

DEPARTMENT OF THE TREASURY**31 CFR Part 92****Assessment of Civil Penalties for Misuse of Words, Letters, Symbols, and Emblems of the United States Mint**

AGENCY: United States Mint, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would establish procedures under which the United States Mint will implement and execute the provisions of 31 U.S.C. 333(c), which authorizes the Secretary of the Treasury to assess a civil penalty against any person who has misused the words, titles, abbreviations, initials, symbols, emblems, seals, or badges of the United States Mint.

DATES: Submit comments on or before February 18, 2005.

ADDRESSES: Send written comments to Daniel P. Shaver, Chief Counsel, Office of Chief Counsel, United States Mint, 801 9th Street, NW., Washington DC 20220; or visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

James L. Adler, Senior Attorney, United States Mint at (202) 354-7286, not a toll-free call.

SUPPLEMENTARY INFORMATION: Section 333(c) of title 31, United States Code, authorizes the Secretary of the Treasury to assess a civil penalty against any person who has misused the words, titles, abbreviations, initials, symbols, emblems, seals, or badges of the Department of the Treasury, including the United States Mint. The Secretary of the Treasury has delegated to the Director of the United States Mint the authority to enforce the civil penalty provisions of 31 U.S.C. 333(c) with respect to the misuse of United States Mint words, titles, abbreviations, initials, symbols, seals, trademarks, and badges, and with respect to the misuse of Department of the Treasury words, titles, abbreviations, initials, symbols, seals, trademarks, and badges when in connection with activities related to United States Mint operations and programs. The proposed rule establishes procedures to ensure that persons assessed with a civil penalty under 31 U.S.C. 333(c) are accorded due process. These procedures are based on the procedures of the Department of the Treasury at 31 CFR part 27.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this proposed rule will not have a significant

impact on small entities. This regulation provides due process protections for those persons assessed a civil penalty for misusing United States Mint names, symbols, titles, abbreviations, trademarks or badges. Any imposition of a civil penalty on a small business entity flows directly from the authorizing statute, 31 U.S.C. 333.

Public Participation

The United States Mint requests comments from all interested persons. Comments received prior to the closing date will be carefully considered. Comments received after the closing date will be considered to the extent possible, but no assurance can be given that they will be given consideration. No information contained in comments received will be considered confidential even if the comment, or a portion thereof, is marked confidential. Comments will be available to the public without restriction. The name of the person or entity making a comment is not exempt from disclosure.

Drafting Information

The principal author of this document is James L. Adler, Senior Attorney, Office of Chief Counsel, United States Mint. The principal author of the proposed regulation contained herein is Daniel P. Shaver, Chief Counsel, Office of Chief Counsel, United States Mint. However, other personnel in the Treasury Department, Departmental Offices, and in the United States Mint's Office of Chief Counsel have participated in its development.

List of Subjects in 31 CFR Part 92

Administrative practice and procedure, Advertising, Consumer protection, Currency, Penalties, Seals and insignia, Signs and symbols, Trademarks.

Authority and Issuance

For the reasons set forth in the preamble, the United States Mint proposes to amend 31 CFR part 92 as follows:

PART 92—UNITED STATES MINT OPERATIONS AND PROCEDURES

1. The authority citation for part 92 is revised to read as follows:

Authority: 5 U.S.C. 301, 321, 333.

2. The heading for part 92 is revised to read as set forth above.

3. Add a subpart heading before § 92.1 to read as follows:

Subpart A—Numismatic Operations

4. Add a subpart heading before § 92.5 to read as follows:

Subpart B—Availability of Records

5. Add a new Subpart C (§§ 92.11 through 92.18) to read as follows:

Subpart C—Assessment of Civil Penalties for Misuse of Words, Letters, Symbols, or Emblems of the United States Mint

Sec.

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Subpart C—Assessment of Civil Penalties for Misuse of Words, Letters, Symbols, or Emblems of the United States Mint**§ 92.11 Purpose.**

(a) The procedures in this subpart implement the provisions of 31 U.S.C. 333(c), which authorize the Secretary of the Treasury to assess a civil penalty against any person who has misused the words, titles, abbreviations, initials, symbols, emblems, seals, or badges of the United States Mint in violation of 31 U.S.C. 333(a).

