proposing to approve CT's negative declarations for the synthetic organic chemical manufacturing industry distillation and reactor vessel source categories for which EPA issued control technique guideline documents (CTGs).

In the Final Rules section of this **Federal Register**, EPA is approving: revisions to the definition of VOC; revisions to the gasoline loading regulation; revisions to the metal cleaning regulation; revisions to the miscellaneous metal parts and products coating regulation; and revisions to CT's reasonably available control technology for VOC regulation. EPA is processing these SIP revisions as direct final rules without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. 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. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before November 20, 2000.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning , Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittals and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosytem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA 02114 and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, at 617–918–1047.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: October 6, 2000.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

[FR Doc. 00–26614 Filed 10–18–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 058–3036 and VA 083–5038; FRL–6888–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Post-1996 Rate-of-Progress Plan for the Metropolitan Washington, DC Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing approval of the Post-1996 plan for the Metropolitan Washington, DC ozone nonattainment area submitted by the Maryland Department of the Environment and the Virginia Department of Environmental Quality. The Maryland Department of the Environment and the Virginia Department of Environmental Quality each submitted the Post-1996 plan as a State Implementation Plan (SIP) revision for the Metropolitan Washington, DC serious ozone nonattainment area to meet the 9% rate-of-progress (ROP) requirement (the Post-1996 plan) of the Clean Air Act (the Act). The Post-1996 plan will result in significant emission reductions through 1999 from the 1990 baseline emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X), which contribute to the formation of ground level ozone.

DATES: Written comments must be received on or before November 9, 2000.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Janice Lewis at (215) 814–2185 or Christopher Cripps at (215) 814–2179 at the EPA Region III office above.

SUPPLEMENTARY INFORMATION:

What Action is EPA Proposing Today?

EPA is proposing approval of the Post-1996 plan submitted by the State of Maryland and the Commonwealth of Virginia for the Metropolitan Washington, DC ozone nonattainment area (the Washington area).

What Are the Rate-of-Progress Requirements Applicable to the Washington Area?

The Act requires that serious and above ozone nonattainment areas develop plans to reduce area-wide VOC emissions after 1996 by 3% per year until the year of the attainment date required for that classification of nonattainment area. This is commonly referred to as the Post-1996 plan. In this case, the Washington area is classified as a serious ozone nonattainment area; the serious area attainment date is 1999. The 3% per year requirement is expressed as an average over consecutive 3-year periods; thus, the requirement is a 9% reduction by 1999. This 9% reduction requirement is a continuation of the requirement for a 15% reduction in VOC by 1996. For the Post-1996 plan, the Act allows the substitution of NO_X emissions reductions for VOC emission reductions where equivalent air quality benefits are achieved as determined using the applicable EPA guidance. The 9% VOC/NO_X reduction required by November 15, 1999 is a demonstration of reasonable further progress in the Washington area, which is referred to as rate-of-progress (ROP) throughout this document. Our assessment of the Post-1996 plan is to determine whether or not the 9% reduction requirement is met.

What Areas are Covered by the Post-1996 Plan for the Washington Area?

The Washington area consists of the District of Columbia, the Northern Virginia area (Arlington, Fairfax, Loudoun, Prince William and Stafford Counties and the cities of Alexandria, Falls Church, Fairfax, Manassas, and Manassas Park), and Calvert, Charles, Frederick, Montgomery, and Prince George's Counties in Maryland.

What Agencies and Organizations Developed Maryland and Virginia Post-1996 Plan for Metropolitan Washington, DC Area?

The District of Columbia, Virginia and Maryland must demonstrate ROP for the Washington area. These jurisdictions, under the auspices of the Metropolitan Washington Air Quality Committee (MWAQC) with the assistance of the Metropolitan Washington Council of Governments (COG) collaborated on a coordinated Post-1996 plan for the Washington area. The MWAQC includes state and local elected officials and representatives of the Washington, DC Department of Health (DoH), the Maryland Department of the Environment (MDE), the Virginia Department of Environmental Quality (VADEQ) and the National Capital Region Transportation Planning Board (TPB). The Act provides for interstate coordination for multi-state nonattainment areas.

Because ROP requirements such as the Post-1996 plan establish emission budgets for transportation improvement plans, municipal planning organizations have historically been involved in air quality planning in the Washington area. The MWAQC ensures consultation with the TPB during the development of the Post-1996 plan and emission budgets. As explained below, the regional Post-1996 plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the 9% requirement in the Washington area. The District of Columbia, Maryland and Virginia all agreed to apportion this total amount of required creditable reductions among themselves.

Although the plan was developed by a regional approach, each jurisdiction is required to submit the Post-1996 plan to EPA as a revision to its SIP. This proposed rulemaking only addresses the Post-1996 plans submitted by Maryland and Virginia for the Washington area.

When Did Maryland and Virginia Submit the Post-1996 Plan for the Metropolitan Washington, DC Area?

The MDE submitted the area-wide Post-1996 plan as a SIP revision on December 24, 1997. The VADEQ submitted the area-wide Post-1996 plan as a SIP revision on December 19, 1997. On May 20, 1999 and May 25, 1999, respectively, the MDE and the VADEQ each submitted a revised Post-1996 plan for the Washington area that supplanted the 1997 submissions.

