

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation
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10 Year Maintenance Plan Update for the Raleigh/Durham Area	6/4/04	9/20/04	[Insert citation of publication]
10 Year Maintenance Plan Update for the Greensboro/Winston-Salem/High Point Area.	6/4/04	9/20/04	[Insert citation of publication]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD153-3111; FRL-7813-1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Major Stationary Source Applicability for Reasonably Available Control Technology and Permitting and Revised Offset Ratios for the Washington Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to changes in Maryland's regulations for new source permitting for major sources of volatile organic compound (VOC) and nitrogen oxides (NO_x) emissions and regulations requiring reasonably available control technology on major stationary sources of nitrogen oxides in the Washington, DC ozone nonattainment area. The revision modifies the currently approved SIP to make the following changes applicable in the Washington, DC ozone nonattainment area: modify the emissions offset ratio; lower the applicability threshold of the new source review (NSR) permit program; and, lower the applicability threshold of the NO_x reasonable available control technology (NO_x RACT) rule. Maryland made these changes in response to the reclassification of the Washington, DC ozone nonattainment area to severe nonattainment. The intended effect of this action is to approve these changes to Maryland's NSR permitting program and NO_x RACT regulations for the Washington, DC ozone nonattainment area.

EFFECTIVE DATE: This final rule is effective on October 20, 2004.

ADDRESSES: Copies of the documents relevant to this action are available for

public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814-2179, or by e-mail at cripps.christopher@epa.gov.
SUPPLEMENTARY INFORMATION:

I. Background

On June 14, 2004, (69 FR 32928), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of a SIP revision that pertains to changes in Maryland's regulations for new source permitting for major sources of VOC and NO_x emissions and NO_x RACT regulations requiring RACT on major stationary sources of NO_x emissions in the Washington, DC ozone nonattainment area. The formal SIP revision was submitted by Maryland on December 1, 2003.

II. Summary of SIP Revision

On December 1, 2003, the Maryland Department of the Environment submitted a revision (MD SIP Revision Number 03-08) to the Maryland State Implementation Plan (SIP) for the Washington, DC ozone nonattainment area. This revision amends the approved Maryland SIP to: revise the definition of major stationary source in the Code of Maryland Regulations (COMAR) 26.11.17.01B(13); incorporate changes in the general provisions found in COMAR 26.11.17.03B(3), which require proposed new major stationary sources to obtain emission reductions, or offsets, of the same pollutant from existing sources in the area of the proposed source at a ratio of 1.3 tons of existing emissions for every 1 ton of proposed emissions; and change the threshold of applicability of Maryland's NO_x RACT regulation, COMAR 26.11.09.08 to

sources with emission of 25 or more tons per year of NO_x.

Other specific requirements of these changes to COMAR 26.11.17.01B(13), COMAR 26.11.17.03B(3) and COMAR 26.11.09.08 and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving changes to COMAR 26.11.17.01B(13), COMAR 26.11.17.03B(3) and COMAR 26.11.09.08 submitted by the Maryland Department of the Environment on December 1, 2003 as a revision to the Maryland SIP.

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 November 19, 2004. 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 Maryland's December 1, 2003 SIP revision pertaining to changes to Maryland's regulations for permitting of major sources of VOC and NO_x emissions and for NO_x RACT 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 3, 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 V—Maryland

■ 2. Section 52.1070 is amended by adding paragraph (c)(191) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(191) Revision to the Maryland Regulations pertaining to changes to control of fuel-burning equipment, stationary internal combustion engines and certain fuel-burning installations and to changes to requirements for major new sources and modifications submitted on December 1, 2003 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of December 1, 2003 from the Maryland Department of the Environment transmitting changes to control of fuel-burning equipment, stationary internal combustion engines and certain fuel-burning installations

and to changes to requirements for major new sources and modifications in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR).

(B) Revisions to COMAR

26.11.09.08A(1), pertaining to control of NO_x emissions for major stationary sources adopted by the Secretary of the Environment on October 21, 2003, and effective on November 24, 2003.

(1) Revision to COMAR

26.11.09.08A(1)(a).

(2) Deletion of COMAR

26.11.09.08A(1)(b).

(3) Renumbering of COMAR

26.11.09.08A(1)(c) to COMAR

26.11.09.08A(1)(b).

(C) Revisions to COMAR

26.11.17.01B(13) pertaining to requirements for major new sources and modifications adopted by the Secretary of the Environment on October 21, 2003, and effective on November 24, 2003.

(1) Revisions to COMAR

26.11.17.01B(13)(a)(i) and (13)(a)(ii).

(2) Deletion of COMAR

26.11.17.01B(13)(a)(iii).

(3) Renumbering of COMAR

26.11.17.01B(13)(a)(iv) to 01B(13)(a)(iii), and 26.11.17.01B(13)(a)(v) to 01B(13)(a)(iv).

(D) Revisions to COMAR 26.11.17.03B pertaining to requirements for major new sources and modifications adopted by the Secretary of the Environment on October 21, 2003, and effective on November 24, 2003.

(1) Revision to COMAR

26.11.17.03B(3)(a).

(2) Deletion of COMAR

26.11.17.03B(3)(b).

(3) Renumbering of COMAR

26.11.17.03B(3)(c) to 03B(3)(b), and

03B(3)(d) to 03B(3)(c).

(ii) Additional Material—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(191)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 146, 148—200419; IN 121-4; FRL-7812-4]

Approval and Promulgation of Implementation Plans; Kentucky and Indiana: Approval of Revisions to 1-Hour Ozone Maintenance Plan for Louisville Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.