

valuation of oil produced from Indian leases. For reasons that also have been explained above, the agency has simplified to the extent possible the reporting requirements associated with the proposed provisions, specifically, the proposed Form MMS-4416. The basic initial reporting procedures for the Form MMS-2014 (the report of sales and royalty) are unchanged from current procedures that have been in place for many years.

The agency has concluded that the reporting requirements in the supplementary proposed rule are necessary to carry out the substantive royalty valuation policy set forth in that proposal, and that there is no significant alternative for compliance or reporting requirements that would accomplish the policy objective. The Form MMS-4416, as proposed in the supplementary proposal, would collect the minimum information necessary for MMS to apply the substantive provisions of the rule. We do not perceive significant possibilities for further consolidation or simplification of compliance and reporting requirements while still accomplishing the substantive requirements of the supplementary proposed rule.

Theoretically, MMS could reduce the potential cost and compliance burden on all entities (large or small) by selecting a different (and simpler) substantive valuation alternative. Such an alternative also likely would result in lower royalty values, and consequently, smaller royalty payments by all payors. (There is no basis to establish different values of Indian lease oil production based simply on whether the payor is a small entity or not.) However, the Regulatory Flexibility Act does not mandate or contemplate that an agency must select unfavorable substantive policies simply because the policy choice affects small entities.

MMS consulted with the affected tribal and allottee representatives on several occasions and discussed the merits and provisions of several valuation alternatives in depth. MMS, the tribes, and allottee representatives believe that the proposed rule reflects the best method to ensure that Indian lessors receive fair market value for their oil resources.

However, we considered a range of related alternatives such as changes to the current gross proceeds valuation method, using futures prices instead of spot values, and using index-based prices with fixed adjustments for production from specific geographic zones. We chose to apply the highest of:

(1) The average of the high daily applicable spot prices for the month;

(2) MMS-calculated major portion prices in the field or area; or

(3) Gross proceeds received by the lessee or its affiliate. We chose spot prices as one of the three value measures because:

(1) They represent actual trading activity in the market,

(2) They mirror NYMEX futures prices, and

(3) They permit use of an index price in proximity to the actual production whose value is being measured.

#### Conclusion

MMS notes that this rule will have a significant impact on a substantial number of small business payors on Indian leases as a percentage of all Indian lease payors. However, we believe the supplementary proposed rule is appropriate because it establishes fair and reliable measures of royalty value for Indian resources. As explained above, we examined several alternatives but concluded that the rule as currently proposed best achieves market value for Indian lessors while minimizing the impact on lessees. MMS has made every attempt to mitigate such impacts, but cannot select policies unfavorable to Indian lessors based on potentially unfavorable impacts on small entities.

[FR Doc. 00-24822 Filed 9-27-00; 8:45 am]

BILLING CODE 4310-MR-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC035-2015; DC044-2015; FRL-6878-2]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is proposing approval of the Post-1996 plan for the Metropolitan Washington, DC ozone nonattainment area submitted by the District of Columbia. The District of Columbia Department of Health submitted this Post-1996 plan as a State Implementation Plan (SIP) revision for the Metropolitan Washington, DC serious ozone nonattainment area to meet the 9% rate-of-progress (ROP) requirement (the Post-1996 plan) of the Clean Air Act (the Act). The Post-1996 plan will result in significant emission reductions through 1999 from the 1990 baseline emissions of volatile organic

compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>), which contribute to the formation of ground level ozone.

**DATES:** Written comments must be received on or before October 30, 2000.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Christopher H. Cripps at (215) 814-2179 (or by e-mail at [cripps.christopher@epa.gov](mailto:cripps.christopher@epa.gov)) at the EPA Region 3 office above.

#### SUPPLEMENTARY INFORMATION:

##### What Action is EPA Proposing Today?

EPA is proposing approval of the Post-1996 plan submitted by the District of Columbia for the District's portion of the Metropolitan Washington, DC ozone nonattainment area.

