

limited approval would convert to a full approval.

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 limited 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 as we proposed approval of it previously and got comments only from the State of Maryland. Maryland's recent revisions were done simply to correct the deficiencies noted in our previous proposed action. 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 proposed 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 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 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 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 grant limited approval of Maryland's NSR regulations 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, Hydrocarbons, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 13, 2000.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 096-3053; FRL-6887-9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Budget 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. The revision consists of amendments to Maryland's Nitrogen Oxides (NO_x) Budget Program. The revisions implement the Ozone Transport Commission's (OTC) September 27, 1994 Memorandum of Understanding (MOU) in Maryland. In accordance with the MOU, the revisions implement the Maryland portion of a regional NO_x cap and trade program that significantly reduces NO_x emissions generated within the Ozone Transport Region (OTR). EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

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. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103 and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD, 21224.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814-2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1998, the Maryland Department of the Environment (MDE) submitted a revision to its SIP. The revision to the SIP includes the adoption of new sections .01-.14 under a new chapter, COMAR 26.11.27—Post RACT Requirements for NO_x Sources (Nitrogen Oxides (NO_x) Budget Program) and new sections .01-.13 under a new chapter, COMAR 26.11.28—Policies and Procedures Relating to Maryland's NO_x Budget Program. On November 16, 1999 and

March 20, 2000, Maryland submitted amendments to its August 28, 1998 SIP revision request.

The Maryland's NO_x Budget Program regulations are part of a regional NO_x reduction program based upon an MOU drawn between the member states of the OTC. The OTC adopted a MOU on September 27, 1994, committing the signatory states to the development and implementation of a two phase region-wide reduction in NO_x emissions by 1999 and 2003, respectively. As reasonably available control technology (RACT) to reduce NO_x emissions was required to be implemented by May of 1995, the MOU refers to the reduction in NO_x emissions to be achieved by 1999 as Phase II; and the reduction in NO_x emissions to be achieved by 2003 as Phase III. The OTC member states include Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, the northern counties of Virginia, and the District of Columbia. All of the OTC members, with the exception of the Commonwealth of Virginia, signed the September 27, 1994 MOU. The OTC MOU requires a reduction in ozone season NO_x emissions from utility and large industrial combustion facilities within the OTR to further the effort to achieve the health-based National Ambient Air Quality Standard (NAAQS) for ozone. In the MOU, the OTC states agreed to propose regulations for the control of NO_x emissions in accordance with the following guidelines:

1. The level of NO_x required would be established from a 1990 baseline emissions level.

2. The reduction would vary by location, or zone, and would be implemented in two phases utilizing a region wide trading program.

3. The reduction would be determined based on the less stringent of each of the following:

- a. By May 1, 1999, the affected facilities in the inner zone shall reduce their rate of NO_x emissions by 65% from baseline, or emit NO_x at a rate no greater than 0.20 pounds per million Btu. (This is a Phase II requirement.)

- b. By May 1, 1999, the affected facilities in the outer zone shall reduce their rate of NO_x emissions by 55% from baseline, or shall emit NO_x at a rate no greater than 0.20 pounds per million Btu. (This is a Phase II requirement.)

- c. By May 1, 2003, the affected facilities in the inner and outer zones shall reduce their rate of NO_x emissions by 75% from baseline, or shall emit NO_x at a rate no greater than 0.15

pounds per million Btu. (This is a Phase III requirement.)

- d. By May 1, 2003, the affected facilities in the Northern zone shall reduce their rate of NO_x emissions by 55% from baseline, or shall emit NO_x at a rate no greater than 0.20 pounds per million Btu. (This is a Phase III requirement.)

A Task Force of representatives from the OTC states, organized through the Northeast States for Coordinated Air Use Management (NESCAUM) and the Mid-Atlantic Regional Air Management Association (MARAMA), was charged with the task of developing a Model Rule that would implement the program defined by the OTC MOU. During 1995 and 1996, the NESCAUM/ MARAMA NO_x Budget Task Force worked with EPA and developed a model rule as a template for OTC states to adopt their own rules to implement the OTC MOU. The model was issued May 1, 1996. The model rule was developed by and for the OTC states to implement the Phase II reductions called for in the MOU to be achieved by May 1, 1999. The model rule does not include the implementation of Phase III.

Summary of SIP Revision

Maryland's regulations of COMAR 26.11.27, Post RACT Requirements for NO_x Sources (NO_x Budget Program) and COMAR 26.11.28, Polices and Procedures Relating to Maryland's NO_x Budget Program are based solely upon the "NESCAUM/MARAMA NO_x Budget Rule" issued in May 1, 1996. The model rule was developed by the states in the OTR using the EPA's economic incentive rules (67 FR 16690) which were published on April 7, 1994, as the general regulatory framework.

