

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

[MD 053-3013; FRL-5835-6]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; 15% Plan for Metropolitan Washington, D.C. Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of proposed rulemaking.

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

**DATES:** Comments on this proposed action for the 15% plan must be postmarked by July 7, 1997.

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

**FOR FURTHER INFORMATION CONTACT:** Carolyn M. Donahue, Ozone/Carbon Monoxide, and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, or by telephone at (215) 566-2095. Questions may also be

addressed via e-mail at donahue.carolyn@epamail.epa.gov. Please note that only written comments can be accepted for inclusion in the docket.

**SUPPLEMENTARY INFORMATION:****I. Background**

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

The Metropolitan Washington, D.C. area is classified as a serious ozone nonattainment area and is subject to the 15% requirement. The Metropolitan Washington, D.C. ozone nonattainment area consists of the entire District of Columbia ("the District"), five counties in the Northern Virginia area and five counties in Maryland. The Maryland portion of the nonattainment area consists of the Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's. These areas are subject to Maryland's 15% plan.

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

Virginia, Maryland and the District all must demonstrate reasonable further progress for the Metropolitan Washington, D.C. nonattainment area. The Commonwealth of Virginia, State of Maryland, and the District of Columbia,

in conjunction with municipal planning organizations, collaborated on a coordinated 15% plan for the Metropolitan Washington, D.C. nonattainment area (regional 15% plan). This was done with the assistance of the regional air quality planning committee, the Metropolitan Washington Air Quality Committee (MWAQC), and the local municipal planning organization, the Metropolitan Washington Council of Governments (MWCOG), to ensure coordination of air quality and transportation planning. The Act provides for interstate coordination for multi-state nonattainment areas. Because the interstate municipal planning organization involved, MWCOG, meets the requirements of section 174(c) of the Act, EPA has determined that the relevant interstate coordination requirements have been fulfilled. In the absence of an agreement to prepare a nonattainment area-wide plan, each state could have developed and submitted a SIP revision to obtain the 15% ROP requirement independently of the others.

Although the plan was developed by a regional approach, each jurisdiction is required to submit its portion of the 15% plan to EPA as a revision to its SIP. The 15% plan for the Maryland portion of the nonattainment area was submitted as a SIP revision by the Maryland Department of the Environment (MDE) on July 12, 1995. Because ROP requirements such as the 15% plan affect transportation improvement plans, municipal planning organizations have historically been involved in air quality planning in the Metropolitan Washington, DC area. As explained in further detail below, the regional 15% plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the 15% requirement in the entire Metropolitan Washington, DC ozone nonattainment area. The three jurisdictions, Maryland, Virginia, and the District, all agreed to apportion this total amount of required creditable reductions among themselves. EPA is taking action today on Maryland's 15% plan submittal, which addresses only Maryland's responsibility for the 15% ROP plan in the Metropolitan Washington, DC area.

On March 4, 1997, Maryland submitted a draft revised regional 15% plan for its portion of the Metropolitan Washington, DC nonattainment area. Maryland scheduled a public hearing on the proposed revisions to its 15% plan for March 3, 1997. EPA is taking action today on Maryland's July 12, 1995 15% plan submittal with the knowledge that

Maryland will be making a formal SIP revision revising its 15% plan.

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

## II. Analysis of the SIP Revision

### A. Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15% planning is the 1990 VOC base year emissions inventory. The inventory is broken down into several emissions source categories: stationary, area, on-road mobile, and off-road mobile. Maryland submitted formal SIP revisions containing their 1990 VOC base year inventory for the Maryland portion of the Metropolitan Washington, DC area on July 12, 1995.

### B. Growth in Emissions Between 1990 and 1996

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

Population can also serve as a surrogate indicator.

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

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

EPA, however, disagrees with the growth projections for the point source category. Maryland's 15% plan projected that point source emissions would remain constant for the period 1990 to 1996 because Maryland assumes new source review (NSR) offsets and special rules for modifications of sections 182(c) (6), (7), (8), and (10) of the Act would prevent an increase in point source emissions. EPA does not agree with this assumption for the following reasons:

1. The revised NSR rules for source modifications were not effective until November 15, 1992. Therefore, there may have been modifications of sources of less than the significance level of 40 tons per year (TPY) from 1990 to 1992. A potential 40 TPY increase could represent a 0.1 to 0.15 tons per season day (TPD) potential increase which is significant compared to the 1990 area-wide ROP (i.e., 1990 base year) inventory point source emissions of 18 TPD.

2. The revised NSR rules do not apply to cumulative modifications at a source of less than 25 TPY (de minimis modifications) nor to construction of new sources of less than 25 TPY potential emissions. For inventory purposes, point sources are defined as stationary sources with the potential to emit 10 TPY or more.

3. The NSR offset-related assumption does not address increases in emissions from sources that operated at less than 100% capacity during 1990 that can legally increase their typical ozone season day emissions by increasing the average daily production without triggering NSR offset requirements.

EPA cannot fully approve Maryland's point source growth projection based

upon the assumption that the NSR program would hold point source emissions constant. As a condition of final approval, Maryland will have to remedy this deficiency and revise the 15% plan to:

1. Project growth in point source emissions between 1990 and 1996 using growth factors based upon an adequate surrogate in accordance with the applicable EPA guidance documents. Such a projection may be based upon more recent emissions data than 1990, e.g., from current emission statements where available; and

2. Adopt and implement, if necessary, additional creditable measures to ensure that growth in point source emissions from 1990 to 1996 is offset.

It is relevant to note that Maryland has included growth in point sources, based on actual growth between 1990 and 1996, in the March 4, 1997 revised draft regional 15% plan subject to public hearing scheduled for March 3, 1997.

### C. Calculation of Target Level Emissions

The regional 15% plan calculates a target level of emissions to meet the 15% ROP requirement over the entire nonattainment area. The regional 15% plan projects emissions growth from 1990 to 1996 and apportions among the three jurisdictions the amount of creditable emission reductions that each jurisdiction must achieve in order for the entire nonattainment area to achieve a 15% reduction in VOCs net of growth. Each jurisdiction adopted the regional plan, which identified the amount of creditable emission reductions which that jurisdiction must achieve for the regional plan to get 15%, accounting for any growth. The regional plan calculated the "target level" of 1996 VOC emissions in accordance with EPA guidance.

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

1. 15% of the adjusted base year inventory,

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

3. Any reductions resulting from post-1990 corrections to existing motor

vehicle inspection and maintenance (I/M) programs or corrections to RACT rules.

There were no post-1990 emission reductions attributed to RACT

corrections or I/M corrections in the Metropolitan Washington, DC nonattainment area, and the regional plan correctly claimed zero reductions in the target level calculation. Table 1

summarizes the calculations for the 1996 VOC target level for the entire Metropolitan Washington, DC nonattainment area.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS FOR THE WASHINGTON, DC NONATTAINMENT AREA 15% PLAN

	District of Columbia	Maryland	Virginia	Washington D.C. area totals
1 1990 ROP Inventory .....	65.9	249.9	222.8	538.6
2 1990 Adjusted Base Year Inventory .....	56.3	216.9	190.7	463.9
3 FMVCP/RVP Adjustment (Line 1 less Line 2) .....	9.60	33.00	32.10	74.70
4 15% Reduction Requirement = 15% of Adjusted Base Year (0.15 × Line 2) .....	8.45	32.54	28.61	69.6
5 RACT Corrections .....	0.00	0.00	0.00	0
6 I/M Corrections .....	0.00	0.00	0.00	0
7 Total 15% & Non-creditable Reductions (Sum of lines 3, 4, 5 & 6) .....	18.05	65.54	60.71	144.30
8 Projected Growth 1990 to 1996 .....	5.20	29.10	29.00	63.30
9 1996 Regional Target Level (line 1 less line 7) .....				394.30
10 Apportioned State Emission Reduction and Regional Total .....	12.3	60.7	59.9	132.90
11 Total Reductions Claimed in 15% Plan .....	12.7	62.7	61.8	137.20

The emission reduction required to meet the 15% ROP requirement equals the sum of 15% of the adjusted base year inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996, plus reductions that resulted from corrections to the I/M or VOC RACT rules that were required to be in-place before 1990. The target level, Line 9 of the table, is the 1990 ROP inventory less the base 15% reduction (Line 4 of the table) and less all non-creditable emission reductions (Lines 3, 5 and 6 of the table). The Metropolitan Washington, DC nonattainment area regional target level is 394.3 TPD. EPA has determined that the regional target level for the Metropolitan Washington, DC nonattainment area has been properly calculated in accordance with EPA guidance.

The Maryland portion of the total 15% and non-creditable reductions is 65.54 TPD. Thus, the target level for Maryland is 184.4 TPD. EPA has determined that the target level for Maryland was also properly calculated in accordance with EPA guidance.