##### What Are the Rate-of-Progress Requirements Applicable to the Metropolitan Washington, DC Area?

The Act requires that serious and above ozone nonattainment areas develop plans to reduce area-wide VOC emissions after 1996 by 3% per year until the year of the attainment date required for that classification of nonattainment area. This is commonly referred to as the Post-1996 plan. In this case, the Metropolitan Washington, DC ozone nonattainment area ("the Washington area") is classified as a serious ozone nonattainment area; the serious attainment date is 1999. The 3% per year requirement is expressed as an average over consecutive 3-year periods; thus, the requirement is a 9% reduction by 1999. These plans were to be submitted by November 15, 1994, and the first 9% reductions were required to be achieved within 9 years after enactment, that is, by November 15, 1999. This 9% reduction requirement is a continuation of the requirement for a 15% reduction in VOC by 1996. For the Post-1996 plan, the Act allows the substitution of NO<sub>x</sub> emissions reductions for VOC emission reductions where equivalent air quality benefits are achieved as determined using the applicable EPA guidance. The 9% VOC/

NO<sub>x</sub> reduction required by November 15, 1999 is a demonstration of reasonable further progress in the Washington area, and will be called "rate-of-progress" within this document. Our assessment of the Post-1996 plan is limited to whether or not the 9% reduction requirement is met.

#### **What Areas Are Covered by the Post-1996 Plan for Metropolitan Washington, DC Area?**

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

#### **What Agencies and Organizations Developed the District's Post-1996 Plan for Metropolitan Washington, DC Area?**

The District of Columbia, Virginia and Maryland must demonstrate reasonable further progress (rate-of-progress) for the Washington area. These jurisdictions, under the auspices of the Metropolitan Washington Air Quality Committee (MWAQC) (with the assistance of the Metropolitan Washington Council of Governments) collaborated on a coordinated Post-1996 plan for the Washington area. The MWAQC includes state and local elected officials and representatives of the DC Department of Health, the Maryland Department of the Environment, the Virginia Department of Environmental Quality and the National Capital Region Transportation Planning Board (TPB). The Act provides for interstate coordination for multi-state nonattainment areas. Because ROP requirements such as the Post-1996 plan establish emission budgets for transportation improvement plans, municipal planning organizations have historically been involved in air quality planning in the Washington area. The MWAQC ensures consultation with the TPB during the development of the Post-1996 plan and emission budgets. As explained below, the regional Post-1996 plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the 9% requirement in the Washington area. The District of Columbia, Maryland and Virginia agreed to apportion this total amount of required creditable reductions among themselves. Although the plan was developed by a regional approach, each jurisdiction is required to submit its portion of the Post-1996 plan to EPA as a revision to its SIP. This proposed rulemaking only addresses the

Post-1996 plan submitted by the District of Columbia for the Washington area.

#### **When Did the District of Columbia Submit the Post-1996 Plan for the Metropolitan Washington, DC Area?**

The District of Columbia Department of Health originally submitted their portion of the area-wide Post-1996 plan as a SIP revision on November 3, 1997. On May 25, 1999 the District of Columbia Department of Health submitted a revised Post-1996 plan for the Washington area which supplanted the 1997 submission.

#### **What Action Is EPA taking on Maryland's and Virginia's Post-1996 Plans for the Metropolitan Washington, DC area?**

The Maryland Department of the Environment (MDE) submitted its portion of the area-wide Post-1996 plan as a SIP revision on December 24, 1997. The Virginia Department of Environmental Quality (VADEQ) submitted its portion of the area-wide Post-1996 plan as a SIP revision on December 19, 1997. On May 20, 1999 and May 25, 1999, respectively, the MDE and VADEQ submitted a revised Post-1996 plan for the Washington area that supplanted the 1997 submissions. We will be taking action on these Post-1996 plan SIP revisions in the near future via separate rulemaking actions.

#### **What Are the Effects on Emissions and How is the 3% Per Year Post-1996 Reduction Calculated?**

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

##### *A. Base Year Emission Inventory*

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

##### *B. Projection Inventories—Growth in Emissions*

A projection of growth in VOC and NO<sub>x</sub> emissions from 1990 to 1999 is required for the 9% requirement. VOC

growth from 1990 to 1996 was described in the 15% plans, thus the remaining VOC growth from 1996 to 1999 is described in the Post-1996 plan. To meet the 9% requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in emissions, in addition to achieving a 9% reduction of VOC/NO<sub>x</sub> emissions from baseline levels through 1999. This requirement may be satisfied by determining the amount of creditable emission reductions needed to offset growth in VOC emissions from 1996 to 1999 and in NO<sub>x</sub> emissions from 1990 to 1999. The calculation can be made by projecting the 1990 base year VOC inventory out to 1999 considering only the current control strategy. Growth must be determined separately for each source or source category, since sources typically grow at different rates.