(b) The procedures in this subpart do not apply to the extent that the Secretary of the Treasury, the Director of the United States Mint, or their authorized designees have specifically granted to the person express permission, in writing, to manufacture, produce, sell, possess, or use the words, titles, letters, abbreviations, initials, symbols, emblems, seals, or badges in a contract, agreement, license, letter, memorandum, or similar document.

§ 92.12 Definitions.

(a) *Assessing official* means the Director of the United States Mint, including the Acting Director when so designated.

(b) *Examining official* means an employee of the United States Mint appointed by the Director of the United States Mint (or an employee of the Treasury Department appointed by the Director of the United States Mint with the concurrence of head of that employee's organization), to administer the procedures in this subpart in a particular case and to propose findings and recommendations in that case to the assessing official. The examining official must be:

(1) Either an attorney assigned to the Legal Division, Department of the Treasury, or an employee of the

Treasury Department in the grade of GS-15 or higher; and

(2) Capable of examining the matter without actual or apparent conflict of interest.

(c) *Broadcast* or *telecast* means widespread dissemination by electronic transmission or method, whether audio and/or visual.

(d) *Civil penalty* means:

(1) A civil monetary penalty; and

(2) Any other civil or equitable remedy deemed necessary to rectify the potential for a continued misuse or harm from an activity found to have been in violation of 31 U.S.C. 333.

(e) *Date of offense* means the later of:

(1) The date that the misuse occurred;

(2) The date that the misuse had the effect of conveying the false impression that the activity was associated with or approved, endorsed, sponsored or authorized by the United States Mint or its officers or employees; or

(3) If the violation is a continuing one, the date on which the misuse of the words, titles, abbreviations, initials, symbols, emblems, seals, or badges protected by 31 U.S.C. 333 or the procedures in this subpart last occurred.

(f) *Days* means calendar days, unless otherwise stated.

(g) *Person* means an individual, partnership, association, corporation, company, business, firm, manufacturer, or any other organization, enterprise, or institution.

(h) *Respondent* means:

(1) The individual named in an Initial Notice of Assessment; or

(2) The head of the partnership, association, corporation, company, business, firm, manufacturer, or any other organization, enterprise, or institution named in the Initial Notice of Assessment.

(i) *Symbol* means any letter, word, number, picture, design, graphic or any combination thereof used by the United States Mint or the Treasury Department as a trademark, designation of origin, or mark of identification.

§ 92.13 Assessment of civil penalties.

(a) *General rule.* The assessing official may impose a civil penalty on any person when the following two conditions are met:

(1) That person uses in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

(i) The words “Department of the Treasury,” “United States Mint,” or “U.S. Mint”;

(ii) The titles “Secretary of the Treasury,” “Treasurer of the United States,” “Director of the United States Mint,” or “Director of the U.S. Mint”;

(iii) The abbreviations or initials of any entity or title referred to in paragraph (a)(1)(i) or (a)(1)(ii) of this section;

(iv) Any symbol, emblem, seal, or badge of an entity referred to in paragraph (a)(1)(i) of this section (including the design of any envelope, stationery, or identification card used by such an entity); or

(v) Any colorable imitation of any such words, titles, abbreviations, initials, symbols, emblems, letters, seals, or badges; and

(2) That person’s use is in a manner that could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, authorized by, or associated with the United States Mint, or any officer, or employee thereof.

(b) *Disclaimers.* Any determination of whether a person has violated the provisions of paragraph (a) of this section shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

(c) *Civil penalty.* The assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed \$5,000 for each and every use of any material in violation of paragraph (a) of this section, except that such penalty shall not exceed \$25,000 for each and every use if such use is in a broadcast or telecast.

(d) *Time limitations.* (1) Civil penalties imposed under the procedures in this subpart must be assessed before the end of the three-year period beginning on the date of the cited violation.

