

9.0 Business Reply Mail (BRM)

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9.3 Qualified Business Reply Mail (QBRM) Basic Standards

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9.3.2 Authorization

[Delete item 9.3.2b in its entirety and incorporate item 9.3.2a into the introduction paragraph as follows:]

To participate in QBRM, a mailer must have a valid BRM permit, must pay the annual account maintenance fee, and must submit Form 6805 to the postmaster or manager, Business Mail Entry at the Post Office to which the QBRM pieces are to be returned. The USPS reviews Form 6805 and preproduction samples provided by the mailer for compliance with relevant standards. If the mailer's request is approved, the USPS issues the mailer an authorization via the approved Form 6805.

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9.5 Permits

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9.5.2 Application Process

[Delete item 9.5.2b in its entirety and incorporate item 9.5.2 into the introduction paragraph as follows:]

The mailer may apply for a BRM permit by submitting a completed Form 3615 to the Post Office issuing the permit and paying the annual permit fee. If a completed Form 3615 is already on file for the mailer for other permits at that office, then the mailer must submit the annual BRM permit fee and the USPS amends Form 3615 by adding the BRM authorization.

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We will publish an appropriate amendment to 39 CFR Part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010-11869 Filed 5-27-10; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2010-0320; FRL-9156-1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Transportation Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the District of Columbia State Implementation Plan (SIP). The revisions establish general and transportation conformity regulations for the District of Columbia. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 27, 2010 without further notice, unless EPA receives adverse written comment by June 28, 2010. 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 Docket ID Number EPA-R03-OAR-2010-0320 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2010-0320, Cristina Fernandez, Associate Director, Office of Air Planning Programs, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *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 Docket ID No. EPA-R03-OAR-2010-0320. 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is 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 <http://www.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 <http://www.regulations.gov> index. 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 <http://www.regulations.gov> 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 District Department of the Environment, Air Quality Division, 51 N Street, NE., Fifth Floor, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814-3335, or by e-mail at kotsch.martin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

SUPPLEMENTARY INFORMATION:**I. What is transportation conformity?**

Transportation conformity is required under Section 176(c) of the Clean Air Act to ensure that Federally supported highway, transit projects, and other activities are consistent with (conform to) the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment, and those redesignated to attainment after 1990 (maintenance areas), with plans developed under section 175A of the Clean Air Act for the following transportation related criteria pollutants: ozone, particulate matter (PM_{2.5} and PM₁₀), carbon monoxide (CO), and nitrogen dioxide (NO₂). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant

national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. What is the background for this action?

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law. SAFETEA-LU revised certain provisions of section 176(c) of the Clean Air Act, related to transportation conformity. Prior to SAFETEA-LU, States were required to address all of the Federal conformity rule's provisions in their conformity SIPs. After SAFETEA-LU, State's SIPs were required to contain all or portions of only the following three sections of the Federal rule, modified as appropriate to each State's circumstances: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (written commitments to implement certain kind of control measures); and 40 CFR 93.125(c) (written commitments to implement certain kinds of mitigation measures). States are no longer required to submit conformity SIP revisions that address the other sections of the Federal conformity rule.

III. What did the state submit and how did we evaluate it?

On January 26, 2010, the District of Columbia Department of the Environment submitted a revision to its SIP for general and transportation conformity regulations adopted on January 8, 2010. The portion of the SIP dealing with general conformity is strictly a recodification of its previously approved general conformity regulation from Chapter 4 of the District of Columbia Regulations (DCMR) to Chapter 15 and contains no substantial changes from its previous approval. The SIP revision section for transportation conformity addresses the three provisions of the EPA Conformity Rule required under SAFETEA-LU: 40 CFR 93.105 (consultation procedures); 40 CFR 93.122(a)(4)(ii) (control measures), and 40 CFR 93.125(c) (mitigation measures).

We reviewed the submittals to assure consistency with the February 14, 2006 "Interim Guidance for Implementing the Transportation Conformity provisions in the SAFETEA-LU." The guidance document can be found at <http://epa.gov/otaq/stateresources/transconf/policy.htm>. The guidance document states that each State is only required to address and tailor the afore-mentioned

three sections of the Federal Conformity Rule to be included in their State conformity SIPs. EPA's review of the District of Columbia's proposed SIP revision indicates that it is consistent with EPA's guidance in that it includes the three elements specified by SAFETEA-LU. Consistent with the EPA Conformity Rule at 40 CFR 93.105 (consultation procedures), Title 20, DCRM Chapter 15, Sections 1503, 1504, and 1505 identifies the appropriate agencies, procedures and allocation of responsibilities. In addition, Title 20, DCRM Chapter 15, Section 1506 provides for appropriate, public consultation/public involvement consistent with 40 CFR 93.105. With respect to the requirements of 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), the Title 20, DCRM Chapter 15, Section 1509 of the regulation specifies that written commitments for control measures and mitigation measures for meeting these requirements will be provided as needed.

IV. Final Action

EPA is approving the District of Columbia SIP revisions for general and transportation conformity, 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 July 27, 2010 without further notice unless EPA receives adverse comment by June 28, 2010. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable

Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by *July 27, 2010*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this final 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 the District of Columbia transportation conformity regulations 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 17, 2010.
William C. Early,
Acting 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 § 52.470, the table in paragraph (c) is amended by removing the existing entry for Chapter 4, Section 403 and adding a new entry for Chapter 15. The amendments read as follows:

§ 52.470 Identification of plan.

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 (c) * * *

EPA–APPROVED DISTRICT OF COLUMBIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Chapter 15	General and Transportation Conformity			
Section 1500	General Conformity—Purpose.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1501	General Conformity—Requirements.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1502	Transportation Conformity—Purpose.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1503	Transportation Conformity—Consultation Process.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1504	Transportation Conformity—Interagency Consultation Requirements.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1505	Transportation Conformity—Conflict Resolution Associated With Conformity Determinations.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1506	Transportation Conformity—Public Consultation Procedures.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1507	Transportation Conformity—Interagency Consultation Procedures.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1508	Transportation Conformity—Procedures for Determining Regional Transportation-Related Emissions.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
Section 1509	Transportation Conformity—Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures.	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 1599	Definitions	1/8/10	5/28/10 [Insert page number where the document begins].	New Regulation.
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[FR Doc. 2010-12929 Filed 5-27-10; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R02-OAR-2010-0131, FRL-9146-4]

Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The EPA is approving a proposed revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The proposed SIP revision consists of amendments to Title 6 of the New York Codes, Rules and Regulations Part 235, “Consumer Products” and Part 239, “Portable Fuel Container Spillage Control.” The intended effect of this action is to approve control strategies, required by the Clean Air Act, which will result in emission reductions that will help achieve attainment of the national ambient air quality standards for ozone.

DATES: *Effective Date:* This rule will be effective *June 28, 2010*.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2010-0131. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866. This Docket

Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber (wieber.kirk@epa.gov), Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. What is the history and time frame for State Implementation Plan (SIP) submissions?
- II. What was included in New York’s submittals?
- III. What comments did EPA receive in response to its proposal?
- IV. What is EPA’s conclusion?
- V. Statutory and Executive Order Reviews

I. What is the history and time frame for State Implementation Plan (SIP) submissions?

EPA’s Phase 1 8-hour ozone implementation rule, published on April 30, 2004 (69 FR 23951), referred to as the Phase 1 Rule, specifies that states must submit attainment demonstrations to EPA by no later than three years from the effective date of designation, that is, submit them by June 15, 2007.

On November 9, 2005, EPA published Phase 2 of the 8-hour ozone implementation rule (70 FR 71612), referred to as the Phase 2 Rule, which addressed the control obligations that apply to areas designated nonattainment for the 8-hour national ambient air quality standard. Among other things, the Phase 1 and Phase 2 Rules outline the SIP requirements and deadlines for various requirements in areas designated as moderate nonattainment. For such areas, reasonably available control technology (RACT) plans were due by September 2006 (40 CFR 51.912(a)(2)). The rules further require that modeling and attainment demonstrations, reasonable further progress plans, reasonably available control measure (RACM) analysis, projection year emission inventories, motor vehicle emissions budgets and contingency measures were all due by

June 15, 2007 (40 CFR 51.908(a), and (c)).

II. What was included in New York’s submittals?

On October 21, 2009 and November 23, 2009, the New York State Department of Environmental Conservation (NYSDEC), submitted to EPA proposed revisions to the SIP which included State adopted revisions to two regulations which consist of, respectively, Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 235, “Consumer Products” with a State effective date of October 15, 2009 and 6 NYCRR Part 239, “Portable Fuel Container Spillage Control” with a State effective date of July 30, 2009. These revisions will provide volatile organic compound (VOC) emission reductions to address, in part, attainment of the 1997 8-hour ozone standard in the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area which is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester and Rockland. These revisions will also address, in part, the RACT and RACM requirements by providing VOC emission reductions statewide.

III. What comments did EPA receive in response to its proposal?

On March 2, 2010 (75 FR 9373), EPA proposed to approve the proposed revisions to the New York SIP for ozone concerning the amendments to 6 NYCRR Parts 235 and 239. The reader is referred to that proposal for a more detailed discussion of this action. No comments were received in response to that proposal.

IV. What is EPA’s conclusion?

EPA has evaluated New York’s submittal for consistency with the Clean Air Act, EPA regulations, and EPA policy. EPA has determined that the revisions made to Part 235 and Part 239 of Title 6 of the New York Codes, Rules and Regulations, entitled, “Consumer Products” and “Portable Fuel Container Spillage Control,” respectively, meet the