

that this proposed 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 proposes to approve 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will 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), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk

and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule to approve permits issued by the Commonwealth of Virginia to control NO_x emissions from the Potomac River Generating Station and the Possum Point Generating Station does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 13, 2000.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD106-3058; FRL-6888-3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision requires major sources of nitrogen oxides (NO_x) in the State of Maryland to implement reasonably available control technology (RACT). This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before November 9, 2000.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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 the Maryland Department of the

Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT:

Kelly L. Bunker, (215) 814-2177 or by e-mail at bunker.kelly@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Maryland is required to implement RACT for all major NO_x sources by no later than May 31, 1995. The definition of a major source is determined by its size, location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The entire State of Maryland is included in the OTR. The Baltimore nonattainment area and Cecil County are classified as severe nonattainment areas. Calvert, Charles, Frederick, Montgomery and Prince George's Counties are classified as serious ozone nonattainment areas. The remaining counties in Maryland are classified as marginal or in attainment. However, under section 184 of the CAA, at a minimum, moderate area requirements for stationary sources, including RACT as specified in sections 182(b)(2) and 182(f), apply throughout the OTR. Therefore, RACT is applicable statewide in Maryland. Section 182 of the Act defines a major NO_x source as one that emits or has the potential to emit 25 or more tons of NO_x per year (TPY) in any ozone nonattainment area classified as severe, or 50 or more TPY located in any ozone nonattainment area classified as serious. For any area in the OTR classified as attainment or marginal nonattainment, sections 182 and 184 of the Act define a major stationary source of NO_x as one that emits or has the potential to emit 100 or more TPY.

On July 11, 1995, the Maryland Department of the Environment (MDE) submitted a revision to its State Implementation Plan (SIP) for the control of NO_x emissions from major sources. This submittal included revisions to regulation COMAR 26.11.09.01 and 26.11.09.08 which pertained to definitions and a "generic" NO_x RACT rule. This generic rule required affected sources to either meet a presumptive NO_x emissions standard or to submit a "case-by-case" RACT proposal for approval by MDE. Each case-by-case RACT determination was required to be the subject of a public hearing and to be submitted to the EPA as a SIP revision. On June 22, 1999 EPA granted conditional limited approval of this SIP revision (64 FR 33197). On September 8, 2000, Maryland submitted

a SIP revision which repealed the "generic" RACT rule found at COMAR 26.11.09.08 and instead adopted source category specific RACT emission limitations at COMAR 26.11.09.08. The submittal of the September 8, 2000, SIP revision fulfills the conditions of the conditional limited approval.

The September 8, 2000, SIP revision is the subject of this action. The September 8, 2000, submittal included the new regulation, COMAR 26.11.09.08, which requires major NO_x sources in the entire State of Maryland to comply with RACT requirements by May 31, 1995, and the addition of the definition for the term "high heat release unit" to COMAR 26.11.09.01.

II. Summary of Maryland's SIP Revision

COMAR 26.11.09.01—Definitions

COMAR 26.11.09.01, "Definitions," has been revised to add the term "high heat release unit" which is used in Chapter 09, "Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations."

COMAR 26.11.09.08—Control of NO_x Emissions From Major Stationary Sources

COMAR 26.11.09.08.A—Applicability

Section A establishes the applicability of this regulation to owners or operators of an installation that is located at a premises that has a total potential to emit: 25 or more TPY in Baltimore City, Anne Arundel, Baltimore, Carroll, Harford, Howard Counties (the Baltimore severe nonattainment area) and Cecil County (part of the Philadelphia-Wilmington-Trenton severe nonattainment area), 50 or more TPY in Calvert, Charles, Frederick, Montgomery, and Prince George's Counties (the Maryland portion of the Washington, DC serious nonattainment area), or 100 or more TPY in Allegany, Caroline, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester Counties.

COMAR 26.11.09.08.B—General Requirements and Conditions

Section B sets general RACT emission standards for any major stationary source that causes NO_x emissions and is subject to this regulation. These general emission standards are found in Table 1. Sections C through J of COMAR 26.11.09.08 set source category specific RACT limitations.

TABLE 1.—EMISSION STANDARDS IN POUNDS OF NO_x PER MILLION BRITISH THERMAL UNITS (MMBTU) PER HOUR OF HEAT INPUT

Fuel	Tangential-fired	Wall-fired
Gas Only	0.20	0.20
Gas/Oil	0.25	0.25
Coal (dry bottom)	0.38	0.38
Coal (wet bottom)	1.00	1.00

The regulation requires demonstration of compliance by either continuous emission monitoring (CEMs) or stack tests. Compliance via CEM shall be determined on a 30-day rolling average. Stack test compliance shall be determined as averages of the stack test duration.

EPA is proposing to approve the above emission limits as RACT for those major stationary sources not subject to emission standards under any other section of this regulation. EPA policy for NO_x RACT for four categories of utility boilers (wall- and tangential-fired—gas/oil, coal dry bottom), was set in the "NO_x Supplement to the General Preamble for Implementation of Title I" ("NO_x Supplement") (57 FR 55620, November 25, 1992). Emission limits for other source categories are considered NO_x RACT if comparable to RACT for these certain utility boilers.

Comparability is based upon emission reduction, cost and cost-effectiveness. EPA has determined that the limits set in Maryland's regulation, for these same four categories of utility boilers as in the NO_x Supplement, meet the requirement for RACT. A source may propose an alternative standard if the source meets specific requirements which include: (1) The uncontrolled NO_x emissions for the installation established with a CEM or stack tests obtained during steady state operation, (2) stack tests or other data from an existing similar installation demonstrating that the applicable standard cannot be met, (3) identification of all proposed combustion, fuel or process modifications to meet the alternative standard and (4) equipment vendor costs from other facilities and other information that demonstrates that complying with the emission standards in the regulation is unreasonable as compared to the cost of meeting an alternative standard. The alternative standard must be approved by both the MDE and EPA.

The regulation allows for emissions averaging for a person who owns or operates more than one installation. The emissions averaging provision provides for compliance by meeting an overall

source or system-wide NO_x emission reduction that is equivalent to or greater than the NO_x emission reduction that would be achieved if each individual installation complied with the applicable requirements. The sources must have CEMs to be included in the emission averaging and must be able to demonstrate that on each day of operation the total plant or system-wide NO_x emissions are equal to or less than the NO_x emissions that would be emitted if each installation was meeting the applicable emission standard. The emissions averaging must be approved by both MDE and EPA before it is considered an acceptable compliance method.

EPA is proposing to approve both the alternative standards and emissions averaging provisions of this regulation.

EPA is proposing to approve the requirements in sections 26.11.09.08.C–J as RACT for those categories of sources.

COMAR 26.11.09.08.C—Requirements for Fuel-Burning Equipment With a Rated Heat Input Capacity of 250 MMBtu per Hour or Greater

Section C establishes that the owner or operator of fuel-burning equipment with a rated heat input capacity of 250 MMBtu per hour or greater equip each installation with combustion modifications or other technologies to meet the following NO_x emission rates (in pounds of NO_x per MMBtu per hour): 0.45 for tangentially coal fired units located at an electric generating facility (excluding high heat release units); 0.50 for wall coal fired units located at an electric generating facility (excluding high heat release units); 0.30 for oil fired or gas/oil fired units located at an electric generating facility; 0.70 for coal fired cyclone fuel burning equipment located at an electric generating facility from May 1 through September 30 and 1.5 during the period October 1 through April 30; 0.70 for a tangentially coal fired high heat release unit located at an electric generating facility; 0.80 for a wall coal fired high heat release unit located at an electric generating facility; 0.60 for coal fired cell burners at an electric generating facility; and 0.70 for fuel burning equipment stacks at an electric generating facility during the period of May 1 through September 30 of each year and 0.99 during the period of October 1 through April 30 of each year. Compliance must be demonstrated by operation and maintenance of a certified NO_x CEM or an alternative monitoring method approved by both MDE and EPA.

