

Dated: December 14, 2004.

Donald S. Welsh,  
Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart J—District of Columbia**

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

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

**§ 52.470 Identification of plan.**

\* \* \* \* \*

(c) EPA-approved regulations.

**EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS**

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

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

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

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

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

**ACTION:** Direct final rule.

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

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

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

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

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](mailto:Morris.makeba@epa.gov).

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

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

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-0001. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without

going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 24, 2003 (68 FR 3410), EPA issued a final rule which reclassified the Metropolitan Washington DC 1-hour ozone nonattainment area (the Washington DC area) from serious to severe. This is commonly referred to as “bumping up” a 1-hour ozone nonattainment area. Pursuant to EPA’s January 24, 2003 reclassification of the Washington DC area to severe, the District was required to adopt and submit SIP revisions to satisfy the more stringent CAA section 182(d) requirements for severe 1-hour ozone nonattainment areas. On April 16, 2004, the District submitted several SIP revisions to satisfy those mandatory severe area requirements. Among those revisions are amendments to the size thresholds for defining major stationary sources of ozone precursors and

amendments to the offset ratio requirements for NSR permitting purposes. These revisions are the subject of this rulemaking action. The other revisions submitted on April 16, 2004 are the addressed in separate rulemakings.

**II. Summary of SIP Revision**

On April 16, 2004 (and supplemented on September 20, 2004), the District submitted SIP revisions to regulations found in Chapters 1, 2, 7 and 8 of Title 20 of the District of Columbia Municipal Regulations (DCMRs). Specifically, the regulations have been revised to meet the more stringent major source definitions and offset ratio requirements for severe ozone nonattainment areas found in CAA 182(d).

Revisions have been made to 20 DCMR Chapter 2, subsection 204.4 which change the NSR offset ratio from 1.2:1 to the more stringent ratio of 1.3:1 required for the NSR permitting of major sources and major modifications of ozone precursors in the District, namely volatile organic compounds (VOCs) and nitrogen oxides (NOX).

Revisions have also been made which change the size thresholds for defining major sources of VOC and NOX to comply with the 25 ton per year size threshold requirements of the CAA for severe 1-hour ozone nonattainment areas. Specifically, 20 DCMR Chapter 1, Subsection 199.1, for permitting requirements, now defines major stationary sources of VOC and NOX as those which emit or have the potential to emit 25 tons per year or more. Title 20 DCMR Chapter 7, Subsections 715.2, 715.3 and 715.4(b), for purposes of requiring reasonably available control technology (RACT), now define major sources of VOC as those which emit, have ever emitted, have the potential to emit, or exceed in the future, emissions greater than or equal to 25 tons per year. Similarly, 20 DCMR Chapter 8, Subsections 805.1 and 805.6 and 805.7; now define major sources of NOX as those which emit or have the potential to emit 25 tons per year or more for applicability of NOX RACT requirements. Additional changes were made to include a January 1, 2005 compliance date for RACT for those sources which emit or have the potential to emit between 25 tons per year (the new threshold for defining a subject major source) and the previous major source applicability level of 50 tons per year.

These changes to the District SIP are necessary to meet the mandatory requirements for severe 1-hour ozone nonattainment areas under section

182(d) of the CAA and strengthen the current SIP.

**III. Final Action**

EPA is approving revisions to regulations found in 20 DCMR Chapters 1, 2, 7 and 8 submitted by the District to satisfy the more stringent major source definitions and offset ratio requirements for severe ozone nonattainment areas found in CAA 182(d). EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 28, 2005 without further notice unless EPA receives adverse comment by January 27, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**IV. Statutory and Executive Order Reviews**

*A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications because it

will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 28, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve revisions to the District of Columbia's regulations pertaining to major source size thresholds and offset ratios to satisfy the requirements for severe 1-hour ozone nonattainment requirements may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, volatile organic compounds.

Dated: December 14, 2004.

**Donald S. Welsh,**  
*Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart J—District of Columbia**

■ 2. In Section 52.470, the table in paragraph (c) is amended by revising the existing entries for Chapter 1, Section 199; Chapter 2, Section 204; Chapter 7, Section 715; and Chapter 8, Section 805. The amendments read as follows:

**§ 52.470 Identification of plan.**

\* \* \* \* \*

(c) *EPA approved regulations.*

**EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
<b>Chapter 1 General</b>				
Section 199 .....	Definitions and Abbreviations .....	4/16/04	12/28/04 [Insert page number where the document begins].	Revised Definition of Major Stationary Source.
*	*	*	*	*
<b>Chapter 2 General and Non-attainment Area Permits</b>				
*	*	*	*	*
Section 204 .....	Requirements for Sources Affecting Nonattainment Areas.	4/16/04	12/28/04 [Insert page number where the document begins].	Revised Paragraph 204.4.

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
<b>Chapter 7 Volatile Organic Compounds</b>				
Section 715 .....	Reasonably Available Control Technology .....	4/16/04	12/28/04 [Insert page number where the document begins].	Revised paragraphs 715.2, 715.3, and 715.4(b).
*	*	*	*	*
<b>Chapter 8 Asbestos, Sulfur and Nitrogen Oxides</b>				
Section 805 .....	Nitrogen Oxides .....	4/16/04	12/28/04 [Insert page number where the document begins].	Revised paragraphs 805.1 (a), 805.1(a)(3) and (4), 805.1(b) and (c), 805.6 and 805.7.
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[FR Doc. 04-28197 Filed 12-27-04; 8:45 am]  
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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket No. FEMA-7774]

**List of Communities Eligible for the Sale of Flood Insurance**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP) and suspended from the NFIP. These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed under the column headed Effective Date of Eligibility.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Mike Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646-2878.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4016(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Administrator finds that delayed effective dates would be contrary to the public interest and that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No

environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

*Executive Order 12612, Federalism.* This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

*Executive Order 12778, Civil Justice Reform.* This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

**List of Subjects in 44 CFR Part 64.**

Flood insurance, Floodplains.  
 ■ Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for Part 64 continues to read as follows: