



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0783; FRL-9965-45-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Regional Haze Best Available Retrofit Technology Measure for Verso Luke Paper Mill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to a best available retrofit technology (BART) alternative measure for the Verso Luke Paper Mill (the Mill) submitted by the State of Maryland. Maryland requests new emissions limits for sulfur dioxide (SO₂) and nitrogen oxides (NO_x) for power boiler 24 at the Mill and a SO₂ cap on tons emitted per year for power boiler 25, while also requesting removal of the specific BART emission limits for SO₂ and NO_x from power boiler 25. The alternative BART measure will provide greater reasonable progress for SO₂ and NO_x for regional haze by resulting in additional emission reductions of 2,055 tons per year (tpy) of SO₂ and an additional 804 tpy of NO_x than would occur through the previously approved BART measure for power boiler 25, a BART subject source. No comments were received in response to EPA's proposed rulemaking notice published on May 30, 2017. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2016-0783. All documents in the docket are listed on the [http:// www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., 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 through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Regional haze is impairment of visual range or colorization caused by air pollution, principally by fine particulate matter (PM_{2.5}), produced by numerous sources and activities, located across a broad regional area. The sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources including non-anthropogenic sources. These sources and activities may emit PM_{2.5} (e.g. sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g. SO₂, NO_x, and in some cases, ammonia and volatile organic compounds). PM_{2.5} can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid deposition and eutrophication.

In the CAA Amendments of 1977, Congress established a program to protect and improve

visibility in the Nation's national parks and wilderness areas. *See* CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. *See* CAA section 169B. EPA promulgated regional haze regulations (RHR) in 1999 to implement sections 169A and 169B of the CAA. These regulations require states to develop and implement plans to ensure reasonable progress towards improving visibility in mandatory Class I Federal areas.¹ *See* 64 FR 35714 (July 1, 1999); *see also* 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

The RHR requires each state's regional haze implementation plan to contain emission limitations representing best available retrofit technology (BART) and schedules for compliance with BART for each source subject to BART, unless the state demonstrates that an emissions trading program or other alternative measure will achieve greater reasonable progress toward natural visibility conditions. The requirements for alternative measures are established at 40 CFR 51.308(e)(2).

In addition to demonstrating greater reasonable progress towards improving visibility, among other things, the RHR also requires that all necessary emission reductions from a BART alternative take place during the period of the first long-term strategy for regional haze (i.e., 2008-2018) and requires a demonstration that the emission reductions from the alternative measure will be surplus to the reductions from measures adopted to meet CAA requirements as of the baseline date of the SIP. 40 CFR 51.308(e)(2). The baseline date for regional haze SIPs is 2002. *See* Memorandum from Lydia Wegman and Peter Tsirigotis, 2002 Base Year Emission

¹ While Maryland has no Class I areas within its borders, there are several Class I areas nearby including Dolly Sods Wilderness Area and Otter Creek Wilderness Area in West Virginia; Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face and Shenandoah National Park in Virginia; Linville Gorge in North Carolina; and Mammoth Cave National Park in Kentucky.

Inventory SIP Planning: 8-hr Ozone, PM_{2.5}, and Regional Haze Programs, November 8, 2002. <http://www.epa.gov/ttn/oarpg/t1/memoranda/2002bye-gm.pdf>. See 79 FR 56322, 56328-29 (September 19, 2014) (proposing approval of alternative BART for Arizona SIP).

Maryland's regional haze SIP was submitted by the Maryland Department of the Environment (MDE) on February 13, 2012 and approved by EPA in June 2012. See 77 FR 39938 (June 13, 2012). This regional haze SIP included, among other measures, BART emission limits for power boiler 25 at the Verso Luke Paper Mill because power boiler 25 was a BART subject source. The BART emission limits which EPA had approved in June 2012 for power boiler 25 were 0.44 pounds per million British thermal units (lb/MMBtu) for SO₂, a 30-day rolling limit of 0.40 lb/MMBtu for NO_x, and 0.07 lb/MMBtu for particulate matter (PM).²

On May 30, 2017 (82 FR 24614), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of the BART alternative measure for the Verso Luke Paper Mill. No comments were received in response to EPA's proposed rulemaking notice. The formal SIP revision (#16-14) was submitted by the State of Maryland on November 28, 2016.