#### *D. Creditable Emission Control Strategies in the 15% Plan*

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

#### *Reformulated Gasoline (RFG)*

Section 211(k) of the Act requires that, beginning January 1, 1995, only RFG be sold or dispensed in ozone nonattainment areas classified as severe or above. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. Section 211(k)(6) allows other nonattainment areas to "opt in" to the program. EPA approved the request by Maryland to opt in to the RFG program. The State claims a reduction of 9.2 TPD from its 1996 projected uncontrolled on-road mobile source emissions using the MOBILE5a model to determine the emission benefit. EPA has reviewed the Maryland submittal's calculation of the benefits for this measure and finds that the amount of reduction Maryland claims is creditable, but has not been documented as required by the Act.

In order to address these documentation and modeling issues, as well as the requirements of the National Highway Systems Designation Act (NHSDA), EPA is requiring Maryland to recalculate the mobile source credits for enhanced I/M program, RFG and FMVCP (Tier I). The benefits from RFG and Tier I must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures must be included in the 1999 target level calculation run. This remodeling assessment will therefore remove any potential for "double-counting" the credit accorded to individual mobile source measures. The requirement for a remodeling assessment is discussed below in the section addressing credits for Maryland's enhanced I/M program. While EPA will require Maryland to document and remodel the credits

derived from RFG under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 9.2 TPD emission benefit claimed in Maryland's 15% plan from the RFG program is creditable.

#### *Off-Road Use of Reformulated Gasoline*

The use of RFG will also result in reduced emissions from off-road engines such as motors for recreational boats and lawn mower engines, commonly used in summer months. Maryland claims a reduction of 1.2 TPD from its 1996 projected uncontrolled off-road mobile source emissions. Maryland used guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits for non-road equipment which are in a nonattainment area that uses Federal Phase I RFG. Maryland has correctly used the guidance to quantify the VOC emission reductions for this measure. EPA had determined that the 1.2 TPD emission benefit claimed in Maryland's 15% plan is creditable.

#### *Post 1990 Federal Motor Vehicle Control Program (Tier I)*

EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Act was amended in 1990, the resulting emission reductions are creditable toward the 15% reduction goal. Due to the three-year phase-in period for this program and the associated benefits stemming from fleet turnover, the reductions prior to 1996 are somewhat limited. Maryland claimed a reduction of 1.0 TPD from the

Tier I using the MOBILE5a model to determine the emission benefits. EPA has reviewed the methodology used by Maryland in calculating the benefits for this measure and finds that the amount of reduction Maryland claims is creditable, but has not been documented as required by the Act.

As described above, in order to address these documentation and modeling issues, as well as the requirements of the NHSDA, EPA is requiring Maryland to recalculate the mobile source credits for enhanced I/M, RFG, and Tier I. While EPA will require Maryland to remodel the credits derived from Tier I under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 1.0 TPD emission benefit claimed by Maryland in its 15% plan from Tier I is creditable.

#### Architectural and Industrial Maintenance Coatings (AIM)

In EPA's most recent policy memorandum on AIM credits, "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coatings Rule," dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. Maryland claimed a 20% reduction in AIM emissions under its 15% plan, which is a reduction of 4.9 TPD from their 1996 projected uncontrolled AIM coating emissions. In the March 7, 1996 memorandum, EPA allowed states to continue to claim a 20% reduction of total AIM emissions from the national rule in their 15% plans although the emission reductions are not expected to occur until April 1997. As a result of legal challenges to the proposed national rule, EPA has negotiated a compliance date of no earlier than January 1, 1998. Even though the promulgation date for this rule is now months beyond the end of 1996, it is EPA's intention to still allow the amount of credit specified for the AIM rule in the memorandum in states' 15% plans. EPA believes this is justified in light of the significant delays in proposing the rule. Furthermore, EPA believes the State has a significantly limited ability to effectuate reductions from this measure through the state adoption process any sooner than EPA's rulemaking schedule. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan, the State is responsible for developing measures to make up the shortfall.

Use of emissions reductions from EPA's expected national AIM rule is acceptable towards the 15% plan target.

Therefore, the 4.9 TPD in Maryland's 15% plan are creditable.

#### Consumer and Commercial Products

Section 183(e) of the Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the ROP requirement. Maryland claimed a 20% reduction or the equivalent reduction of 1.7 TPD from their 1996 projected uncontrolled consumer and commercial products emissions in its 15% plan. For the reasons discussed above under the AIM rule regarding delayed implementation of national rules, the EPA believes the 1.7 TPD projected reduction in Maryland's 15% plan is creditable. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan, the State is responsible for developing measures to make up the shortfall.

