

EPA-APPROVED REGULATIONS IN THE DISTRICT OF COLUMBIA SIP—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|-------------------|--------------------------------------|--------------------------|--|------------------------|
| Section 734 | Consumer Products—Variance Requests. | 04/16/04, 11/26/04 | 12/28/04 [Insert page number where the document begins]. | |
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| Section 799 | Definitions | 04/16/04, 11/26/04 | 12/28/04 [Insert page number where the document begins]. | |
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 [FR Doc. 04-28193 Filed 12-27-04; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RME R03-OAR-2004-DC-0002; FRL-7855-1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Approval of Minor Clarifications to Municipal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the District of Columbia State Implementation Plan (SIP). The revisions include minor changes to clarify that the allowable emission rates for particulates and nitrogen oxides (NO_x) are expressed in pounds of pollutant per million BTUs (lbs/MMBTUs) of heat input in District of Columbia Municipal Regulations (DCMRs). This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on February 28, 2005 without further notice, unless EPA receives adverse written comment by January 27, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-DC-0002 by one of the following methods:

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

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

C. E-mail: Morris.makeba@epa.gov.
 D. Mail: R03-OAR-2004-DC-0002, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to RME ID No. R03-OAR-2004-DC-0002. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM

you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814-2068, or by e-mail at miller.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The District of Columbia submitted SIP revisions on April 16, 2004 pertaining to changes necessary to meet the more stringent requirements of section 182(d) of the CAA and to make certain clarifications. This action pertains to changes made to previously SIP-approved Sections 600.1 and 805.5 of Title 20 of the DCMRs to clarify that the allowable emission rates for particulates and NO_x are expressed in pounds of pollutant per million BTUs (lbs/MMBTUs).

II. Summary of SIP Revision

The April 16, 2004 SIP submittal requested approval of revisions to portions of the regulations in the 20 DCMR Chapters 6 and 8. The federally approved SIP version of these DCMRs correctly prescribes allowable particulate and NO_x emission rates in pounds of pollutant per million BTUs of heat input. However, some confusion has arisen from how these allowable emission rates actually appear in the current SIP version of the regulations. For example, one such limit for particulate emissions is expressed as follows: thirteen hundredths (0.13) pounds per million BTU of heat input. While not incorrect, this has led to the allowable emission rate being abbreviated and then interpreted as 0.13 ppm, which is parts per million, rather than as 0.13lbs/MMBTUs. The revised language clarifies all of the allowable emission rates for particulates and NO_x, respectively, in 20 DCMR Sections 600.1 and 805.5 to avoid this confusion. For example, the clarified version of the previously referenced particulate emission limit now reads as follows: thirteen hundredths pounds (0.13 lb) per million BTU of heat input. By expressing the allowable emission limits in this fashion, they will properly be abbreviated and correctly interpreted in lbs/MMBTUs. These revisions to clarify 20 DCMR Chapters 6 and 8 do not affect the stringency of these previously SIP-approved regulations.

III. Final Action

EPA is approving revisions to Sections 600.1 and 805.5 of 20 DCMR to clarify how the allowable emission rates for particulates and NO_x are expressed. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 28, 2005 without further notice unless EPA receives adverse comment by January 27, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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 rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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).

C. 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 February 28, 2005. 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 to approve minor clarifications to the allowable emissions rates for particulates and NO_x such that they are clearly expressed in pounds of pollutant per million BTUs (lbs/MMBTUs) 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, Intergovernmental relations, Nitrogen dioxide, Ozone, organic compounds.

Dated: December 14, 2004.
Donald S. Welsh,
Regional Administrator, Region III.

■ 40 CFR part 52 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. In Section 52.470, the table in paragraph (c) is amended by revising the entry for Chapter 6, Section 600 and adding an entry for Chapter 8, Section

805 after the existing entry for Chapter 8, Section 805 to read as follows:

§ 52.470 Identification of plan.

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(c) EPA-approved regulations.

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
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| Chapter 6 Particulates | | | | |
| Section 600 | Fuel-Burning Particulate Emissions | 4/16/04 | 12/28/04 [Insert page number where the document begins]. | Revision to paragraph 600.1. |
| * | * | * | * | * |
| Chapter 8 Asbestos, Sulfur and Nitrogen Oxides | | | | |
| Section 805 | Nitrogen Oxides | 4/16/04 | 12/28/04 [Insert page number where the document begins]. | Revision to paragraph 805.5(b) and (c) |
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RME R03-OAR-2004-DC-0001; FRL-7855-3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Amendments to the Size Thresholds for Defining Major Sources and to the NSR Offset Ratios for Sources of VOC and NOX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the District of Columbia (the District) State Implementation Plan (SIP). The revisions reduce the size thresholds for defining major sources and increase the new source review (NSR) offset ratio requirements for sources of ozone precursors to meet the Clean Air Act (CAA) requirements for 1-hour ozone nonattainment areas classified as severe. These amendments to the District's SIP

are required pursuant to the reclassification of the Metropolitan Washington, DC 1-hour ozone nonattainment area from serious to severe. This action is being taken under the CAA.

DATES: This rule is effective on February 28, 2005 without further notice, unless EPA receives adverse written comment by January 27, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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

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

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

D. Mail: R03-OAR-2004-DC-0001, Makeba Morris, Chief, Air Quality

Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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