

the Attorney General of the United States, and the recipient;

(iv) The notice must state: The alleged violation of the Age Discrimination Act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) The complainant may not bring an action if the same alleged violation of the Age Discrimination Act by the same recipient is the subject of a pending action in any court of the United States.

#### **§ 7.180 Mediation of age discrimination complaints.**

(a) The OCR will refer all accepted complaints alleging age discrimination to the Mediation Agency designated by the Secretary of the Department of Health and Human Services.

(b) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. The recipient and the complainant must meet with the mediator at least once before the OCR will accept a judgment that an agreement is not possible. The recipient and the complainant, however, need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator must prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator will send a copy of the agreement to the OCR, which will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator must protect the confidentiality of all information obtained in the course of the mediation process. No mediator may testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(e) Mediation ends after sixty (60) days from the time EPA received the complaint or if:

(1) An agreement is reached; or

(2) The Mediator determines that an agreement cannot be reached.

(f) The mediator must return unresolved complaints to OCR to be processed in accordance with the procedure in § 7.120.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R03-OAR-2009-0957; FRL-9158-4]

#### **Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonable Further Progress Plan, 2002 Base Year Emission Inventory, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Baltimore 1997 8-Hour Moderate Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the Maryland State Implementation Plan (SIP) to meet the 2002 base year emissions inventory, the reasonable further progress (RFP) plan, RFP contingency measure, and reasonably available control measure (RACM) requirements of the Clean Air Act (CAA) for the Baltimore moderate 1997 8-hour ozone nonattainment area. EPA is also approving the transportation conformity motor vehicle emissions budgets (MVEBs) associated with this revision. EPA is approving the SIP revision because it satisfies the emission inventory, RFP, RACM, RFP contingency measures, and transportation conformity requirements for areas classified as moderate nonattainment for the 1997 8-hour ozone national ambient air quality standard (NAAQS) and demonstrates further progress in reducing ozone precursors. EPA is approving the SIP revision pursuant to the CAA and EPA's regulations.

**DATES:** *Effective Date:* This final rule is effective on July 6, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2009-0957. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. 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](http://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:** Maria A. Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On January 7, 2010 (75 FR 958), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of Maryland's 2002 base year emissions inventory, RFP plan, RFP contingency measures, RACM, and MVEBs for the Baltimore moderate 1997 8-hour ozone nonattainment area. EPA is approving the SIP revision because it satisfies the emission inventory, RFP, RACM, RFP contingency measure, and transportation conformity requirements of the section 110 and part D of the CAA and EPA's regulations. The formal SIP revision was submitted by the State of Maryland on June 4, 2007.

##### **II. Summary of SIP Revision**

The SIP revision addresses emissions inventory, RACM, RFP and contingency measures requirements for the 1997 8-hour ozone NAAQS for the Baltimore 8-hour ozone moderate nonattainment area. The SIP revision also establishes MVEBs for 2008. Other specific requirements of Maryland's June 4, 2007 SIP revision for the Baltimore 8-hour ozone nonattainment area and the rationale for EPA's 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 the 2002 base year emissions inventory; the 2008 ozone projected emission inventory; the 2008 RFP plan; RFP contingency measures; RACM analysis; and 2008 transportation conformity budgets for the Baltimore 8-hour ozone nonattainment area, contained in Maryland's June 4, 2007 SIP revision submittal for the Baltimore 8-hour ozone nonattainment area. The SIP revision satisfies the requirements for 1997 8-hour ozone NAAQS nonattainment areas classified as moderate and demonstrates further progress in reducing ozone precursors.

**IV. Statutory and Executive Order Reviews**

**A. General Requirements**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. 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 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 (Pub. L. 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 Clean Air Act; 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 2010. 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 the Baltimore moderate 1997 8-hour ozone nonattainment area's 2002 base year emissions inventory; 2008 ozone projected emission inventory; 2008 RFP plan; RFP contingency measures; RACM analysis; and 2008 transportation conformity budgets 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 21, 2010.

**William C. Early,**

*Acting Regional Administrator, EPA Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 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 at the end of the table, the entries for Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures and Contingency Measures; 2002 Base Year Inventory for VOC, NO<sub>x</sub> and CO; and 2008 RFP Transportation Conformity Budgets. The amendments 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
* * Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures, and Contingency Measures.	* Baltimore 1997 8-hour ozone moderate nonattainment area.	* 6/4/07	* 6/4/10 [Insert page number where the document begins]	*
2002 Base Year Inventory for VOC, NO <sub>x</sub> , and CO.	Baltimore 1997 8-hour ozone moderate nonattainment area.	6/4/07	6/4/10 [Insert page number where the document begins]	
2008 RFP Transportation Conformity Budgets.	Baltimore 1997 8-hour ozone moderate nonattainment area.	6/4/07	6/4/10 [Insert page number where the document begins]	

■ 3. Section 52.1075 is amended by revising the section heading and by adding paragraph (i) to read as follows:

**§ 52.1075 Base year emissions inventory.**  
\* \* \* \* \*

(i) EPA approves as a revision to the Maryland State Implementation Plan the 2002 base year emissions inventories for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007. This submittal consists of the 2002 base year point, area, non-road

mobile, and on-road mobile source inventories in area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO<sub>x</sub>).

■ 4. Section 52.1076 is amended by adding paragraphs (q) and (r) to read as follow:

**§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.**  
\* \* \* \* \*

(q) EPA approves revisions to the Maryland State Implementation Plan consisting of the 2008 reasonable further

progress (RFP) plan, reasonably available control measures, and contingency measures for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007.

(r) EPA approves the following 2008 RFP motor vehicle emissions budgets (MVEBs) for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007:

TRANSPORTATION CONFORMITY EMISSIONS BUDGETS FOR THE BALTIMORE AREA

Type of control strategy SIP	Year	VOC (TPD)	NO <sub>x</sub> (TPD)	Effective date of adequacy determination or SIP approval
Rate of Progress Plan .....	2008	41.2	106.8	April 13, 2009, (74 FR 13433), published March 27, 2009.

[FR Doc. 2010-13381 Filed 6-3-10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2010-0039; FRL-9158-3]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Nitrogen Oxide Emissions From Industrial Boilers and Process Heaters at Petroleum Refineries**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision consists of adding specific emission control requirements for controlling nitrogen oxide (NO<sub>x</sub>) emissions from industrial boilers. This action is being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on July 6, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0039. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. 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](http://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 Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On March 15, 2010 (75 FR 12168), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that adds a new section (Section 2.0) to Regulation 1142—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries in order to require new and/or additional controls on industrial boilers and process heaters with heat input capacities of equal to or greater than 200 million British thermal units per hour (mmBTU/hr). EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on November 17, 2009.

**II. Summary of SIP Revision**

Regulation 1142 (formerly SIP Regulation No. 42) establishes applicability and compliance dates to

any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility (except for any Fluid Catalytic Cracking Unit carbon monoxide (CO) boiler). Regulation 1142 establishes NO<sub>x</sub> emission limitations for any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility. The regulation also requires compliance with monitoring, recordkeeping, and reporting requirements.

**III. Final Action**

EPA is approving the Delaware SIP revision that adds a new section, Section 2—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries to Delaware's Regulation 1142—Specific Emission Control Requirements for controlling NO<sub>x</sub> emissions from industrial boilers.

**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