



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2012-0208; FRL-9672-2]

#### **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:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a 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 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, that were approved by EPA under the 1-hour ozone NAAQS, are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 1997 8-hour ozone NAAQS implementation purposes; a negative declaration demonstrating that no facilities exist in the State 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:** Written comments must be received on or before [insert date 30 days from date of publication].

**ADDRESSES:** Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2012-0208** by one of the following methods:

- A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- B. E-mail: [Fernandez.cristina@epa.gov](mailto:Fernandez.cristina@epa.gov).
- C. Mail: EPA-R03-OAR-2012-0208, Cristina Fernandez, Associate Director, Office of Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. **EPA-R03-OAR-2012-0208**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

***Docket:*** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., 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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy 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 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](mailto:lewis.jacqueline@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On October 17, 2011, the Maryland Department of the Environment submitted a revision to its SIP that addresses requirements of RACT for the 1997 8-hour ozone NAAQS set forth by the CAA.

## **I. Background**

Ozone is formed in the atmosphere by photochemical reactions between volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>), and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all

nonattainment areas to apply control on VOC and NO<sub>x</sub> emission sources to achieve emission reductions. Among effective control measures, RACT controls are a major group for reducing VOC and NO<sub>x</sub> emissions from stationary sources.

Since the 1970's, EPA has consistently interpreted RACT to mean the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility. *See* 44 FR 53761, September 17, 1979. Section 182 of the CAA sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the CAA was amended in 1990. EPA published final rulemaking notices approving the State of Maryland's SIP revisions in order to correct their VOC RACT regulations and establish and require the implementation for revised SIP regulations to control VOCs. *See* 58 FR 63085, November 30, 1993; 59 FR 46180, September 7, 1994; 59 FR 60908, November 29, 1994; and 60 FR 2018, January 6, 1995.

The second requirement, set forth in section 182(b)(2) of the CAA and referred to as RACT catch-up, applies to moderate (or worse) ozone nonattainment areas as well as to marginal and attainment areas in the ozone transport region (OTR) established pursuant to section 184 of the CAA, and requires these areas to implement RACT controls on all major VOC and NO<sub>x</sub> emission sources and on all sources and source categories covered by a CTG issued by EPA. On January 6, 1995, EPA published one of many final rulemaking notices approving the State of Maryland's SIP revision as meeting the CTG RACT provisions of the CAA. *See* 60 FR 2018,

January 6, 1995.

All Maryland counties were subject to RACT requirements under the 1-hour ozone standard. The Baltimore, Washington D.C., and Cecil County, Maryland nonattainment areas were designated as severe 1-hour ozone nonattainment areas. Kent and Queen Anne's counties were designated as a marginal 1-hour ozone nonattainment area. All remaining Maryland counties were identified as part of the OTR. As part of the planning process, section 182(b)(2) of the CAA required the State of Maryland to adopt all RACT regulations for all CTG sources and all major non-CTG VOC sources (VOC sources with the potential to emit greater than or equal to 25 tons per year (TPY) in Baltimore, Washington D.C., and Cecil County, Maryland nonattainment areas and greater than or equal to 50 TPY in the remainder of the State) throughout the State.

On July 18, 1997, EPA promulgated an 8-hour NAAQS for ozone. *See* 62 FR 38856, July 18, 1997. Under the 1997 8-hour ozone NAAQS, four areas were designated nonattainment for the 1997 8-hour ozone standard in Maryland. Three areas were classified as moderate and one as marginal. Maryland also had an Early Action Compact area. All other remaining counties are part of the OTR. The three moderate 1997 8-hour ozone standard nonattainment areas are Baltimore, Washington, D.C. and Cecil County (part of the Philadelphia nonattainment area). The one marginal 1997 8-hour ozone NAAQS nonattainment area consists of Kent and Queen Anne's Counties. Washington County was part of the Early Action Compact program.

EPA requires under the 1997 8-hour ozone NAAQS that states meet the CAA RACT

requirements, either through a certification that previously adopted RACT controls in their SIP revisions be approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 1997 8-hour ozone NAAQS attainment purposes, or through the adoption of new or more stringent regulations that represent RACT control levels. A certification must be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data. This information may supplement existing RACT guidance documents that were developed for the 1-hour standard, such that the state's SIP accurately reflects RACT for the 1997 8-hour ozone standard based on the current availability of technically and economically feasible controls. Adoption of new RACT regulations will occur when states have new stationary sources not covered by existing RACT regulations, or when new data or technical information indicates that a previously adopted RACT measure does not represent a newly available RACT control level. Another 1997 8-hour ozone NAAQS requirement for RACT is to submit a negative declaration that there are no CTG major sources of VOC and NO<sub>x</sub> emissions within Maryland.

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

Maryland's SIP revision contains the requirements of RACT set forth by 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 that they 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. A detailed summary of EPA's review

and rationale for proposing to approve this SIP revision may be found in the Technical Support Document (TSD) for this action which is available on line at [www.regulations.gov](http://www.regulations.gov). Docket number EPA-R03-OAR-2012-0208.

### **III. Proposed Action**

EPA's review of this material indicates that Maryland has met the requirements of RACT for NO<sub>x</sub> and VOCs set forth by the CAA with respect to the 1997 8-hour ozone standard. EPA is proposing to approve the Maryland SIP revision for the requirements of RACT set forth by the CAA under the 1997 8-hour ozone NAAQS, which was submitted on October 17, 2011. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Statutory and Executive Order Reviews**

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 proposed 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 proposed rule pertaining to Maryland RACT for the 1997 8-hour ozone NAAQS, 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.

**List of Subjects in 40 CFR Part 52**

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

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

Dated: May 2, 2012

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

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