

§ 125.8 [Removed and Reserved]

■ 13. § 125.8 is removed and reserved.

Dated: October 15, 2003.

John R. Bolton,*Under Secretary, Arms Control and International Security, Department of State.*
[FR Doc. 03-27039 Filed 10-24-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[MD146-3103; FRL-7578-1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Modifications to the Attainment Plans for the Baltimore Area and Cecil County Portion of the Philadelphia Area To Revise the Mobile Budgets Using MOBILE6**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions to revise the mobile budgets in the one-hour ozone attainment demonstration plans for the Baltimore nonattainment area (the Baltimore area) and the Cecil County portion of the Philadelphia-Wilmington-Trenton nonattainment area (the Philadelphia area). These revisions were submitted by the Maryland Department of the Environment on September 2, 2003. The intended effect of this action is to approve these SIP revisions as meeting the requirements of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on November 26, 2003.

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; and at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

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

SUPPLEMENTARY INFORMATION:**I. Background**

On July 9, 2003 (68 FR 40861), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of revised mobile emission inventories and 2005 motor vehicle emissions budgets which have been developed using MOBILE6, an updated model for calculating mobile emissions of ozone precursors. These inventories and associated motor vehicle emissions budgets are part of the one-hour ozone attainment plans approved for the Metropolitan Baltimore nonattainment area (the Baltimore area) and the Cecil County portion of the Philadelphia-Wilmington-Trenton nonattainment area (the Philadelphia area). The intended effect of this action is to approve SIP revisions that will better enable the State of Maryland to continue to plan for attainment of the one-hour national ambient air quality standard (NAAQS) for ozone in the Baltimore area and the Cecil County portion of the Philadelphia area. This action is being taken under the Clean Air Act.

These SIP revisions were proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its SIP. The state's proposed SIP revisions were submitted to EPA on May 28, 2003 by the Maryland Department of the Environment (MDE). On July 9, 2003 (68 FR 40861), EPA proposed approval of Maryland's May 28, 2003 submittal. No comments were received during the public comment period on EPA's July 9, 2004 proposal. The MDE formally submitted the final SIP revision on September 2, 2003. That final submittal had no substantial changes from the proposed version submitted on May 28, 2003. A detailed description of Maryland's submittal and EPA's rationale for its proposed approval were presented in the July 9, 2003 notice of proposed rulemaking and will not be restated in its entirety here.

II. Summary of SIP Revisions

Maryland's September 2, 2003 SIP revisions contain revised 1990 and 2005 motor vehicle inventories and emissions budgets calculated using the MOBILE6 motor vehicle emissions model. Consistent with EPA's "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" and "Clarification of Policy Guidance for MOBILE6 in Mid-course

Review Areas", regarding the use of MOBILE6 in SIP development, the MDE's submittal included relative reduction comparisons to show that the one-hour ozone attainment demonstration plans for both the Baltimore and Philadelphia areas continue to demonstrate attainment using revised MOBILE6 mobile vehicle emissions. The MDE's methodology for the relative reduction comparison consisted of comparing the new MOBILE6 vehicle emissions with those previously approved using MOBILE5 for the Baltimore and the Philadelphia areas' attainment plans (see October 30, 2001, 66 FR 54687) to determine if attainment will still be predicted by the established attainment dates. Specifically, the State calculated the relative reductions (expressed as percent reductions) in ozone precursors between the 1990 base year and attainment year inventories, both MOBILE5 based. These percent reductions were then compared to the percent reductions between the revised MOBILE6-based 1990 base year and attainment year inventories. These relative reduction comparisons show that the one-hour ozone attainment demonstration plans for both the Baltimore area and the Philadelphia area continue to demonstrate attainment using revised MOBILE6 mobile vehicle emissions.

III. Final Action

EPA is taking final action to approve Maryland's September 2, 2003 SIP revisions. These revisions amend the 1990 and 2005 motor vehicle emissions inventories and 2005 motor vehicle emissions budgets of the attainment demonstration plans for the Baltimore area and the Cecil County portion of the Philadelphia area using MOBILE6. In accordance with the parallel processing procedures, EPA has evaluated Maryland's final SIP revisions submitted on September 2, 2003 and finds that no substantial changes were made from the proposed SIP revisions submitted on May 28, 2003. Maryland has demonstrated that the revised one-hour attainment demonstration plans for the Baltimore and the Philadelphia areas continue to demonstrate attainment with the revised MOBILE6-based inventories and budgets. The revised mobile inventories and emissions budgets being approved for the two nonattainment areas are shown below in Tables 1 and 2 respectively.

TABLE 1.—MARYLAND'S REVISED MOTOR VEHICLE EMISSIONS INVENTORIES

Nonattainment area	1990		2005	
	VOC (tpd)	NO _x (tpd)	VOC (tpd)	NO _x (tpd)
Baltimore	165.14	228.21	55.3	146.9
Cecil County	8.6	17.3	3.0	11.3

TABLE 2.—MARYLAND MOTOR VEHICLE EMISSIONS BUDGETS

Nonattainment area	2005 Attainment	
	VOC (tpd)	NO _x (tpd)
Baltimore	55.3	146.9
Cecil County	3.0	11.3

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 (Pub. L. 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 December 26, 2003. 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 SIP revisions to the one-hour ozone attainment demonstration plans for the Baltimore area and the Cecil County portion of the Philadelphia area which revise the 1990 and 2005 motor vehicle emissions inventories and 2005 motor vehicle emissions budgets using MOBILE6 may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 16, 2003.

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 52.1076 is amended by revising paragraphs (h), (i), (k), and (l), and adding paragraph (m) to read as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(h) EPA approves the attainment demonstration for the Philadelphia area submitted as a revision to the State Implementation Plan by the Maryland Department of the Environment on April 29, 1998, August 18, 1998,

December 21, 1999, December 28, 2000, August 31, 2001, and September 2, 2003 including its RACM analysis and determination. EPA is also approving the revised enforceable commitments made to the attainment plan for the Baltimore severe ozone nonattainment area which were submitted on

December 28, 2000. The enforceable commitments are to submit measures by October 31, 2001 for additional emission reductions as required in the attainment demonstration test, and to revise the SIP and motor vehicle emissions budgets by October 31, 2001 if the additional measures affect the

motor vehicle emissions inventory; and to perform a mid-course review by December 31, 2003.

(i) EPA approves the following mobile budgets of Maryland's attainment plan for the Philadelphia area:

TRANSPORTATION CONFORMITY BUDGETS FOR THE MARYLAND PORTION OF THE PHILADELPHIA AREA

Type of control strategy SIP	Year	VOC (TPD)	NO _x (TPD)
Attainment Demonstration	2005	3.0	11.3

(1) [Reserved]

(2) Similarly, EPA is approving the 2005 attainment demonstration and its current budgets because Maryland has provided an enforceable commitment to submit new budgets as a SIP revision to the attainment plan consistent with any new measures submitted to fill any shortfall, if the new additional control measures affect on-road motor vehicle emissions.

* * * * *

(k) EPA approves the attainment demonstration for the Baltimore area

submitted as a revision to the State Implementation Plan by the Maryland Department of the Environment on April 29, 1998, August 18, 1998, December 21, 1999, December 28, 2000, August 20, 2001, and September 2, 2003 including its RACM analysis and determination. EPA is also approving the revised enforceable commitments made to the attainment plan for the Baltimore severe ozone nonattainment area which were submitted on December 28, 2000. The enforceable commitments are to submit measures by

October 31, 2001 for additional emission reductions as required in the attainment demonstration test, and to revise the SIP and motor vehicle emissions budgets by October 31, 2001 if the additional measures affect the motor vehicle emissions inventory; and to perform a mid-course review by December 31, 2003.

(l) EPA approves the following mobile budgets of the Baltimore area attainment plan:

TRANSPORTATION CONFORMITY BUDGETS FOR THE BALTIMORE AREA

Type of control strategy SIP	Year	VOC (TPD)	NO _x (TPD)
Attainment Demonstration	2005	55.0	146.9

(1) [Reserved]

(2) Similarly, EPA is approving the 2005 attainment demonstration and its current budgets because Maryland has provided an enforceable commitment to submit new budgets as a SIP revision to the attainment plan consistent with any new measures submitted to fill any shortfall, if the new additional control measures affect on-road motor vehicle emissions.

(m) EPA approves the State of Maryland's revised 1990 and the 2005 VOC and NO_x highway mobile emissions inventories and the 2005 motor vehicle emissions budgets for the one-hour ozone attainment plans for the Baltimore severe ozone nonattainment area and the Cecil County portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. These revisions were submitted by the Maryland Department of the Environment on September 2, 2003. Submission of these revised MOBILE6-based motor vehicle emissions inventories was a requirement of EPA's approval of the attainment

demonstration under paragraphs (h) and (k) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN79-2; FRL-7578-6]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the EPA is withdrawing the direct final rule approving a site-specific revision to the Minnesota sulfur dioxide (SO₂) Implementation Plan (SIP) for Xcel Energy (formerly known as Northern States Power Company) Inver Hills Generating Plant located in the City of Inver Grove Heights, Dakota County,

Minnesota. In the direct final rule published on September 2, 2003 (68 FR 52110), EPA stated that if EPA receives adverse comment by October 2, 2003, the SO₂ rule would be withdrawn and not take effect. On September 2, 2003, EPA subsequently received one comment. We believe this comment is adverse and therefore, we are withdrawing the direct final rule. EPA will address the comment received in a subsequent final action based on the proposed action published on September 2, 2003.

DATES: The direct final rule published at 68 FR 52110 on September 2, 2003 is withdrawn as of October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Christos Pantos, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 353-8328. E-mail address: panos.christos@epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.