

information or law enforcement investigatory information by such entity or individual.

Dated: May 31, 1998.

Madeleine K. Albright,
Secretary of State.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. DC-25-2010a; FRL-6120-3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; 15 Percent Plan for the Metropolitan Washington, D.C. Ozone Nonattainment Area

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is granting conditional approval of a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District) to meet the 15 percent reasonable further progress implementation plan (15% plan) requirements of the Clean Air Act (the Act) for the District's portion of the Metropolitan Washington, D.C. ozone nonattainment area. EPA is granting conditional approval because the District's enhanced inspection maintenance (I/M) program, which is one of the many control measures adopted by the District to achieve the 15% reduction in volatile organic compounds (VOC), has only been conditionally approved, the 15% plan must also be conditionally approved. The intended effect of this action is to conditionally approve the 15% plan submitted by the District of Columbia in accordance with the Clean Air Act.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless EPA receives adverse comment by August 6, 1998. If adverse comment is received, EPA will publish a timely document withdrawing the rule.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street,

Philadelphia, Pennsylvania 19103. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, Ozone and Mobile Sources Branch (3AP21), U.S. EPA—Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, or by telephone at (215) 814-2179. Questions may also be addressed via e-mail, at: cripps.christopher@epamail.epa.gov [Please note that only written comments can be accepted for inclusion in the docket.]

SUPPLEMENTARY INFORMATION: On April 16, 1998 the District of Columbia Department of Health (DoH) submitted a revision to its State Implementation Plan (SIP) for the Washington, D.C. ozone nonattainment area. The revision consists of a plan to achieve a fifteen percent reduction from 1990 base year levels in volatile organic compound (VOC) emissions. During the summertime months, VOC emissions contribute significantly to the formation of ground level ozone, and many volatile organic compounds are also toxic or hazardous air pollutants.

I. Background

The Washington, D.C. metropolitan area is classified as a serious ozone nonattainment area. Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to meet specific reasonable further progress, also known as rate-of-progress (ROP), for the reduction of VOC emissions. Specifically, section 182(b)(1) requires a SIP revision to reduce by 1996 VOC emissions by fifteen percent from 1990 baseline levels in the area while accounting for growth in VOC emissions from 1990 to 1996. These "15% plans" were due to be submitted to EPA by November 15, 1993, with the reductions to occur within 6 years (i.e., November 15, 1996). The Act sets limitations on the creditability of certain control measures towards reasonable further progress. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g., new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated pursuant to section 211(h) of the Act to lower the

volatility [i.e., Reid Vapor Pressure (RVP)] of gasoline. Furthermore, section 182(b)(1) of the Act does not allow credit towards reasonable further progress for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were required to be in-place prior to 1990. In addition to these restrictions, a creditable measure must be either in the SIP, result from a national rule promulgated by EPA or be contained in a permit issued under Title V of the Act. Any measure must result in real, permanent, quantifiable and enforceable emission reductions to be creditable toward the 15% goal.

The Washington, D.C. ozone nonattainment area consists of the entire District of Columbia, five counties in Northern Virginia and five counties in Maryland. Virginia, Maryland and the District all must demonstrate reasonable further progress for the Washington, D.C. nonattainment area. The Commonwealth of Virginia, State of Maryland and the District of Columbia in conjunction with municipal planning organizations collaborated on a coordinated 15% plan for the entire Metropolitan Washington, D.C. nonattainment area (regional 15% plan). This was done under the auspices of the regional air quality planning committee, the Metropolitan Washington Air Quality Committee (MWAQC), and with the assistance of the local municipal planning organization, the Metropolitan Washington Council of Governments (MWCOC), to ensure coordination of air quality and transportation planning.¹

Although the plan was developed by a regional approach, each jurisdiction is required to submit its 15% plan to EPA as a revision to its SIP.

Because the reasonable further progress requirements such as the 15% plan affect transportation improvement plans, municipal planning organizations have historically been heavily involved in air quality planning in the

¹The Act addresses interstate coordination for inter-state nonattainment areas (42 U.S.C. 7504) mainly for nonattainment planning. Because the interstate air quality planning organization involved, the MWAQC, meets the requirements of section 174 of the Act, EPA believes all interstate coordination requirements have been fulfilled. In the absence of an agreement to prepare a nonattainment area-wide plan, each state could have developed and submitted a SIP revision to obtain the 15% reasonable further progress requirement independently of the others. The MWAQC process also ensures that the consultation between air quality and transportation planning agencies is performed as required under the Act (42 U.S.C. 7506(c)) and under EPA's transportation conformity final rule (40 CFR 93.100).