What Action is EPA Taking on the District of Columbia's Post-1996 Plan for the Metropolitan Washington, DC Area?

The District submitted a Post-1996 plan for the Washington area on November 3, 1997, and submitted a revision to that plan on May 25, 1999. In the September 28, 2000 **Federal Register**, EPA published its proposed approval of the Post-1996 plan submitted by the District's DoH (65 FR 58243).

What Are the Effects on Emissions and How is the 3% per Year Reduction Calculated?

A Post-1996 plan consists of a plan to achieve a target level of emissions. There are several important emission inventories and calculations associated with the plan. These include: the base year emission inventory, future year projection inventories, and target level calculations. Each of these is described below.

A. Base Year Emission Inventory

EPA reviewed the 1990 base year emissions inventory and the revisions to this inventory submitted with the Post-1996 plan, and has approved these revisions for both jurisdictions (63 FR 36854, July 8, 1998). The 1990 ROP inventory for the Washington area, which is fundamental to the Post-1996 plan, is the 1990 base year emissions inventory excluding biogenic emissions. The 1990 base year inventory is contained in the states' submittals.

B. Projection Inventories—Growth in Emissions

A projection of growth in VOC and NO_X emissions from 1990 to 1999 is required for the 9% requirement. Growth in VOC emissions from 1990 to 1996 was described in the 15% plans, thus the remaining VOC growth from 1996 to 1999 is described in the Post-1996 plan. To meet the 9% requirement, a state (or states for a multi-jurisdictional nonattainment area) must enact measures achieving sufficient emissions reductions to offset projected growth in emissions, in addition to achieving a 9% reduction of VOC/NO_X emissions from baseline levels through 1999. This requirement may be satisfied by determining the amount of creditable emission reductions needed to offset growth in VOC emissions from 1996 to 1999 and in NO_X emissions from 1990 to 1999. The calculation can be made by projecting the 1990 base year VOC inventory out to 1999 considering only the current control strategy. Growth must be determined separately for each source or source category, since sources typically grow at different rates.

The Post-1996 plan for the Washington area contains growth projections for stationary, area, on-road motor vehicle, and non-road vehicle source categories using acceptable growth factor surrogates. A more detailed description of the states' submittals and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. EPA has determined that the methodology used in Maryland's and Virginia's Post-1996 plan submittals for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate emissions growth in point, area, on-road mobile, and off-road mobile sources (from 1996 to 1999 for VOC and from 1990 to 1999 for NO_X) is approvable.

C. Calculation of Target Level Emissions and Substitution of NO_X Reduction

1. 15% VOC Target Level: The Act requires that the SIP achieve a reduction of 9% of the 1990 baseline emissions after November 15, 1996 and before November 15, 1999. This reduction is in addition to a 15% reduction in base line emissions by 1996. This 15% requirement is referred to as the 15% plan. Under EPA's guidance, the starting point for calculating the Post-1996 plan's target level of VOC emissions is the target level of VOC emissions for 1996 found in the 15% plan.

2. 1999 VOC Target Level: For the VOC portion of the 9% reduction requirement, the 1999 VOC emissions target level is calculated as follows:

a. The 1990 base year emission inventory is adjusted to account for the effects of certain motor vehicle and gasoline volatility control programs. One of these is the Federal Motor Vehicle Control Program (FMVCP) standards implemented before 1990, called Tier 0 FMVCP. The second of these programs is the second phase of EPA's Reid Vapor Pressure (Phase II RVP) regulations, implemented in 1992. To calculate these effects, projected 1999 emission factors that will result from Tier 0 FMVCP and RVP were calculated using EPA's MOBILE5b model. These 1999 ''adjusted'' emission factors are multiplied by the 1990 Vehicle Miles Traveled (VMT) to determine the 1990 adjusted base year VOC emissions inventory for 1999 which determines the effects of the Tier 0 FMVCP between 1996 and 1999 on the 1990 ROP emissions inventory. This is

done for the entire Washington area and includes a breakdown by jurisdiction.

b. Because the plan uses NO_X substitution, the Washington area does not have to reduce VOC base line emissions by 9% but can use a smaller percentage as long as sufficient NO_X reductions are achieved. The Post-1996 plan is based upon a 1% VOC reduction and a 8% NO_X reduction.

c. The effect on baseline emissions by Tier 0 FMVCP between 1996 and 1999 must be considered. EPA's guidance requires the determination of the Fleet Turnover Correction from 1996 to 1999 to account as for the turnover of vehicles between 1996 and 1999. This correction is the difference of the 1990 adjusted base year VOC emissions inventory for 1996 and the1990 adjusted base year VOC emissions inventory for 1999.

d. The base 1% VOC reduction and the fleet correction term are summed, then subtracted from the 1996 VOC target level to yield the 1999 VOC target level of emissions.