#### Autobody Refinishing

In a November 29, 1994 memorandum, "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," EPA set forth policy on the creditable reductions to be assumed from the national rule for autobody refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). Maryland followed EPA's guidance to determine the creditable emissions from this rule and claimed a reduction of 2.5 TPD from their 1996 projected uncontrolled autobody refinishing emissions in its 15% plan. For the reasons discussed above under the AIM rule regarding delayed implementation of national rules, EPA believes the 2.5 TPD projected reduction in Maryland's 15% plan is creditable. If this final rule does not provide the amount of credit that Maryland claims in its 15% plan, the State is responsible for developing measures to make up the shortfall.

#### Stage I Vapor Recovery

Stage I vapor recovery is a control measure which substantially reduces VOC emissions during the process of filling gasoline storage tanks at gasoline stations. This measure can be applied in newly designated nonattainment areas after the 1990 Amendments to the Act. In the Maryland portion of the Metropolitan Washington, DC nonattainment area, Stage I is a creditable measure in Calvert, Charles, and Frederick Counties in Maryland because Stage I was not required in these counties before 1990. The measure requires "balanced submerged" filling of gasoline storage tanks at gasoline service stations.

EPA policy allows emission reduction credits achieved in areas implementing Stage I control measures after 1990 to be creditable toward the 15% plan. Maryland estimates that this rule would result in a reduction of 0.9 TPD from Stage I in Calvert, Charles, and Frederick Counties. The 0.9 TPD projected reduction in Maryland's 15% plan is creditable.

#### Stage II Vapor Recovery

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

Maryland had no pre-1990 Stage II controls in its portion of the Metropolitan Washington, DC nonattainment area. Stage II is a creditable measure in counties where these controls were not required before 1990. Maryland estimates that the control measure will result in a reduction of 7.9 TPD from the 1996 projected baseline of 11.7 TPD. The Maryland 15% plan states that Maryland used the MOBILE5a model in conjunction with gasoline throughput to determine the creditable emission reduction. For this mobile source measure, the State submitted limited documentation with regard to the

MOBILE5a runs and calculations done to determine credit. However, EPA has no reason to dispute Maryland's methodology. This measure and the 7.9 TPD is creditable toward the 15% requirement of Maryland's 15% plan.

#### Transportation Control Measures (TCMs)

TCMs are strategies to both reduce VMT and decrease the amount of emissions per VMT. TCMs are considered an essential element of control strategies for nonattainment areas. Section 108(f)(1)(A) of the Act classifies TCMs as programs for improved transit, traffic flow, fringe parking facilities for multiple occupancy transit programs, high occupancy or share-ride programs, and support for bicycle and other non-automobile transit. Maryland's measures include TCM projects programmed between fiscal years 1994-1999 in the transportation improvement plan (TIP) under the Congestion Mitigation and Air Quality (CMAQ) Improvement Program and funded for implementation by 1996 in the Metropolitan Washington, DC region. CMAQ provides funding for transportation related projects and programs designed to contribute to the attainment of air quality standards. TCMs are considered acceptable measures for states to use to achieve 15% reductions. EPA guidance requires that TCMs meet the following conditions to be creditable for the 15% plans: (1) A description of the measure; (2) evidence that the measure was adopted by the jurisdictions with legal authority to execute the measure; (3) evidence that funding is available to implement the measure; (4) evidence that all approvals have been obtained; (5) evidence that a complete schedule to plan, implement and enforce the measure has been adopted by the implementing agencies; and (6) a description of any monitoring program to evaluate the measure's effectiveness.

Maryland provided the required evidence in the plan submittal for a total emissions benefit of 0.2 TPD. Maryland used acceptable methodology for calculating the emissions benefit for the TCMs. The TCMs were all programmed and funded in the Washington Metropolitan Region's Fiscal Year 1994-1999 TIP. EPA has determined that the 0.2 TPD are creditable.

#### Seasonal Restrictions on Open Burning

Maryland has amended COMAR 26.11.07 to institute a ban on open burning during the peak ozone season in Maryland's severe and serious ozone nonattainment areas. Maryland considers the months of June, July, and

August the peak ozone season, because that is when ambient levels of ozone in Maryland are usually the highest.

This ban on open burning affecting the Maryland portion of the Metropolitan Washington, DC serious ozone nonattainment area is a measure to reduce VOC emissions. During the peak ozone season, the practice of burning for the disposal of brush and yard waste as a method of land clearing will be banned. These revisions were adopted on May 1, 1995, and effective on May 22, 1995. Maryland submitted these revisions to EPA as a SIP revision on July 12, 1995. EPA's direct final approval of these revisions into the Maryland SIP was signed on January 31, 1997.

