

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 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 November 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action pertaining to Maryland’s adoption of the CTG standards for

paper, film, and foil coatings 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2010.

**W.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 V—Maryland**

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.19.07 to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE MARYLAND SIP**

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
*	*	*	*	*
<b>26.11.19 Volatile Organic Compounds From Specific Processes</b>				
26.11.19.07	Paper, fabric, vinyl and other plastic parts coating.	4/19/10	9/27/10 [Insert page number where the document begins].	Revisions to Section .07A, .07B and the addition of new Section .07D.
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2010-23980 Filed 9-24-10; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2010-0484; FRL-9205-9]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Adoption of Control Techniques Guidelines for Flexible Packaging Printing**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State

Implementation Plan (SIP) revision submitted by the Maryland Department of the Environment (MDE). This SIP revision includes amendments to Maryland’s regulation for Volatile Organic Compounds from Specific Processes, and meets the requirement to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA’s Control Techniques Guidelines (CTG) standards for flexible packaging printing. These amendments will reduce emissions of volatile organic compound (VOC) emissions from flexible packaging printing. Therefore, this revision will help Maryland attain and maintain the national ambient air

quality standard (NAAQS) for ozone. This action is being taken under the Clean Air Act (CAA).

**DATES:** This rule is effective on November 26, 2010 without further notice, unless EPA receives adverse written comment by October 27, 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-2010-0484, by one of the following methods:

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

B. *E-mail:* [pino.maria@epa.gov](mailto:pino.maria@epa.gov)

C. *Mail:* EPA-R03-OAR-2010-0484, Maria A. Pino, Acting Associate Director, Office of Air Program Planning, 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-2010-0484. 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 Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:** On April 23, 2010, MDE submitted to EPA a SIP revision concerning the adoption of the EPA CTG for flexible packaging printing.

### I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACT), including RACT for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, States must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment.

The CTG for flexible package printing is intended to provide state and local air pollution control authorities information that should assist them in determining RACT for VOC from flexible package printing facilities. In developing this CTG, EPA, among other things, evaluated the sources of VOC emissions from this industry and the available control approaches for addressing these emissions, including the costs of such approaches. Based on available information and data, EPA provides recommendations for RACT for VOC from flexible package printing facilities.

In December 1978, EPA published a CTG for graphic arts (rotogravure

printing and flexographic printing) that included flexible package printing. The 1978 CTG discusses the flexible package printing industry, the nature of VOC emissions from that industry, available control technologies for addressing such emissions, the costs of available control options, and other items. EPA also published a national emission standard for hazardous air pollutants (NESHAP) for the printing and publishing industry (40 CFR Part 60, Subpart KK) in May 1996, which is applicable to flexible package printing.

Under section 183(e) of the CAA, EPA conducted a study of VOC emissions from the use of consumer and commercial products to assess their potential to contribute to levels of ozone that violate the NAAQS for ozone, and to establish criteria for regulating VOC emissions from these products. Section 183(e) of the CAA directs EPA to list for regulation those categories of products that account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer and commercial products in areas that violate the NAAQS for ozone (i.e., ozone nonattainment areas), and to divide the list of categories to be regulated into four groups.

EPA published the original list of product categories and the original schedule that established the four groups of categories in the **Federal Register** on March 23, 1995 (60 FR 15264). Flexible package printing materials was included in that list. EPA noted in that notice that EPA may amend the list of products for regulation, and the groups of products for regulation, and the groups of product categories, in order to achieve an effective regulatory program in accordance with the Agency's discretion under CAA section 183(e). EPA published a revised schedule and grouping on March 18, 1999 (64 FR 13422). EPA again revised the list to regroup the product categories on November 17, 2005 (70 FR 69759). On May 16, 2006 (71 FR 28320), EPA modified the section 183(e) list and schedule for regulation by adding one category and removing one category of consumer and commercial products. Flexible package printing materials remained on the list and are still included on the current section 183(e) list under Group II.

In September 2006, after conducting a review of currently existing state and local VOC emission reduction approaches for flexible package printing, reviewing the 1978 CTG and the 1996 NESHAP for the printing and publishing industry (40 CFR part 60, subpart KK), which is applicable to

flexible package printing, and taking into account the information that has become available since then, EPA developed a new CTG for flexible package printing entitled "Control Techniques Guidelines for Flexible Package Printing" (Publication No. EPA 453/R-06-003).

Flexible packaging refers to any package or part of a package the shape of which can be readily changed. There are two types of printing processes used by flexible package printing facilities: (1) Rotogravure printing; and (2) flexographic printing. There are two main sources of VOC emissions from flexible package printing for both rotogravure and flexographic: (1) Evaporation of VOC from inks, coatings, and adhesives, and (2) evaporation of VOC from cleaning materials. There are two approaches to reducing VOC emissions from inks, coatings, and adhesives used in the flexible package printing industry: (1) Adding/improving add-on controls, and (2) material reformulation or substitution.

## II. Summary of SIP Revision

On April 23, 2010, MDE submitted to EPA a SIP revision (#10-04) concerning the adoption of the EPA CTG for flexible packaging printing. EPA develops CTGs as guidance on control requirements for source categories. States can follow the CTGs or adopt more restrictive standards. MDE has adopted EPA's CTG standards for flexible packaging printing and work practices (*see* EPA 453/R-06-003, September 2006). This SIP revision includes amendments to COMAR 26.11.19.10 and a new regulation .10-1 under COMAR 26.11.19, Volatile Organic Compounds from Specific Processes. This action affects sources that use flexographic and rotogravure presses to print flexible packaging materials.

New regulation COMAR 26.11.19.10-1 contains the following requirements and standards for flexible packaging printing lines: Emissions are either reduced by using water-based inks that contain less than 25 percent VOC by volume of the volatile portion of the ink, or high solids inks that contain not less than 60 percent nonvolatiles. If compliance cannot be achieved through use of the water-based inks or high solids inks described above, the source shall reduce the VOC content of each ink, or reduce the average VOC content of inks used at each press as follows:

- (a) 60 percent reduction for flexographic presses;
- (b) 65 percent reduction for packaging rotogravure presses; and
- (c) 75 percent reduction for publication rotogravure presses.

Additional emission standards and requirements for a flexible packaging printing line with potential to emit VOCs of 25 tons or more per year are limiting the VOC content of each flexible packaging coating or limiting the average VOC content of flexible packaging coatings of the line to not more than:

- (a) 0.8 lb VOC/lb or kg VOC/kg solids applied; or
- (b) 0.16 lb VOC/lb or kg VOC/kg materials applied; or
- (c) Venting the dryer exhaust of the line through a control device that is constructed, operated, and maintained to achieve an overall control efficiency of:
  - 65 percent overall control for a press that was first installed prior to March 14, 1995 and that is controlled by an add-on air pollution control device (APCD) whose first installation date was prior to the effective date.
  - 70 percent overall control for a press that was first installed prior to March 14, 1995 and that is controlled by an add-on APCD whose first installation date was on or after the effective date of the rule.
  - 75 percent overall control for a press that was first installed on or after March 14, 1995 and that is controlled by an add-on APCD whose first installation date was prior to the effective date of the rule.
  - 80 percent overall control for a press that was first installed on or after March 14, 1995 and that is controlled by an add-on APCD whose first installation date was on or after the effective date of the rule.

## III. Final Action

Maryland's April 23, 2010 SIP revision meets the CAA requirement to include RACT for sources covered by the EPA CTG for flexible package printing. Therefore, EPA is approving the Maryland SIP revision for adoption of the CTG standards for flexible packaging printing. 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 November 26, 2010 without further notice unless EPA receives adverse comment by October 27, 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.

## IV. 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 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 November 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action pertaining to Maryland’s adoption of the CTG standards for flexible packaging printing 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2010.

**W.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 V—Maryland**

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.19.10 and adding an entry for COMAR 26.11.19.10–1 to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*  
(c)\* \* \*

**EPA-APPROVED REGULATIONS IN THE MARYLAND SIP**

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
* * * * *				
<b>26.11.19 Volatile Organic Compounds from Specific Processes</b>				
* * * * *				
26.11.19.10 .....	Flexographic and rotogravure printing .....	4/19/10	September 27, 2010 .....	Revision to section .10(B)(2).
26.11.19.10–1 .....	Flexible packaging printing .....	4/19/10	September 27, 2010 .....	New Regulation.
* * * * *				

\* \* \* \* \*  
 [FR Doc. 2010-24000 Filed 9-24-10; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R09-OAR-2010-0585; FRL-9204-9]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Nevada; Redesignation of Las Vegas Valley to Attainment for the Carbon Monoxide Standard**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve the State of Nevada’s request to redesignate to attainment the Las Vegas Valley nonattainment area for the carbon monoxide national ambient air quality standard. EPA is also taking final action to approve the carbon monoxide maintenance plan and motor vehicle emissions budgets for the area, as well as certain additional revisions to the Nevada state implementation plan that relate to Las Vegas Valley. These

revisions include the suspension of a local wintertime cleaner burning gasoline rule, and the relaxation of a State rule governing wintertime gasoline in Clark County. EPA’s proposed approval of the redesignation request and maintenance plan had been made contingent upon receipt of a supplemental submittal from the State of Nevada containing a commitment to seek reinstatement of the existing vapor pressure limit in the State wintertime gasoline rule, if necessary, to implement the related contingency measure in the maintenance plan. Nevada has now submitted, and EPA is today approving, the necessary commitment as a revision to the Nevada state implementation plan.

**DATES:** *Effective Date:* This rule is effective on September 27, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2010-0585 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in

either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Karina O’Connor, EPA Region IX, (775) 833-1276, [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” and “our” refer to EPA. This supplementary information is organized as follows:

**Table of Contents**

- I. Proposed Action
- II. Public Comments
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On July 29, 2010 (75 FR 44734), we proposed to approve the Nevada Division of Environmental Protection’s (NDEP’s) request to redesignate to attainment the Las Vegas Valley<sup>1</sup> carbon monoxide (CO) nonattainment area located within Clark County, Nevada, and related revisions to the Nevada state implementation plan (SIP). The specific SIP revision submittals that we proposed to approve are listed in the following table:

Plan or rule	Adoption date(s)	State of Nevada submittal date(s)
Carbon Monoxide Redesignation Request and Maintenance Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada (September 2008).	Adopted by the Clark County Board of Commissioners on September 2, 2008.	Submitted by NDEP by letter dated September 18, 2008.
Clark County Air Quality Regulations, Section 54 (“Cleaner Burning Gasoline (CBG): Wintertime Program”) (Suspended).	Adopted by the Clark County Board of Commissioners on September 15, 2009, effective September 29, 2009.	Submitted by NDEP by letter dated March 26, 2010.
Nevada Administrative Code (NAC) section 590.065 (amended) .....	Adopted by the Nevada Board of Agriculture on December 9, 2009, effective January 28, 2010.	Submitted by NDEP by letter dated March 26, 2010.

We proposed to approve NDEP’s redesignation request because we found that the area meets all of the criteria for redesignation under section 107(d)(3)(E)(i) through (v) of the Clean Air Act (CAA or “Act”), as discussed in the following paragraphs.

- Based on our review of the monitoring network and complete, quality-assured data for 2008–2009 up to the present time, we proposed to find that Las Vegas Valley has attained, and continues to attain, the CO standard and

thus meets the criterion for redesignation set forth in section 107(d)(3)(E)(i). See the July 29, 2010 proposed rule at pages 44738–44739.

- Based on our review of previous rulemakings approving various rules and plans affecting the Las Vegas Valley CO nonattainment area, we proposed to find that, with the sole exception of the CO milestone requirement, the area has a fully approved SIP under CAA section 110(k) that meets all of the applicable requirements under CAA section 110

and part D for the purposes of redesignation and thereby meets the criteria for redesignation under CAA section 107(d)(3)(E)(ii) and (v). See the July 29, 2010 proposed rule at pages 44739–44743. With respect to the CO milestone requirement under CAA section 187(d), we proposed to adapt to CO nonattainment areas the provisions of our Clean Data Policy, which was initially established for ozone (see discussion at 75 FR 44742). Under the Clean Data Policy, certain CAA Part D

<sup>1</sup> Specifically, the Las Vegas Valley CO nonattainment area is defined by reference to State hydrographic area #212. See 40 CFR 81.329. The Las Vegas Valley encompasses roughly 1,500 square miles within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson.

Roughly two million people reside in Clark County, mostly within Las Vegas Valley. NDEP is the state agency under state law that is responsible for SIP matters for the State of Nevada. Within Clark County, the Clark County Board of Commissioners, acting through the Department of Air Quality and

Environmental Management (DAQEM), is empowered under state law to develop air quality plans and to regulate stationary sources within the county with the exception of certain types of power plants, which lie exclusively within the jurisdiction of NDEP.