Washington, D.C. area. As explained in further detail below, the regional 15% plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the reasonable further progress requirement in the entire Washington, D.C. ozone nonattainment area. The three jurisdictions, the State of Maryland, the Commonwealth of Virginia and the District agreed to apportion this total amount of required creditable reductions among the three jurisdictions. EPA is taking action today only on the District's 15% plan submittal, which addresses only the District's responsibility for the 15% plan in the Washington, D.C. metropolitan area.

The 15% plan for the District of Columbia was submitted by the Mayor's designated official, the Director of the District of Columbia DoH, on April 16, 1998. The April 16, 1998 submittal effectively superseded previous submittals. On May 15, 1995, the District submitted a 15% plan SIP for the District's portion of Washington, D.C. ozone nonattainment area. On November 3, 1997 the District submitted a Phase I attainment plan which included revisions to the 1990 base year inventory and to the 15% plan SIP revision. This amended 15% plan SIP revision was based upon the revised 1990 base year emissions inventory and upon revised projections in growth in emissions which came to light during the preparation of the Phase I attainment plan. The November 3, 1997 15% plan SIP revision did not however reflect changes in the District's motor vehicle enhanced inspection and maintenance (I/M) program. The April 16, 1998 15% plan SIP revision does reflect the District's current enhanced I/M program.

EPA has reviewed the District's April 16, 1998 15% plan SIP revision, and a single factor prevents a full approval of the District of Columbia's 15% plan SIP. A detailed discussion of the EPA's analysis of the District's 15% plan SIP revision is included below in the 'Analysis' portion of this rulemaking action and also in the technical support document (TSD) for this action. (Copies of the TSD are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice.) Because this one measure, the District's enhanced I/M program, has been conditionally approved into the District of Columbia's SIP, under section 182(b)(2)(D), EPA can only grant a conditional approval of the emission reduction credits for this measure and, therefore, can only grant conditional

approval of the District of Columbia's 15% plan SIP revision. Satisfying the condition for full approval of the enhanced I/M program, namely that the April 30, 1999 start date be met, will satisfy the conditional approval of the District's 15% plan as well.

II. Analysis of the SIP Revision

A. Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15 percent planning is the 1990 base year emission inventory. The inventory is broken down into several emissions source categories: stationary point, area, on-road mobile sources, and off-road mobile sources. The base year inventory includes emissions of all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary. A sub-set of the 1990 base year inventory is the 1990 rate-of-progress (ROP) inventory which includes only anthropogenic (man-made) emissions actually within the nonattainment area boundaries. The District of Columbia submitted a formal SIP revision containing its official 1990 base year emission inventory on January 13, 1993 and submitted revisions on November 3, 1997. In the Final Rules section of this **Federal Register**, EPA is also approving the District's November 3, 1997 SIP revision consisting of revisions to the 1990 base year emission inventory as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in that direct final rule.

B. Growth in Emissions Between 1990 and 1996

EPA has interpreted the Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% reasonable further progress requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in VOC emissions, in addition to a 15 percent reduction of VOC emissions. Thus, an estimate of growth in VOC emissions and emissions related activity from 1990 to 1996 is necessary for demonstrating reasonable further progress. Growth for all source categories other than on-road mobile sources, is calculated by multiplying the 1990 base year inventory by acceptable forecasting indicators. For these categories, growth must be determined separately for each source, or by source

category, since sources typically grow at different rates. EPA's inventory preparation guidance recommends the following indicators, as applied to emission units in the case of stationary sources or to a source category in the case of area sources, in order of preference: product output, value added, earnings, employment. Population can also serve as an acceptable surrogate indicator.

Growth for on-road mobile sources is determined projecting future year vehicle miles traveled (VMT) and speeds using a traffic demand model that represents the highway network in the Washington, D.C. area. (The same highway network and traffic demand model is also used for conformity determinations.) These results are multiplied by emission factors appropriate for the forecast year that were generated by EPA's Mobile 5.0b emission factor model.

The District's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the District, please refer to the TSD for this action. EPA is approving the District's 1990-1996 emissions growth projections.

C. Enhanced Vehicle Inspection and Maintenance (I/M) Program

Section 182(b)(1) of the Act requires that states containing ozone nonattainment areas classified as moderate or above prepare SIP revisions that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15% plan SIP revisions originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial difficulties with these enhanced I/M programs, only a few states are currently actually testing cars using their original enhanced I/M protocols.

In September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs (See 60 FR 48029, September 18, 1995). Subsequently, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides states with additional flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA,

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

The District submitted a SIP revision amending the District's existing I/M program on July 13, 1995 and supplemented this submittal on March 27, 1996 under the NHSDA. On October 10, 1996, EPA published a proposed disapproval of the July 13, 1995 and March 27, 1996 SIP revisions. The proposed disapproval listed numerous major and minor deficiencies. On November 27, 1997, the District submitted a completely revised enhanced I/M SIP revision. The November 27, 1997 enhanced I/M SIP revision completely revised the testing method from that contained in the earlier SIP revisions. On March 30, 1998 (63 FR 15118), EPA proposed to conditionally approve this enhanced I/M SIP revision. EPA also withdrew its previously proposed disapproval action of an enhanced I/M SIP revision submitted by the District of Columbia on July 13, 1995 and supplemented March 27, 1996 because that action was no longer germane, given that the District's submittal of November 27, 1997 completely replaced those earlier submittals. No comments were received on EPA's proposed conditional approval of the District's enhanced I/M program. On June 2, 1998, EPA published its final conditional approval (63 FR 29955).

Given the heavy reliance by many states upon enhanced I/M programs to help achieve the 15% reduction in VOC emissions required under section 182(b)(1) of the Act, the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA believes that it was not possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15% plan SIP revisions would serve no purpose. Consequently, under certain circumstances, EPA has allowed states that re-designed their enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996. The provisions for crediting reductions for enhanced I/M programs are contained in two documents: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance," memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.

Specifically, EPA is approving SIP revisions if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% plan SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable, pursuant to a February 12, 1997 memorandum from

John Seitz and Richard Ossias entitled, "15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test." To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe that measures meaningfully accelerate the date by which the 15% reduction is achieved if they provide an insignificant amount of reductions.

The EPA has examined other available SIP measures to determine if they are practicable for the District's portion of the Washington, D.C. area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions. The EPA has determined that the District's SIP does contain the appropriate measures. Measures for which the District took credit in the 15% plan are identified in Table 1, below, as "In 15% Plan" and are not available as a possible alternative to enhanced I/M. Measures in Table 1 identified as being "Pre-1990" were implemented prior to 1990 under rules adopted by the District and thus are not available as a possible alternative to enhanced I/M. The other programs that the District included in its 15% plan submittal result in less than a 1.3 tons per day reduction and do not deliver in the aggregate, anything close to the reductions achieved by enhanced I/M.

TABLE 1.—VOC CONTROL MEASURES ANALYZED IN THE DISTRICT'S 15 PERCENT PLAN SUBMITTAL PLAN

Measures	VOC reductions (tons/day)
Area Source Measures:	
AIM Coatings—Federal Rule	In 15% Plan
Consumer Solvents—Federal Rule	In 15% Plan
Solvent Cleaning—Substitution	0.1
Graphic Arts—Web Offset Control	0.5
Autobody Refinishing—ACT control	In 15% Plan
Cutback Asphalt—100% Ban	0.0
Other Dry Cleaning	0.2
Stage I Enhancement	0.4
Stage II Vapor Recovery	Pre-1990
Nonroad—Reformulated Gasoline	In 15% Plan
Point Source Measures:	
Flexographic Printing	0.0
Gravure Printing	<0.1
Web Offset Lithography	Pre-1990
Non-mandated On-Road Mobile Measures:	
Reformulated Gasoline	In 15% Plan
I/M Reductions:	
High Enhanced in 15% Plan	In 15% Plan

EPA believes that the enhanced I/M program is the only measure that will

significantly accelerate the date by which the 15% reduction requirement

will be achieved. EPA is allowing enhanced I/M reductions which occur

out until November 15, 1999 to count toward the 15% emission reduction level for the 15% plan, because in doing so, the District will reach a 15% reduction in VOC emissions as soon as practicable.

The District claimed a total of 3.8 tons per day credit from enhanced I/M in its 15% plan. In the 15% plan, the District evaluated the enhanced I/M program using EPA's Mobile 5.0b model with assumptions that called for implementation of a centralized, IM240 test with pressure and purge testing, and a program start date of April 30, 1999. EPA has determined that the enhanced I/M program for the District's portion of the Washington, D.C. nonattainment area does achieve the credited reductions from enhanced I/M as soon as practicable. The District's enhanced I/M program is a biennial, centralized, test-only program network using EPA's IM240 test. EPA believes that the District cannot accelerate the reductions by initially requiring annual testing because:

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

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

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

Because the District's revised enhanced I/M program is designed to

meet EPA's high-enhanced performance standard, EPA believes that the District's program will achieve 3.8 tons per day of reductions by 1999 credited in the District's 15% plan.

D. Target Level Emissions/Emission Reductions Needs

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

EPA has interpreted section 182(b) of the Act to require that the base year VOC emission inventory be adjusted to account for reductions in VOC emissions that would have occurred from the pre-1990 FMVCP and RVP programs. To meet EPA's applicable guidance on this requirement, the regional plan contains a calculation of the reductions occurring between 1990 and 1996 from the pre-1990 Tier 0 FMVCP and RVP programs and the result of subtracting these reductions from the 1990 ROP inventory. The net result of this calculation yielded the 1990 "adjusted base year inventory adjusted to 1996."

The District's 15% plan relies upon reductions from the District's revised,

enhanced I/M programs to achieve the required 15% level as soon after November 15, 1996 as practicable, but not later than 1999. Under EPA's applicable guidance for 15% plans that rely upon reductions from enhanced I/M after 1996, the target level must also incorporate the effects of the pre-1990 Tier 0 FMVCP on 1990 emissions due to turnover in vehicles between 1996 and 1999. To meet EPA's applicable guidance on this requirement the regional plan also contains a calculation of the non-creditable reductions from the pre-1990 Tier 0 FMVCP and RVP programs between 1990 and 1999 and the result of subtracting these reductions from the 1990 ROP inventory. The result of this calculation yielded the 1990 "adjusted base year inventory adjusted to 1999". The difference between the 1990 "adjusted base year inventory adjusted to 1996" and 1990 "adjusted base year inventory adjusted to 1999" yields the "fleet turnover correction" (FTC).

The next step is to calculate the base 1996 VOC target level of emissions. This is eighty-five percent (85%) of the 1990 adjusted base year inventory for 1996. This number represents what the emissions inventory should have been in 1996 if the 15% target level in order to achieve the 15% reduction. To account for the effects on VOC emissions due to the Tier 0 FMVCP between 1996 and 1999 the FTC is subtracted from the base 1996 VOC target level of emissions to yield the final, corrected 1996 VOC target level of emissions. The emission reduction needs to achieve the target level is just the difference between the 1996 projected uncontrolled inventory and the final, corrected 1996 VOC target level. Table 2, below, summarizes the calculations for the 1996 VOC target level for the entire Washington, D.C. ozone nonattainment area.

TABLE 2.—REQUIRED REDUCTIONS FOR THE WASHINGTON, D.C. AREA'S 15% PLAN

[In tons of VOC per day]

Item	District of Columbia	Maryland	Virginia	Washington D.C. area totals
Washington, D.C. Area Target Level Calculation				
1 1990 ROP Inventory	60.3	241.7	226.5	528.7
2 1990 Adjusted Base Year Inventory adjusted to 1996	51.2	215.1	196.8	463.1
3 1990 Adjusted Base Year Inventory adjusted to 1999	49.9	210.9	193.3	454.1
4 FTC Adjustment (Line 2 minus Line 3)	1.3	4.2	3.5	9.0
5 Base 1996 target Level = 85% of Line 2 (0.85 × Line 2)	43.5	182.8	167.3	393.6
6 Final, Corrected 1996 Regional Target Level (Line 5 minus Line 4)	42.2	178.6	163.8	384.6
7 Projected 1996 Uncontrolled Emissions	48.5	234.7	219.4	502.4
8 Required Regional Emission Reductions (Line 8 minus Line 7)*	117.8
9 Apportioned State Emission Reductions*	8.5	57.5	51.7	117.7

TABLE 2.—REQUIRED REDUCTIONS FOR THE WASHINGTON, D.C. AREA'S 15% PLAN—Continued
[In tons of VOC per day]

Item	District of Columbia	Maryland	Virginia	Washington D.C. area totals
10 Total Reductions Claimed in the District's 15% Plan	9.2	N/A	N/A

* The small discrepancy between values is due to rounding the apportioned emission reductions to the nearest tenth.

The emission reductions required to meet the 15% reasonable further progress requirement equals the difference between the projected 1996 emissions under the current control strategy ("the 1996 uncontrolled emissions") and the target level. This amount reflects a 15% reduction from the adjusted base year inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996. The Washington, D.C. area's regional VOC target level is 384.8 tons per day. EPA has determined that this regional target level and emission reduction needs for the Metropolitan Washington, D.C. nonattainment area have been properly calculated in accordance with EPA guidance.

E. Control Strategies in the District's 15% Plan

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

F. Fully Creditable Emission Control Strategies

EPA is granting full credit to the District of Columbia's 15% plan SIP with reductions from the following six measures:

1. Reformulated Gasoline (RFG)

Section 211(k) of the Act requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or above. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. Section 211(k)(6) allows other nonattainment areas to "opt-in" to the program. The District submitted a request to opt-in to the reformulated gasoline program, which EPA approved on April 1, 1992 (57 FR 11677). The District claims a reduction of 1.1 tons per day from their 1996 projected uncontrolled on-road mobile

source emissions using EPA's Mobile 5.0b emission factor model to determine the emission benefit. EPA has reviewed the District's calculation of the benefits for this measure and finds the amount of reduction the District claims is reasonable and acceptable.

2. Off-Road Use of Reformulated Gasoline

The use of reformulated gasoline will also result in reduced emissions from off-road engines such as outboard motors for boats and lawn mower engines, commonly used in summer months. The District claims a reduction of 0.1 tons per day from their 1996 projected uncontrolled off-road mobile source emissions. The District used guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits for non-road equipment which are in a nonattainment area that uses Federal Phase I RFG. The District has correctly used the guidance to compute the VOC emission reductions for this measure. The EPA agrees with this projected reduction in the District's 15% plan and the 0.1 tons per day emission benefit resulting from this measure are creditable.

3. Post 1990 Federal Motor Vehicle Control Program (FMVCP Tier 1) and Detergent Additives

EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Clean Air Act was amended in 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal.

On November 1, 1994, EPA promulgated a national rule establishing Federal standards for detergent additives for gasoline as required by the Act (59 FR 54706). This regulation requires, beginning January 1, 1995, that gasoline sold nationwide contain additives to prevent accumulation of deposits in engines and fuel systems. Preventing such deposits maintains the efficiencies of engine systems and reduces VOC emissions resulting from engine efficiency degradation.

The District claimed a reduction of 1.5 tons per day from the Tier 1 Federal Motor Vehicle Control Program and the Gasoline Detergent Additive Rule using EPA's Mobile 5.0b emission factor model to determine the emission benefits. EPA has reviewed the District's methodology used in calculating of the benefits for this measure and finds the amount of reduction that the District claims is reasonable and acceptable. EPA believes this measure and the 1.5 tons per day emission benefit is fully creditable in the District's 15% plan.

4. Architectural and Industrial Maintenance Coatings (AIM)

Emission reductions have been projected for AIM coatings due to the expected promulgation by the EPA of a national rule. VOC emissions emanate from the evaporation of solvents used in the coating process. In EPA's most recent policy memorandum on AIM credits, "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coatings Rule", dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. The District claimed a 20% reduction in AIM emissions under its 15% plan, which is a reduction of 1.6 tons per day from their 1996 projected uncontrolled AIM coating emissions. In the March 7, 1996 memorandum, EPA allowed states to continue to claim a 20% reduction of total AIM emissions from the national rule in their 15% plans although the emission reductions were not expected to occur until April 1997. As a result of legal challenges to the proposed national rule, EPA has negotiated a compliance date of no earlier than January 1, 1998. If the final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall. With this caveat, EPA believes use of emissions reductions from EPA's expected national AIM rule is acceptable towards the 15% plan target. Therefore, the 1.6 tons per day are an acceptable credit claim in the District's 15% plan.

5. Consumer and Commercial Products

Section 183(e) of the Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the reasonable further progress requirement. The District claimed a 20% reduction or the equivalent reduction of 0.6 tons per day from their 1996 projected uncontrolled consumer and commercial products emissions in its 15% plan. For the reasons discussed above under the AIM rule, EPA believes the 0.6 tons per day projected reduction in the District's 15% plan is creditable. Again, if this final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall.

6. Automobile Refinishing

EPA is in the process of adopting a national rule to control VOC emissions from solvent evaporation through reformulation of coatings used in auto body refinishing processes. These coatings are typically used by industry and small businesses, or by vehicle owners. VOC emissions emanate from the evaporation of solvents used in the coating process. In a November 29, 1994 memorandum, "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating

Rule and the Autobody Refinishing Rule," EPA set forth policy on the creditable reductions to be assumed from the national rule for auto body refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). The District's approach was consistent with EPA's guidance to determine the creditable emissions from this rule and claimed a reduction of 0.5 tons per day from their 1996 projected uncontrolled auto body emissions in its 15% plan. For the reasons discussed above under the AIM rule, the EPA believes the 0.5 tons per day projected reduction in the District's 15% plan is creditable. Again, if this final rule does not provide the amount of credit indicated in the memorandum that states can claim in their 15% plans, the District is responsible for developing measures to make up the shortfall.

G. Conditionally Creditable Emission Control Strategies

EPA is conditionally granting credit to the District's 15% plan SIP with reductions from the District's enhanced vehicle inspection and maintenance (I/M) Program. The District claimed a total of 3.8 tons per day credit for this measure. In the 15% plan, the District evaluated the I/M program using EPA's Mobile 5.0b emission factor model with a program start date of April 30, 1999. The effect of the April 30, 1999 start date was factored by interpolating the results of two runs of EPA's Mobile 5.0b emission factor model. The first run used assumptions that called for implementation of a centralized, test-only, IM240 test with pressure and purge testing and an anti-tampering program inspection. The second run used assumptions that reflected implementation of the District's 1990 program which was a centralized, test-

only using an idle test. The District used the same highway network model that was used to determine the 1990 base year inventory, and the adjusted base year inventories, and the 1996 on-road VOC emissions budget used for transportation conformity purposes.

EPA has determined that the I/M program for the District's portion of the Washington, D.C. nonattainment area does achieve reductions from I/M as soon as practicable for the reasons discussed previously in this notice under "Enhanced Vehicle Inspection and Maintenance (I/M) Program." The District's I/M program is a biennial, centralized, test-only program network using EPA's IM240 test.

Because the District's revised I/M program is designed to meet EPA's high-enhanced performance standard and will implement the same number of testing cycles between start-up and November 1999 as that modeled for credit in the 15% plan, EPA believes that the District's program will achieve the claimed 3.8 tons per day of reductions by 1999. EPA has also determined that the credits from the enhanced I/M program were determined in accordance with applicable EPA guidance.

However, section 182(b)(2)(D) requires that EPA grant credit for measures approved into the SIP. Because EPA's approval of the District's enhanced I/M SIP is conditioned upon the District meeting the April 30, 1999 start date, EPA can only approve the reduction credits claimed from enhanced I/M conditioned upon the District meeting the April 30, 1999 start date.

H. Reasonable Further Progress

Table 3 below summarizes the proposed creditable measures from the District's 15% plan for the Washington, D.C. area.

TABLE 3.—CREDITABLE REDUCTIONS IN THE DISTRICT'S 15 PERCENT PLAN FOR THE WASHINGTON, D.C. AREA
[Tons VOC per day]

CREDITABLE REDUCTIONS	
Tier 1 FMVCP and gasoline Detergent Additive Rule	1.5
Reformulated Gasoline:	
On-Road	1.1
Off-Road	0.1
Auto Refinishing	0.5
AIM	1.6
Consumer/Commercial Products	0.6
Sub-Total Creditable	5.4
CONDITIONALLY CREDITABLE REDUCTIONS	
Enhanced Inspection & Maintenance	3.8

TABLE 3.—CREDITABLE REDUCTIONS IN THE DISTRICT'S 15 PERCENT PLAN FOR THE WASHINGTON, D.C. AREA—
Continued
[Tons VOC per day]

Sub-Total Conditionally Creditable	3.8
Total Fully and Conditionally Creditable Reductions	9.2

The District's 15% plan SIP revision contains reductions of 9.2 tons per day which exceeds the District's needs of 8.5 tons per day. Of these 9.2 tons per day EPA is proposing to fully credit the District of Columbia's 15% plan SIP with 5.4 tons per day of reductions and credit the 15% plan SIP with 3.8 tons per day conditioned the District meeting the conditioned listed in the June 2, 1998 conditional approval of the enhanced I/M testing program.