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

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

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

The State of Maryland claims 3.7 TPD emissions reductions from the seasonal open burning ban. EPA has determined that this emission benefit is creditable to the Maryland portion of the Metropolitan Washington, DC nonattainment area.

#### Enhanced Vehicle Inspection and Maintenance (I/M) Program

Most of the 15% SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial

difficulties with these enhanced I/M programs, only a few states are currently actually testing cars using their original enhanced I/M protocols.

In the case of the Maryland portion of the Metropolitan Washington, DC nonattainment area, Maryland has submitted a 15% SIP that would achieve the amount of reductions needed from I/M by November 1999. On March 27, 1996, Maryland submitted an enhanced I/M SIP revision that calls for I/M program implementation in counties in the Metropolitan Washington, DC nonattainment area and Washington County. The Maryland enhanced I/M program is a biennial program with implementation required to begin no later than November 15, 1997. The enhanced I/M submittal consists of its enabling legislation, a description of the I/M program, proposed regulations, and a good faith estimate that includes the State's basis in fact for emission reductions claimed from the I/M program. On October 31, 1996, EPA proposed conditional approval of the March 27, 1996 enhanced I/M SIP revision (61 FR 56183). The proposed conditional approval listed numerous minor and major deficiencies, and required Maryland to submit a letter within 30 days committing to correct the deficiencies. Maryland received an extension and submitted a letter dated December 23, 1996 committing to meet the requirements of full approval outlined in the October 31, 1996 proposed rulemaking. Full approval of Maryland's 15% plan is contingent on Maryland satisfying the conditions of the conditional approval of its enhanced I/M SIP by a date certain within one year of final conditional approval, and receiving final full EPA approval of its enhanced I/M program. If Maryland corrects the deficiencies by that date and submits a new enhanced I/M SIP revision, EPA will conduct rulemaking to approve that revision. If Maryland fails to fulfill a condition required for approval, and its I/M program converts to a disapproval, then the conditional approval of Maryland's 15% plan would also convert to a disapproval.

In September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs (60 FR 48029). Subsequently, Congress enacted the NHSDA, which provides states with additional flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA, secure state legislative approval when

necessary, and set up the infrastructure to perform the testing program has precluded states that revise their enhanced I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

The heavy reliance by many states upon enhanced I/M programs to help achieve the 15% VOC emissions reduction required under section 182(b)(1) of the Act, coupled with the recent NHSDA and regulatory changes regarding enhanced I/M programs, rendered it impracticable for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996.

Under these circumstances, disapproval of the 15% SIPs would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996. The provisions for crediting reductions for enhanced I/M programs is contained in two documents: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modelling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance," memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.

Specifically, EPA is proposing approval of 15% SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable, pursuant to a February 12, 1997 memorandum from John Seitz and Richard Ossias entitled, "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test." To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

EPA has examined other potentially available SIP measures to determine if they are practicable for Maryland's portion of the Metropolitan Washington, DC area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions.

The EPA proposes to determine that the SIP does contain the appropriate measures. The TSD for this action contains a discussion of other measures available for 15% plans. Maryland has taken credit for several of these measures (or essentially similar measures), such as reformulated gasoline, revised surface cleaning rules, etc., in the 15% plan; and taken credit for measures that EPA must promulgate under section 183(e) such as AIM coatings, consumer and commercial products rule, and autobody refinishing. Provided below is a tabular summary of this analysis. Measures for which Maryland took credit in the 15% ROP plan are identified in the table below as "In 15% Plan" and are not available as a possible alternative to I/M. The other programs that Maryland included in the 15% ROP plan result in only a possible 2.28 TPD reduction and do not deliver in the aggregate, anything close to the reductions achieved by enhanced I/M.

