LEVELS IN TONS PER DAY—Continued

	1999	2002	2005
ROP Emission Reductions	38.55	28.14	23.79
Fleet Turnover Correction	32.3	2.7	0.4
Target Level from Previous Milestone Year	467.9	397.05	366.21
(Minus Emission Reduction Requirement)	(−38.55)	(−28.14)	(−23.79)
(Minus Fleet Turnover Correction)	(−32.3)	(−2.7)	(−0.4)
Target Level	397.05	366.21	342.02

(2) Growth Projections (1990–2005)—Rate-of-progress 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 upon 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. The 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 technical support document (TSD) prepared in support of this rulemaking action. Maryland used appropriate methodologies to project emissions growth in all source categories. The projection year inventories for NO_X and VOCs through the 2005 attainment year are shown in Tables 3 and 4 below. EPA has determined that these growth estimates are approvable.

TABLE 3.—BALTIMORE PROJECTED (UNCONTROLLED) VOC EMISSIONS IN TONS PER DAY

Source category	1990 VOC baseline	1999 VOC projected	2002 VOC projected	2005 VOC projected
Point	42.0	48.1	51.4	54.2
Mobile	134.2	108.7	105.3	106.1
Nonroad	44.7	50.9	53.37	55.76
Area	122.4	128.7	130.5	132.2
Total	343.3	336.4	340.57	348.26

TABLE 4.—BALTIMORE PROJECTED (UNCONTROLLED) NO_X EMISSIONS IN TONS PER DAY

Source Category	1990 NO_X baseline	1999 NO_X projected	2002 NO_X projected	2005 NO_X projected
Point	223.2	240.6	247.5	251.9
Mobile	159.5	157.1	169.6	173.8
Nonroad	71.5	82.0	86.65	91.84
Area	13.7	14.8	15.1	15.4
Total	467.9	494.50	518.85	532.94

(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 the Baltimore nonattainment area can be found in the TSD prepared for this rulemaking. Table 5 below provides a summary of the control measures used by Maryland to achieve ROP in the Baltimore nonattainment area. 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 include the total amount of reductions associated with enhanced vehicle inspection and maintenance, Tier 1 motor vehicle emission standards, reformulated gasoline, the National Low Emissions Vehicle program, and highway heavy duty diesel engine standards. EPA's MOBILE5b emissions model was used to generate mobile source emission reductions.

TABLE 5.—SUMMARY OF ROP EMISSION CONTROL MEASURES FOR BALTIMORE IN TONS PER DAY

Control measure	1999 VOC reduction	1999 NO_X reduction	2002 VOC reduction	2002 NO_X reduction	2005 VOC reduction	2005 NO_X reduction
Open Burning	2.91	0.61	2.91	0.61	2.91	0.61
AIM Coatings	5.49	.....	5.52	.....	5.55	.....
Consumer Products	2.72	.....	2.78	.....	2.83	.....
Autobody Refinishing	7.48	.....	7.79	.....	8.07	.....
Surface Cleaning/Degreasing	5.79	.....	5.78	.....	5.76	.....
Landfills	0.1	.....	0.24	.....	0.27	.....
VOC RACT—Expandable Polystyrene	0.09	.....	0.09	.....	.10	.....
VOC RACT—Yeast Facilities	0.75	.....	0.81	.....	0.87	.....
VOC RACT—Commercial Bakeries	0.68	.....	0.71	.....	0.72	.....
VOC RACT—Screen Printing	0.18	.....	0.19	.....	0.2	.....
Flexographic and Rotogravure Printers	0.86	.....	0.88	.....	0.9	.....
Lithographic Printers	2.46	.....	2.61	.....	2.66	.....
Federal Air Toxics	0.5	.....	0.5	.....	0.5	.....
State Air Toxics	0.88	.....	0.88	.....	0.96	.....
Enhanced Rule Compliance	4.7	.....	4.9	.....	5.1	.....
Nonroad Heavy Duty Diesel	.....	4.7	.....	10.96	.....	16.13
Nonroad Small Gas Engines	6.1	(−0.3)	9.69	(−0.37)	17.51	(−0.45)
Marine Engine Standards	.....	.....	0.86	(−0.01)	1.79	(−0.07)
Locomotive Engine Standards	.....	.....	.....	2.42	.....	4.2
NO_X RACT	.....	4.83	.....	4.93	.....	5.01
OTC NO_X Budget Program and the NO_X SIP Call	.....	87.2	.....	109.74	.....	128.2
Gasoline Vapor Recovery	8.1	.....	9.0	.....	10.0	.....
Mobile Source Control Programs	33.8	32.8	51.2	56.7	57.4	69.5
Total	83.6	129.9	107.3	184.98	124.1	223.1

(4) Summary of ROP Evaluation—Maryland's ROP demonstration for the Baltimore nonattainment area is summarized in tons per day in Table 6 below. The table shows that the projected control strategy inventories are less than or equal to the target level established for each milestone year. Therefore, the ROP plans demonstrate that emissions have been reduced by a minimum of 9 percent, net of growth, for each milestone year.