COMAR 26.11.09.08.D—Requirements for Fuel-Burning Equipment With a Rated Heat Input Capacity of Less Than 250 MMBtu per Hour and Greater Than 100 MMBtu per Hour

Section D establishes that the owner or operator of coal burning equipment with a rated heat input capacity of less than 250 MMBtu per hour and greater than 100 MMBtu per hour shall install and operate, in accordance with manufacturer's specifications, combustion modifications or other technologies to meet an emission rate of 0.50 pounds of NO_x per MMBtu per hour. All other fuel burning equipment with a rated heat input capacity of less than 250 MMBtu per hour and greater than 100 MMBtu per hour shall meet the NO_x emission rate found in COMAR 26.11.09.08B.

COMAR 26.11.09.08.E—Requirements for Fuel Burning Equipment With a Rated Heat Input Capacity of 100 MMBtu/hr or Less

Section E establishes that the owner or operator of fuel burning equipment with rated heat input capacity less than 100 MMBtu per hour must have submitted to MDE a list of each affected installation, the rated heat capacity of each installation, and the fuel used. The owner or operator must complete a combustion analysis at least once each calendar year and operate the equipment at the optimum combustion level based on this analysis. Analysis and test results must be maintained for at least 2 years and be available to MDE and EPA upon request. Operators are also required to attend operator training on combustion optimization sponsored by MDE, EPA or equipment vendors at least once every 3 years, and records of training program attendance must be maintained and available for review. Based on data from the Gas Research Institute, the NO_x Implementation Workgroup, and the Council of Industrial Boiler Owners, MDE concluded that this section is acceptable as RACT for fuel burning equipment with a heat capacity of 100 MMBtu/hr or less.

COMAR 26.11.09.08.F—Requirements for Space Heaters

Section F establishes that an owner or operator of a space heater must submit to MDE a list of the affected installations at each premises and the types of fuel used. The owner or operator also must develop an operating and maintenance plan to minimize NO_x emissions, based on equipment vendors recommendations and subject to review by MDE. Operators are required to

attend in-state training programs on NO_x reductions at least once every three years, and the owner must maintain a record of training attendance for each operator. These records should be made available to MDE upon request. EPA interprets "an operation and maintenance plan to minimize NO_x emissions based on recommendations from equipment vendors," as stated in section F(b), to mean only technically supportable operation and maintenance requirements that result in the equipment being operated, maintained and repaired in a manner that achieves the minimization of NO_x emissions.

COMAR 26.11.09.08.G—Requirements for Fuel-Burning Equipment With a Capacity Factor of 15 Percent or Less, and Combustion Turbines With a Capacity Factor Greater Than 15 Percent

Sources must certify that they meet the capacity factors of this section. Section G requires the performance of an annual combustion analysis and operation of the equipment at the optimum combustion level based on this analysis for fuel-burning equipment operating over 500 hours during a calendar year. The capacity factor must be certified. Operators are also required to attend operator training on combustion optimization sponsored by MDE, EPA or equipment vendors at least once every 3 years, and records of training program attendance must be maintained and available for review. The results of the combustion analysis and optimization must be maintained for at least 2 years and made available for review. Combustion turbines with a capacity factor of greater than 15 percent must meet an hourly average NO_x emission rate of not more than 42 ppm when burning gas or 65 ppm when burning fuel oil or meet applicable Prevention of Significant Deterioration (PSD) limits, whichever is more restrictive.

COMAR 26.11.09.08.H—Requirements for Cement Manufacturing Facilities, Municipal Waste Combustors, and Hospital, Medical, and Infectious Waste Incinerators

Section H establishes that the owner or operator of a cement manufacturing facility or a municipal waste combustor shall install and maintain a NO_x CEM. Cement manufacturing kilns may not exceed a total hourly NO_x emission rate, as determined on a 30 day rolling average of the daily average, of 1,000 pounds for a facility with a total kiln capacity of 600,000 tons per year or less and 1,800 pounds for a facility with a total kiln capacity greater than 600,000 tons per year. NO_x emissions from

municipal waste combustors may not exceed the NO_x emissions standards in COMAR 26.11.08.08 or applicable PSD limits, whichever is more restrictive.