#### MARYLAND 15% PLAN METROPOLITAN WASHINGTON, D.C. AREA POTENTIAL

Measures considered	Potential VOC reduction (tons/day)
Area Source Measures:	
AIM Coatings—Federal Rule.	In 15% Plan.
Consumer Products—Federal Rule.	In 15% Plan.
Solvent Cleaning—Substitution/Equipment.	In 15% Plan.
Graphic Arts—Web Offset Control.	1.44
Autobody Refinishing—ACT control.	In 15% Plan.
Landfills—Federal Rule .....	In 15% Plan.
Other Dry Cleaning—SCAQMD 1102.	0.81
Stage I Enhancement—P/V Vents.	In 15% Plan.
Stage II—Vapor Recovery Nonroad Gasoline—Reformulated Gasoline.	In 15% Plan.
Point Source Measures:	
Other Dry Cleaning—SCAQMD 1102.	0.02
Stage I—P/V Vents .....	In 15% Plan.
Flexographic Printing—MACT early implementation.	In 15% Plan.
Gravure Printing—MACT early implementation.	0.01
Web Offset Lithography—ACT control.	In 15% Plan.
Non-mandated On-Road Mobile Measures:	
Reformulated Gasoline .....	In 15% Plan.
I/M Reductions:	
High Enhanced in 15% Plan.	In 15% Plan.

EPA has determined that the enhanced I/M program is the only measure that will significantly

accelerate the date by which the 15% requirement will be achieved. EPA proposes to determine that Maryland's 15% plan does contain all measures, including enhanced I/M, that achieve reductions as soon as practicable. EPA proposes to allow enhanced I/M reductions occurring until November 15, 1999 to count toward the 15% emission reduction level for the 15% plan, since in doing so, the state will reach a 15% VOC reduction as soon as practicable.

Maryland claimed a total of 23.2 TPD credit for this measure. In its July 12, 1995 15% plan submittal, Maryland evaluated the I/M program using EPA's MOBILE5a model with assumptions that called for implementation of a centralized, IM240 test with pressure and purge testing, and a program start date of January 1, 1995. Since the time of the July 12, 1995 submittal, Maryland has revised its enhanced I/M program and submitted the redesigned program to EPA.

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

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

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

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

EPA proposes to determine that the I/M program for Maryland's portion of the Metropolitan Washington, D.C. area does achieve reductions from enhanced I/M as soon as practicable.

Because Maryland's revised I/M program is designed to meet EPA's high-enhanced performance standard and will achieve essentially the same number of testing cycles between start-up and November 1999 as that modeled

in the regional 15% plan, EPA believes that Maryland's program will achieve 23.2 TPD of reductions by 1999. However, EPA believes that Maryland (with MWCOC) is best able to perform the definitive determination because Maryland will use the same highway network model that was used to determine the 1990 base year inventory and the 1996 on-road VOC emissions budget used for transportation conformity purposes (The same highway network model is also used for conformity determinations). EPA believes it would be appropriate to condition approval of the 15% ROP upon Maryland remodeling the I/M benefits to reflect all relevant parameters (start date, network type, test types for exhaust and purge/pressure testing, waiver rates, cut points, etc.) of the revised, enhanced I/M program and show the I/M reductions needed to make the 15% reduction are achieved by no later than November 15, 1999. In performing this demonstration, the State should ensure that Tier I and RFG benefits are considered. Benefits should not be separated out on a tons per day basis for each control measure, but rather all mobile source measures should be evaluated in the 1999 "target level," as defined in the December 23, 1996 memorandum, calculation run. EPA would further condition that such modeling would be done in accordance with EPA guidance. EPA's guidance for remodeling I/M for 15% plans includes: (1) A note to the Regional Division Directors from John Seitz and Margo Oge dated August 13, 1996 entitled "Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M Guidance for Recalculation," and (2) a joint memorandum from Gay MacGregor and Sally Shaver dated December 23, 1996 entitled "Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance."

As it relates to Maryland's I/M program, EPA proposes a conditional approval of the 23.2 TPD reduction from enhanced I/M in the nonattainment area and Washington County, provided Maryland meets the conditions of the October 31, 1996 conditional approval of the enhanced I/M program; receives full EPA approval of its enhanced I/M program; and remodels its enhanced I/M program using the appropriate, updated parameters (e.g. appropriate start date, etc.).

Further, EPA makes this conditional approval of the 15% plan contingent upon Maryland maintaining a mandatory I/M program. EPA will not credit any reductions toward the 15% ROP requirement from a voluntary

enhanced I/M program. Since the State's 15% plan claims 23.2 TPD from the implementation of a mandatory, centralized, IM240 plan, any changes to I/M which would render the program voluntary or discontinued would cause a shortfall of credits in the 15% reduction goal. EPA is, therefore, proposing in the alternative to convert this action automatically to a proposed disapproval should the State make the I/M a voluntary measure.

