



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2025-0734; FRL-13009-02-R3]

Air Plan Approval; District of Columbia; Creation of Synthetic Minor Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Department of Energy and Environment (DOEE) on behalf of the District of Columbia (DC). The revision pertains to creating a synthetic minor permit program and resolving the regulatory differences between DC's current regulations and those regulations approved previously in Chapters 1 and 2 of the Air Quality Regulations codified in title 20 of the District of Columbia Municipal Regulations (DCMR). The intended effect of this action is to enable DC to create federally enforceable synthetic minor permit conditions for sources of criteria pollutants. The EPA is approving these revisions to the DC SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2025-0734. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information the disclosure of which 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 through www.regulations.gov, or please contact the person identified in the **For Further Information Contact** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2339. Mr. He can also be reached via electronic mail at *he.yongtian@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 20, 2025 (90 FR 52305), the EPA published a notice of proposed rulemaking (NPRM) for the District of Columbia. In the NPRM, the EPA proposed the approval of a revision to the DC SIP to create a synthetic minor permit program and to address regulatory differences between DC's current regulations and those approved previously in Chapters 1 and 2 of the Air Quality Regulations. The formal SIP revision was submitted by DOEE on August 11, 2023.

A SIP-approved minor source permitting program can include provisions for issuing permits that establish federally enforceable emissions limits to restrict the Potential to Emit (PTE) of certain pollutants below major stationary source and major modification applicability thresholds. "Synthetic minor" permits establish these federally enforceable emission limits for sources obtaining construction permits and also establish these emission limits in the corresponding operating permits.

This DC SIP revision is intended to create a synthetic minor permit program through provisions in title 20 of the District of Columbia Municipal Regulations (20 DCMR), specifically 20 DCMR Chapter 2 sections 200.6 and 200.7 as amended, in conjunction with other provisions that already existed in 20 DCMR Chapters 1 and 2, that were previously approved into the DC SIP. These provisions enable a new source or modification of an existing source to limit its PTE below major source thresholds in order to qualify as a minor source or minor modification and to avoid applicability of major new source review (NSR) requirements, including the requirements of the prevention of significant deterioration (PSD) program in attainment areas and of the

nonattainment NSR (NNSR) program in nonattainment areas. These provisions also allow new sources or modifications of existing sources to avoid Title V major source status by limiting their PTE. The SIP approved synthetic minor program will provide sources a mechanism to avoid Title V and new source review major source applicability and make those synthetic minor permit conditions both enforceable by DC and at the Federal level.

II. Summary of SIP Revision and EPA Analysis

The District of Columbia submitted a SIP revision to create a synthetic minor permitting program. Section 200 (General Permit Requirements) of 20 DCMR Chapter 2 (General and Non-attainment Area Permits) establishes synthetic minor program provisions. Section 200.6 allows DOEE to establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a source so as to avoid applicability of the permitting requirements of section 300.1 (i.e. Title V). Essentially, this provision creates a synthetic minor operating permit program, along with other provisions in 20 DCMR Chapter 2. Similarly, section 200.7 effectively creates a synthetic minor preconstruction permit program. Through provisions in sections 200.6, 200.7, and other sections in 20 DCMR Chapter 2, DOEE establishes a synthetic minor program to issue synthetic minor operating permits and synthetic minor preconstruction permits in DC.

In a June 28, 1989 Final Rule, the EPA established five criteria for an approvable state operating permit program. *See* 54 FR 27274. While that action is not directly applicable to the current DC SIP revision, as discussed in the NPRM, those criteria are useful for purposes of evaluating a State's synthetic minor program. The NPRM of this action described in detail how DOEE's SIP submittal satisfies each of these five criteria. *See* 90 FR 52305, November 20, 2025. In short, DC's synthetic minor program is consistent with the five criteria for approving a state operating permit program into a SIP. Permits issued under an approved program are federally enforceable and may be used to limit the PTE for sources of criteria air pollutants. In meeting those five criteria in the 1989 Final Rule, DC's synthetic minor program also meets the

requirements of 40 CFR 51.160 through 51.165 on legally enforceable procedures, public availability of information, identification of responsible agency, administrative procedures, stack height procedures, and permit requirements. The DC SIP submission also meets the public notice and public hearing requirements of CAA section 110(l). The EPA finds that these revisions in the DC SIP will not interfere with any applicable requirements concerning attainment and reasonable further progress, or any other applicable CAA requirement. Therefore, the DC SIP revision meets the requirements of section 110 of the CAA.

