

withdrawn. Because the Agency will not institute a second comment period on this notice of a draft NO<sub>x</sub> compliance plan, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the NO<sub>x</sub> compliance plan, see the information provided in the notice of a final NO<sub>x</sub> compliance plan elsewhere in today's **Federal Register**.

Dated: October 22, 1999.

**Brian J. McLean,**

*Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.*

[FR Doc. 99-29897 Filed 11-15-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6476-3]

### Acid Rain Program: Acid Rain Compliance Plan

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

**ACTION:** Notice of a final nitrogen oxides compliance plan.

**SUMMARY:** The U.S. Environmental Protection Agency is issuing, as a direct final action, a nitrogen oxides (NO<sub>x</sub>) compliance plan in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the compliance plan is being issued as a direct final action.

**DATES:** The NO<sub>x</sub> compliance plan issued in this direct final action will be final on December 27, 1999 unless significant, adverse comments are received by December 16, 1999. If significant, adverse comments are timely received on the NO<sub>x</sub> compliance plan in this direct final action, the NO<sub>x</sub> compliance plan will be withdrawn through a notice in the **Federal Register**.

**ADDRESSES:** Administrative Records. The administrative record for the NO<sub>x</sub> compliance plan, except information protected as confidential, may be viewed during normal operating hours at U.S. EPA Region 9, 75 Hawthorne St., San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Steve Branoff, U.S. EPA Region 9, (415) 744-1290.

**SUPPLEMENTARY INFORMATION:** Significant, adverse public comments received on the NO<sub>x</sub> compliance plan in this direct final action that are timely received will be addressed in a subsequent approval or denial of a NO<sub>x</sub> compliance plan. Such approval or

denial will be based on the draft NO<sub>x</sub> compliance plan in the notice of a draft NO<sub>x</sub> compliance plan that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

U.S. EPA is issuing, under 40 CFR 76.11, a NO<sub>x</sub> averaging plan with which units 1, 2, 3, 4, and 5 at the Four Corners utility plant in New Mexico will comply for years 2000-2004. For each year under the plan, the actual annual average rate for NO<sub>x</sub> shall not exceed the alternative contemporaneous annual emission limitation of 0.79 lb/mmBtu for unit 1, and 0.57 lb/mmBtu each for units 2, 3, 4 and 5. The actual annual heat input for units 1, 2, and 3 shall not be greater than 17,000,000 mmBtu, 17,000,000 mmBtu, and 21,000,000 mmBtu respectively, and not less than, for units 4 and 5, 45,000,000 mmBtu each. Under the plan, the actual Btu-weighted annual average NO<sub>x</sub> emission rate for units 1-5 shall be less than or equal to the Btu-weighted annual average NO<sub>x</sub> emission rate for units 1-5 had they each been operated, during the same period of time, in compliance with the applicable emission limitations under 40 CFR 76.5, 76.6, or 76.7. The Designated Representative is John R. Denman.

Dated: October 22, 1999.

**Brian J. McLean,**

*Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation*

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## ENVIRONMENTAL PROTECTION AGENCY

[Region II Docket No. NY 36-201; FRL-6474-4]

### Adequacy Status of the Submitted 2002 and 2005 Rate of Progress Plans and 2007 Attainment Demonstration for the Ozone National Ambient Air Quality Standards for Transportation Conformity Purposes for the New York State Portion of the New York-New Jersey-Connecticut Severe Ozone Nonattainment Area

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

**ACTION:** Notice of adequacy and inadequacy.

**SUMMARY:** In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets for volatile organic compounds and nitrogen oxides in the submitted 2002 and 2005 rate of progress plans for the New York State portion of the New York-New Jersey-Connecticut severe

nonattainment area for ozone to be adequate for conformity purposes. We are also notifying the public that we have found the motor vehicle emissions budgets for volatile organic compounds and nitrogen oxides in the submitted 2007 attainment demonstration for the New York State portion of the New York-New Jersey-Connecticut severe nonattainment area for ozone to be inadequate for conformity purposes. On March 2, 1999, the DC Circuit Court ruled that submitted state implementation plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the New York State portion of the New York-New Jersey-Connecticut severe nonattainment area for ozone can use the motor vehicle emissions budgets for volatile organic compounds and nitrogen oxides from the submitted 2002 and 2005 rate of progress plans for ozone for future conformity determinations. These budgets are effective December 1, 1999. As a result of our finding on the submitted 2007 attainment demonstration budgets for volatile organic compounds and nitrogen oxides, this area cannot use these motor vehicle emissions budgets for future conformity determinations.