#### *E. Emission Control Measures Not Evaluated*

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

##### *Graphic Arts*

This measure regulates emissions from formerly uncontrolled small lithographic printing operations, such as heatset web, non-heatset web, non-heatset sheet-fed, and newspaper non-heatset web operations. VOCs are emitted from the inks, fountain solutions and solvents used to clean the printing presses. This measure is modeled on EPA's draft documents "Offset Lithographic Printing Control Techniques Guideline" and "Alternative Control Techniques Document: Offset Lithographic Printing" announced in the **Federal Register**, November 8, 1993. Maryland claims 1.0 TPD in emission benefits from the 1996 projected year inventory of lithographic printing sources. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 1.0 TPD reduction toward the 15% ROP requirement in this rulemaking.

##### *Surface Cleaning Operations*

This measure amends the Maryland regulation for surface cleaning (also called cold cleaning and degreasing) devices and operations for area sources and requires more stringent emission control requirements and enlarges the field of applicable sources. Maryland's 1996 projection year inventory in this source category is 3.7 TPD. Maryland estimates that this measure would result in a 10% reduction of emissions and with 80% rule compliance resulting in 1.5 TPD reduction credits. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 1.5 TPD reduction toward the 15% ROP requirement in this rulemaking.

##### *Municipal Landfill Emissions*

This control measure is a state control program regulating VOC emissions from

municipal landfills, utilizing landfill gas capture and destruction systems. Maryland estimated that this rule would result in a reduction of 0.7 TPD. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 0.7 TPD reduction toward the 15% ROP requirement in this rulemaking.

##### *Pesticide Reformulation*

This measure requires the use of low-VOC content pesticides for consumer, commercial and/or agricultural use. Maryland claims that this measure results in a reduction of 2.5 TPD by applying a 40% overall reduction to the 1996 base year projection emissions for pesticide application. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 2.5 TPD reduction toward the 15% ROP requirement in this rulemaking.

##### *Non-CTG RACT to 50 TPY*

Section 182(b)(2)(B) of the Act requires that serious ozone nonattainment areas adopt rules to require RACT for all VOC sources in the nonattainment area not already covered by any Control Technique Guideline (CTG) issued by EPA that has potential emissions of greater than or equal to 50 TPY. Maryland revised its existing RACT regulations to lower the major source threshold to include sources with allowable emissions of 50 TPY or more, and to extend the geographic applicability of the regulation statewide, which required RACT in Calvert, Charles, and Frederick Counties for the first time.

The State of Maryland requires the use of RACT coatings with emission limits of 3.5 pounds per gallon for Miscellaneous Metal Coatings. Also, Maryland will require controls on the oven vents of bakeries, but this rule has yet to be approved into Maryland's SIP. EPA is currently reviewing the bakery rule submitted by the State of Maryland. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 0.3 TPD reduction toward the 15% ROP requirement in this rulemaking.

##### *Non-CTG RACT to 25 TPY*

This measure involves expanding the required RACT standards to point sources with the potential to emit in excess of 25 TPY of VOC. States would be required to develop and implement new RACT regulations for all non-CTG point sources with the potential to emit between 25 and 50 TPY not already regulated or required to be regulated under the major source definition.



Maryland claims 0.3 TPD emission reduction from two sources: Andrews Air Force Base and Stone Industrial. EPA is not taking action on this control strategy in the July 12, 1995 Maryland 15% plan submittal, nor crediting the 0.3 TPD emission reduction toward the 15% ROP requirement in this rulemaking.

#### F. Reasonable Further Progress

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

#### SUMMARY OF CREDITABLE EMISSION REDUCTIONS IN THE STATE OF MARYLAND'S 15% PLAN FOR THE METROPOLITAN WASHINGTON, D.C. SERIOUS OZONE NONATTAINMENT AREA

	[Tons/day]
Creditable Reductions:	
FMVCP Tier I .....	1.0
Reformulated Gasoline	
On-Road .....	9.2
Off-Road .....	1.2
Autobody Refinishing .....	2.5
AIM .....	4.9
Consumer/Commercial Products .....	1.7
TCMs .....	0.2
Seasonal Open Burning Restrictions	3.7
Stage II Vapor Recovery Nozzles .....	7.9
Stage I Enhancement .....	0.9
Enhanced Inspection & Maintenance <sup>1</sup>	21.1
Washington County .....	2.1
<b>Total Creditable .....</b>	<b>56.4</b>
Measures EPA is not Taking Action on in This Rulemaking:	
Graphic Arts—Offset lithography .....	1.0
Surface Cleaning and Degreasing .....	1.5
Non-CTG RACT to 50 TPY .....	0.3
Non-CTG RACT to 25 TPY .....	0.3
Municipal Landfills .....	0.7
Pesticide Reformulation .....	2.5
<b>Total No Action .....</b>	<b>6.3</b>

<sup>1</sup> To conform with EPA's proposal of conditional approval of Maryland's I/M plan, EPA is proposing conditional approval of the reduction credits from Maryland's I/M program claimed in Maryland's 15% plan.