(2) The assessing official may commence a civil action to recover or enforce any civil penalty imposed in a Final Notice of Assessment issued pursuant to § 92.17 at any time before the end of the two-year period beginning on the date of the Final Notice of Assessment. If judicial review of the Final Notice of Assessment is sought, the two-year period begins to run from the date that a final and unappealable court order is issued.

(e) *Criminal Proceeding.* No civil penalty may be imposed under the procedures in this subpart with respect to any violation of paragraph (a) of this section after a criminal proceeding on the same violation has been commenced by indictment or information under 31 U.S.C. 333(d).

§ 92.14 Initiation of action.

(a) When an employee of the United States Mint learns of or discovers a potential violation of 31 U.S.C. 333 or the procedures in this subpart, he or she will refer the matter, with all available evidence, to the assessing official.

(b) The assessing official will consider relevant factors when determining whether to initiate an action to impose a civil penalty under the procedures in this subpart. Those factors may include, but are not limited to, the following:

(1) The scope of the misuse;

(2) The purpose and/or nature of the misuse;

(3) The extent of the harm caused by the misuse;

(4) The circumstances of the misuse; and

(5) The benefit intended to be derived from the misuse.

(c) If the assessing official decides to initiate an action to impose a civil penalty under the procedures in this subpart, he or she will, in writing:

(1) Appoint an examining official; and

(2) Delegate to the examining official the authority to prepare, sign, and serve an initial notice of assessment on behalf of the assessing official.

§ 92.15 Initial notice of assessment.

The examining official shall prepare and serve an Initial Notice of Assessment by United States mail or other means upon any person believed to be in violation of § 92.13 and otherwise subject to a civil penalty. The notice shall provide the name and telephone number of the examining official, who can provide information concerning the notice and the procedures in this subpart. The notice shall include the following:

(a) A specific reference to the provisions of § 92.13 violated;

(b) A concise statement of the facts that support the conclusion that such a violation occurred;

(c) The maximum amount of the potential penalty that the assessing official could impose, and/or any other proposed civil or equitable remedy;

(d) A notice informing the person alleged to be in violation of § 92.13 that he or she:

(1) May, within 30 days of the date of the notice, agree to pay the civil monetary penalty and consent to each proposed civil or equitable remedy, thereby waiving the right to make a written response under § 92.16 and to seek judicial review under § 92.18;

(i) By electronic funds transfer (EFT) in accordance with instructions to be provided by the examining official; or

(ii) By means other than EFT only with the written approval of the assessing official;

(2) May make a written response in accordance with § 92.16 within 30 days of the date of the notice asserting, as appropriate:

(i) Why a civil monetary penalty and/or other civil or equitable remedy should not be imposed;

(ii) Why a civil monetary penalty should be in a lesser amount than proposed; and

(iii) Why the terms of a proposed civil or equitable remedy should be modified;

(3) May be represented by an attorney or other representative, provided that a designation of representative signed by the person alleged to be in violation is received by the assessing official; and

(4) May request, within 20 days of the date of the notice, a copy of or opportunity to review any documents and other evidence that the United States Mint compiled and relied on in determining to issue the notice (the assessing official reserves the right to assert privileges available under law and may decline to disclose certain documents or other evidence protected by such privileges); and

(e) An advisement of the following:

(1) If no written response is received within the time allowed in § 92.16(b), a Final Notice of Assessment may be issued without a presentation by the person;

(2) If a written response has been made and it is deemed necessary, the examining official may request, orally or in writing, additional information from the respondent;

(3) A Final Notice of Assessment may be issued in accordance with § 92.17 requiring that the civil monetary penalty be paid and compliance with the terms of any other civil or equitable remedy;

(4) A Final Notice of Assessment is subject to judicial review in accordance with 5 U.S.C. 701 *et seq.*; and

(5) All submissions sent in response to the Initial Notice of Assessment must be transmitted to the address specified in the notice and include the name, address, and telephone number of the respondent.

§ 92.16 Written response.

(a) *Form and contents.* (1) The written response submitted by a person in accordance with § 92.15(d)(2) must provide the following:

(i) A reference to and specifically identify the Initial Notice of Assessment involved;

(ii) The full name of the person against which the Initial Notice of Assessment has been made;

(iii) If not a natural person, the name and title of the head of the organization named in the Initial Notice of Assessment; and

(iv) If a representative of the person named in the Initial Notice of Assessment is filing the written response, a copy of the duly executed designation as representative.

(2) The written response must admit or deny each violation of § 92.13 alleged in the Initial Notice of Assessment. Any alleged violation not specifically denied will be presumed to be admitted. Where an allegation is denied, the respondent shall specifically set forth the legal or factual basis upon which the allegation is denied. If the basis of the written response is that the respondent is not the person responsible for an allegation, the written response must set forth sufficient information to allow the agency to determine the truth of such an assertion. The written response should include any and all documents and other information that the respondent believes should be a part of the administrative record on the matter.

(b) *Time.* (1) Except as provided in paragraph (b)(2) of this section, any written response made under this section must be received not later than 30 days after the date of the Initial Notice of Assessment.

(2) If a request for documents or other evidence is made pursuant to § 92.15(d)(4), the written response must be received not later than 20 days after the date of the United States Mint's response to the request.

(3)(i) In computing the number of days allowed for filing a written response under this paragraph, the first day counted is the day after the date of the Initial Notice of Assessment. If the last date on which the response is required to be filed by this paragraph is a Saturday, Sunday or Federal holiday, the response will be due on the next business day after that date.

(ii) If a response is transmitted by United States mail, it will be deemed timely filed if postmarked on or before the due date.

(4) The examining official may extend the period for making a written response under paragraphs (b)(1) and (b)(2) of this section for up to ten days for good cause shown. Requests for extension beyond ten days must be approved by the assessing official and must be based on good cause shown. Generally, failure to obtain representation in a timely manner will not be considered good cause.

(c) *Filing.* The response may be sent by personal delivery, United States mail or commercial delivery. A written response transmitted by means other than United States mail will be considered filed on the date received at the address specified in the Initial Notice of Assessment. At the discretion

of the assessing official, filing may be accomplished by facsimile or any other method deemed appropriate.

(d) *Review and Recommendation.* The examining official will fully consider the evidence and arguments submitted by the respondent in the written response, any other documents filed by the respondent pursuant to this subpart, and the evidence in the United States Mint's record on the matter. If the respondent waives the right to submit matters in accordance with § 92.15(d)(1), or declines to submit matters by the end of the 30-day response period, the examining official will fully consider the evidence in the United States Mint's record on the matter.

(1) In fully considering the matter, the examining official will not consider any additional evidence introduced in the record by the United States Mint after the Initial Notice of Assessment unless and until the respondent has been notified that such additional evidence will be considered, and has had an opportunity to review and comment on such evidence.

(2) The examining official will prepare a concise report, addressed to the assessing official, which will contain the following:

(i) The entire administrative record on the matter, including all information provided in or with a written response timely filed by the respondent and any additional information provided pursuant to § 92.15(e)(2), as well as all evidence upon which the Initial Notice of Assessment was based, and any additional evidence as provided for in § 92.16(d)(1).

(ii) A finding, based on the preponderance of the evidence, as to each alleged violation specified in the Initial Notice of Assessment;

(iii) For each violation that the examining official determines to have occurred, a recommendation as to the appropriate amount of a civil monetary penalty to be imposed and the terms of any other appropriate civil or equitable remedy. In making this recommendation, the examining official will consider relevant factors including, but not limited to, the following:

(A) The scope of the misuse;

(B) The purpose and/or nature of the misuse;

(C) The extent of the harm caused by the misuse;

(D) The circumstances of the misuse; and

(E) The benefit intended to be derived from the misuse.

(iv) If the examining official determines that a violation has occurred, a proposed Final Notice of

Assessment that incorporates his or her findings and recommendations.

(v) Any additional information or considerations that the assessing officer should consider in a decision to issue a Final Notice of Assessment under § 92.17.

(3) The examining official will submit his or her report to the Deputy Chief Counsel, United States Mint, for legal review. If the Deputy Chief Counsel is not available to perform this legal review, the Chief Counsel, United States Mint, shall designate a qualified attorney on the United States Mint staff (or, with the appropriate approval, an attorney assigned to the Treasury Department Legal Division) to perform this review. The Deputy Chief Counsel or designee will determine:

(i) Whether the proceedings comply with legal requirements;

(ii) What effects any errors would have;

(iii) Whether sufficient evidence supports the examining official's findings; and

(iv) Whether the examining official's recommendations are consistent with his or her findings.

(4) Upon completion of legal review:

(i) If the Deputy Chief Counsel or designee determines that there is no deficiency, he or she will forward the report to the Chief Counsel, United States Mint.

(ii) If the Deputy Chief Counsel or designee determines that a deficiency exists, he or she will return the report to the examining official with instructions on the corrective action that the examining official must take to remedy each deficiency. After the examining official has taken corrective action, he or she will resubmit the report to the Deputy Chief Counsel or designee in accordance with § 92.16(d)(3).

(5) Upon receipt of a final report under § 92.16(d)(4)(i), the Chief Counsel will review the record and forward the report, and his or her recommendations as to final action, to the assessing official.

§ 92.17 Final action.

(a) In making a final determination whether to impose a penalty, the assessing official shall take into consideration the entire report prepared by the examining official and the recommendations of the Chief Counsel, United States Mint. While the assessing official should accord appropriate weight to the findings and recommendations of the examining official, and the recommendations of the Chief Counsel, the assessing official is not bound by them. The assessing

official may approve, disapprove, modify, or substitute any or all of the examining official's findings and recommendations if, in his or her judgment, the evidence in the record supports such a decision. The assessing official will determine whether:

(1) The facts warrant a conclusion that no violation has occurred; or

(2)(i) The facts warrant a conclusion that one or more violations have occurred; and

(ii) The facts and violations found justify the conclusion that a civil penalty should be imposed.

(b) If the assessing official determines that no violation has occurred, the official shall promptly send a letter indicating that determination to the person served with an Initial Notice of Assessment and to any designated representative of such person.

(c) If the assessing official determines that a violation has occurred:

(1) The assessing official shall issue a Final Notice of Assessment to the person served with an Initial Notice of Assessment and to any designated representative of such person.

(2) The assessing official may, in his or her discretion:

(i) Impose a civil monetary penalty and/or any civil or equitable remedy deemed necessary to rectify the potential for a continued misuse or harm from the violation(s);

(ii) Not impose a civil monetary penalty and/or civil or equitable remedy; or

(iii) Impose a civil monetary penalty and/or civil or equitable remedy and condition payment of the civil monetary penalty on the violator's future compliance with 31 U.S.C. 333, and with any civil or equitable remedy contained in the Final Notice of Assessment.

(3) If a civil monetary penalty is imposed under § 92.17(c)(2)(i) or (iii), the assessing official shall determine the appropriate amount of the penalty in accordance with 31 U.S.C. 333(c)(2). In determining the amount of a civil penalty, the assessing official will consider relevant factors including, but not limited to, the following:

(i) The scope of the misuse;

(ii) The purpose and/or nature of the misuse;

(iii) The extent of the harm caused by the misuse;

(iv) The circumstances of the misuse; and

(v) The benefit intended to be derived from the misuse.

(4) The Final Notice of Assessment shall:

(i) Include the following:

(A) A specific reference to each provision of § 92.13 found to have been violated;

(B) A concise statement of the facts warranting a conclusion that each violation has occurred;

(C) An analysis of how the facts and each violation justifies the conclusion that a civil monetary penalty and/or civil or equitable remedy should be imposed; and

(D) The amount of each civil monetary penalty imposed, a statement as to how the amount of each penalty was determined, and the terms of any civil or equitable remedy deemed necessary to rectify the potential for a continued misuse or harm from each violation; and

(ii) Inform the person of the following:

(A) Payment of a civil monetary penalty imposed by the Final Notice of Assessment must be made within 30 days of the date of the notice, and that any civil or equitable remedy imposed must be complied with as provided in the Final Notice of Assessment;

(B) Payment of a civil monetary penalty imposed by the Final Notice of Assessment shall be by EFT in accordance with instructions provided in the notice, unless the assessing official has given written approval to have payment made by other means;