COMAR 26.11.09.08.I—Requirements for Glass Melting Furnaces and Internal Combustion Engines at Natural Gas Pipeline Stations

Section I establishes that the owner or operator of a glass melting furnace shall optimize combustion by performing daily oxygen tests and maintaining excess oxygen at 4.5 percent or less. Internal combustion engines at a natural gas pipeline station with a capacity factor of over 15 percent shall perform either parametric optimization or engine rebuild to meet the following emission standards: facilities with five or less engines shall meet a combined maximum hourly emission rate of 300 pounds per hour and facilities with more than five engine shall meet a combined maximum hourly emission rate of 566 pounds per hour. The regulation requires that records be kept to document the results of the daily oxygen tests and the performance of the parametric optimization for at least 2 years.

COMAR 26.11.09.08.J—Requirements for Industrial Furnaces and Other Miscellaneous Installations That Cause Emissions of NO_x

Section J establishes that the owner or operator of any installation, other than fuel burning equipment, that emits NO_x emissions shall: Maintain good operating practices as recommended by the equipment vendor to minimize NO_x emissions; prepare and implement a written in-house training program for all operators of these installations that includes good operating and maintenance practices; maintain a copy of the written training program for review, maintain attendance records for each operator for at least 2 years; and burn only gas in each installation, where gas is available, during the period of May 1 through September 30.

COMAR 26.11.09.08.K—Reporting Requirements

Sources are required to submit CEM data and stack test results to the MDE within acceptable time limits. Compliance with RACT requirements should be based on CEM data certified in accordance with 40 CFR part 60, appendix B or part 75, appendix A. If the installation is stack tested, Method 7 found in COMAR 26.11.01.04C(1) must be used, and the results must be submitted to MDE within 45 days after test completion. The regulation also requires that annual fuel use records be

maintained for 3 years and made available for review by the State. The reporting requirements are approvable.

III. Proposed Action

EPA is proposing full approval of Maryland's NO_x RACT regulation found at COMAR 26.11.09.01 and 26.11.09.08 which was submitted as a SIP revision by the Maryland Department of the Environment on September 8, 2000.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document. Written comments must be received on or before November 9, 2000. EPA calls your attention to the November 9, 2000 deadline date for submittal of comments on this proposed action to grant full approval of this SIP revision submitted by the State of Maryland. The EPA is providing a shortened time period for comment for two reasons. As an initial matter, this revision is non-controversial and EPA does not expect comment. Maryland's NO_x RACT requirements are consistent with the RACT requirements adopted by other states and do provide provisions for sources to apply for an alternative RACT determination. Moreover, this SIP revision is necessary for full approval of the attainment demonstration SIP for the Metropolitan Washington, D.C. ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by November 15, 2000 fully approving the attainment demonstration for the Metropolitan Washington, D.C. ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will 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), because it merely proposes to approve 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule, which proposes approval of Maryland's NO_x RACT regulation, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Dated: October 13, 2000.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD104-3057; FRL-6888-2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Reduction and Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland on April 27, 2000. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_x SIP Call." This revision establishes and requires a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units, and reductions for cement kilns and stationary industrial combustion engines, beginning in 2003. The intended effect of this action has two purposes. EPA is proposing to approve the Maryland's NO_x Reduction and Trading Program because it meets the requirements of the NO_x SIP Call that will significantly reduce ozone transport in the eastern United States. In addition, EPA is proposing to approve the Maryland's NO_x Reduction and Trading Program because it supports the one-hour attainment demonstration plans for the Baltimore, Metropolitan Washington, D.C. and Philadelphia-Wilmington-Trenton ozone nonattainment areas.

DATES: Written comments must be received on or before November 9, 2000.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,