EPA has evaluated the July 12, 1995 Maryland submittal for consistency with the Act, applicable EPA regulations, and EPA policy. On its face, Maryland's 15% plan achieves the required 15% VOC emission reduction to meet Maryland's portion of the regional multi-state plan to achieve the 15% ROP requirements of section 182(b)(1) of the Act. However, there are measures included in the Maryland 15% plan, which may be creditable towards the

Act requirement but which are insufficiently documented for EPA to take action on at this time. While the amount of creditable reductions for certain control measures has not been adequately documented to qualify for Clean Air Act full approval, EPA has determined that the submittal for Maryland contains enough of the required structure to warrant conditional approval. Furthermore, the July 12, 1995 submittal strengthens the SIP.

Based on EPA's preliminary review of the draft revised regional 15% plan for the Metropolitan Washington, DC nonattainment area, sent to EPA for comment by the State on March 4, 1997, EPA believes that the amount of VOC reduction that Maryland needs to satisfy the 15% ROP requirement in the Metropolitan Washington, DC area may be lower than the 56.4 TPD accounted for with creditable measures in the July 12, 1995 submittal. The draft revised plan includes revised information for the 1990 base year inventory and actual growth between 1990 and 1996, as opposed to projected growth. The effect of these revisions may lower the amount of creditable emission reductions Maryland needs to achieve the 15% ROP requirement.

#### III. Proposed Action

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

EPA is proposing conditional approval of the Maryland 15% plan for the Maryland portion of the Metropolitan Washington, DC nonattainment area if Maryland commits, in writing, within 30 days of EPA's proposal to correct the deficiencies identified in this rulemaking. These conditions are described below. If the State does not make the required written commitment to EPA within 30 days, EPA is proposing in the alternative to disapprove the 15% plan SIP revision. If the State does make a timely commitment, but the conditions are not met by the specified date within one year, EPA is proposing that the rulemaking will convert to a final disapproval. EPA would notify Maryland by letter that the conditions have not been met and that the conditional approval of the 15% plan has converted to a disapproval. Each of the conditions must be fulfilled by Maryland and submitted to EPA as an amendment to the SIP. If Maryland corrects the deficiencies within one year

of conditional approval, and submits a revised 15% plan as a SIP revision, EPA will conduct rulemaking to fully approve the revision. In order to make this 15% plan approvable, Maryland must fulfill the following conditions by no later than 12 months after EPA's final conditional approval:

1. Maryland's plan must account for growth in point sources.

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

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

4. Maryland must submit a SIP revision amending the 15% plan with a determination using appropriate documentation methodologies and credit calculations that the 56.4 TPD reduction, supported through creditable emission measures in the submittal, satisfies Maryland's 15% ROP requirement for the Metropolitan Washington, DC area.

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

Further, EPA makes this conditional approval of the 15% plan contingent upon Maryland maintaining a mandatory I/M program. EPA will not credit any reductions toward the 15% ROP requirement from a voluntary enhanced I/M program. Since the State's 15% plan claims 23.2 TPD from the implementation of a mandatory, centralized, IM240 plan, any changes to I/M which would render the program voluntary or discontinued would cause a shortfall of credits in the 15% reduction goal. EPA is, therefore, proposing in the alternative to convert this action automatically to a proposed disapproval should the State make the enhanced I/M program a voluntary measure.

EPA and the Maryland Department of the Environment have worked closely



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

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

#### IV. Administrative Requirements

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected.

Moreover, due to the nature of the Federal-State relationship under the

Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

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

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more.

Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 801(a)(1)(a) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting

Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

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

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

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Dated: May 28, 1997.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

[FR Doc. 97-14717 Filed 6-4-97; 8:45 am]

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 214 and 215

[DFARS Case 97-D011]

#### Defense Federal Acquisition Regulation Supplement; Distribution of Contract Financing Payments

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

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**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to specify that, when a contract contains multiple accounting classification citations and a provision for contract financing payments, the contract also shall include instructions adequate to permit the paying office to distribute the contract financing payments in proportions that reasonably reflect the performance of work under the contract. **DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 4, 1997 to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 97-D011 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:**