TABLE 6.—BALTIMORE NONATTAINMENT AREA ROP DEMONSTRATION IN TONS PER DAY

	1999 VOC	1999 NO_X	2002 VOC	2002 NO_X	2005 VOC	2005 NO_X
Projected Uncontrolled Emissions (includes growth) (refer to tables 3 and 4)	336.4	494.5	340.6	518.9	348.3	532.9
Reductions From Creditable Emission Control Measures (refer to table 5)	83.6	129.9	107.3	184.98	124.1	223.1
Emissions Level Obtained (uncontrolled emissions minus emission reductions)	252.8	364.6	233.3	333.9	224.2	309.8
Projected Target Levels (refer to tables 1 and 2)	252.85	397.05	241.97	366.21	230.48	342.02
Surplus Emission Reductions (target levels minus emissions obtained)	.05	32.45	8.67	32.31	6.28	32.22

B. 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 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 national ambient air quality standard. Maryland is required to identify motor MVEBs for both NO_X and VOCs in the Baltimore post 96 ROP plans for all milestone years. The budgets for the Baltimore area are shown in Table 7 below.

TABLE 7.—ROP MOTOR VEHICLE EMISSION BUDGETS FOR THE BALTIMORE AREA IN TONS PER DAY

	VOC	NO_X
1999	69.8	115.7
2002	54.0	112.6
2005	48.6	104.1

As explained previously, EPA determined the 2002 and 2005 MVEBs identified and established in the December 21, 1999 submittal of the ROP plans and shown Table 7 above adequate for use in conformity determinations on February 15, 2000. That determination became effective on March 8, 2000 (see 65 FR 8701 published February 22, 2000). However, as also explained previously, on June 19, 2001, EPA determined the revised 2005 MVEBs, identified and established in the December 28, 2000 submittal of the revised attainment demonstration plan for the Baltimore area, adequate for use in conformity determinations. That determination became effective on July 20, 2001 (see 66 FR 35421 published July 5, 2001). Those 2005 attainment plan MVEBs budgets are 45.5 tons per day of VOC and 96.9 tons per day of NO_X. These more restrictive MVEBs, established and identified in the December 28, 2000 revised attainment demonstration plan submitted by MDE, are the applicable MVEBs to be used in

transportation conformity demonstrations for the year 2005 for the Baltimore area.

C. Contingency Measures

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures that would have 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 Baltimore 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 Baltimore nonattainment area. These extra or ''surplus'' emission reductions are shown in Table 6 above. Maryland's plan for the Baltimore area 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 with control measures that are not required in the nonattainment area by the Act can be used for contingency purposes. Maryland has adopted several measures which are available for consideration as the early implementation of contingency measures, including controls on open burning, enhanced rule compliance, the National Low Emissions Vehicle program and the OTC NO_X Budget program.

Therefore, the requirements of the Act with regard to providing contingency measures should the area fail to achieve ROP, have been satisfied for the Baltimore area in accordance with EPA guidance.

EPA's review of Maryland's SIP revisions indicates that the post 1996 ROP requirements of the Act have been met for the Baltimore ozone nonattainment area. EPA is proposing to approve the post 1996 ROP plans for Baltimore 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 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.

IV. Proposed Action

EPA is proposing to approve the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Baltimore severe 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 the contingency plans for failure to meet ROP in the Baltimore nonattainment area, submitted in conjunction with the ROP demonstrations.

V. 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 Baltimore severe 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 26, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–19563 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 120–1120; FRL–7024–4]

Approval and Promulgation of Implementation Plans and Part 70 Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. EPA is approving a revision to Missouri rule ''Submission of Emission Data, Emission Fees, and Process Information.'' This revision will ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revision pursuant to both section 110 of the Clean Air Act and part 70 Operating Permits Program.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by September 5, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: July 17, 2001.

William A. Spratlin,

Acting Regional Administrator, Region 7.

[FR Doc. 01–19455 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–038–EXTb; FRL–7024–1]

Clean Air Act Promulgation of Extension of Attainment Date for the San Diego, California Serious Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to extend the attainment date for the San Diego serious ozone nonattainment area from November 15, 2000, to November 15, 2001. This extension is based in part on monitored air quality readings for the 1-hour national ambient air quality standard (NAAQS) for ozone during 2000. In the final rules section of this **Federal Register,** we are approving the State's request as a ''direct final'' rule without prior proposal because we view this action as noncontroversial and anticipate 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 that direct final rule, no further activity is contemplated in relation to this proposed rule. If we receive substantive adverse comments which have not already been responded to, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received before September 5, 2001.

ADDRESSES: Please address your comments to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the addresses listed below: California Air Resources Board, 1001 I Street, Sacramento, CA 95812.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288. E-mail: *jesson.david@epa.gov*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register.**

Dated: July 25, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–19457 Filed 8–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–7024–5]

RIN 2060–AG13

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Revisions to Regulations Requiring Availability of Information for Use of On-Board Diagnostic Systems and Emission-Related Repairs on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks and 2005 and Later Model Year Heavy-Duty Vehicles and Engines Weighing 14,000 Pounds Gross Vehicle Weight or Less

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency is revising the public comment period on the Service Information Availability Notice of Proposed Rulemaking (NPRM) which was published in the **Federal Register** on June 8, 2001 (66 FR 30830). The NPRM dealt with the use of on-board diagnostic systems and emission-related repairs on light-duty vehicles and trucks