

Implementation Plan for the general conformity rules. The general conformity SIP revisions enable the State of Minnesota to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) Minnesota rules Part 7009.9000, as created and published in the (Minnesota) Register, November 13, 1995, number 477, effective November 20, 1995.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC010-5914a; MD033-7157a; FRL-5814-1]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia and State of Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the District of Columbia (DC) and the State of Maryland State Implementation Plans (SIPs) which pertain to the 1990 base year ozone emission inventories for the Washington DC-MD-VA Consolidated Metropolitan Statistical Area (CMSA) ozone nonattainment area. This area, commonly referred to as the Metropolitan Washington DC area, is classified as a serious ozone nonattainment area. The SIP revisions were prepared by the Metropolitan Washington Council of Governments and submitted by the District and the State of Maryland for the purpose of establishing the 1990 baseline of emissions contributing to ozone nonattainment problems in the Metropolitan Washington DC area. This rulemaking action is for Washington DC and Maryland portions of the area only. The approval of the SIP revision submitted by the Commonwealth of Virginia for its portion of the base year inventory of the Metropolitan Washington DC area was published on September 16, 1996 (61 FR 48632). This action is being taken under section 110 of the Clean Air Act.

**DATES:** This action is effective June 9, 1997 unless notice is received on or

before May 23, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21 Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Avenue, SE., Washington, DC 20020; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Pauline De Vose, (215) 566-2186, at EPA Region III address, or via e-mail at devose.pauline@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the 1990 Clean Air Act Amendments (CAAA), States have the responsibility to inventory emissions contributing to national ambient air quality standard nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAAA requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990 (15% plan). The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15% plan. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for

Ozone State Implementation Plans," Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The 1990 base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The 1990 base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above that are located outside transport regions.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)-(e) of Title I of the CAAA. The EPA has issued a General Preamble describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the CAAA, including requirements for the preparation of the 1990 base year inventory [see 57 FR 13502; April 16, 1992 and 57 FR 18070; April 28, 1992]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the District of Columbia and Maryland portions of the Metropolitan Washington DC ozone nonattainment area's 1990 base year emissions inventory, EPA is applying its interpretations taking into consideration the specific factual issues presented.

Those States containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the CAAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the 1990 base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), and carbon monoxide (CO). The inventory is to address actual VOC, NO<sub>x</sub>, and CO emissions for the area during peak ozone season, which is generally comprised of the summer months. All emissions from stationary point and area sources, as well as highway and non-road mobile sources, and biogenic emissions within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

**Criteria for Approval**

There are general and specific components of an acceptable emission inventory. In general, a state must meet the minimum requirements for reporting by source category. Specifically, the source requirements are detailed below.

The Levels I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the state and assesses whether the emissions were developed according to current EPA guidance. The data quality is also evaluated.

The Level III review process, as outlined here, consists of 10 criteria. For a base year emission inventory to be acceptable it must pass all of the following acceptable criteria:

1. An approved Inventory Preparation Plan (IPP) must be provided and the Quality Assurance (QA) program contained in the IPP must be performed and its implementation documented.

2. Adequate documentation must be provided that enables the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. Point source emissions must be prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions must be prepared or calculated according to the current EPA guidance.

7. Biogenic emissions must be prepared according to current EPA guidance or another approved technique.

8. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT

development methods must be adequately described and documented in the inventory report.

9. The MOBILE model (or EMFAC model for California only) must be correctly used to produce emission factors for each of the vehicle classes.

10. Non-road mobile emissions must be prepared according to current EPA guidance for all of the source categories.

The base year emission inventory is approvable if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in the following document: "Quality Review Guidelines for 1990 Base Year Emission Inventories", Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions "1990 O<sub>3</sub>/CO SIP Emission Inventory Level III Acceptance Criteria", October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.

**The District of Columbia and State of Maryland Submittals**

On January 13, 1994 and March 21, 1994, the Department of Consumer and Regulatory Affairs (DCRA) for the District of Columbia and the Maryland Department of the Environment (MDE), respectively, submitted the 1990 base year emission inventories as formal revisions to their State Implementation Plans (SIPs).

The submittals were reviewed by EPA to determine completeness shortly after their submittals, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The submittals were found to be complete on July 13, 1994; and June 1, 1994, respectively.

**EPA Analysis**

Based on EPA's Level I, II, and III review findings, the District and

Maryland have satisfied all of EPA's requirements for providing a comprehensive and accurate 1990 base year inventory of actual emissions for their portions of the Metropolitan Washington DC ozone nonattainment area. A summary of EPA's Level III findings is given below:

1. The Inventory Preparation Plan (IPP) and Quality Assurance (QA) program have been approved and implemented. These were approved on March 27, 1992 and August 11, 1992 for the District and Maryland, respectively.

2. The documentation was adequate for all emission types (stationary point, area, highway mobile, on-road mobile and biogenic sources) for the reviewer to determine the estimation procedures and data sources used to develop the inventory.

3. The point source inventory was found to be complete.

4. The point source emissions were estimated according to EPA guidance.

5. The area source inventory was found to be complete.

6. The area source emissions were estimated according to EPA guidance.

7. The biogenic source emissions were estimated using the Biogenic Emission Inventory System (PC-BEIS) in accordance with EPA guidance.

8. The method used to develop vehicle miles traveled (VMT) estimates was adequately described and documented.

9. The mobile model was used correctly.

10. The non-road mobile emission estimates were correctly prepared in accordance with EPA guidance.

Thus, EPA has determined that the District's and the State of Maryland's submittals meet the essential reporting and documentation requirements for a 1990 base year emission inventory.

A summary of the emission inventories broken down by point, area, biogenic, on-road, and non-road mobile sources are presented in the table below.

DISTRICT OF COLUMBIA OZONE SEASON EMISSIONS IN TONS PER DAY

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC .....	19.991	1.701	32.27	11.32	3.150	68.432
NO <sub>x</sub> .....	2.970	30.919	23.56	13.28	N/A	70.729
CO .....	2.698	4.306	248.33	145	N/A	400.334

MARYLAND PORTION OF THE METROPOLITAN WASHINGTON DC AREA OZONE SEASON EMISSIONS IN TONS PER DAY

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
VOC .....	98.89	8.042	108.47	33.37	225.96	474.742
NO <sub>x</sub> .....	65.476	204.903	125.14	39.15	N/A	434.669
CO .....	51.799	9.796	901.490	427.42	N/A	1390.505

EPA has determined that the submittals made by DCRA and MDE satisfy the relevant requirements of the CAAA. EPA's detailed review of the emission inventories is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

EPA is approving these SIP revisions without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will become effective June 9, 1997 unless, by May 23, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 9, 1997.

**Final Action**

EPA is approving revisions to the District of Columbia and Maryland SIPs. These revisions consist of the District's and Maryland's portions of the 1990 Base Year Emission Inventory for the Metropolitan Washington DC ozone nonattainment area. The inventories consist of point, area, highway mobile, non-road mobile and biogenic emissions for VOC, NO<sub>x</sub> and CO. The revisions were submitted to EPA by DCRA and MDE on January 13, 1994 and March 21, 1994, respectively.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental

factors and in relation to relevant statutory and regulatory requirements.

**Executive Order 12866**

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

**Regulatory Flexibility Act**

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the CAAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410 (a)(2).

**Unfunded Mandates**

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandate Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to

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

**Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**Petitions for Judicial Review**

Under section 307(b)(1) of the CAAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 1997. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, regarding the District of Columbia,

Maryland, and Virginia Emission Inventories, 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, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: April 8, 1997.

**Stanley L. Laskowski,**

*Acting Regional Administrator, Region III.*

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401–7671q.

**Subpart J—District of Columbia**

2. Section 52.474 is amended by revising the section heading, designating existing text as paragraph (a) and adding paragraph (b) to read as follows:

**§ 52.474 1990 Base Year Emission Inventory.**

\* \* \* \* \*

(b) EPA approves as a revision to the District of Columbia State Implementation Plan the 1990 base year emission inventory for the District's portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Director, DCRA, on January 13, 1994. This submittal consists of the 1990 base year point, area, highway mobile, non-road and biogenic source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO<sub>x</sub>).

**Subpart V—Maryland**

3. Section 52.1075 is amended by adding paragraph (d) to read as follows:

**§ 52.1075 1990 Base Year Emission Inventory.**

\* \* \* \* \*

(d) EPA approves as a revision to the Maryland State Implementation Plan the 1990 base year emission inventory for the Maryland portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Secretary of MDE on March 21, 1994. This submittal consists of the 1990 base year point, area, highway mobile, non-road mobile, and biogenic source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO<sub>x</sub>).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 60 and 61**

[FRL–5814–5]

**Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for Bay Area and South Coast Air Quality Management Districts; State of California**

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

**ACTION:** Delegation of authority.

**SUMMARY:** In 1992 and 1993, the California Air Resources Board (CARB) requested delegation of authority for the implementation and enforcement of specified New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the following local agencies: Bay Area and South Coast Air Quality Management Districts (AQMDs). EPA's review of the State of California's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and EPA granted the delegations as requested.

**EFFECTIVE DATES:** The effective dates of the delegation authority for each local agency are: Bay Area AQMD—May 18, 1992, January 25, 1993, and May 21, 1993 and South Coast AQMD—June 8, 1992 and February 8, 1993.

**ADDRESSES:** Copies of the requests for delegation of authority and EPA's letters of delegation are available for public inspection at EPA's Region 9 office during normal business hours and at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, CA 95812

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

**FOR FURTHER INFORMATION CONTACT:** Cynthia G. Allen, Rulemaking Office (AIR–4), Air and Toxics Division, EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Tel: (415) 744–1189.

**SUPPLEMENTARY INFORMATION:** Section 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended in 1990, authorize the Administrator to delegate his or her authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS) and the standards set out in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

After a thorough review of the categories requested for delegation, the Regional Administrator, EPA Region IX determined that such delegation was appropriate for these source categories, as set forth in the original delegation letters.

The CARB has requested authority for delegation of certain NSPS and NESHAPS categories to the Bay Area and South Coast AQMD's. By letters dated May 18, 1992, January 25, 1993, and May 21, 1993, EPA delegated and/or redelegated its authority for 40 CFR Parts 60 and 61 for the following subparts:

NSPS	40 CFR part 60 subpart
<b>Bay Area AQMD</b>	
General Provisions .....	A
Emission Guidelines and Compliance Times .....	C
Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971 .....	D
Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978 .....	Da
Industrial-Commercial-Institutional Steam Generating Units .....	Db
Small Industrial-Commercial-Institutional Steam Generating Units .....	Dc
Incinerators .....	E
Municipal Waste Combustors .....	Ea