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SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, District of Columbia's Approval of VOC Emission Standards for Mobile Equipment Repair and Refinishing in the Metropolitan Washington, DC ozone nonattainment area, that is located in the "Rules and Regulations" section of this **Federal Register** publication. 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.

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04-28088 Filed 12-22-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03-OAR-2004-MD-0001; R03-OAR-2004-VA-0005; FRL-7852-8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Non-Regulatory Voluntary Emission Reduction Program Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland and by the Commonwealth of Virginia. These revisions establish a number of non-regulatory measures for which Maryland and Virginia seek SIP credit in rate-of-progress and attainment planning for the Metropolitan Washington DC 1-hour ozone nonattainment area (the Washington area). The intended effect of this action is to propose approval of SIP revisions submitted by Maryland and Virginia which establish certain non-regulatory measures. The non-regulatory measures include use of low-or-no-VOC content paints by certain state and local government agencies, auxiliary power units on locomotives, sale of reformulated consumer products in the

Northern Virginia area, accelerated retirement of portable fuel containers by certain state and local government agencies, and renewable energy measures (wind-power purchases by certain local government agencies). This action is being taken under section 110 of the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before January 24, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-MD-0001 and R03-OAR-2004-VA-0005 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: morris.makeba@epa.gov.

D. Mail: R03-OAR-2004-MD-0001/R03-OAR-2004-VA-0005, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03-OAR-2004-MD-0001 and/or R03-OAR-2004-VA-0005. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, www.docket.epa.gov/rmepub/, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or www.regulations.gov, your e-mail address will be automatically captured and included as part of the

comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230, Baltimore, Maryland 21224 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814-2179, or by e-mail at cripps.christopher@epa.gov.

SUPPLEMENTARY INFORMATION: On February 19, 2004 and February 25, 2004, respectively, the Maryland Department of the Environment (MDE) and the Virginia Department of Environmental Quality (VA DEQ) both submitted revisions to their SIPs. These SIP revisions included, among other things, amendments to the 1990 base year emissions inventory for the Metropolitan Washington DC 1-hour ozone nonattainment area (the Washington area), a rate-of-progress (ROP) plan for 1999 through 2005, an attainment demonstration, a contingency measure plan, enforceable commitments to conduct a mid-course review, a demonstration that the SIP contains sufficient transportation control measures to offset, as necessary, growth in vehicle miles traveled (VMT), a suite of transportation control measures and a suite of non-regulatory voluntary emission reduction measures.

This proposed rule pertains only to the suite of non-regulatory voluntary measures. The other portions of these SIP revisions are the subjects of will be addressed in separate rulemaking actions.

I. Background

A. What Are Non-Regulatory Voluntary Emission Reduction Program Measures and EPA's Voluntary Emission Reduction Program Measure Policies?

Many areas of the country that are designated as nonattainment are finding it increasingly difficult to find ways to achieve additional emission reductions needed to attain the National Ambient Air Quality Standards (NAAQS). Many areas have already applied reasonably available control technology (RACT) and other controls to stationary sources and are still not attaining the NAAQS. In some cases, areas have chosen to control sources well beyond RACT levels, but still cannot attain the standards. In some cases, areas may need or may choose to implement additional measures more rapidly than can be done by completing the full regulatory adoption process. These areas need to find additional innovative emission reduction approaches. One way to accomplish this is through voluntary emission reduction program measures. Voluntary emission reduction program measures are an alternative to traditional "command and control" approaches, and have the potential to encourage new, untried and cost-effective approaches to reduce emissions.

A voluntary emission reduction program measure is an action by a source that will reduce emissions of a criteria pollutant or a precursor to a criteria pollutant that the State could claim as an emission reduction in its SIP for purposes of demonstrating attainment, ROP towards attainment, reasonable further progress (RFP) toward attainment or maintenance of the NAAQS, but that is not directly enforceable against the source. Examples of a voluntary emission reduction program measure could include retail operations agreeing not to sell high emitting VOC products during the ozone season, or programs designed to educate consumers or sources about the effects of their actions on the environment. Under EPA's guidance, voluntary emission reduction program measures can be approved if the State retains enforceable responsibility for the reduction and meets certain other obligations.