Additional rationale for the EPA's now final action is explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

The EPA received three sets of comments on its November 20, 2025 proposed action to approve revisions to the DC SIP. These comments, provided by Earthjustice, Citizens Rulemaking Alliance, and an anonymous concerned citizen, raised concerns with regard to the EPA's November 20, 2025 proposed action. A full set of these comments is provided in the docket for this final action. A summary of the comments and the EPA's responses are provided below.

Earthjustice comment 1: The commenter raised concerns on the public participation requirements in the proposed permitting program. The DC's proposed SIP revision expressly waives public participation requirements for individual applications for coverage by source category permits (the DC's version of "general" permits or permits by rule). The commenter asserts that the DC's submission also fails to ensure effective public notice of proposed permits. The commenter further asserts that provisions in section 210.4 arbitrarily assume that providing notice by *just one* of these means will "ensure appropriate means of notification."

EPA response: The EPA disagrees with the commenter. A "General Permit" (or "source category permit" in DC) refers to a pre-approved permit which applies to a specific class of significant sources. By issuing a General Permit, DOEE indicates that it approves the activities

authorized by the General Permit, provided that the owner or operator of the source registers with DOEE and meets the requirements of the General Permit. The purpose of a General Permit is to improve efficiency and consistency, *i.e.*, to reduce the burden of individual permits for minor sources, and to ensure all sources in a category meet the same standards. General Permits or source category permits also improve efficiency and reduce the administrative burden on air permitting authorities; thus, it is a commonly adopted practice among many State and local air permitting authorities to issue General Permits. Public participation is typically conducted prior to the issuance of a General Permit; public participation is not required when an individual source applies to be covered by a source category permit or General Permit.

The commenter incorrectly characterizes the requirements in the DC's public participation provisions. In addition to section 210.4, section 210.3 has further requirements for public participation. Specifically, 20 DCMR 210.3 states that DOEE shall publish a notice regarding the draft permit or denial in the D.C. Register and shall make the information required by section 210.2 available for public inspection at the DOEE's office and by one or more of the methods described in section 210.4.

Earthjustice comment 2: The commenter is concerned that the DC's submission provides a path for existing major sources to seek reclassification to non-major source status without requiring continued adherence to the more stringent controls required by the SIP under its prior major source status. The commenter contends that the revision is not in compliance with the EPA's rule governing synthetic minor programs (54 FR 27274, 27282, June 28, 1989).

EPA response: The EPA disagrees with the commenter. The commenter incorrectly characterizes how the synthetic minor permit program works, because reclassification from a major source to a synthetic minor source does not weaken any controls that may be required by the SIP for a source under the source's prior major status. Classification of a source either as a major source or synthetic minor source is based on its PTE compared to the threshold that defines whether the source is a major source or a minor source. The reclassification process does

not change the source's emission limits or requirements, and it does not waive or make less stringent any applicable limitations and requirements for the source. Thus, the reclassification process does not weaken any more stringent controls that may be required by the SIP. Therefore, this action does not violate any EPA rule governing the synthetic minor program.

Earthjustice comment 3: The commenter asserts that the DC SIP revision did not provide assurance of adequate resources for the synthetic minor permit program. The Clean Air Act requires each SIP to provide necessary assurances that the State will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out the plan. *See* 42 U.S.C. 7410(a)(2)(E)(i). The commenter asserts that the DC's submission contains no such assurances.

EPA response: The EPA disagrees with the commenter. The synthetic minor program is only a part of DOEE's air permit programs. Other regulations in DC's SIP have been established by DC and approved by the EPA to ensure that collectively, DOEE has adequate personnel, funding, and authority to implement its air permit programs. For example, sections 105 and 106 in Chapter 1, sections 202 and 211 in Chapter 2, and section 305 in Chapter 3 have codified requirements related to procedures, resources, and the legal authority for implementation of synthetic minor permit programs. Specifically, 20 DCMR section 105 details the procedures on penalties, cost recovery, and injunctive relief for violations of any air quality laws or regulations. 20 DCMR section 106 details the enforcement process. 20 DCMR section 202 details the procedures for amendment, suspension, revocation, and denial of permits. 20 DCMR sections 211 and 305.5 detail the synthetic minor permit program's fee requirements for the construction, modification, or operation of a stationary source, or the installation, modification or operation of any air pollution control device on a stationary source.

