



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0208; FRL-9697-9]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland;
Reasonably Available Control Technology for the 1997 8-Hour Ozone
National Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to the requirements for meeting reasonably available control technology (RACT) for oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) for the 1997 8-hour ozone national ambient air quality standard (NAAQS). These requirements are based on: A certification that previously adopted RACT controls in Maryland's SIP, which were approved by EPA under the 1-hour ozone NAAQS, are based on the currently available technically and economically feasible controls and continue to represent RACT for the 1997 8-hour ozone NAAQS implementation purposes; a negative declaration demonstrating that no facilities exist in Maryland for the applicable control technique guideline (CTG) categories; and adoption of new or more stringent RACT determinations. This action is being taken in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2012-0208**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e.,

confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy 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. Copies of the state submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis, (215) 814-2037, or by e-mail at lewis.jacqueline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On May 14, 2012 (77 FR 28338), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The formal SIP revision (MDE SIP Number 11-08) was submitted by the Maryland Department of the Environment on October 17, 2011. EPA proposed to approve the Maryland SIP revision for the requirements of RACT for NO_x and VOCs set forth in the CAA with respect to the 1997 8-hour ozone standard.

II. Summary of SIP Revision

Maryland’s SIP revision contains the requirements of RACT set forth in the CAA under the 1997 8-hour ozone NAAQS. Maryland’s SIP revision satisfies the 1997 8-hour ozone standard RACT requirements through (1) certification that previously adopted RACT controls in Maryland’s SIP

that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls and continue to represent RACT for the 8-hour implementation purpose; (2) a negative declaration demonstrating that no facilities exist in Maryland for the applicable CTG categories; and (3) adoption of new or more stringent RACT determinations. Other specific requirements of the CAA and EPA's review and rationale for our 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 a revision to the Maryland SIP submitted by the State of Maryland, through the Maryland Department of the Environment, on October 17, 2011 that addresses the 1997 8-hour ozone NAAQS. EPA has determined that Maryland has met the requirements of RACT for NO_x and VOCs set forth in the CAA with respect to the 1997 8-hour ozone standard.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, pertaining to Maryland's RACT provisions for NO_x and VOCs with respect to the 1997 8-hour ozone 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 27, 2012.

W. C. Early,
Acting
Regional Administrator,
Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for 40 CFR part 52 continues to read as follows:

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

2. In § 52.1070, the table in paragraph (e) is amended by adding the entry for “RACT under the 1997 8-hour ozone NAAQS” at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e)***

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	* *	* *	*
RACT under the 1997 8-hour ozone NAAQS	Statewide	10/17/11	[<u>Insert Federal Register</u>] <u>publication date</u>] [<u>Insert page number where the document begins</u>]	

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