subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 25, 2001.

John W. Coleman,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–29452 Filed 11–26–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV059–6017; FRL–7108–4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Revisions to the Ozone Maintenance Plan for the Huntington-Ashland Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision amends West Virginia's ten-year plan to maintain the national ambient air quality standard (NAAQS) for ozone in the Huntington-Ashland area. The maintenance plan is being amended to implement contingency measures in response to recorded violations of the 1-hour ozone NAAQS, and to revise the motor vehicle emission sub-budgets for the West Virginia counties (Cabell and Wayne) that are located in the Huntington-Ashland area. This action is being taken under the Clean Air Act (the Act).

DATES: Written comments must be received on or before December 27, 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 West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or via e-mail at *cripps.christopher@epa.gov.* While clarifying questions may be posed via e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

The Huntington-Ashland area includes Wayne and Cabell Counties in West Virginia, and Boyd County and a portion of Greenup County in Kentucky. On December 21, 1994 (59 FR 65719), EPA approved the State of West Virginia's request to redesignate the Huntington-Ashland moderate ozone nonattainment area to attainment, and also approved West Virginia's 10-year plan for continued maintenance of the 1-hour ozone NAAQS in the Huntington-Ashland area as a revision to the West Virginia SIP. On June 29, 1995 (60 FR 33748), EPA approved the Commonwealth of Kentucky's request to redesignate the Huntington-Ashland moderate ozone nonattainment area to attainment, and also approved the Commonwealth's 10-year plan for continued maintenance of the 1-hour ozone NAAQS in the Huntington-Ashland area as a revision to the Kentucky SIP. While the maintenance plans submitted and approved for these two states cover the entire nonattainment area, each plan contains its own set of contingency measures.

Each state's maintenance plan also identifies and establishes the applicable motor vehicle emission budgets (MVEBs) for its portion of the Huntington-Ashland area to which the area's transportation improvement program and long range transportation plan must conform. Conformity to MVEBs in the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. The Huntington-Ashland maintenance plan identifies and establishes the applicable MVEBs for Cabell and Wayne Counties for both volatile organic compounds (VOC) and nitrogen oxides (NO_X), which are precursors of ground level ozone, for the years 1996, 1999, 2002 and 2005.

A provision of the West Virginia maintenance plan requires the state to adopt contingency measures in the event of a violation of the 1-hour ozone NAAQS. In 1998, the West Virginia side of the Huntington-Ashland area violated the 1-hour ozone NAAQS. In 1998, however, at the time of the violation, the 1-hour ozone NAAQS had been revoked (or made not applicable) by EPA in all areas that had attained the standard, including the Huntington-Ashland area. In July 2000 (65 FR 45181), EPA reinstated the 1-hour ozone NAAQS and notified West Virginia that it is required to implement the contingency measures contained in the SIP-approved maintenance plan to address the violation that occurred in 1998.

On September 25, 2001, the West Virginia Department of Environmental Protection (WVDEP) submitted a request that EPA parallel process revisions to the West Virginia SIP's 1-hour ozone maintenance plan for the Huntington-Ashland area. West Virginia's maintenance plan is being amended to implement contingency measures in response to recorded violations of the 1-hour ozone NAAQS, and to revise the applicable MVEBs for Cabell and Wayne Counties. The proposed SIP revision consists of new requirements to control VOC emissions from marine tank vessel loading operations and revised MVEBs for VOC and NO_X for the years 2002 and 2005. This rulemaking does not propose to amend Kentucky's maintenance plan for the Huntington-Ashland area.

II. Summary of West Virginia's SIP Revision Submittal

A. Control of VOC Emissions from Marine Tank Vessels

West Virginia is implementing controls on marine tank vessel loading operations as a new control measure to prevent against future violations of the 1-hour ozone NAAQS. The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations [40 CFR part 63, subpart Y] was adopted and effective in September 1995, and sources were required to comply with the emission limits by September 1999. These standards establish and require reasonably available control technology (RACT) to limit VOC emissions and maximum achievable control technology (MACT) standards to limit hazardous air pollutants from new and existing marine tank vessel loading operations. West Virginia has adopted these federal requirements into its state code at Code of State Regulation 45–34–

4. The marine tank vessel standards are both Federally and State enforceable. The purpose of the September 25, 2001 SIP revision is to incorporate the requirements to control VOC from marine tank vessel loading operations into the SIP. These control requirements are a contingency measure to prevent future violations of the 1-hour ozone NAAQS in the Huntington-Ashland area.

