

governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action would approve requirements which the state has chosen to undertake under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, would result from this action. This action would not result in annualized costs of 100 million dollars or more.

List of Subjects in 50 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Volatile organic compounds.

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

Dated: January 15, 1999.

Dennis Grams,

Regional Administrator, Region VII.

[FR Doc. 99-1761 Filed 1-25-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD080-3037; FRL-6224-2]

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. This revision implements Maryland'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 Maryland's regulations entitled Post RACT Requirements for NO_x Sources and Policies and Procedures Relating to Maryland's NO_x Budget Program.

DATES: Written comments must be received on or before February 25, 1999.

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, EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814-2178, or by e-mail at fernandez.cristina@epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On August 28, 1998, Maryland Department of the Environment submitted a revision to its State Implementation Plan (SIP). The revision consists of Code of Maryland Regulations (COMAR) 26.11.27.01-.14, Post RACT Requirements for NO_x Sources and COMAR 26.11.28.01-.13, Policies and Procedures Relating to Maryland's NO_x Budget Program.

I. Background

The OTC adopted a MOU on September 27, 1994, committing the signatory states to the development and proposal of a two phase region-wide reduction in nitrogen oxides (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 NO_x reductions to be achieved by 1999 as Phase II; and the NO_x reductions to be achieved by 2003 as Phase III. The OTC 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 the OTC states, with the exception of the Commonwealth of Virginia, signed the September 27, 1994 MOU. The OTC MOU requires reductions in ozone season NO_x emissions from utility and large industrial combustion facilities within the OTR in order 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 pound per million Btu. (This is referred to as 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 referred to as a Phase II requirement).

c. By May 1, 2003, the affected facilities in the inner and outer zone shall reduce their rate of NO_x emissions by 75% from baseline, or shall emit NO_x at a rate of no greater than 0.15 pounds per million Btu. (This is referred to as 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 referred to as 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), were 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 rule was issued May 1, 1996. The model rule was developed for the OTC states to implement the Phase II reduction called for in the MOU to be achieved by May 1, 1999. The model rule does not include the implementation of Phase III.

II. Summary of SIP Revision

The regulations of COMAR 26.11.27.01-.14, Post RACT Requirements for NO_x Sources 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.

The Maryland NO_x Budget Program establishes NO_x emission allowances for each NO_x control period beginning May 1, 1999 through the NO_x control period ending September 30, 2002. This program identifies the budgeted sources and identifies the number of allowances each budget source is allocated.

Maryland's NO_x Budget Program, includes the adoption of two new chapters: COMAR 26.11.27, Post RACT Requirements for NO_x Sources and COMAR 26.11.28, Polices and Procedures Relating to Maryland's NO_x Budget Program.

COMAR 26.11.27, Post RACT Requirements for NO_x Sources (NO_x Budget Program) 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.

COMAR 26.11.28, Polices and Procedures Relating to Maryland's NO_x Budget Program 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.

Proposed Action

EPA is proposing to approve the Maryland SIP revision consisting of COMAR 26.11.27.01-.14, Post RACT Requirements for NO_x Sources and COMAR 26.11.28.01-.13, Polices and Procedures Relating to Maryland's NO_x Budget Program, submitted on August 28, 1998. EPA is soliciting public

comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. 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. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available upon request from the EPA Regional Office listed in the ADDRESSES section of this document.

III. Administrative Requirements

A. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive

Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and

small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action to propose approval of Maryland's NOx Budget Program to implement Phase II of the OTC MOU.

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: January 19, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99-1757 Filed 1-25-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD079-3035; FRL-6218-1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOCs From the Manufacture of Explosives and Propellant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision imposes reasonably available control technology (RACT) requirements for volatile organic compounds (VOCs) from sources that manufacture explosives and propellant. In the Final Rules section of this **Federal Register**, EPA is approving Maryland's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the technical support document is available at the address given below. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 25, 1999.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Section, 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;

Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Paul T. Wentworth (215) 814-2183, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: December 30, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99-1763 Filed 1-25-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MO 043-1043(b); FRL-6219-9]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a redesignation request submitted by the state of Missouri on June 13, 1997. Additional material was submitted on June 15, 1998. In this submittal, Missouri submitted a maintenance plan and a request that a portion of St. Louis be redesignated to attainment of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide. In the final rules section of the **Federal Register**, the EPA is approving the state's State Implementation Plan (SIP) revision and request for redesignation as a direct final rule without a prior proposal, because the Agency views this as a noncontroversial revision and redesignation and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.