On August 28, 1998, Maryland submitted a revision to its SIP. The revision consists of amendments to COMAR 26.11.27, Post RACT Requirements for NO_x Sources (NO_x Budget Program) and COMAR 26.11.28, Polices and Procedures Relating to Maryland's NO_x Budget Program. Post RACT Requirements for NO_x Sources, COMAR 26.11.27, is divided in fourteen sections: (.01) Definitions; (.02) Incorporation by Reference; (.03) Applicability; (.04) General Requirements; (.05) Allowance Allocations; (.06) Identification of Authorized Account Representatives; (.07) Allowance Banking; (.08) Emission Monitoring; (.09) Reporting; (.10) Record Keeping; (.11) End-of-Season Reconciliation; (.12) Compliance Certification; (.13) Penalties; (.14) Audit. Polices and Procedures Relating to Maryland's NO_x Budget Program, COMAR 26.11.28, is divided in thirteen

sections: (.01) Scope; (.02) Definitions; (.03) Procedures Relating to Compliance Accounts; (.04) Procedures Relating to General Accounts; (.05) Allowance Banking; (.06) Allowance Transfer; (.07) Emissions Monitoring; (.08) Early Reduction Allowances; (.09) Opt-in Procedures; (.10) Audit Provisions; (.11) Allocations to Units in Operation in 1990; (.12) Allocations to Budget Sources Beginning Operation or for Which a Permit Was Issued After 1990 and Before January 1, 1998; (.13) Percent Contribution of Budget by Company.

On November 16, 1999, MDE submitted amendments to its August 28, 1998 SIP revision request. The purpose of these amendments is to change the compliance date of the Maryland NO_x Budget Program from May 1, 1999 to May 1, 2000. The revisions to the August 28, 1998 submittal include amendments to Regulations (.04) General Requirements, (.07) Allowance Banking, and (.11) End-of-Season Reconciliation under COMAR 26.11.27 and the repeal of Regulation (.08) Early Reduction Allowances under COMAR 26.11.28.

On March 20, 2000, MDE submitted amendments to its August 28, 1998 SIP revision request consisting of two enforceable consent agreements between MDE and the Baltimore Gas and Electric Company and the Potomac Electric Power Company. These consent agreements impose special conditions and time lines for both companies regarding the implementation of Maryland's NO_x Budget Trading Program requirements. A more detailed description of Maryland's NO_x Budget Trading Program requirements, the two consent agreements and EPA's rationale for approving them as a SIP revision are provided in the Technical Support Document (TSD) prepared for this rule. Copies of the TSD are available upon request from the EPA Regional office listed in the ADDRESSES section of this document.

Proposed Action

EPA is proposing to approve a revision to the Maryland SIP consisting of COMAR 26.11.27, Post RACT Requirements for NO_x Sources (NO_x Budget Program) and COMAR 26.11.28, Polices and Procedures Relating to Maryland's NO_x Budget Program, as submitted on August 28, 1998 and as amended on November 16, 1999 and March 20, 2000. These revisions implement Maryland's portion of Phase II of the OTC's MOU to reduce nitrogen oxides.

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 approve 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 as Maryland's OTC NO_x Budget Program is based upon the model rule developed by the NESCAUM and MARAMA states. The two enforceable consent agreements between MDE and the Baltimore Gas and Electric Company and the Potomac Electric Power Company are source-specific and affect no other facilities. 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.

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 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 action to propose approval of Maryland NO_x Budget Program 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.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: October 13, 2000.

Thomas Valtaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC048-2022; FRL-6887-8]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision implements the District's portion of the Ozone Transport Commission's (OTC) September 27, 1994 Memorandum of Understanding (MOU) which describes a regional nitrogen oxides (NO_x) cap and trade program that will significantly reduce NO_x emissions generated within the Ozone Transport Region (OTR). The intended effect of this action is to propose approval of the District's regulations entitled, NO_x Emissions Budget Program as a SIP revision in accordance with the requirements of the Clean Air Act.

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, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814-2178, or via e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 28, 2000, the District's Department of Health submitted a revision to its SIP. The revision to the SIP includes the addition of a new Chapter 10, Nitrogen Oxides Emissions Budget Program, to Title 20 of the District of Columbia Municipal Regulations (DCMR).

The District's NO_x Budget Program regulations are part of a regional NO_x