I. Transportation Conformity Budgets

Under EPA's transportation conformity rule the 15% plan is a control strategy SIP. This plan establishes a budget of 133.7 tons per day of VOC emissions for on-road mobile sources throughout the entire Metropolitan Washington, D.C. ozone nonattainment area and does not establish a budget for nitrogen oxides (NO_x) emissions. However, on November 3, 1997 the District of Columbia submitted a complete, SIP revision which included reasonable further progress plan to achieve a nine percent reduction in VOC and NO_x emissions after 1996 (post-1996 plan). This November 3, 1997 SIP revision also established a VOC budget for 1999 of 123.3 tons per day for on-road mobile sources for the entire Metropolitan Washington, D.C. ozone nonattainment area and also establishes a NO_x budget for 1999. Under the conformity rule, EPA believes that the VOC and NO_x budgets established by the November 3, 1997 post-1996 plan are currently the controlling budgets for conformity determinations for 1999 and later years. The next conformity determination in the Washington, D.C. area will consider only 1999 and later years. The budget in the post-1996 plan specifically addresses the 1999 reasonable further progress milestone year whereas the 15% plan establishes a budget for the prior reasonable further progress milestone year of 1996. The time period for the budget in the 15% plan has passed. The post-1996 plan also establishes more stringent VOC budget than the 15% plan.

J. Summary

EPA's review of this material indicates that the District's 15% plan SIP revision meets the requirements of

the Act and applicable EPA guidance. EPA is conditionally approving the District of Columbia's SIP revision for a 15% reduction in VOC emissions, which was submitted on April 16, 1998.

EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse or critical comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives adverse comments by August 6, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

III. Final Action

EPA is conditionally approving the revision to the District of Columbia SIP submitted on April 16, 1998 consisting of its 15% plan. EPA's approval is conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its November 27, 1997 enhanced I/M SIP revision submittal. The conversion from conditional approval to full approval or to disapproval will be dependent upon whether or not the District meets the start date of April 30, 1999 committed to in the enhanced I/M SIP revision. If the District starts the enhanced I/M testing program on or before April 30, 1999, then any final conditional approval shall convert to a full approval of the SIP revision. If the District fails to fully implement enhanced I/M testing in the District by April 30, 1999, EPA would notify the District by letter that the condition has not been met and that

any final conditional approval has converted to a disapproval, and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the **Federal Register** announcing that the 15% plan SIP revision has been disapproved.

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

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility

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

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

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding approval of the District of Columbia's 15% plan SIP revision may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart J of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart J—District of Columbia

2. Section 52.473 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 52.473 Conditional Approval.

* * * * *

(b) EPA is conditionally approving as a revision to the District of Columbia State Implementation Plan the 15 Percent Rate of Progress Plan for the District of Columbia's portion of the Metropolitan Washington, D.C. ozone nonattainment area, submitted by the Director of the District of Columbia Department of Public Health on April 16, 1998. EPA's approval is conditioned

upon the District meeting the April 30, 1999 start date committed to and contained in its November 27, 1997 enhanced I/M SIP revision submittal. The conversion from conditional approval to full approval or to disapproval will be dependent upon whether or not the District meets the start date of April 30, 1999 committed to in the enhanced I/M SIP revision. If the District starts the enhanced testing program on or before April 30, 1999, then any final conditional approval shall convert to a full approval of the SIP revision. If the District fails to fully implement enhanced I/M testing in the District by April 30, 1999, EPA would notify the District by letter that the condition has not been met and that this final conditional approval has converted to a disapproval, and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the **Federal Register** announcing that the 15% plan SIP revision has been disapproved.

[FR Doc. 98–17966 Filed 7–6–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH115–2; FRL–6120–7]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is finalizing a May 21, 1998, proposal to approve an Ohio State Implementation Plan (SIP) revision to remove the air quality triggers from each of the following Ohio maintenance area contingency plans: Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County and Preble County.

EFFECTIVE DATE: This action will be effective on July 7, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: