

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.g[5] of Commandant Instruction M16475.1B, (as revised by 59 FR 38654; July 29, 1994) this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water) Reporting and recordkeeping, requirements Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T02-017 is added to read as follows:

§ 165.T02-017 Safety Zone; Tennessee River mile 161.5 to 162.5.

(a) *Location.* The following area is a Safety Zone: Tennessee River mile 161.5 to 162.5.

(b) *Effective Dates.* This section becomes effective at 9:30 a.m. on May 19, 1995 and terminates at 8 p.m. on June 30, 1995.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

Dated: May 19, 1995.

Robert M. Segovis,

Commander, USCG, Captain of the Port.

[FR Doc. 95-13026 Filed 5-25-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[DC15-1-6358; FRL-5178-7]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia—Emission Statement Program

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels. The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_x within the District in accordance with section 182(a)(3)(b) of the 1990 Clean Air Act Amendments (CAAA). This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective July 25, 1995 unless notice is received on or before June 26, 1995 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 Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. 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, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Environmental Regulation Administration, District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena, U.S. Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-8239.

SUPPLEMENTARY INFORMATION: On October 22, 1993, the District of Columbia Department of Consumer and Regulatory Affairs (DCRA) submitted a formal revision to its SIP. One of those revisions is the District's Emission Statement program which requires owners of stationary sources that emit VOCs and/or NO_x, above specified actual emission applicability thresholds, to submit annual statements certifying emissions. This notice only addresses the District's Emission Statement SIP submittal. The other revisions submitted on October 22, 1993 are the subjects of separate rulemaking notices.

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. EPA published a "General Preamble" describing EPA's preliminary views on how it intends to review SIP's and SIP revisions submitted under Title I of the CAA, including those State submittals for ozone transport areas within the States {see 57 FR 13498 (April 16, 1992) ["SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"], 57 FR 18070 (April 28, 1992) ["Appendices to the General Preamble"], and 57 FR 55620 (November 25, 1992) ["SIP: NO_x Supplement to the General Preamble"]}.

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify title 40, part 51 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also made applicable by section 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the State each year emission statements certifying their actual emissions of VOCs and NO_x. This section of the Act provides that the States or in this case the District, are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOCs or NO_x at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

States or the District may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_x or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emissions factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA. Emissions from stationary sources that emit less than 25 tons per year of VOC and NO_x are included in the District of Columbia's 1990 base year emission inventory and must also be included in the periodic emission inventories.

At minimum, the emission statement data should include:

- Certification of data accuracy;
- Source identification information;
- Operating schedule;
- Emissions information (to include annual and typical ozone season day emissions);
- Control equipment information; and
- Process data.

EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States (or the District) with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of the District's Submittal

A. Procedural Background

The District of Columbia held a public hearing on October 27, 1992, for the purpose of soliciting public comment on proposed regulatory revisions concerning emission statements for stationary sources. The regulatory revisions were adopted on July 16, 1993, submitted to EPA on October 22, 1993 as a revision to the SIP, and became effective in the District on September 30, 1993.

B. Components of the District's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, the District must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the

sources and the State (or the District). For the emission statement program to be approvable, the District's SIP revision must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

The District's revision consists of amendments to D.C. ACT 10-56 District of Columbia Air Pollution Control Act of 1984. These amendments revise Section 20 DCMR 199, Definitions and add Section 20 DCMR 500.7, Emission Statements.

Section 20 DCMR 199, Definitions, has been revised by adding the definitions of the following terms:

Annual process rate; Certifying individual; Control efficiency; Control equipment identification code; Emission factor; Emission statement; Estimated emission method code; Oxides of nitrogen; Percent annual throughput; Plant; Point; Process rate; Standard industrial classification code; Typical ozone season day; and Volatile organic compounds.

Section 20 DCMR 500.7, Emission Statements, requires that a person who owns or operates any installation, source, or premises located in areas designated by the CAA as marginal, moderate, serious, severe or extreme ozone nonattainment area to report the levels of emissions from the sources emitting 25 tons per year (TPY) or more of VOCs and NO_x, in order to track emission reductions necessary to attain the ozone National Ambient Air Quality Standards (NAAQS). Section 20 DCMR 500.7, Emission Statements, also requires that a certifying official for each facility provide the District with a statement reporting emissions by April 15 of each year, beginning with April 15, 1993, for the emissions discharged during the previous calendar year. Section 20 DCMR 500.7, Emission Statements, also defines specific requirements for the content of these annual emission statements.

C. Enforceability

The District of Columbia has provisions in its SIP which ensure that the emission statement requirements of Section 182(a)(3)(B) and Sections 184(b)(2) and 182(f) of the CAA as required by D.C. ACT 10-56, sections 20 DCMR 199, and section 20 DCMR 500.7 are adequately enforced. Once EPA completes the rulemaking process approving the District's Emission Statement program as part of the SIP, it will be federally enforceable.

EPA has determined that the submittal made by the District of Columbia satisfies the relevant

requirements of the CAA and EPA's guidance document, "Guidance on the Implementation of an Emission Statement Program" (July 1992). EPA's detailed review of the District's Emission Statement Program 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 action.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 25, 1995 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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 July 25, 1995.

III. Final Action

EPA is approving revisions to the District of Columbia SIP to include an Emission Statement Program. These revisions consist of amendments to D.C. ACT 10-56 District of Columbia Air Pollution Control Act by revising section 20 DCMR 199, Definitions, and the addition of section 20 DCMR 500.7, Emission Statements.

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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 Act 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 Administrator certifies that it does not have a significant impact on small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state or District action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410 (a)(2).

This action has been classified as a Table 2 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 an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 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 July 25, 1995. 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 approving the District of Columbia Emission Statement SIP submittal 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, volatile organic compounds.

Dated: January 25, 1995.

Peter H. Kostmayer,
Regional Administrator, Region III.

40 CFR part 52, subpart J of chapter I, title 40 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 52.470 is amended by adding paragraph (c)(32) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(32) Revisions to the District of Columbia Regulations State Implementation Plan submitted on October 22, 1993 by the Government of the District of Columbia Department of Consumer and Regulatory Affairs.

(i) Incorporation by reference.

(A) Letter of October 22, 1993 from the Government of the District of Columbia Department of Consumer and Regulatory Affairs transmitting a revised regulation which require owners of stationary sources to submit emission statements annually.

(B) D.C. ACT 10-56 amendments to District of Columbia Air Pollution Control Act of 1984, Section 20 DCMR 199, specifically the addition of new definitions, and the addition of Section 20 DCMR 500.7. Effective on September 30, 1993.

[FR Doc. 95-12927 Filed 5-25-95; 8:45 am]

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40 CFR Part 52

[ID12-1-6992a; FRL -5206-6]

Approval and Promulgation of Implementation Plans: State of Idaho

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On August 25, 1994, the Environmental Protection Agency (EPA) issued a direct final rule approving the State Implementation Plan for the Pinehurst, Idaho, PM-10 (particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers) nonattainment area (59 FR 43745 (August 25, 1994)). In this rulemaking action, EPA is approving the provisions of that plan for the area just outside the City of Pinehurst which was designated nonattainment in January 1994.

EFFECTIVE DATE: This direct final rule will be effective on July 25, 1995 unless adverse or critical comments are received by June 26, 1995. If the effective date is delayed, timely notice

will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and the State of Idaho Division of Environmental Quality, 1410 N. Hilton, Boise, ID 83720.

FOR FURTHER INFORMATION CONTACT: Doug Cole, EPA, Idaho Operations Office, 1435 N. Orchard St., Boise, ID 83706, (208) 334-9555.

SUPPLEMENTARY INFORMATION:

I. Background

On August 25, 1994, EPA issued a direct final rule approving the State Implementation Plan (SIP) for the Pinehurst PM-10 nonattainment area in Shoshone County, Idaho. See 59 FR 43745. The rule became effective October 24, 1994. In that document, EPA described its approval action as covering the Pinehurst, Idaho nonattainment area that was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the 1990 Clean Air Act Amendments (citing 56 FR 56694 (November 6, 1991)).¹ The document inadvertently failed to explain, however, that, effective January 20, 1994, EPA approved the redesignation of an additional area in Shoshone County, adjacent to the Pinehurst nonattainment area, as nonattainment for PM-10. See 58 FR 67334, 67339 (December 21, 1993) and 40 CFR 81.313 (codified air quality designations for the State of Idaho). Further, the August 25, 1994 document did not explain that the SIP revision submitted by Idaho to address certain moderate PM-10 nonattainment planning requirements for Pinehurst also applied to the adjacent moderate PM-10 nonattainment area.

II. This Action

In this action, EPA is approving the PM-10 SIP submitted by the State of Idaho on April 14, 1992 and described in the August 25, 1994 **Federal Register**

¹ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("Act" or "CAA"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, et seq.