3. 1999 NO_X Target Level: The Post-1996 plan for the Washington area uses NO_X substitution. The 1999 NO_X target level of emissions is calculated in a manner similar to the 1996 VOC target level except the base year inventory is adjusted to 1999, rather than to 1996. There are no reductions from corrections made to Reasonably Available Control Technology (RACT) and to Inspection and Maintenance (I/M) rules. The Post-1996 plan uses a 8% NO_X reduction. The reductions from Tier 0 FMVCP and Phase II RVP (from 1990 to 1999) are the difference between the 1990 NO_X ROP emissions inventory and the 1990 adjusted base year NO_X emissions inventory for 1999. Therefore, the 1999 NO_X target level is the 1990 NO_X ROP emissions inventory less Tier 0 and Phase II RVP reductions from 1990 to 1999 and the 8% NO_X reduction. This calculation is contained in the states' submittals.

4. 15% Plan revisions: For areas impacted by delays in implementing an enhanced I/M program, EPA's guidance (*''Guidance on the Adjusted Base Year Emissions Inventory and 1996 Target for the 15% Rate-of-Progress Plans,''* EPA–452/R–92–005) allows approval of the 15% plan if the 15% reduction is achieved after 1996 when certain criteria are met. One criterion is a showing that the 15% reduction is achieved no later than November 15, 1999. This guidance establishes a slightly different demonstration of ROP by modifying the calculation of the 1996 VOC target level. The base 1996 target level is just 85% of the 1990 adjusted base year VOC emissions inventory for 1996. To account for 1996 to 1999 reductions in ''baseline emissions'' from Tier 0 FMVCP, the fleet turnover correction for 1996 to 1999 is subtracted from the ''base'' 1996 target level to yield the 1996 target level of emissions corrected for the Fleet Turnover Correction for 1996 to 1999. If a state's 15% plan for an area is approved under this guidance, the state does not need to subtract the fleet turnover correction for 1996 to 1999 from the final 15% plan target level as discussed in C.2. ''1999 VOC Target Level'' above, when calculating the 1999 VOC target level because this fleet turnover correction will have already been included in the 15% target level. The District, the State of Maryland and the Commonwealth of Virginia all submitted such plans (the revised 15% plan). The EPA has already acted upon and approved these revised 15% plans in separate rulemaking actions. The target level calculations and the amount of creditable emission reductions needed for the entire Washington area to fulfill the 9% requirement are summarized Table 1 below.

TABLE 1.—TARGET LEVEL AND EMISSION REDUCTION NEEDS FOR THE METROPOLITAN WASHINGTON, DC AREA THROUGH 1999

[Tons/day]

	VOC	NO_X
1 Starting Emissions Level:		
15% target Level for VOC	384.6	.....
1990 ROP Base Year Inventory for NO_X	.....	730.9
2 1990 to 1999 Tier 0 FMVCP and Phase II RVP Reductions	[a] 0.0	62.8
3 ROP Reduction:		
1% VOC	4.4	.....
8% NO_X	.....	53.4
4 1999 Target Level (Row 1 minus Row 2 minus Row 3)	380.2	614.7
5 1999 Uncontrolled Emissions	511.7	765.2
6 Total Reductions Needed to make ROP by 1999	131.5	150.5

Notes:
[a] Included in the 15% Target Level.

5. NO_X Substitution: EPA issued guidance for NO_X substitution in Post-1996 plans in December 1993 and supplemental guidance on August 5, 1994. This guidance sets an equivalency test for VOC and NO_X reductions and requires that the level of NO_X substitution be supported by photochemical grid modeling. The equivalency test essentially sets two criteria. The first criterion is that the plan must set the 1999 target levels for VOC and NO_X emissions using a total percent reduction in VOC emissions plus the percent reduction in NO_X emissions that is greater than or equal to nine percent (9%). In this case, the Post-1996 plan target levels are calculated using a 1% VOC reduction and 8% NO_X reduction. The second criterion is that the Post-1996 plan achieve sufficient VOC and NO_X reductions to ensure that the projected 1999 VOC and NO_X emissions will be less than or equal to the respective target levels in the Post-1996 plan. EPA analysis of whether the plan provides for sufficient NO_X and VOC reductions is discussed below in under the heading ''What control strategies are Maryland and Virginia including in the Post-1996 Plan?''

EPA's guidance requires that the amount of substituted NO_X reductions in the Post-1996 plan be less than or equal to the amount of NO_X reductions needed to attain the national ambient air quality standard for ozone. The amount of NO_X reductions needed for attainment must be demonstrated by photochemical grid modeling. The demonstration that the NO_X substitution which was submitted by Maryland and Virginia is based upon local scale modeling performed for the Baltimore-

Washington Urban Airshed Modeling (UAM) domain and upon EPA's Regional Oxidant Modeling (ROM) results. Both EPA's ROM results and the photochemical grid modeling submitted with the attainment plan show that significant NO_X reductions will contribute to attainment in the area. The local UAM modeling also shows that NO_X reductions, beyond those contained in the Post-1996 plan, provide reductions in ozone concentrations. The Post-1996 plan substitutes fewer NO_X reductions than assumed in the attainment plan modeling. EPA has, therefore, determined that the NO_X for VOC substitution in the Post-1996 plan is adequately supported by creditable photochemical grid modeling and meets the requirements of EPA's NO_X substitution guidance. EPA has determined that its NO_X substitution guidance was properly followed and the proper methodology was used to calculate the 1999 NO_X and VOC target levels. Therefore, for purposes of determining the 1999 NO_X and VOC target levels, 6.7 tons of NO_X must be substituted for every 4.4 tons of VOC.

EPA believes that following our NO_X substitution guidance is legally sufficient to demonstrate that any NO_X substitution in an ROP plan meets the equivalency requirements of the Act. The local UAM modeling submitted with the attainment demonstration also supports the conclusion that, on a ton for ton basis, NO_X reductions achieve at least equivalent changes in ozone concentrations as an equivalent reduction in VOC emissions.

D. Nonattainment Area-Wide Plan—Apportionment of Reduction Needs

EPA must determine whether or not the Washington area 9% requirement has been met. In general, the emission reduction from a measure is the difference of the future year projected uncontrolled emissions and the future year controlled emissions, or is equal to a percentage of the future year projected uncontrolled emissions. For on-road mobile sources, the emission reductions from a measure or suite of measures are determined by the difference of projected future year emissions without and with new control measures.

The regional nonattainment area-wide Post-1996 plan apportions among the District, Maryland and Virginia the amount of creditable emission reductions that each state must achieve in order for the nonattainment area to achieve, on an area wide basis, the required 9% reduction in VOC net of growth. The Post-1996 plan identifies the amount of creditable emission reductions that each state must achieve for the nonattainment area-wide plan to get a 9% reduction accounting for any growth in emissions from 1990 to 1999.[1] Maryland and Virginia committed to achieving the necessary NO_X and VOC reductions, found in Table 2 below. This proposed rulemaking action only concerns commitments submitted by Maryland and Virginia.

TABLE 2.—EMISSION REDUCTION COMMITMENTS FOR THE METROPOLITAN WASHINGTON, DC AREA THROUGH 1999

[Tons/day]

	District of Columbia	Maryland	Virginia	Area total
Total VOC reduction by 1999	10.6	63.7	57.2	131.5
Total NO_X reduction by 1999	7.2	96.8	46.6	150.6

Because the Post-1996 plan for the Washington area was developed using a regional approach, the required VOC and NO_X emission reductions for each jurisdiction have been apportioned using a ratio of the regional reduction requirement to the claimed creditable measures for the nonattainment area. This result was then multiplied by each jurisdiction's total creditable measures to determine its emission reduction requirement. EPA has determined that this apportionment of the emission reduction needed for ROP is approvable because the Act provides for interstate planning of SIPs, and because the all three jurisdictions have committed to achieve, in the aggregate, sufficient reductions to achieve this 9% requirement in the entire nonattainment area.

What Control Strategies Are Maryland and Virginia Including in the Post-1996 Plan?

The Post-1996 plan describes the emission reduction credits that the Washington area jurisdictions are claiming toward their 9% reduction requirement. Credit towards Maryland's and Virginia's 1996 ROP requirement will be given for state measures if only those reductions derive from a SIP-approved state rule. These control measures are described in more detail in the TSD for this rulemaking. The Post-1996 plan for the Washington area claims VOC and NO_X emission reductions from the following measures:

1. Stage I Vapor Recovery: This measure reduces VOC emissions during the filling of gasoline storage tanks at gasoline stations and other facilities where gasoline is dispensed. Maryland and Virginia amended state regulations to require this control measure in additional counties where this measure was not required in 1990. Therefore, 1.2 TPD in emissions reductions in the Maryland and Virginia portions of the Washington area from Stage I are creditable towards the 9% reduction requirement.

2. Seasonal Open Burning Ban: Maryland and Virginia adopted state regulations to ban open burning during the peak ozone season. EPA has determined that the 6.3 TPD VOC and 1.4 TPD NO_X from this measure is fully creditable toward the Post-1996 VOC and NO_X reduction requirements in the Maryland and Virginia portions of the Washington area.

3. Architectural and Industrial Maintenance (AIM) Coatings Reformulation: This federal rule (63 FR 48819, September 11, 1998), which reduces emissions from architectural coatings and industrial maintenance coatings, allows credit for a 20% reduction in VOC emissions, which is 12.2 TPD for in the Maryland and Virginia portions of the Washington area in the Post-1996 plan. EPA has determined that this reduction is creditable.

4. Consumer and Commercial Products: This federal rule (63 FR 48848, September 11, 1998) allows states to claim a 20% reduction from 1999 VOC emissions from 24 categories of consumer products. The Post-1996 plan claim of 4.1 TPD in emission reductions from this measure in the

[1] The plan projects all growth in emissions to 1999 from the 1990 base year emissions inventory levels. Thus the amount of emission reductions needed to account for growth in VOC emissions from 1990 to 1999 would be the sum of the growth in emissions from 1990 to 1996 which had to be addressed in the 15% plan plus growth in VOC emissions from 1996 to 1999.

Maryland and Virginia portions of the Washington area is creditable.

5. Autobody Refinishing: The federal rule to control VOC emissions from autobody refinishing (63 FR 48806, September 11, 1998) applies in Virginia. EPA's rule will achieve a 33% nationwide reduction or a 36% reduction after removal of those states that already had a rule at the time the baseline was determined are removed from the baseline. Maryland and Virginia did not have a rule at the time the baseline was developed. EPA can allow a 36% emissions reduction Virginia. Virginia claimed a 35.7% reduction. The total creditable autobody refinishing emissions reductions in the Post-1996 plan is 2.7 TPD in the Virginia portion of the Washington area. Maryland has adopted a state rule that has additional requirements from just the VOC content requirements of the federal rule. Maryland claims a 45% VOC reduction from this control measure which EPA finds is reasonable. The total creditable autobody refinishing emissions reductions in the Post-1996 plan is 3.8 TPD in the Maryland portion of the Washington area.

6. Graphic Arts: Maryland and Virginia adopted state regulations to reduce emissions from lithographic printing operations. The VOC emissions reduction claimed in the Post-1996 plan from graphic arts is 2.5 TPD in the Maryland and Virginia portions of the Washington area.

7. Surface Cleaning Operations: Maryland and Virginia amended existing regulations for surface cleaning (also called cold cleaning and degreasing) devices and operations to require more stringent emission controls techniques and enlarges the universe of applicable sources. Maryland has adopted a state rule and claims in the Post-1996 plan reductions of 2.9 TPD VOC from this measure in the Maryland portion of the Washington area. Virginia has adopted a state rule but claims no emission reduction benefits in the plan.

8. Non-road Gasoline Engines Rule: This Federal measure takes credit for VOC emission reductions from emissions standards for small non-road, spark-ignition utility engines (40 CFR part 90, subpart A, 60 FR 34598, July 3, 1995). This measure affects non-road equipment rated at or below 25 horsepower. Maryland and Virginia claimed reductions of 13.1 TPD VOC in their portions of the Washington area. The rule also results in a 1.0 TPD increase in NO_X emissions in the Maryland and Virginia portions of the Washington area. The VOC reductions are creditable toward the reduction requirement, and the NO_X emission increase is included in the plan.

9. Non-road Diesel Engines Rule: The Federal rule (40 CFR 89, 59 FR 31306, June 17, 1994) controls NO_X emissions from non-road, diesel powered utility engines, affecting diesel-powered construction equipment, industrial equipment, etc., rated at or above 50 horsepower. The Post-1996 plan claimed 6.9 TPD in NO_X reductions from this measure, which is acceptable toward the 9% reduction requirement in the Maryland and Virginia portions of the Washington area.

10. State NO_X Requirements: Maryland and Virginia adopted state regulations to require the application of RACT on NO_X sources in the Washington area. The Post-1996 plan claims a total 67.9 TPD from this NO_X emission control in the Maryland counties in the Washington area. Elsewhere in today's **Federal Register** EPA has proposed approval of Maryland's NO_X RACT rule. Therefore, the 67.9 TPD NO_X reduction through 1999 will be creditable toward the 9% reduction requirement once EPA approves Maryland's NO_X RACT rule. The Post-1996 plan claims 12.0 TPD from this NO_X emission control in Northern Virginia. EPA has proposed full approval of Virginia's source-specific RACT determinations (issued pursuant to its NO_X RACT regulation) in a recent **Federal Register** document (65 FR 60141). Therefore, the 12.0 TPD emission reductions in NO_X through 1999 will be creditable toward the 9% reduction requirement once EPA approves emission limitations for enough sources to fulfill Virginia's NO_X reductions needs under the Post-1996 plan.

11. Stage II Vapor Recovery: Maryland and Virginia adopted state regulations to require gasoline vapor recovery controls at gas stations to reduce emissions from the fueling of gasoline-powered motor vehicles. Thus, the 16.8 TPD reduction from Stage II in the Maryland and Virginia portions of the Washington area Post-1996 plan is creditable toward the ROP requirement.

12. Enhanced Vehicle Inspection and Maintenance: Maryland and Virginia adopted state regulations to implement enhanced I/M programs. The Post-1996 plan uses the MOBILE5b model to determine the enhanced I/M emission benefits. The MOBILE5b model reflects this more current enhanced I/M program. We are approving the 18.0 TPD VOC and 14.8 TPD NO_X reductions from Maryland's enhanced I/M program toward the Post-1996 ROP requirement. We are approving the 17.9 TPD VOC and 16.9 TPD NO_X emission reduction benefits from enhanced I/M in the Post-1996 plan.

13. RFG Refueling Benefits: This control measure takes credit for lower refueling emissions resulting from federally mandated reductions in gasoline volatility. The measure affects VOC emissions from light-duty gasoline vehicles and trucks. Phase II gasoline volatility VOC emission reductions are associated with reformulated gasolines sold in Washington area. The Phase II benefit claimed in the Post-1996 plan for the Maryland and Northern Virginia portions of the Washington area is 1.6 TPD VOC. EPA has determined that the emission reductions are creditable toward the reduction requirement of the Post-1996 plan.