EPA has issued guidance and policy for incorporating voluntary emission

reduction program measures into SIPs. The first such guidance was a October 27, 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, entitled "Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs)," which was reissued in section 16.4 "Guidance on Voluntary Emission Reduction Programs" of "Improving Air Quality with Economic Incentive Programs," United States Environmental Protection Agency, Office of Air and Radiation, EPA-452/R-01-001, January 2001. The second was a January 19, 2001 Memorandum from John Seitz, Director, Office of Air Quality Planning and Standards entitled "Incorporating Voluntary Stationary Source Emission Reduction Programs Into State Implementation Plans—Final Policy," which was reissued in section 16.4 "Guidance on Voluntary Emission Reduction Programs" of "Improving Air Quality with Economic Incentive Programs," United States Environmental Protection Agency, Office of Air and Radiation, EPA-452/R-01-001, January 2001.

Additional policy and guidance was the August 5, 2004 cover memorandum from Brian McLean, Director, Office of Atmospheric Programs, and from Stephen D. Page, Director, Office of Air Quality Planning and Standards, entitled "Guidance on SIP Credits for Emission Reductions from Electric-sector Energy Efficiency and Renewable Energy Measures" that issued the August 2004 document "Guidance on State Implementation Plan (SIP) Credits for Emission Reductions from Electric-sector Energy Efficiency and Renewable Energy Measures."

Voluntary emission reduction program measures cannot replace existing measures in the SIP and must be surplus to *technology-based requirements* of the Act, which include but which are not necessarily limited to, RACT, BACT, LAER, NSPS or NESHAP limits, or rules such as those for reducing VOC emissions promulgated pursuant to section 183 of the Act, or those assumed in a permit (such as offsets), or those needed to demonstrate conformity with the SIP pursuant to 40 CFR part 93 and section 176 of the Act.

EPA believes the authority for voluntary emission reduction program measures derives from various provisions of the Act including: sections 110 and 172 regarding emission reductions needed to achieve attainment of the NAAQS; section 182 regarding economic incentive provisions; and, in the case of mobile source measures,

section 108 regarding transportation control measures (TCMs).

While the policies do not require that reduction actions be enforceable against individual sources, they place clear responsibility on a State to ensure that the emission reductions take place. State responsibility includes a commitment to evaluate the effectiveness of each measure and, in the event the voluntary emission reduction program measures does not achieve the projected emission reductions, to remedy any SIP shortfall by providing enforceable emission reductions from other sources or by showing that the emission reductions are not needed to achieve attainment, maintenance, or RFP/ROP requirements.

B. What Are Voluntary Mobile Source Emission Reduction Programs?

Voluntary emission reduction program measures for mobile sources are measures that complement existing regulatory programs through voluntary, non-regulatory changes in local transportation activities or changes in-use vehicle fleet and engine fleet composition. EPA believes that the Act allows SIP credit for new approaches to reducing mobile source emissions, where supported by enforceable commitments to monitor and assess implementation and backfill any emissions reductions shortfall in a timely fashion. This flexible approach is consistent with section 110 of the CAA. Economic incentive provisions are also available in sections 182 and 108 of the Act. Credits generated through VMEP can be counted toward attainment and maintenance of the NAAQS. Due to the innovative nature of such a program, EPA will allow up to 3 percent of the total future year emissions reductions required to attain the appropriate NAAQS, to be claimed under the VMEP policy.¹

C. What Are Voluntary Stationary Source Emission Reduction Programs?

The stationary source policy covers what are commonly referred to as "area" sources which are too small and/or too numerous to be individually included in a stationary source emissions inventory. This category could include facilities that directly emit applicable

¹ See the October 27, 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, entitled "Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs)," which was reissued in section 16.4 "Guidance on Voluntary Emission Reduction Programs" of "Improving Air Quality with Economic Incentive Programs," United States Environmental Protection Agency, Office of Air and Radiation, EPA-452/R-01-001, January 2001.

criteria pollutants or their precursors, such as very small printers or bakeries. It could also include products sold by wholesale or retail operations that may emit criteria pollutants or their precursors and individual consumers that may use products which emit criteria pollutants or their precursors.

D. What Are Electric-Sector Energy Efficiency and Renewable Energy Measures?

Another category of voluntary emission reduction program measures are those electric-sector energy efficiency and renewable energy projects, initiatives or measures that will result in quantifiable reductions in emissions at existing fossil fuel-fired electric generating units and will improve air quality in a nonattainment area.

Some examples of specific energy efficiency or renewable energy projects could include, but are not necessarily

limited to supply-side measures, which include new and innovative initiatives to increase the efficiency or decrease the emissions from electricity generation, such as renewable energy projects like wind powered generation.

E. What Qualifies for SIP Credit?

The basic framework for ensuring SIP credit for voluntary emission reduction program measures is spelled out in the various guidance discussed in previous paragraphs. Generally, to obtain credit for voluntary emission reduction program measures, a State submits a SIP revision that:

- (1) Identifies and describes the measure(s);
- (2) Contains projections of emission reductions attributable to the program, along with any relevant technical support documentation;
- (3) Commits to evaluation and reporting on program implementation and results; and

(4) Commits to the timely remedy of any credit shortfall should the measure(s) not achieve the anticipated emission reductions.

More specifically, the guidance suggests the following key points be considered for approval of credits. The credits should be quantifiable, surplus, enforceable, permanent, and adequately supported. In addition, the measure(s) must be consistent with attainment of the standard and with the ROP requirements and not interfere with other CAA requirements.

II. Summary of SIP Revisions Submitted by Maryland and Virginia

A. What Voluntary Emission Reduction Program Measures Did the States Submit?

The States submitted program descriptions that projected emission reductions attributable to each specific measure. Those estimates are provided in Table 1.

TABLE 1.—LIST OF VOLUNTARY EMISSION REDUCTION PROGRAM MEASURES

Measure	State	VOC reduction (tons/day)	NO _x reduction (tons/day)	Voluntary emission reduction program measures policy
Gas Can (portable fuel containers) Replacement Program.	VA, MD	0.01	0.00	Stationary Source.
Sale of Reformulated Consumer Products	VA	3.00	0.00	Stationary Source.
Low-VOC Paints Program	VA, MD	0.17	0.00	Stationary Source.
Auxiliary Power Units on Locomotives	VA	0.01	0.13	Mobile Sources.
Montgomery County Regional Wind Power Purchase.	MD	0.00	0.05	Renewable Energy.
Arlington County Regional Wind Power Purchase	VA	0.00	0.005	Renewable Energy.
Remote Sensing Device Program	VA	No Credit	No Credit	Mobile Sources.
Alternative Fueled Vehicle (AFV) Purchase Program.	VA	No Credit	No Credit	Mobile Sources.
Diesel Bus Retrofit Program	VA	No Credit	No Credit	Mobile Sources.

A more detailed analysis of all these voluntary emission reduction program measures can be found in the Technical Support Document (TSD) for this proposed action. That TSD is included in both the hard copy and E-docket for this rulemaking. For each voluntary emission reduction program measure for which the States claimed emission reduction credit, the measure was found to be quantifiable. The reductions are surplus by not being substitutes for mandatory, required emission reductions. The commitment to monitor, assess and timely remedy any shortfall from implementation of the measures is enforceable and the State held accountable. The reductions will continue at least for as long as the time period in which they are used by this SIP demonstration, so they are considered permanent. Each measure is adequately supported by personnel and

program resources for implementation. The States commit to evaluating each program's measures to validate estimated credits and to remedy any shortfall in a timely manner.

B. What Limitations Apply to the Magnitude of Emissions Reductions That Can Be Attributable to Voluntary Emission Reduction Program Measures?

For a variety of reasons, such as the innovation involved in voluntary emission reduction program measures, inexperience in quantifying them, and the inability to enforce these measures against individual sources, EPA believes that at this time it is appropriate to limit the amount of emission reductions allowed from voluntary emission reduction program measures. Initially, we set an appropriate limit for stationary source voluntary emission reduction program measures and for

mobile source voluntary emission reduction program measures each at 3 percent of needed reductions for ROP, RFP, or attainment demonstration purposes. (This is not 3 percent of an area's total emission inventory, but 3 percent of the reductions needed to achieve the air quality goal such as ROP or attainment.)

The amounts of emission reductions claimed from voluntary emission reduction program measures in the Maryland and Virginia SIP revisions are far less than 3 percent of the reduction needs. For these voluntary emission reduction program measures, the States claim no more than 0.2 tons per day (TPD) of NO_x and 3.2 TPD for VOC reductions. To meet the 2002 and 2005 ROP goals, the plan documents needed reductions of over 170 TPD of VOC and over 250 TPD of NO_x. To demonstrate attainment, the plan documents needed

reductions of well over 170 TPD of VOC and over 250 TPD of NO_x. The reductions from voluntary emission reduction program measures represent less than 0.1 percent (0.2/250) of the needed NO_x reductions and less than 2 percent (3.2/170) of the needed VOC reductions.

C. What Action Is EPA Proposing for the Voluntary Emission Reduction Program Measures?

We propose to approve the voluntary emission reduction program measures listed in Table 1 of this document as revisions to the Maryland and Virginia SIPs. All of these measures can be expected to have some beneficial effect

on air quality by reducing emissions. Additionally, for those voluntary emission reduction program measures for which the States quantified reductions EPA is proposing to approve emission reduction credit towards ROP and/or the attainment demonstration for the Washington area in the amounts shown in Table 2.

TABLE 2.—EMISSION REDUCTIONS CREDITABLE FROM VOLUNTARY EMISSION REDUCTION PROGRAM MEASURES FOR THE METROPOLITAN WASHINGTON, DC AREA

Measure	State	VOC TPD	NO _x TPD	Implementation date
Gas Can Replacement Program				
Maryland National Capital Parks & Planning Commission, Prince George's County.	MD	0.0027	.....	4/2005
Montgomery County .....	.....	0.00088	.....	12/2004
Prince George's County .....	.....	0.00231	.....	1/2004
Maryland totals .....	.....	0.00589	0.00	
Fairfax County	VA	0.00277	.....	5/2005
City of Fairfax .....	.....	0.00138	.....	7/2004
City of Fairfax Contractors .....	.....	0.00060	.....	7/2004
Prince William County .....	.....	0.0009	.....	5/2005
Arlington County .....	.....	0.0021	.....	5/2005
Virginia totals	0.005657	.....	0.00	.....
Total Area-wide Reduction—Gas Can Replacement Program .....	.....	0.01	0.00	
Sale of Reformulated Consumer Products	VA	3.00	0.00	1/2005
Low-VOC Paints Program				
Prince George's County	MD	0.002	.....	5/2005
Maryland National Capital Parks & Planning Commission, Prince George's County.	.....	0.006	.....	12/2003
MDOT Traffic Marking Coatings .....	.....	0.149	.....	12/2003
Maryland totals .....	.....	0.157	0.00	
Virginia totals—Fairfax County	VA	0.017	.....	4/2004
Total Area-wide Reduction—Low-VOC Paints Program .....	.....	0.174	0.00	
Montgomery County Regional Wind Power Purchase	MD	0.00	0.05	12/2004
Auxiliary Power Units on Locomotives	VA	0.01	0.13	3/2004
Arlington County Regional Wind Power Purchase	VA	0.00	0.005	5/2005

EPA approval of these voluntary emission reduction program measures for which credit is sought will obligate the States to monitor and remedy any shortfalls in reductions in accordance with their commitments to do so.