II. Summary of SIP Revision

The SIP revision seeks to revise the BART strategy for the Verso Luke Paper Mill, specifically the emission limits for power boiler 25 for SO₂ and NO_x. MDE states that Verso Luke Paper Mill is eliminating the use of coal as a source of fuel used in power boiler 24 and replacing it

² While EPA's approval of Maryland's regional haze SIP in 2012 included a PM limit for power boiler 25 of 0.07 lb/MMBtu, Maryland is not seeking to revise that PM limit for BART on power boiler 25 and thus the PM limit of 0.07 lb/MMBtu remains on power boiler 25. See 77 FR 39938. This rulemaking action pertains to adjusting the BART limits for SO₂ and NO_x for power boiler 25.

with natural gas. MDE's SIP revision submittal seeks alternative BART emission limits for SO₂ and NO_x for power boiler 24, and seeks to remove the previously approved BART requirements for SO₂ and NO_x from power boiler 25 and replace them with new, alternative emission requirements. Specifically, for power boiler 24 at the Mill, Maryland's SIP revision seeks to establish (1) a new BART emission limit of 0.28 lb/MMBtu, measured as an hourly average for SO₂; (2) a new BART emission limit of 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_x; and (3) associated monitoring, recordkeeping and reporting requirements. For power boiler 25, this SIP revision seeks to: (1) remove the SO₂ BART emission limit approved by EPA in June 2012 and seeks to establish an annual SO₂ cap of 9,876 tons measured on a 12-month rolling average; (2) remove the NO_x BART emission limit but retain existing requirements under COMAR 26.11.14.07 applicable to the power boiler; and (3) impose associated monitoring, recordkeeping, and reporting requirements. The BART requirements for PM approved by EPA in June 2012 on power boiler 25 would remain unchanged.

MDE's analysis demonstrates that the alternative SO₂ BART measure (i.e. new SO₂ emission limit on power boiler 24; removal of approved SO₂ BART limit and new annual SO₂ cap on power boiler 25) would provide an additional 2,055 tpy in SO₂ emissions reductions (or 20% more emission reductions) than the tons per year to be reduced by the currently approved BART requirements on power boiler 25. MDE's analysis also shows that the alternative NO_x BART measure on power boiler 24 (with removed BART limit on power boiler 25) would provide an additional 804 tpy in NO_x emission reductions than the currently approved BART requirements on power boiler 25. Finally, MDE's analysis shows that the alternative NO_x BART measure on power boiler 24 would provide a 227 tons per ozone season NO_x benefit than would the currently approved BART requirements on power boiler 25.

Thus, with the additional SO₂ and NO_x emission reductions per year, EPA finds that the alternative SO₂ and NO_x BART emission limits on power boiler 24 (with the SO₂ tpy cap on power boiler 25) will provide for greater reasonable progress toward achieving natural visibility conditions than would be achieved through the currently approved BART emission limits on power boiler 25. EPA also finds the emission reductions from the new limits on power boiler 24 (and SO₂ tpy cap on power boiler 25) have been implemented before the end of the first regional haze planning period (i.e. 2018). In addition, the emission reductions from the proposed BART emission limits for power boiler 24 for SO₂ and NO_x are surplus to reductions resulting from CAA requirements as of the baseline date of the SIP or 2002. More information on Maryland's SIP submittal and on EPA's analysis of emission reductions from the alternative BART measure (including discussion of the reductions as implemented and surplus) is provided in the Technical Support Document (TSD) which is available online at www.regulations.gov for this rulemaking. Therefore, EPA finds Maryland's SIP revision for the alternative BART emission limits for SO₂ and NO_x for power boiler 24 (and SO₂ cap on power boiler 25) meet the requirements for an alternative BART measure in accordance with CAA section 169A and as established at 40 CFR 51.308(e)(2) in the RHR.