The Post-1996 plan for the Washington area contains growth projections for stationary, area, on-road motor vehicle, and non-road vehicle source categories using acceptable growth factor surrogates. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document. EPA has determined that the methodology in the District's Post-1996 plan for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate emissions growth in point, area, on-road mobile, and off-road mobile sources (from 1996 to 1999 for VOC and from 1990 to 1999 for NO<sub>x</sub>) is approvable.

##### *C. Calculation of Target Level Emissions and Substitution of NO<sub>x</sub> Reduction*

###### **1. 15% VOC Target Level**

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

###### **2. 1999 VOC Target Level**

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

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

b. Because the plan uses NO<sub>x</sub> substitution, the Washington area does not have to reduce VOC base line emissions by 9% but can use a smaller percentage as long as sufficient NO<sub>x</sub> reductions are achieved. The Post-1996 plan is based upon a 1% VOC reduction and a 8% NO<sub>x</sub> reduction.

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

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

### 3. 1999 NO<sub>x</sub> Target Level

The Post-1996 plan for the Metropolitan Washington, DC area uses NO<sub>x</sub> substitution. The 1999 NO<sub>x</sub> target level of emissions is calculated in a manner similar to the 1996 VOC target level except the base year inventory is adjusted to 1999, not 1996. There are no reductions from corrections to RACT and I/M rules. The Post-1996 plan uses a 8% NO<sub>x</sub> reduction. The reductions from Tier 0 FMVCP and Phase II RVP (from 1990 to 1999) are the difference between the 1990 NO<sub>x</sub> ROP emissions inventory and the 1990 adjusted base year NO<sub>x</sub> emissions inventory for 1999. Therefore, the 1999 NO<sub>x</sub> target level is the 1990 NO<sub>x</sub> ROP emissions inventory less Tier 0 and Phase II RVP reductions

from 1990 to 1999 and the 8% NO<sub>x</sub> reduction. This calculation is contained in the District's submittal.

### 4. 15% Plan Revisions

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

TABLE 1.—TARGET LEVEL AND EMISSION REDUCTION NEEDS FOR THE METROPOLITAN WASHINGTON, DC AREA THROUGH 1999 (TONS/DAY)

	VOC	NO <sub>x</sub>
(1) Starting Emissions Level:		
15% Target Level for VOC .....	384.6	.....
1990 ROP Base Year Inventory for NO <sub>x</sub> ..	.....	730.9
(2) 1990 to 1999 Tier 0 FMVCP and Phase II RVP Reductions .....	* 0.0	62.8
(3) ROP Reduction:		
1% VOC .....	4.4	
8% NO <sub>x</sub> .....	.....	53.4

TABLE 1.—TARGET LEVEL AND EMISSION REDUCTION NEEDS FOR THE METROPOLITAN WASHINGTON, DC AREA THROUGH 1999 (TONS/DAY)—Continued

	VOC	NO <sub>x</sub>
(4) 1999 Target Level (Row 1 minus Row 2 minus Row 3) .....	380.2	614.7
(5) 1999 Uncontrolled Emissions .....	511.7	765.2
(6) Total Reductions Needed to make ROP by 1999 .....	131.5	150.5

Notes: \* Included in the 15% Target Level.

### 5. NO<sub>x</sub> Substitution

EPA issued guidance for NO<sub>x</sub> substitution in Post-1996 plans in December 1993 with a supplement on August 5, 1994. This guidance sets an equivalency test for VOC and NO<sub>x</sub> reductions and requires that the level of NO<sub>x</sub> substitution be supported by photochemical grid modeling. The equivalency test essentially sets two criteria. The first criterion is that the plan must set the 1999 target levels for VOC and NO<sub>x</sub> emissions using a total percent reduction in VOC emissions plus the percent reduction in NO<sub>x</sub> emissions that is greater than or equal to nine percent (9%). In this case, the Washington area states calculated the Post-1996 plan target levels using a 1% VOC reduction and 8% NO<sub>x</sub> reduction. The second criterion is that the Post-1996 plan achieve sufficient VOC and NO<sub>x</sub> reductions to ensure that the projected 1999 VOC and NO<sub>x</sub> emissions will be less than or equal to the respective target levels in the Post-1996 plan. EPA analysis of whether the plan provides for sufficient NO<sub>x</sub> and VOC reductions is discussed below in under the heading **"What control strategies has the District of Columbia included in the Post-1996 Plan?"**

EPA's guidance requires that the amount of substituted NO<sub>x</sub> reductions in the Post-1996 plan be less than or equal to the amount of NO<sub>x</sub> reductions needed to attain the national ozone standard. The amount of NO<sub>x</sub> reductions needed for attainment must be demonstrated by photochemical grid modeling. The District's demonstration that the NO<sub>x</sub> substitution is based upon local scale modeling performed on the Baltimore-Washington Urban Airshed Modeling (UAM) domain and upon EPA's Regional Oxidant Modeling (ROM) results. Both EPA's ROM results and the photochemical grid modeling submitted with the attainment plan show that significant NO<sub>x</sub> reductions will contribute to attainment in the area.

The local UAM modeling also shows that NO<sub>x</sub> reductions, beyond those contained in the Post-1996 plan, provide reductions in ozone concentrations. The Post-1996 plan substitutes fewer NO<sub>x</sub> reductions than assumed in the attainment plan modeling. EPA has, therefore, determined that the NO<sub>x</sub> for VOC substitution in the Post-1996 plan is adequately supported by creditable photochemical grid modeling and meets the requirements of EPA's NO<sub>x</sub> substitution guidance. EPA has determined that its NO<sub>x</sub> substitution guidance was properly followed and the proper methodology was used to calculate the 1999 NO<sub>x</sub> and VOC target levels. The effect of EPA's NO<sub>x</sub> substitution guidance on the Metropolitan Washington, DC area is that for every 6.7 tons of NO<sub>x</sub> reduction (53.8 divided by 8 percent—refer to line 3 in Table 1 above) in the 1999 NO<sub>x</sub> target level has to be substituted for every 4.4 tons of VOC reduction (4.4 tons divided by 1 percent—refer to line 3 in Table 1 above) in the 1999 VOC

target level, that is, approximately 1.5 tons of NO<sub>x</sub> reductions are substituted per ton of VOC reduction. When considering reduction needs to account for growth 150 tons of NO<sub>x</sub> reduction are needed for 122 tons of VOC reduction—a ratio of 1.2 tons of NO<sub>x</sub> per ton of VOC.<sup>1</sup>

EPA believes that following our NO<sub>x</sub> substitution guidance is legally sufficient to demonstrate that any NO<sub>x</sub> substitution in an ROP plan meets the equivalency requirements of the Act. The local UAM modeling submitted with the attainment demonstration also supports the conclusion that, on a ton for ton basis, NO<sub>x</sub> reductions achieve at least equivalent changes in ozone concentrations as an equivalent reduction in VOC emissions.

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

EPA must determine whether or not the Washington area 9% requirement has been met. In general, the emission reduction from a measure is the difference of the future year projected uncontrolled emissions and the future

year controlled emissions, or is equal to a percentage of the future year projected uncontrolled emissions. For on-road mobile sources, the emission reductions from a measure or suite of measures are determined by the difference of projected future year emissions without and with new control measures.

The regional nonattainment area-wide Post-1996 plan apportions among the District, Maryland and Virginia the amount of creditable emission reductions that each state must achieve in order for the nonattainment area to achieve, as a region, the required 9% reduction in VOC net of growth. The Post-1996 plan identifies the amount of creditable emission reductions that each state must achieve for the nonattainment area-wide plan to get a 9% reduction accounting for any growth in emissions from 1990 to 1999.<sup>2</sup> The District of Columbia, Maryland and Virginia each committed to achieving the necessary NO<sub>x</sub> and VOC reductions, found in Table 2 below. This proposed rulemaking action only concerns the District's commitment.

TABLE 2.—EMISSION REDUCTION COMMITMENTS FOR THE METROPOLITAN WASHINGTON, DC AREA THROUGH 1999 (TONS/DAY)

	District of Columbia	Maryland	Virginia	Area total
Total VOC reduction by 1999 .....	10.6	63.7	57.2	131.5
Total NO <sub>x</sub> reduction by 1999 .....	7.2	96.8	46.6	150.6

Because the Post-1996 plan for the Washington area was developed using a regional approach, the required VOC and NO<sub>x</sub> emission reductions for each jurisdiction have been apportioned using a ratio of the regional reduction requirement to the claimed creditable measures for the nonattainment area. This result was then multiplied by each jurisdiction's total creditable measures to determine its emission reduction requirement. EPA has determined that this apportionment of the emission reduction needed for ROP is approvable because the Act provides for interstate planning of SIPs, and because all three jurisdictions have committed to achieving, in the aggregate, sufficient reductions to achieve this 9% requirement in the entire nonattainment area.

#### **What Control Strategies Has the District of Columbia Included in the Post-1996 Plan?**

The Post-1996 plan describes the emission reduction credits that the Washington area jurisdictions are claiming toward their 9% reduction requirement. These control measures are described in detail in the TSD for this rulemaking. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this notice. The Post-1996 plan for the Washington area claims VOC and NO<sub>x</sub> emission reductions from the following measures:

##### *1. Architectural and Industrial Maintenance (AIM) Coatings Reformulation*

This federal rule (63 FR 48819, September 11, 1998), which reduces emissions from architectural coatings and industrial maintenance coatings,

allows credit for a 20% reduction in VOC emissions, which is 1.6 TPD for in the District's portion of the Washington area in the Post-1996 plan. EPA has determined that this reduction is creditable.

##### *2. Consumer and Commercial Products*

This federal rule (63 FR 48848, September 11, 1998) allows states to claim a 20% reduction from 1999 VOC emissions from 24 categories of consumer products. The Post-1996 plan claim of 0.6 TPD in emission reductions from this measure in the District's portion of the Washington area is creditable.

##### *3. Autobody Refinishing*

The federal rule to control VOC emissions from autobody refinishing (63 FR 48806, September 11, 1998) applies in the District of Columbia. EPA's rule will achieve a 33% nationwide reduction or a 36% reduction after

<sup>1</sup> Part of the difference is that the post-1999 plan must achieve a 1% reduction on top of maintaining the target level of VOC emissions resulting from the 15% VOC reduction required by 1996.

<sup>2</sup> The plan projects all growth in emissions to 1999 from the 1990 base year emissions inventory levels. Thus the amount of emission reductions needed to account for growth in VOC emissions

from 1990 to 1999 would be the sum of the growth in emissions from 1990 to 1996 which had to be addressed in the 15% plan plus growth in VOC emissions from 1996 to 1999.

removal of those states that already had a rule at the time the base line was determined are removed from the base line. The District did not have a rule at the time the baseline was developed. The Post-1996 plan claims a 35.7% reduction from both jurisdictions; thus, EPA can allow up to a 36% emissions reduction. The total creditable autobody refinishing emissions reductions in the Post-1996 plan is 0.5 TPD in the District's portion of the Washington area.

#### 4. *Graphic Arts*

These rules would regulate emissions from lithographic printing operations. The District has a SIP approved state rules covering this source category. These rules required final compliance before November 15, 1999 (64 FR 57777, October 27, 1999). The VOC emissions reduction claimed in the Post-1996 plan from graphic arts is 0.6 TPD.

#### 5. *Non-road Gasoline Engines Rule*

This federal measure takes credit for VOC emission reductions from emissions standards for small non-road, spark-ignition utility engines (40 CFR 90 subpart A, 60 FR 34598, July 3, 1995). This measure affects non-road equipment rated at or below 25 horsepower. The District claimed 0.9 TPD VOC in its Post-1996 plan from this measure for its portion of the area. The rule also results in a -0.1 TPD increase in NO<sub>x</sub> emissions in the District's portion of the area. The VOC reductions are creditable toward the reduction requirement, and the NO<sub>x</sub> emission increase is included in the plan.

#### 6. *Non-road Diesel Engines Rule*

The federal rule (40 CFR 89, 59 FR 31306, June 17, 1994) controls NO<sub>x</sub> emissions from non-road, diesel powered utility engines, affecting diesel-powered construction equipment, industrial equipment, *etc.*, rated at or above 50 horsepower. The Post-1996 plan claimed 0.9 TPD in NO<sub>x</sub> reductions from this measure, which is acceptable toward the 9% reduction requirement in the District's portion of the Washington area.

#### 7. *State NO<sub>x</sub> Requirements*

This measure claimed reductions from the application of reasonable available control technology (RACT) on NO<sub>x</sub> sources in the Washington area. The Post-1996 plan claims a total 2.1 TPD from this NO<sub>x</sub> emission control in the District's portion of the Washington area. Elsewhere in today's **Federal Register** EPA has proposed approval of the District's NO<sub>x</sub> RACT rule. Therefore, the 2.1 TPD NO<sub>x</sub> reduction through

1999 will be creditable toward the 9% reduction requirement once EPA approves the District's NO<sub>x</sub> RACT rule.

#### 8. *Enhanced Vehicle Inspection and Maintenance*

The Act requires the Washington area states to adopt enhanced inspection and maintenance (I/M) programs. The Post-1996 plan uses the MOBILE5b model to determine the enhanced I/M emission benefits. On June 11, 1999, we approved the District's enhanced I/M program (64 FR 31498). We are approving the 3.9 TPD VOC and 2.4 TPD NO<sub>x</sub> reductions from the District's enhanced I/M program toward the Post-1996 ROP requirement.

#### 9. *Reformulated Gasoline (RFG)*

The Act requires that only reformulated gasoline (RFG), designed to burn cleaner and produce fewer evaporative emissions, be sold and dispensed in severe and above ozone nonattainment areas. The Act allows other nonattainment areas to "opt in" to the program to achieve creditable VOC emission reductions. EPA approved the requests of the District of Columbia to opt the Washington area into the RFG program. RFG reduces exhaust VOC and evaporative VOC emissions in on-road and non-road mobile sources and evaporative VOC emissions that occur during refueling of light-duty gasoline powered vehicles and trucks. RFG also results in reduced NO<sub>x</sub> exhaust emissions from on-road mobile sources. The emission reduction benefit from the opt-in to this federal program in the Post-1996 plan is 2.1 TPD VOC in the District's portion of the Washington area from on-road mobile sources as determined using MOBILE5b. For off-road mobile sources the VOC emission reduction benefit claimed from this federally enforced program in the Post-1996 plan is 0.1 TPD in the District's portion of the Washington area. These reductions are creditable.

#### 10. *Tier 1 New Vehicle Standards*

The Act requires EPA to issue standards under the FMVCP for new motor vehicles. The first of these were implemented in 1994 and are called Tier 1 FMVCP. These standards include exhaust ("tailpipe") emission standards and better evaporative emission controls demonstrated through new federal evaporative test procedures. EPA promulgated this program (56 FR 25724, June 5, 1991) so the emission reductions are fully enforceable. The Post-1996 plan used the MOBILE5b model to determine the emission benefits of 1.4 TPD VOC and 2.3 TPD NO<sub>x</sub>. These

reductions are fully creditable toward the 9% reduction requirement.

#### 11. *National Low Emissions Vehicle (NLEV)*

The National Low Emission Vehicle (NLEV) program is a nationwide clean car program not mandated by the Act, designed to reduce ground level ozone (or smog) and other air pollution emitted from newly manufactured motor vehicles. On June 6, 1997 (62 FR 31192) and on January 7, 1998 (63 FR 926), the Environmental Protection Agency (EPA) promulgated rules outlining the framework for the NLEV program. These NLEV regulations allow auto manufacturers to commit to meet tailpipe standards for cars and light-duty trucks that are more stringent than EPA could otherwise mandate under the authority of the Clean Air Act. The regulations provided that the program would come into effect only if Northeast states and auto manufacturers agreed to participate. On March 9, 1998 (63 FR 11374), EPA published a finding that the program was in effect. Nine northeastern states including the District, Maryland and Virginia, and 23 auto manufacturers had opted to participate in the NLEV program. Once in effect, the NLEV Program became enforceable in the same manner as any other Federal new motor vehicle emission control program. The NLEV Program will result in substantial reductions in VOC and NO<sub>x</sub> emissions which contribute to unhealthy levels of smog in many areas across the country. NLEV vehicles are 70% cleaner than those otherwise required under the Clean Air Act. In the Northeast States, the phase-in of the NLEV vehicles began with the model year 1999 vehicles. In addition, the program provides substantial harmonization of Federal and California new motor vehicle standards and test procedures, which enables manufacturers to move towards the design and testing of vehicles to satisfy one set of nationwide standards. The NLEV Program demonstrates how cooperative partnership efforts can produce a smarter, cheaper emissions control program, which reduces regulatory burden while increasing protection of the environment and public health. A SIP revision from each participating northeastern state is required as part of the agreement between states and automobile manufacturers to ensure the continuation of the National LEV Program to supply clean cars throughout most of the country. On July 20, 2000, EPA approved the District's NLEV SIP revision (65 FR 44981). The 0.2 TPD VOC and 0.2 TPD NO<sub>x</sub> reductions in the