(C) Payment of a civil monetary penalty imposed by the Final Notice of Assessment constitutes consent by the person to comply with the terms of any civil or equitable remedy contained in the notice;

(D) If payment of a civil monetary penalty imposed by the Final Notice of Assessment has been waived on the condition that the person comply with the terms of any civil or equitable remedy contained in the notice or comply in the future with 31 U.S.C. 333 and the procedures in this subpart, the failure by the person to so comply will make the civil monetary penalty payable on demand;

(E) If a civil monetary penalty is not paid within 30 days of the date of the Final Notice of Assessment (or on demand under paragraph (c)(3)(ii)(D) of this section), or if a civil or equitable remedy is not complied with in accordance with the terms of the notice, a civil action to collect the penalty or enforce compliance may be commenced at any time within two years of the date of the Final Notice of Assessment; and

(F) Any civil monetary penalty and civil or equitable remedy imposed by the Final Notice of Assessment may be subject to judicial review in accordance with 5 U.S.C. 701 *et seq.*

§ 92.18 Judicial review.

A final Notice of Assessment issued under the procedures in this subpart may be subject to judicial review pursuant to 5 U.S.C. 701 *et seq.*

Dated: January 6, 2005.

Henrietta Holsman Fore,
Director, United States Mint.

[FR Doc. 05-543 Filed 1-11-05; 8:45 am]

BILLING CODE 4810-37-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[RME No. R03-OAR-2004-DC-0009; FRL-7861-2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post 1996 and Post 1999 Rate-of-Progress Plans, Contingency Measures, Transportation Control Measures, VMT Offset, and 1990 Base Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland, Commonwealth of Virginia and the District of Columbia for the Metropolitan Washington, DC severe 1-hour ozone nonattainment area (the Washington area). These revisions include the post 1996-1999 and post 1999-2005 rate-of-progress (ROP) plans, changes to the 1990 base year inventory, a contingency measures plan, certain transportation control measures (TCMs), and a demonstration that each SIP contains sufficient transportation control measures to offset growth in vehicle miles traveled (VMT) as necessary to demonstrate ROP and attainment of the 1-hour national ambient air quality standard (NAAQS) for ozone. The intended effect of this action is to propose approval of revisions submitted to satisfy the SIP requirements of 1-hour ozone nonattainment areas classified as severe. These revisions are being proposed for approval in accordance with the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before February 11, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-DC-0009 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-0009, 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-0009. 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; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230, Baltimore, Maryland 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814-2179, or by e-mail at cripps.christopher@epa.gov.
SUPPLEMENTARY INFORMATION: The use of "we," "us," or "our" in this document refers to EPA. The use of "States" in this document refers to the State of Maryland, the Commonwealth of Virginia and the District of Columbia.

Outline

- I. The Action EPA is Proposing Today
- II. Background
 - A. What is the Washington D.C. 1-Hour Ozone Nonattainment Area (the Washington area)?
 - B. What Previous Action Has EPA Taken on the Post 1996-1999 ROP Plans?
 - C. What Is the Purpose of the Action EPA Is Taking Today?
- III. Amendments to the 1990 Base Year Emissions Inventory
- IV. Post 1996-1999 and Post 1999-2005 ROP Plans
 - A. What Agencies/ and Organizations Developed the Post 1996-1999 and Post 1999-2005 ROP Plans for the Washington Area?
 - B. What ROP Requirements are Applicable to the Washington Area after 1996?
 - C. What Are the Basic Components of a ROP Plan?
 - D. EPA's Evaluation of the Post 1996-1999 ROP Plans for the Washington Area
 - E. EPA's Evaluation of the Post 1999-2005 ROP Plans for the Washington Area
 - F. Do the Post 1996-1999 and Post 1999-2005 ROP Plans for the Washington Area Meet the Requirements for NO_x Substitution?
- V. Contingency Measures Plans
 - A. What are the Contingency Measures Implemented to Address the Failure to Attain by November 15, 1999 and for the Post 1996-1999 ROP Plans?
 - B. What Are the Contingency Measures and Plan for Post-1999 ROP Plans and for Failure to Attain by November 15, 2005?