14. Reformulated Gasoline (RFG)—On road: Section 211(k) of the Act requires that only reformulated gasoline (RFG), designed to burn cleaner and produce fewer evaporative emissions, be sold and dispensed in severe and above ozone nonattainment areas. The Act specifies a minimum oxygen content of 2% and maximum 1% benzene content beginning in 1995. Section 211(k)(6) allows other nonattainment areas to ''opt in'' to the program to achieve creditable VOC emission reductions. EPA approved the requests of Maryland and Virginia to opt their Washington area counties into the RFG program. The emission reduction benefit from the opt-in to this Federal program in the Post-1996 plan is 13.7 TPD VOC and 0.2 TPD NO_X in the Maryland and Northern Virginia portions of the Washington area from on-road mobile sources as determined using MOBILE5b.

15. Reformulated Gasoline—Off-Road: The benefits of RFG will be realized in both on-road and off-road gasoline engines, such as lawn maintenance equipment and motor boats. EPA enforces this program so the emission reductions are fully enforceable. The VOC emission reduction benefit claimed for non-road RFG in the Post-1996 plan for the Maryland and Northern Virginia portion in the Washington area is 2.2 TPD. The Washington area states use the guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits from non-road equipment in a nonattainment area using Federal Phase I RFG. The Post-1996 plan has correctly used the guidance to compute the VOC emission reductions for this measure. To the extent this measure results in quantifiable reductions before 1999, the 2.2 TPD emission benefit resulting from this measure are creditable toward the Post-1996 plan.

16. Tier 1 New Vehicle Standards: The Act requires EPA to issue standards

under the FMVCP for new motor vehicles. The first of these were implemented in 1994 and are called Tier 1 FMVCP. These standards include exhaust (''tailpipe'') emission standards and better evaporative emission controls demonstrated through new federal evaporative test procedures. EPA promulgated this program (56 FR 25724, June 5, 1991) so the emission reductions are fully enforceable. The Post-1996 plan used the MOBILE5b model to determine the emission benefits of 11.4 TPD VOC and 28.4 TPD NO_X. These reductions are fully creditable toward the 9% reduction requirement.

17. National Low Emissions Vehicle (NLEV): The National Low Emission Vehicle (NLEV) program is a nationwide clean car program not mandated by the Act, designed to reduce ground level ozone (or smog) and other air pollution emitted from newly manufactured motor vehicles. On June 6, 1997 (62 FR 31192) and on January 7, 1998 (63 FR 926), EPA promulgated rules outlining the framework for the NLEV program. These NLEV regulations allow auto manufacturers to commit to meet tailpipe standards for cars and light-duty trucks that are more stringent than EPA could otherwise mandate under the authority of the Act. The regulations provided that the program would come into effect only if Northeast states and auto manufacturers agreed to participate. On March 9, 1998 (63 FR 11374), EPA published a finding that the program was in effect. Nine northeastern states including Maryland and Virginia, the District of Columbia, and 23 auto manufacturers had opted to participate in the NLEV program. Once in effect, the NLEV Program became enforceable in the same manner as any other Federal new motor vehicle emission control program.

The NLEV Program will result in substantial reductions in VOC and NO_X emissions which contribute to unhealthy levels of smog in many areas across the country. NLEV vehicles are 70% cleaner than those otherwise required under the Act. In the Northeast States, the phase-in of the NLEV vehicles began with model year 1999 vehicles. In addition, the program provides substantial harmonization of Federal and California new motor vehicle standards and test procedures, which enables manufacturers to move towards the design and testing of vehicles to satisfy one set of nationwide standards. A SIP revision from each participating northeastern state is required as part of the agreement between states and automobile manufacturers to ensure the continuation of the National LEV Program to supply clean cars throughout most of the country. On December 28, 1999, we approved Maryland's and Virginia's NLEV SIP (64 FR 72564). The 1.9 TPD VOC and 1.8 TPD NO_X reductions in the Maryland and Virginia portions of the Washington area are fully creditable toward the 9% reduction requirement.

18. Transportation Control Measures (TCMs): TCMs are strategies to both reduce VMT and decrease the amount of emissions per VMT, and are considered an essential element of control strategies for nonattainment areas. 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. The Post-1996 plan includes 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 in the Washington area. The specific projects the States are claiming credit for and the estimated benefits, totaling 0.2 TPD VOC and 0.4 TPD NO_X, are listed in Appendix H of the submittal. TCMs are considered acceptable measures for states to use to achieve reductions. EPA has determined that the 0.2 TPD VOC and 0.4 TPD NO_X reductions are creditable for the Post-1996 plan. EPA is proposing to approve into the Maryland and Virginia SIPs several TCMs creditable to the post-1996 and attainment demonstration.

19. Non-CTG RACT to 50 TPY: The Act requires that moderate and above 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 have potential emissions of greater than or equal to 50 TPY. The following table identifies RACT sources which Maryland and Virginia have taken credit for in the Post-1996 plan.

MARYLAND

[Non-CTG RACT to 50 tpy]

Giant Food Bakery	SIP approved October 15, 1997 [62 FR 53544] 40 CFR 52.1070(c)(125)(i)(B)(4).
Bill Carins Pontiac	SIP approved October 15, 1997 [62 FR 53544] 40 CFR 52.1070(c)(124).
Frederick Motor Co	SIP approved October 15, 1997 [62 FR 53544] 40 CFR 52.1070(c)(124).
Herb Gordon's Auto World	SIP approved October 15, 1997 [62 FR 53544] 40 CFR 52.1070(c)(124).
Safeway Bread	SIP approved October 15, 1997 [62 FR 53544] 40 CFR 52.1070(c)(125)(i)(B)(*4*).
Can Am Steel	Structural Steel Coating Reg.—SIP approved June 17, 1999 (64 FR 32415) 40 CFR 52.1070(c)(142).

VIRGINIA

[Non-CTG RACT to 50 tpy]

Tuscarora Plastics	SIP approved: 64 FR 3425 January 22, 1999. 40 CFR 52.2420(c)(128).
Insulated Building Systems	Shut-down source (January 1991).
Treasure Chest Ad	SIP Approved March 12, 1997 (62 FR 11332) 65 FR 60141.
Cellofoam	Proposed Approval October 10, 2000 65 FR 60141.

20. RACT on Additional Sources: Maryland and Virginia adopted state regulations to apply RACT regulations for all CTG and non-CTG point sources with the potential to emit between 25 and 50 TPY VOC not already regulated or required to be regulated (For some CTG categories, the State regulations existing in 1990 already applied to sources below 25 TPY.) Virginia has adopted state regulation but claims no emission reduction benefits in this plan. Maryland has identified sources below that claimed emission reduction credits through approved state regulations.

EXPANDED STATE POINT SOURCE REGULATIONS TO 25 TONS/YEAR

Stone Industrial	SIP approved March 22, 1999 (64 FR 57989) 40 CFR 52.1070(c)(145).
Andrews Air Force Base—Storage and transfer requirements for gasoline apply to aviation fuels with vapor pressure over 1.5 psi.	SIP approved Dec. 22, 1998, (63 FR 70667) 40 CFR 52.1070(c)(130).

21. Landfill Emissions: This measure regulates VOC emissions from municipal landfills in the Washington area. In Northern Virginia, the emission reduction benefit is 0.3 TPD. The emission reduction is achieved through Virginia's SIP-approved Federally Enforceable State Operating Permit—FESOP program, which makes the permit federally enforceable and is creditable toward the 9% reduction requirement. Maryland has a federally approved state 111(d) plan for its municipal landfills. Therefore, the emission reduction benefits for this plan are 1.2 TPD.

What Are the Total Reductions in the Post-1996 Plan?

Tables 3 and 4 summarize the creditable measures in Maryland's and Virginia's Post-1996 plan.

TABLE 3.—CREDITABLE VOC EMISSION REDUCTIONS IN THE POST-1996 PLAN FOR THE METROPOLITAN WASHINGTON, D.C. AREA

[Tons/day]

Measure	Maryland	Virginia
Tier 1 FMVCP	5.5	5.9
RFG Refueling Benefits	0.9	0.7
NLEV	0.6	1.3
Reformulated Gasoline (on/off road)	7.9	8.0
Surface Cleaning/Degreasing	2.9	0.0
Autobody Refinishing	3.8	2.7
AIM	6.6	5.6
Consumer Products	2.2	1.9
Seasonal Open Burning Ban	3.7	2.6
Graphic Arts	1.0	1.5
Landfill Regulations	0	0.3
Non-CTG RACT to 50 TPY	0.4	0.4
RACT on Additional Sources >25 TPY and <50 TPY	0.3	0
Stage II Vapor Recovery	8.9	7.9
Stage I Enhancement (excluding Loudoun County, VA)	0.9	0.3
Non-road Gasoline Engines Rule	6.3	6.8
TCMs	0.1	0.1
Enhanced I/M	18.0	17.9
Total Creditable Reductions	71.2	63.9

TABLE 4.—CREDITABLE NO_X EMISSION REDUCTIONS IN THE POST-1996 PLAN FOR THE METROPOLITAN WASHINGTON, DC AREA

[Tons/day]

Measure	Maryland	Virginia
Enhanced I/M	14.8	16.9
Tier 1	13.7	14.7
NLEV	0.3	1.5
Reformulated Gasoline (on-road)	0.1	0.1
Non-road Gasoline Engines	−0.4	−0.5
Non-road Diesel Engines	3.7	3.2
State NO_X RACT	67.9	12.0
Open Burning Ban	0.8	0.6
TCMs	0.2	0.2
Total Creditable Reductions	101.1	48.7

Based upon the measures listed in the above tables, EPA has determined the Post-1996 plan submitted by Maryland and Virginia for the Washington area will achieve the required reductions to enable Maryland and Virginia to meet its reduction commitments in the Post-1996 plan for the Metropolitan Washington, DC area. Thus, Maryland's and Virginia's Post-1996 plans meet the 9% VOC emission reduction of the requirements of the Act.

What Are the Transportation Conformity Budgets in the Post-1996 Plan?

Under EPA's transportation conformity rule, the Post-1996 plan is a control strategy SIP under the Transportation Conformity Rule (62 FR 43779, August 15, 1997). A control

strategy SIP establishes budgets to which federally funded and approved transportation projects and plans must conform. The Post-1996 plan establishes VOC and NO_X budgets for the Washington area that are applicable for determinations for 1999 and are applicable in later years in the absence of other applicable budgets. The Post-1996 plan adopts and establishes the following transportation conformity budgets for the entire Washington area: a VOC budget for 1999 of 128.5 TPD, and a NO_X budget for 1999 of 196.4 TPD. On August 11, 1999, we announced that these motor vehicle emissions budgets were adequate for transportation conformity purposes effective August 26, 1999 (64 FR 43698, August 11, 1999) EPA's proposed action is to propose approval of these budgets for the Metropolitan Washington, DC area into the Maryland and Virginia SIP.

Virginia's Immunity Law

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. * * *'' The opinion concludes that ''[r]egarding section 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.'' Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

II. Proposed Action

EPA is proposing approval of the Post-1996 plan submitted by the State of Maryland for the Metropolitan Washington, D.C. ozone nonattainment area. EPA is proposing to approve into the Maryland SIP eleven (11) TCMs creditable to the post-1996 ROP and attainment demonstration.

III. Proposed Action

EPA is proposing approval of the Post-1996 plan submitted by the Commonwealth of Virginia for the Virginia portion of the Metropolitan Washington, D.C. ozone nonattainment area. EPA is proposing to approve into the Virginia SIP ten (10) TCMs creditable to the post-1996 ROP and attainment demonstration.

Written comments must be received on or before November 9, 2000. EPA calls your attention to the November 9, 2000 deadline date for submittal of comments on this proposed action to approve these SIP revisions submitted by the Commonwealth of Virginia and the State of Maryland. The EPA is providing a shortened time period for comment for two reasons. As an initial matter, these revisions are non-controversial and EPA does not expect comment because all of the creditable reductions were calculated in accordance with EPA guidance from Federal measures or SIP-approved measures. Moreover, these SIP revisions are necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, D.C. ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by November 15, 2000 fully approving the attainment demonstration for the Metropolitan Washington, D.C. ozone nonattainment area or, in the alternative, proposing a Federal implementation plan.

IV. 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. 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as

specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely 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 regarding Maryland's and Virginia's Post-1996 plan for the Washington 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: October 13, 2000.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 00–26907 Filed 10–18–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA122 & 123–5054; FRL–6888–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Source-Specific Permits To Reduce NO_X Emissions in the Metropolitan Washington, D.C. Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve two permits issued by the Commonwealth of Virginia for the Potomac Electric Power Company (PEPCO), Potomac River Generating Station and the Virginia Power (VP), Possum Point Generating Station. These permits were submitted as State Implementation Plan (SIP) revisions on September 19, 2000 and September 26, 2000, respectively, by the Virginia Department of Environmental Quality (VADEQ). These permits impose conditions which reduce nitrogen oxides (NO_X) emissions from these two facilities during the ozone season (May 1–September 30) of each year. The intent of this action is to propose approval of these permits as SIP revisions because the resulting NO_X emission reductions are strengthening measures for the Metropolitan Washington, D.C. ozone nonattainment area's attainment plan and are necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, D.C. ozone nonattainment area.

DATES: Written comments must be received on or before November 9, 2000.

ADDRESSES: Comments may be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP11, 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 following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Michael Ioff at (215) 814–2166.

SUPPLEMENTARY INFORMATION:

Table of Contents

I . What Is EPA Proposing To Approve?

EPA is proposing to approve two permits issued by the Commonwealth of Virginia for the Potomac Electric Power Company's (PEPCO) Potomac River Generating Station in Alexandria and for the Virginia Power (VP), Possum Point Generating Station in Dumfries, submitted as SIP revisions on September 19, 2000 and September 26, 2000, respectively. These permits impose conditions which reduce nitrogen oxides (NO_X) emissions during the ozone season of each year (May 1–September 30). This action will have a beneficial effect on air quality by reducing NO_X emissions in Metropolitan Washington, D.C. ozone nonattainment area. It is being taken under Section 110 of the Clean Air Act (CAA).

II. What Pollutant Will These SIP Revisions Control?

The proposed permits require the Potomac River Station and the Possum Point Station to reduce their NO_X emissions during the ozone season. Nitrogen oxides, or NO_X, is the generic term for a group of gases formed in a combustion process. The primary sources of NO_X emissions are motor vehicles, electric utilities and, to a lesser degree, industrial, commercial and residential sources that burn fossil fuel. NO_X is one of the main ingredients responsible for formation of ground-level ozone (smog).

III. What Are the Limits for These Sources?

The permit for the Potomac River Generating Station establishes a limit (cap) on emission of nitrogen oxides to no more than 1019 tons during each ozone season (May 1 through September 30). This emission cap is based on an average emission rate of 0.15 pound per million BTU of heat input for each individual unit during the ozone season. Compliance shall be demonstrated by continuous emission monitoring from