B. Revisions to the Motor Vehicle Emission Budgets

The September 25, 2001 SIP revision, increases the MVEBs for the years 2002 and 2005. In the original maintenance plan for Huntington-Ashland, emissions growth was projected for all source categories (point, area, and highway mobile) at three-year intervals starting with the year that the area attained the NAAQS (1993). Long term maintenance of the NAAQS is deemed to be demonstrated when total projected growth in emissions in all categories remains below the level of emissions that occurred in the attainment year. The amount of projected future emissions that is both below and beyond the level of the attainment year emissions is called the ''safety margin''. In its September 25, 2001 SIP revision, West Virginia is proposing to reallocate a portion of the safety margins from the point and area source categories to the highway mobile category to increase the existing MVEBs for NO_X and VOC for 2002 and 2005.

III. EPA's Evaluation of West Virginia's SIP Revision

Because the Huntington-Ashland area violated the ozone NAAQS, West Virginia is required to adopt and implement contingency measures to reduce emissions. The contingency measure from its approved maintenance plan that West Virginia has adopted and implemented is RACT for the control of VOC emissions from marine tank vessel loading operations. One major source in the Huntington area is subject to these requirements, the Marathon Ashland Kenova Marine Terminal. The WVDEP estimates that compliance with the marine vessel standards results in an approximate 66 percent reduction of the total VOC point source emissions, and an additional 18 percent reduction in overall VOC emissions in the West Virginia portion of the Huntington-Ashland area.

Five exceedances of the 1-hour ozone NAAQS were recorded at the Huntington monitor in 1998 and one exceedance occurred in 1999. Since the time of full implementation of the marine vessel loading requirements (September 1999), no exceedances of the ozone NAAQS have been recorded. Ozone data monitored for the years 1999, 2000, and 2001 indicate that the Huntington-Ashland area is now once again attaining the 1-hour ozone NAAQS. The control requirements for marine tank vessel loading operations have provided a sufficient level of emission reductions to maintain the 1-hour NAAQS and have strengthened the SIP. Therefore, EPA believes that adequate contingency measures have been adopted and implemented for the Huntington-Ashland area to prevent future violations of the 1-hour ozone NAAQS.

The SIP revision also revises the MVEBs applicable in Cabell and Wayne Counties for 2002 and 2005 by reallocating some of the projected excess emission reductions from the point and area sources located in those counties. In the originally approved maintenance plan, total VOC emissions in 2002 are projected to be 2.47 tons per day (TPD) below the 1993 attainment year inventory, and total NO_X emissions in 2002 are projected to be 2.31 TPD lower than the 1993 attainment inventory. In this SIP revision, West Virginia proposes to use a portion of these excess emission reductions (2.22 TPD for VOC and 2.08 TPD for NO_X) to increase the MVEBs. For the year 2002, the MVEB will be increased from 8.98 TPD to 11.2 TPD for VOC and from 9.48 TPD to 11.56 TPD for NO_X.

As previously stated, the SIP revision also revises the MVEBs applicable in Cabell and Wayne Counties for 2005 by reallocating some of the projected excess emission reductions from the point and area sources located in those counties. In its originally approved maintenance plan, total VOC emissions for 2005 are projected to be 2.20 TPD below the 1993 attainment year inventory, and total NO_X emissions are projected to be 1.96 TPD lower than the 1993 attainment inventory. In this SIP revision, West Virginia proposes to use a portion of these excess emission reductions (1.98 TPD for VOC and 1.76 TPD for NO_X) to increase the MVEBs applicable in Cabell and Wayne Counties. For the year 2005, the MVEB for VOC will be increased from 9.02 TPD to 11.0 TPD and for NO_X the MVEB will be increased from 9.66 TPD to 11.43 TPD.

