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]

BILLING CODE 6560–50–P

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:

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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

each unit, beginning no later than year 2003. The permit for the Possum Point Generating Station limits emission of nitrogen oxides from the combined emission units to no more than 0.15 pound per million BTU of heat input averaged over every period of 30 consecutive operating days during the ozone season. Compliance shall be demonstrated by calculations based upon a specific formula with the input to be derived from the collection of continuous emission monitoring data, beginning the 30th operating day in January of year 2003.

IV. What Are the Environmental Effects of This Action?

Both electric utilities are currently operating their emission units in compliance with VADEQ issued permits imposing Reasonably Available Control Technology (RACT) and ''Acid Rain'' permits issued pursuant to Title IV of the CAA. The NO_X reduction requirements in the permits described in section III, above, are more stringent than those imposed in the RACT and Acid Rain permits. Therefore, the permits submitted by VADEQ on September 19, 2000 and September 26, 2000, will result in additional reductions of NO_X emissions during the ozone season.

V. General Information Pertaining to Submittals From the Commonwealth

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.

EPA's review of this material indicates that proposed permits will have a beneficial effect on air quality by reducing NO_X emissions in Metropolitan Washington, D.C. ozone nonattainment area. EPA is proposing to approve the permits for Potomac River Generating Station and Possum Point Generating Station, as SIP revisions.

VIII. Proposed Action

EPA is proposing to approve two permits issued by the Commonwealth of Virginia to control NO_X emissions from the Potomac Electric Power Company's (PEPCO) Potomac River Generating Station and the Virginia Power's (VP) Possum Point Generating Station as revisions to Virginia's SIP. EPA is proposing 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 SIP and are necessary for full approval of that 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. 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 these are source-specific SIP revisions consisting of permits affecting only the two named facilities. 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.

VIII. 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 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). 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 to approve permits issued by the Commonwealth of Virginia to control NO_X emissions from the Potomac River Generating Station and the Possum Point Generating Station 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, 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. 00–26906 Filed 10–18–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD106–3058; FRL–6888–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for Oxides of Nitrogen

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 Maryland. This revision requires major sources of nitrogen oxides (NO_X) in the State of Maryland to implement reasonably available control technology (RACT). This action is being taken in accordance with the Clean Air Act.

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

ADDRESSES: Written comments should 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 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Kelly L. Bunker, (215) 814–2177 or by e-mail at bunker.kelly@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Maryland is required to implement RACT for all major NO_X sources by no later than May 31, 1995. The definition of a major source is determined by its size, location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The entire State of Maryland is included in the OTR. The Baltimore nonattainment area and Cecil County are classified as severe nonattainment areas. Calvert, Charles, Frederick, Montgomery and Prince George's Counties are classified as serious ozone nonattainment areas. The remaining counties in Maryland are classified as marginal or in attainment. However, under section 184 of the CAA, at a minimum, moderate area requirements for stationary sources, including RACT as specified in sections 182(b)(2) and 182(f), apply throughout the OTR. Therefore, RACT is applicable statewide in Maryland. Section 182 of the Act defines a major NO_X source as one that emits or has the potential to emit 25 or more tons of NO_X per year (TPY) in any ozone nonattainment area classified as severe, or 50 or more TPY located in any ozone nonattainment area classified as serious. For any area in the OTR classified as attainment or marginal nonattainment, sections 182 and 184 of the Act define a major stationary source of NO_X as one that emits or has the potential to emit 100 or more TPY.

On July 11, 1995, the Maryland Department of the Environment (MDE) submitted a revision to its State Implementation Plan (SIP) for the control of NO_X emissions from major sources. This submittal included revisions to regulation COMAR 26.11.09.01 and 26.11.09.08 which pertained to definitions and a ''generic'' NO_X RACT rule. This generic rule required affected sources to either meet a presumptive NO_X emissions standard or to submit a ''case-by-case'' RACT proposal for approval by MDE. Each case-by-case RACT determination was required to be the subject of a public hearing and to be submitted to the EPA as a SIP revision. On June 22, 1999 EPA granted conditional limited approval of this SIP revision (64 FR 33197). On September 8, 2000, Maryland submitted