District's portion of the Washington area are fully creditable toward the 9% reduction requirement.

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

Tables 3 and 4 summarize the VOC and NO<sub>x</sub> creditable measures in the District's Post-1996 plan for the Washington area.

**TABLE 3.—CREDITABLE VOC EMISSION REDUCTIONS IN THE DISTRICT OF COLUMBIA'S POST-1996 PLAN FOR THE METROPOLITAN WASHINGTON, DC AREA (TONS/DAY)**

Measure	Total reductions in tons per day
Tier 1 FMVCP .....	1.4
NLEV .....	0.2
RFG Benefits .....	2.2
Autobody Refinishing .....	0.5
AIM .....	1.6
Consumer Products .....	0.6
Graphic Arts .....	0.5
Non-road Gasoline Engines Rule .....	0.9
NLEV .....	0.2
Enhanced I/M .....	3.9
<b>Total Creditable Reductions .....</b>	<b>11.8</b>

**TABLE 4.—CREDITABLE NO<sub>x</sub> EMISSION REDUCTIONS IN THE DISTRICT OF COLUMBIA'S POST-1996 PLAN FOR THE METROPOLITAN WASHINGTON, DC AREA (TONS/DAY)**

Measure	Total reductions in tons per day
Enhanced I/M .....	2.4
Tier 1 .....	2.5
NLEV .....	0.2
Non-road Gasoline Engines ...	-0.1
Non-road Diesel Engines .....	0.4
State NO <sub>x</sub> RACT .....	2.1
<b>Total Creditable Reductions .....</b>	<b>7.5</b>

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

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

Under EPA's transportation conformity rule, the Post-1996 plan is a control strategy SIP (62 FR 43779, August 15, 1997). A control strategy SIP establishes budgets to which federally funded and approved transportation projects and plans must conform. The Post-1996 plan establishes VOC and NO<sub>x</sub> budgets for the Washington area that are applicable for determinations for 1999 and are applicable in later years in the absence of other applicable budgets. The Post-1996 plan adopts and establishes the following transportation conformity budgets for the entire Washington area: a VOC budget for 1999 of 128.5 TPD, and a NO<sub>x</sub> budget for 1999 of 196.4 TPD. On August 11, 1999, we announced that these motor vehicle emissions budgets were adequate for transportation conformity purposes effective August 26, 1999 (64 FR 43698, August 11, 1999). EPA's proposed action will have the effect of proposing approving these budgets for the Metropolitan Washington, DC area into the District of Columbia SIP.

#### Proposed Action

EPA is proposing approval of the Post-1996 plan submitted by the District of Columbia for the District's portion of the Metropolitan Washington, DC ozone nonattainment area.

#### 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 approves 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). 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 approves 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 the District of Columbia'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: September 15, 2000.

**Bradley M. Campbell,**

*Regional Administrator, Region III.*

[FR Doc. 00-24793 Filed 9-27-00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC047-2021; FRL-6878-1]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; 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 District of Columbia (the District). This revision requires major sources of nitrogen oxides (NO<sub>x</sub>) in the District to implement reasonably available control technology (RACT). This revision withdraws EPA's previously proposed conditional approval of the District's NO<sub>x</sub> RACT regulation, and, instead, proposes full approval of the SIP revision. This action is being taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before October 30, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Kelly L. Bunker, (215) 814-2177 or by e-mail at [bunker.kelly@epamail.epa.gov](mailto:bunker.kelly@epamail.epa.gov). While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), ozone nonattainment areas classified as moderate or above are required to implement RACT for all major sources of NO<sub>x</sub> by no later than May 31, 1995. The major source size is determined by the classification of the nonattainment area and whether it is located in the Ozone Transport Region which was established by the CAA. The District of Columbia is located within the Metropolitan Washington, DC ozone nonattainment area which is classified as a serious. Therefore, major stationary sources of NO<sub>x</sub> are defined as those that emit or have the potential to emit 50 tons or more per year.

On January 13, 1994, the District of Columbia Department of Consumer and Regulatory Affairs (DCRA), now known as the District of Columbia Department of Health (DoH), submitted revisions to its State Implementation Plan (SIP) that included a new regulation, Section 805, entitled "Reasonably Available Control Technology for Major Stationary Sources of Oxides of Nitrogen", to Subtitle I (Air Quality) of Title 20 of the District of Columbia Municipal Regulations (DCMR). Section 805 requires sources which emit or have the potential to emit 50 tons or more of NO<sub>x</sub> per year to comply with RACT requirements by May 31, 1995.

On February 25, 1999 (64 FR 9272), EPA published a direct final rulemaking (DFR) conditionally approving the District of Columbia's NO<sub>x</sub> RACT regulation found in section 805 of Title 20 of the DCMR. A companion notice of proposed rulemaking (NPR) proposing conditional approval of the District of Columbia's NO<sub>x</sub> RACT regulation was published in the Proposed Rules section of the same February 25, 1999 **Federal Register** (64 FR 9289). In the February 25, 1999 DFR, EPA stated that if adverse comments were received within 30 days of its publication, EPA would publish a document announcing the withdrawal of that DFR before its effective date. Because EPA did receive adverse comments on the February 25, 1999 DFR within the prescribed time frame, we withdrew it. Under these circumstances the companion NPR remained in effect and interested parties submitted comments pursuant to that NPR. The withdrawal document appeared in the **Federal Register** on April 13, 1999 (70 FR 17982). On August 28, 2000, the District of Columbia submitted proposed revisions to Section 805 of Title 20 of the DCMR as supplement to its January 13, 1994 SIP submittal for parallel-processing by

EPA. These proposed revisions correct the deficiencies identified in the February 25, 1999 notice. Therefore, by this rulemaking, EPA is withdrawing its February 25, 1999 proposed conditional approval and is proposing full approval of the revised version the District of Columbia's NO<sub>x</sub> RACT regulation found in section 805 of Title 20 of the DCMR submitted on August 28, 2000.

A summary of the District's submittal and EPA's rationale for approval are provided below. A more detailed description of the District's submittal and EPA's evaluation are included in the Technical Support Document (TSD) and the addendum to the TSD both prepared in support of this rulemaking action. A copy of the TSD and its addendum are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

## II. Summary of the SIP Revision and EPA Evaluation

### General Provisions

Subtitle I of 20 DCMR was amended to add a new section 805 that applies to all sources in the District having the potential to emit (PTE) 50 tons or more of NO<sub>x</sub> per year. Exemptions from the requirements of section 805 are provided for sources that have a permit from the District limiting the potential to emit to less than 50 tons per year (TPY) and for emergency stand-by engines operated less than 500 hours per 12 month period. Section 805 contains presumptive emission limits for certain source categories of NO<sub>x</sub> including: Stationary combustion turbines, fossil-fuel-fired steam-generating units and asphalt concrete plants. Individual sources in these categories with presumptive RACT emission limits may also apply for alternative emission limits which reflect the application of source-specific RACT. Any such applications for alternative RACT determinations are subject to approval by both the District and EPA as SIP revisions. All other major source categories of NO<sub>x</sub> must have a RACT emission limit approved by the District and EPA in an emissions control plan. All major sources of NO<sub>x</sub> must submit an emissions control plan to the District that describes the source and demonstrates how RACT will be implemented. The District will conduct a public hearing for those sources that apply for alternative emission limits and those not subject to specific source category emission limits before final approval is issued.