Earthjustice comment 4: The commenter asserts that DC needs to clarify the procedures for judicial review provisions. The commenter asserts that because 20 DCMR Chapter 2 does not contain its own judicial review provisions within the chapter itself, the EPA must reject

DOEE's proposed revisions to the SIP and require that DOEE revise and make clear the public's right to judicial review.

EPA response: The EPA disagrees with the commenter. The judicial review provisions for DC synthetic minor permits, issued pursuant to 20 DCMR Chapter 2, are detailed in 20 DCMR Chapter 1, section 107.1. The provisions of 20 DCMR Chapter 3, specifically section 300, do not indicate that Chapter 3 is applicable to such permits. The period for appeal in Chapter 1, section 107.1 is consistent with DC statute.

Anonymous concerned citizen comment 1: The commenter raises concerns alleging structural failures of synthetic minor programs, asserting that synthetic minor permitting regimes have a documented history of abuse, under-enforcement, and emissions gaming.

EPA response: The comment is a broad comment about synthetic minor permitting in general. The commenter did not identify any purported flaws in DOEE's regulations, nor did they identify any specific issues regarding the EPA's proposed approval. Therefore, the EPA does not consider the comment to be relevant to this specific rulemaking and will not respond further.

Anonymous concerned citizen comment 2: The commenter raises concerns alleging that the SIP revision is an arbitrary and capricious action under the Administrative Procedure Act (APA). The commenter contends that the proposed action fails to adequately address the cumulative emissions impacts of synthetic minor facilities, the practical infeasibility of monitoring self-imposed limits, and the documented history of noncompliance associated with such programs. The commenter further asserts that the EPA also fails to explain any departure from prior agency positions recognizing the inherent risks posed by synthetic minor permitting, citing a report from the EPA's Office of Inspector General that repeatedly identified deficiencies in States' implementation of their minor source permitting programs.

EPA response: The comment is a broad comment on governmental agency actions in general and does not identify issues specific to the proposed action.

One of the main goals of the CAA is to assure the achievement and maintenance of the NAAQS in every state of the US. The state and local air districts establish laws, regulations, and specific air permitting programs to regulate the air pollution emissions from industrial sources so that the area under its jurisdiction can achieve and maintain the NAAQS. Whether an area's air quality meets the NAAQS or not is the ultimate criterion for evaluating the cumulative impacts of all air emissions sources in the area (including synthetic minor sources, which are the focus of this rulemaking). This action is neither arbitrary nor capricious since the SIP revision's underlying rationale and purpose will help DC achieve and maintain the NAAQS and enable DC to implement its CAA programs more efficiently. Furthermore, there is a rational connection between the facts and the agency action proposed in the NPRM, as well as the procedural requirements followed for public notice and comment by the EPA, that sufficiently demonstrate that the EPA did not act arbitrarily and capriciously in proposing to approve the DC synthetic minor permit program; therefore, this action did not violate the APA.

The EPA disagrees with the comment that this NPRM deviates from prior agency positions recognizing risks posed by synthetic minor permitting. The EPA does agree that the identification of deficiencies in States' implementation of their minor source permitting programs by the EPA's Office of Inspector General helps strengthen some aspects of States' synthetic minor programs such as monitoring, recordkeeping, and enforcement by highlighting these deficiencies so that States can address them.

Anonymous concerned citizen comment 3: The commenter raises concerns of environmental justice and public health impacts of the SIP revision. The commenter asserts that synthetic minor programs disproportionately affect communities already burdened by industrial pollution, and that the SIP revision's failure to assess these disparate impacts is inconsistent with Executive Order 12898 and the EPA's stated environmental justice obligations.

EPA response: The EPA disagrees with the commenter. This action is consistent with Executive Order (E.O.) 14173 of January 21, 2025 (Ending Illegal Discrimination and Restoring

Merit-Based Opportunity), which rescinded E.O. 12898 on environmental justice, and Executive Order 14148 of January 20, 2025, (Initial Rescissions of Harmful Executive Orders and Actions) which rescinded E.O. 14096 “Revitalizing Our Nation’s Commitment to Environmental Justice for All”.

Citizens Rulemaking Alliance comment 1: The commenter asserts that the Regulatory Flexibility Act (RFA)/the Small Business Regulatory Enforcement Fairness Act (SBREFA) showing made by the EPA is inadequate because the EPA’s proposal appears to rely on standard SIP-approval boilerplate language stating that such actions “merely approve state law and do not impose additional requirements”. The commenter further asserts that the EPA should either prepare an Initial Regulatory Flexibility Analysis (IRFA) or provide a record-supported 5 U.S.C. 605(b) certification that squarely addresses the incremental federalization of obligations and enforcement exposure, and that the EPA should also convene a SBREFA panel if an IRFA is required.

EPA response: The EPA disagrees with the commenter. The RFA and SBREFA are inapplicable to this rulemaking because the EPA has certified that this rule will not have a significant economic impact on a substantial number of small entities. The regulatory analysis provisions of the RFA are only triggered by a threshold determination by the Agency that this rule will have a significant economic impact on a substantial number of small entities. Because the Agency has certified this rule will not have a significant economic impact on a substantial number of small entities, sections 603 and 604 of the RFA do not apply to this rulemaking. *See* 5 U.S.C. 605(b).

Citizens Rulemaking Alliance comment 2: The commenter contends that there are Paperwork Reduction Act (PRA) issues with this action. The commenter asserts that the EPA should identify the specific monitoring, recordkeeping, and reporting (MRR) provisions being approved, determine whether they constitute “collections of information” required by or for the EPA, and either: (a) obtain an Office of Management and Budget (OMB) control number before

finalizing this action, or (b) provide a reasoned explanation, grounded in the text of the approved provisions and OMB's regulations, for why the PRA does not apply to this action.

EPA response: The EPA disagrees with the commenter. The EPA has complied with the PRA by certifying in the rule that the PRA does not apply because the action does not involve an information collection burden as defined by the Act. *See* 44 U.S.C. 3502(2).

Citizens Rulemaking Alliance comment 3: The commenter asserts that the EPA should provide a reasoned explanation for its assessment regarding E. O. 12866, including any Office of Information and Regulatory Affairs (OIRA) significance determination, or submit the action for review if it has not already done so.

EPA response: A "significant regulatory action," as defined by E.O. 12866, generally is any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. This rulemaking does not meet any of these four criteria that define a "significant regulatory action." The EPA has complied with E.O. 12866 by determining that this rulemaking is not a significant regulatory action as defined in E.O. 12866.

Citizens Rulemaking Alliance comment 4: The commenter asserts that the proposal contains only conclusory statements that SIP approvals do not impose "unfunded mandates" as pertinent to the Unfunded Mandates Reform Act (UMRA). At minimum, the commenter asserts that the EPA should explain whether this approval "may result in the expenditure by the private sector of \$100,000,000 or more in any one year" (*see* 2 U.S.C. 1532) and provide its underlying

calculations or the basis for concluding the threshold is not approached in DC.

EPA response: The EPA has complied with the UMRA. This action does not impose an unfunded mandate and the EPA has made its own determination that this rule will not result in expenditures of \$100M or more in any one year by state, local, or tribal governments, in the aggregate, or by the private sector, and therefore the Agency does not need to complete a statement under 2 U.S.C. 1532.

IV. Final Action

The EPA is approving the changes to the DOEE's permit program in 20 DCMR Chapter 2 to create a synthetic minor permit program as a revision to the District of Columbia SIP, pursuant to the CAA and the approval criteria specified in the June 28, 1989 Federal Register document (54 FR 27274 through 27286, June 28, 1989).

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the DC air quality regulations in Chapter 2 of 20 DCMR, as described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region III Office (please contact the person identified in the **For Further Information Contact** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission

¹ 62 FR 27968 (May 22, 1997).

that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any

other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. 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. This action to approve the revisions to the DC SIP may not be challenged later in proceedings to enforce its requirements. (See CAA 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, Sulfur oxides, Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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 revising the entries for “Section 200”, “Section 202”, and “Section 210” to read as follows:

§ 52.470 Identification of plan.

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(c)* * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DISTRICT OF COLUMBIA SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
District of Columbia Municipal Regulations (DCMR), Title 20—Environment				
* * * * *				
CHAPTER 2 GENERAL AND NON-ATTAINMENT AREA PERMITS				
Section 200	General Permit Requirements	6/5/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Revised subsections 200.6, 200.7, 200.8, 200.9, 200.10, 200.11, 200.12, and 200.13. Added subsections 200.14 and 200.15.
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Section 202	Amendment, Suspensions, Revocation, and Denial of Permits	6/5/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Revised subsections 202.1 and 202.2. Added subsections 202.6,202.7, and 202.8.
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Section 210	Notice and Comment Prior to Permit Issuance	6/5/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	Revised subsections 210.3, 210.4, and 210.5. Added subsection 210.6.
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[FR Doc. 2026-12898 Filed: 6/25/2026 8:45 am; Publication Date: 6/26/2026]