#### FOR FURTHER INFORMATION CONTACT:

Rudolph K. Kapichak, Mobile Source Team Leader, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3804, e-mail address:

Kapichak.Rudolph@epa.gov.

The finding and the response to comments will be available at EPA's conformity website: <http://www.epa.gov/oms/traq>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

#### SUPPLEMENTARY INFORMATION:

##### Background

Today's document is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to the New York State Department of Environmental Conservation on November 1, 1999 stating that the motor vehicle emissions budgets in the submitted 2002 and 2005 rate of progress plans for the New York State portion of the New York-New Jersey-Connecticut severe nonattainment area for ozone are adequate for conformity purposes and that the motor vehicle emissions budgets for volatile organic compounds and nitrogen oxides in the submitted 2007 attainment

demonstration for this ozone nonattainment area are inadequate for conformity purposes. The 2007 budgets associated with the attainment demonstration are inadequate because when they are considered with all other emission sources they are not consistent with the applicable requirements for attainment. This finding will also be announced on EPA's conformity website: <http://www.epa.gov/oms/traq>, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed this guidance in making our adequacy determination.

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

Dated: November 1, 1999.

**William J. Muszynski,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 99-29768 Filed 11-15-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6475-4]

### Adequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: The Phase II Attainment Demonstration for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

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

**ACTION:** Notice of adequacy status.

**SUMMARY:** In this document EPA is announcing that the motor vehicle emissions budgets (hereafter referred to as "budgets") contained in the Phase II Attainment Demonstration for the Delaware portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area are not adequate for transportation conformity purposes. This State Implementation Plan (SIP) revision was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). As a result of our finding, these budgets may not be used for future conformity determinations in Kent and New Castle Counties, Delaware.

**DATES:** This document is effective on November 16, 1999.

**FOR FURTHER INFORMATION CONTACT:** Larry Budney, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA. 19103 at (215) 814-2184 or by e-mail at: [budney.larry@epa.gov](mailto:budney.larry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" are used we mean EPA. The word "budgets" refers to the mobile source emission budget for volatile organic compounds (VOCs) and the mobile source emissions budget for nitrogen oxides (NOx). The word SIP in this document refers to the Phase II State Implementation Plan submitted by DNREC to demonstrate attainment of the 1-hour National Ambient Air Quality Standard for ozone.

On May 28, 1998, DNREC submitted the Phase II Attainment Demonstration SIP for its portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area, namely for Kent and New Castle Counties, as a SIP revision. The motor vehicle emission budgets were not clearly identified and quantified as required as required in 40 CFR part 93, section 93.118(e)(4)(iii) of the federal conformity rule. Therefore, these budgets cannot be found adequate and cannot be used for conformity determinations.

On March 2, 1999, the D.C. Circuit Court ruled that budgets contained in submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. In accordance with that ruling, on August 2, 1999, we posted a notice on our web site at: <http://www.epa.gov/oms/traq> stating that we were taking comments on the adequacy of motor vehicle emissions budget found in the Phase II Attainment Demonstration for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area. The comment period closed on August 31, 1999. We received no comments.

Today's document is simply an announcement of a finding that we have already made. On October 26, 1999 EPA Region III sent a letter to DNREC stating that the motor vehicle emissions budgets found in the Phase II Attainment Demonstration for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area are not adequate. The essential information in this document will also be posted on EPA's conformity website: <http://www.epa.gov/oms/traq> (once there, click on the "Conformity" button, then look for "Adequacy Review of Submissions for Conformity").

Transportation conformity is required by section 176 (c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's budgets are adequate for conformity purposes are outlined in 40 CFR 93.118 (e) (4). Please note that an adequacy review is separate from EPA's completeness review, and EPA's review to determine if the SIP is approvable. Even if we find a budget adequate, the SIP could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in guidance memorandum dated May 14, 1999 and titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision." We have followed this guidance in making this determination for the budgets contained in the Phase II Attainment Demonstration for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area submitted