Under applicable EPA guidance and policy, for those non-regulatory voluntary measures for which States request approval but claim no reduction credits prospectively, the States may subsequently amend their SIPs with revisions documenting any emission reduction credits actually achieved. EPA would evaluate such revisions in accordance with applicable statute and regulations applicable to

implementation of the standard for which reduction credit is sought.

For those non-regulatory voluntary measures for which the Commonwealth of Virginia's February 25, 2004 SIP submittal did not quantify or request any emission reductions (*i.e.*, the Remote Sensing Device Program, the Alternative Fueled Vehicle (AFV) Purchase Program, and the Diesel Bus Retrofit Program), EPA is not proposing to approve reduction credit towards the ROP plan and attainment demonstration at this time. However approval of these measures into the Virginia SIP will still obligate the Commonwealth to monitor their effectiveness. The

Commonwealth's commitment included a description of how verification that the number of vehicles to be retrofitted or to be purchased were actually retrofitted and purchased. A "shortfall" would then be measured not in terms of emission reductions but in terms of vehicles not retrofitted or not purchased, or, may be measured by revising the SIP to quantify the shortfall in terms of emission reductions.

EPA believes approval of these measures will strengthen the SIP even where no credit is sought at this time. Some of these measures may also have other air quality benefits beyond attainment of the 1-hour and 8-hour

ozone NAAQS such as reduction of fine particulate matter. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Proposed Action

A. Maryland

EPA's review of this material indicates that Maryland's February 19, 2004 SIP submittal of non-regulatory voluntary emission reduction program measures for the Washington area meet the applicable requirements of EPA guidance and policy for approval. EPA is proposing to approve the following voluntary emission reduction program measures into the Maryland SIP: Montgomery County Regional Wind Power Purchase, Low-VOC Paints Program and Gas Can Replacement Program. Specifically, EPA is proposing to approve those measures found in section 7.6 entitled "Voluntary Bundle" of the document entitled "Plan to Improve Air Quality in the Washington, DC-MD-VA Region, State Implementation Plan (SIP) 'Severe Area SIP' Demonstrating Rate of Progress for 2002 and 2005; Revision to 1990 Base Year Emissions; and Severe Area Attainment Demonstration for the Washington DC-MD-VA Nonattainment Area" (dated February 19, 2004) and Appendix J to this plan. This February 19, 2004 document and its Appendix J were submitted to EPA by Maryland on February 19, 2004. EPA is also proposing to credit the Maryland SIP with the emission reductions for these measures shown in Table 2 of this document for the Washington area.

B. Virginia

EPA's review of this material indicates that Virginia's February 25, 2004 SIP submittal of non-regulatory voluntary emission reduction program measures for the Washington area meet the applicable requirements of EPA guidance and policy for approval. EPA is proposing to approve the following voluntary emission reduction program measures into the Virginia SIP: Low-VOC Paints Program, Sale of Reformulated Consumer Products, Gas Can Replacement Program, Remote Sensing Device Program, Arlington County Regional Wind Power Purchase, Auxiliary Power Units on Locomotives, Alternative Fueled Vehicle (AFV) Purchase Program and Diesel Bus Retrofit Program. Specifically, EPA is proposing to approve those measures found in section 7.6 entitled "Voluntary Bundle" of the document entitled "Plan to Improve Air Quality in the

Washington, DC-MD-VA Region, State Implementation Plan (SIP) 'Severe Area SIP' Demonstrating Rate of Progress for 2002 and 2005; Revision to 1990 Base Year Emissions; and Severe Area Attainment Demonstration for the Washington DC-MD-VA Nonattainment Area" (dated February 19, 2004) and Appendix J to this plan. This February 19, 2004 document and its Appendix J were submitted to EPA by Virginia on February 25, 2004. EPA is also proposing to credit the Virginia SIP with the emission reductions shown in Table 2 of this document for the Washington area.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the

distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule to approve Maryland and Virginia voluntary emission reduction program measures 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, Volatile organic compounds.

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

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

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