

2000 deadline date for submittal of comments on this proposed action to approve this SIP revision submitted by the State of Maryland. The EPA is providing a shortened time period for comment for two reasons. As an initial matter, this revision is non-controversial and EPA does not expect comment as Maryland's OTC NO<sub>x</sub> Budget Program is based upon the model rule developed by the NESCAUM and MARAMA states. The two enforceable consent agreements between MDE and the Baltimore Gas and Electric Company and the Potomac Electric Power Company are source-specific and affect no other facilities. Moreover, this SIP revision is necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, D.C. ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by November 15, 2000 fully approving the attainment demonstration for the Metropolitan Washington, D.C. ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

#### Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will 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), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This action to propose approval of Maryland NO<sub>x</sub> Budget Program 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: October 13, 2000.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DC048-2022; FRL-6887-8]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision implements the District's portion of the Ozone Transport Commission's (OTC) September 27, 1994 Memorandum of Understanding (MOU) which describes a regional nitrogen oxides (NO<sub>x</sub>) cap and trade program that will significantly reduce NO<sub>x</sub> emissions generated within the Ozone Transport Region (OTR). The intended effect of this action is to propose approval of the District's regulations entitled, NO<sub>x</sub> Emissions Budget Program as a SIP revision in accordance with the requirements of the Clean Air Act.

**DATES:** Written comments must be received on or before November 9, 2000.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178, or via e-mail at fernandez.cristina@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 28, 2000, the District's Department of Health submitted a revision to its SIP. The revision to the SIP includes the addition of a new Chapter 10, Nitrogen Oxides Emissions Budget Program, to Title 20 of the District of Columbia Municipal Regulations (DCMR).

The District's NO<sub>x</sub> Budget Program regulations are part of a regional NO<sub>x</sub>

reduction program based upon an MOU drawn between the member states of the OTC. The OTC adopted a MOU on September 27, 1994, committing the signatory states to the development and implementation of a two phase region-wide reduction in NO<sub>x</sub> emissions by 1999 and 2003, respectively. As reasonably available control technology (RACT) to reduce NO<sub>x</sub> emissions was required to be implemented by May of 1995, the MOU refers to the reduction in NO<sub>x</sub> emissions to be achieved by 1999 as Phase II; and the reduction in NO<sub>x</sub> emissions to be achieved by 2003 as Phase III. The OTC member states include Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, the northern counties of Virginia, and the District of Columbia. All of the OTC members, with the exception of the Commonwealth of Virginia, signed the September 27, 1994 MOU. The OTC MOU requires a reduction in ozone season NO<sub>x</sub> emissions from utility and large industrial combustion facilities within the OTR to further the effort to achieve the health-based National Ambient Air Quality Standard (NAAQS) for ozone. In the MOU, the OTC states agreed to propose regulations for the control of NO<sub>x</sub> emissions in accordance with the following guidelines:

1. The level of NO<sub>x</sub> required would be established from a 1990 baseline emissions level.

2. The reduction would vary by location, or zone, and would be implemented in two phases utilizing a region wide trading program.

3. The reduction would be determined based on the less stringent of each of the following:

a. By May 1, 1999, the affected facilities in the inner zone shall reduce their rate of NO<sub>x</sub> emissions by 65% from baseline, or emit NO<sub>x</sub> at a rate no greater than 0.20 pounds per million Btu. (This is a Phase II requirement.)

b. By May 1, 1999, the affected facilities in the outer zone shall reduce their rate of NO<sub>x</sub> emissions by 55% from baseline, or shall emit NO<sub>x</sub> at a rate no greater than 0.20 pounds per million Btu. (This is a Phase II requirement.)

c. By May 1, 2003, the affected facilities in the inner and outer zones shall reduce their rate of NO<sub>x</sub> emissions by 75% from baseline, or shall emit NO<sub>x</sub> at a rate no greater than 0.15 pounds per million Btu. (This is a Phase III requirement.)

d. By May 1, 2003, the affected facilities in the Northern zone shall reduce their rate of NO<sub>x</sub> emissions by 55% from baseline, or shall emit NO<sub>x</sub> at

a rate no greater than 0.20 pounds per million Btu. (This is a Phase III requirement.)

A Task Force of representatives from the OTC states, organized through the Northeast States for Coordinated Air Use Management (NESCAUM) and the Mid-Atlantic Regional Air Management Association (MARAMA), was charged with the task of developing a Model Rule that would implement the program defined by the OTC MOU. During 1995 and 1996, the NESCAUM/MARAMA NO<sub>x</sub> Budget Task Force worked with EPA and developed a model rule as a template for OTC states to adopt their own rules to implement the OTC MOU. The model was issued May 1, 1996. The model rule was developed by and for the OTC states to implement the Phase II reductions called for in the MOU to be achieved by May 1, 1999. The model rule does not include the implementation of Phase III.

The regulations of the District's NO<sub>x</sub> Budget Program, 20 DCMR 1000, are based solely upon the "NESCAUM/MARAMA NO<sub>x</sub> Budget Rule" issued in May 1, 1996. The model rule was developed by the states in the OTR using the EPA's economic incentive rules (67 FR 16690) which were published on April 7, 1994, as the general regulatory framework.

The District of Columbia's OTC NO<sub>x</sub> Budget Program establishes NO<sub>x</sub> emission allowances for each ozone season of each year from May 1st through September 30th. This program identifies the budgeted sources and identifies the number of allowances each budget source is allocated.

The District's NO<sub>x</sub> Budget Program includes the adoption of a new chapter: Chapter 10—Nitrogen Oxides Emissions Budget Program. Chapter 10—Nitrogen Oxides Emissions Budget Program is divided in fourteen sections: (1000) Applicability; (1001) General Provisions; (1002) Allowance Allocation; (1003) Permits; (1004) Allowance Transfer and Use; (1005) Allowance Banking; (1006) NO<sub>x</sub> Allowance Tracking System; (1007) Emission Monitoring; (1008) Record Keeping; (1009) Reporting; (1010) End-of-Season Reconciliation; (1011) Compliance Certification; (1012) Penalties; (1013) Program Audit; (1099) Definitions and Abbreviations.

## II. Proposed Action

EPA is proposing to approve the SIP revision request submitted for parallel processing by the District's Department of Health on August 28, 2000. The SIP revision consists of the District's proposed Chapter 10—Nitrogen Oxides Emissions Budget Program, for

implementing Phase II of the OTC's MOU to reduce nitrogen oxides.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with a state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish another proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, we will publish a final rulemaking on the revision. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the District of Columbia and submitted formally to EPA for incorporation into the SIP. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice. These comments will be considered before taking any final action. EPA calls your attention to the November 9, 2000 deadline date for submittal of comments on this proposed action to approve this SIP revision submitted by the District of Columbia. The EPA is providing a shortened time period for comment for two reasons. As an initial matter, these revisions are non-controversial and EPA does not expect comment because the District adopted the model rule developed by the NESCAUM and MARAMA states. Moreover, these SIP revisions are necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, D.C. ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by November 15, 2000 fully approving the attainment demonstration for the Metropolitan Washington, D.C. ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

## III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to

approve 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will 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), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive order. This proposed rule to approve the District of Columbia's Nitrogen Oxides Emissions Budget Program regulations to implement Phase II of the OTC MOU

does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: October 13, 2000.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[VA109-5050b; FRL-6887-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of Approval of Removal of TSP Ambient Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of removing references to total suspended particulate (TSP) ambient standards and levels from its regulations for ambient air quality standards and for air pollution episode prevention. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based upon this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by November 20, 2000.

**ADDRESSES:** Written comments should be addressed to Mr. Denis Lohman, Acting Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency,

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

#### FOR FURTHER INFORMATION CONTACT:

Ruth E. Knapp, (215) 814-2191, at the EPA Region III address above, or by e-mail at [knapp.ruth@epa.gov](mailto:knapp.ruth@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information on this SIP revision related to removal of TSP ambient standards and levels from Virginia's regulations, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: October 5, 2000.

**Bradley M. Campbell,**

*Regional Administrator, Region III.*

[FR Doc. 00-26909 Filed 10-18-00; 8:45 am]

**BILLING CODE 6560-50-P**

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Care Financing Administration

#### 42 CFR Part 410

[HCFA-1088-P]

RIN 0938-AJ71

#### Medicare Program; Clinical Social Worker Services

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would permit separate Medicare Part B payment for certain psychotherapy services of clinical social workers furnished to a skilled nursing facility resident whose stay is not covered by Medicare. This rule would benefit residents of skilled nursing facilities who receive psychological services from clinical social workers.

**DATES:** We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on December 18, 2000.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services,