In addition, EPA finds that this SIP revision, which seeks to remove BART SO₂ and NO_x emission limits for power boiler 25 from the approved Maryland regional haze SIP, meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. EPA finds that Maryland has demonstrated that additional SO₂ and NO_x emission reductions will be achieved each year with the alternative BART emission limits on power boiler 24 and SO₂ tpy

cap on power boiler 25, and as such, no interference with reasonable further progress or any NAAQS is expected. As discussed previously, the alternative BART emission limits on power boiler 24 meet other CAA requirements in section 169A and 40 CFR 51.308(e)(2). Other specific requirements and the rationale for EPA's proposed action are explained in the NPR as well as the technical support document (TSD) under Docket ID No. EPA-R03-OAR-2016-0783, available online at www.regulations.gov, and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA has reviewed Maryland's SIP revision seeking an alternative BART measure and emission limits for power boiler 24 (and SO₂ tpy cap on power boiler 25) compared to EPA's previously federally enforceable BART limits for SO₂ and NO_x on power boiler 25. EPA finds that the alternative BART measure for Verso Luke Paper Mill with SO₂ and NO_x limits as alternative BART on power boiler 24 will result in greater emission reductions in SO₂ and NO_x from the facility and provide greater reasonable progress and greater visibility improvement than the currently approved BART measure which applies solely to power boiler 25. Specifically, the conversion of power boiler 24 from a coal-burning boiler to a natural gas power boiler with new emission limits contained within a federally enforceable permit is expected to result in fewer SO₂ and NO_x emissions from the Mill. MDE's analysis shows that in comparison to the currently approved BART requirements on power boiler 25, the alternative BART measure on power boiler 24 of 0.28 lb/MMBtu, measured as an hourly average for SO₂ and 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_x with the 9,876 SO₂ cap on power boiler 25, would provide (1) an additional 2,055 tpy in SO₂ emissions reductions; (2) an additional 804 tpy in NO_x emission reductions; and (3) a 227 tons per ozone season NO_x benefit. In addition, EPA

finds that the alternative BART emission limits will result in reductions surplus to CAA requirements as of 2002 and will be implemented prior to the end of 2018. EPA is approving the November 28, 2016 SIP submittal as it meets the requirements in CAA section 169A and in 40 CFR 51.308(e)(2). EPA is also incorporating by reference the permit requirements for power boilers 24 and 25 issued August 17, 2016 for the Mill, which include alternative emission requirements, as well as monitoring, recordkeeping and reporting requirements.

EPA also finds that this SIP revision meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. Therefore, EPA is approving Maryland's November 28, 2016 SIP revision submittal as it meets CAA requirements.

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 approves 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 after date of publication 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 alternative BART emission limits for Verso Luke Paper Mill 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 13, 2017.

Cecil Rodrigues,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V--Maryland

2. In §52.1070, the table in paragraph (e) is amended by adding the entry “Maryland Regional Haze Plan” directly below the existing “Maryland Regional Haze Plan” entry that has a state submittal date of 2/13/2012 to read as follows:

§52.1070 Identification of plan.

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(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* *	* *	* *	
Maryland Regional Haze Plan	Statewide	11/28/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	Establishes the alternative BART limits for Verso Luke Paper Mill power boiler 24 of 0.28 lb/MMBtu, measured as an hourly average for SO ₂ ; and 0.4 lb/MMBtu, measured on a 30-day rolling average for NO _x ; and 9,876 SO ₂ cap on power boiler 25. Also incorporates by reference monitoring, recordkeeping and reporting requirements. These

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
				requirements replace BART measure originally approved on 2/13/12 for Luke Paper Mill.
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[FR Doc. 2017-15979 Filed: 7/28/2017 8:45 am; Publication Date: 7/31/2017]