EPA's review of this material indicates West Virginia has adopted adequate control measures such that the Huntington-Ashland area is once again attaining the 1-hour ozone standard. The adjustments being made to the 2002 and 2005 MVEBs continue to stay below the level of the 1993 attainment year inventory and do not take any credit from the VOC emission reductions associated with the adoption and implementation of RACT to control VOC from marine tank vessel loading operations. Therefore, the reductions being implemented for contingency purposes are not being used to increase the MVEBs, and should yield an additional margin of safety. EPA believes that the proposed revisions to the Huntington-Ashland maintenance plan will continue to provide attainment of the 1-hour ozone NAAQS in the future.

The relationship between determining the adequacy of MVEBs in a SIP versus approval of a SIP with motor vehicle emission budgets is delineated in the EPA's May 14, 1999 memorandum titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.'' The MVEBs are actually approved, or disapproved, at the time EPA takes final action to approve or disapprove the SIP revision which identifies and establishes those budgets. West Virginia's September 25, 2001 SIP revision submittal of revised MVEBs for Cabell and Wayne Counties for the years 2002 and 2005 is posted on EPA's conformity Web site (http://www.epa.gov/oms/transp/conform/currsips.htm) noting that EPA is taking comment on the adequacy and approvability of these budgets via notice and comment rulemaking on the SIP revision. This is that proposed rulemaking. We are forgoing the standard adequacy process because the State has requested that we expedite the processing of this SIP revision. We have reviewed the revised MVEBs for 2002 and 2005 submitted by West Virginia on September 25, 2001. Based upon our review, we conclude that the revised MVEBs meet the adequacy criteria set out at 40 CFR part 93, section 93.118, the Transportation Conformity Regulations. Therefore we are proposing to find the budgets adequate as well as proposing to approve them. A final action approving the revision to West Virginia's maintenance plan for the Huntington-Ashland area would have the effect of approving these revised MVEBs into the SIP and would negate the need for a separate finding of adequacy.

We are seeking public comments on this proposed rulemaking including the adequacy of the revised MVEBs for Cabell and Wayne Counties and will accept such comments provided they are submitted as specified in the **DATES** and **ADDRESSES** sections of this document. We will not hold a separate comment period on the adequacy of

these budgets through the conformity web process. We will address all comments in our final rulemaking on the revisions to West Virginia's maintenance plan. Because the final rule on the revised maintenance plan will promulgate our final determination regarding both the approvability and adequacy of the SIP's MVEBs, we will not publish a separate **Federal Register** notice announcing our adequacy findings.

EPA is proposing to approve the September 25, 2001 SIP revision to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland area. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These 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.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its SIP. If the state's proposed revision is substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by West Virginia and submitted formally to EPA for incorporation into the SIP.

IV. Proposed Action

EPA is proposing to approve the revisions to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland area submitted by the WVDEP on September 25, 2001.

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 proposed 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 tribal implications because it will 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). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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.

This rulemaking proposing approval of revisions to West Virginia's 1-hour ozone maintenance plan for the Huntington-Ashland 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, Nitrogen dioxide, Ozone.

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

Dated: November 16, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–29471 Filed 11–26–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7108–3]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Savannah River Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

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

SUMMARY: The Environmental Protection Agency (EPA, or ''we'') is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at the Savannah River Site proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are entitled: ''Savannah River Site WIPP Disposal Program Quality Assurance Project Plan, WSRC–RP–99–01097''; ''Savannah River Site WIPP Disposal Program Quality Assurance Program Document, WSRC–RP–99–01119''; and ''Savannah River Site WIPP Disposal Program Waste Certification Plan, WSRC–RP–99–01095.'' They are available for review in the public dockets listed in **ADDRESSES.** We will conduct an inspection of waste characterization systems and processes and the quality assurance program for waste characterization at the Savannah River Site to verify that the site can characterize transuranic debris waste in accordance with EPA's WIPP compliance criteria. We will perform this inspection during the week of December 10, 2001. This notice of the inspection and comment period accords with 40 CFR 194.8.