



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0396; FRL-9968-54-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; 2011 Base Year Inventory for the 2008 8-Hour Ozone National Ambient Air
Quality Standard for the Baltimore, Maryland Nonattainment Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve the 2011 base year inventory for the Baltimore, Maryland moderate nonattainment area for the 2008 8-hour ozone national ambient air quality standard (NAAQS). The State of Maryland submitted the emission inventory through the Maryland Department of the Environment (MDE) to meet the nonattainment requirements for moderate ozone nonattainment areas for the 2008 8-hour ozone NAAQS. EPA is approving the 2011 base year emissions inventory for the 2008 8-hour ozone NAAQS as a revision to the Maryland state implementation plan (SIP) in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-0396 at <https://www.regulations.gov>, or via email to stahl.cynthia@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Ground level ozone is formed when nitrogen oxides (NO_x) and volatile organic compounds (VOC) react in the presence of sunlight. NO_x and VOC are referred to as ozone precursors and are emitted by many types of pollution sources, including motor vehicles, power plants,

industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects occur following exposure to ozone. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases. In response to this scientific evidence, EPA promulgated in 1979 the first ozone NAAQS, the 0.12 part per million (ppm) 1-hour ozone NAAQS. *See* 44 FR 8202 (February 8, 1979). Before the first ozone NAAQS, EPA had previously promulgated a NAAQS for total photochemical oxidants. *See* 36 FR 8186 (April 30, 1971).

On July 18, 1997, EPA promulgated a revised ozone NAAQS of 0.08 ppm, averaged over eight hours. 62 FR 38855. This 8-hour ozone NAAQS was determined to be more protective of public health than the previous 1979 1-hour ozone NAAQS. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008).¹

On May 21, 2012, the Baltimore, Maryland area was designated as moderate nonattainment for the 2008 8-hour ozone NAAQS. 77 FR 30088. The designation of the Baltimore, Maryland area as moderate nonattainment was effective July 20, 2012. The Baltimore, Maryland nonattainment area is comprised of Anne Arundel County, Baltimore County, Baltimore City, Carroll County, Harford County, and Howard County. Under section 172(c)(3) of the CAA, Maryland is required to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutants in its moderate nonattainment area.

¹ On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS to 0.070 ppm. *See* 80 FR 65292 (October 16, 2015). This rulemaking addresses the 2008 8-hour ozone NAAQS and does not address the 2015 8-hour ozone NAAQS.

II. Summary of SIP Revision and EPA Analysis

Under CAA section 172(c)(3), states are required to submit a comprehensive, accurate, and current account of actual emissions from all sources (point, nonpoint, nonroad, and onroad) in the nonattainment area. CAA section 182(a)(1) and (b) requires that areas designated as nonattainment and classified as moderate submit an inventory of all sources of ozone precursors no later than 2 years after the effective date of designation. EPA's guidance for emissions inventory development calls for actual emissions to be used in the base year inventory. The state must report annual emissions as well as "summer day emissions." As defined in 40 CFR 51.900(v), "summer day emissions" means, "an average day's emissions for a typical summer work weekday. The state will select the particular month(s) in summer and the day(s) in the work week to be represented."

On December 30, 2016, MDE submitted a formal revision (SIP #16-16) to its SIP. The SIP revision consists of the 2011 base year inventory for the Baltimore, Maryland nonattainment area for the 2008 8-hour ozone NAAQS. In accordance with EPA's requirements for ozone SIP planning, "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," MDE selected 2011 for its base year emissions inventory. *See* 80 FR 12263 (March 6, 2015). MDE's 2011 base year inventory includes emissions estimates covering the general source categories of stationary point, area (nonpoint), quasi-point, nonroad mobile, onroad mobile, and Marine-Air-Rail (M-A-R). In its 2011 base year inventory, MDE reported actual annual emissions and typical summer day emissions for the months of May through September for VOC, NO_x, and carbon monoxide (CO). Although MDE also reported annual emissions for fine particulate matter (PM_{2.5}), sulfur dioxide (SO₂), and ammonia (NH₃) and typical summer day emissions for CO, in this approval of the 2011 base year emissions

inventory for the 2008 ozone NAAQS, EPA is approving only relevant ozone precursors, which are VOC and NO_x.

Table 1 summarizes the 2011 VOC and NO_x emission inventory by source sector for Maryland's moderate nonattainment area. Annual emissions are given in tons per year (tpy) and summer weekday emissions are given by tons per day (tpd).

Table 1. Summary of 2011 Emissions for the Baltimore, Maryland Nonattainment Area

| Source Category | Ozone Season Daily (tpd) | | Annual (tpy) | |
|------------------------------------|--------------------------|-----------------|--------------|-----------------|
| | VOC | NO _x | VOC | NO _x |
| Point | 8.228 | 107.676 | 2,153.41 | 16,950.46 |
| Quasi-Point | 1.080 | 5.383 | 387.102 | 1,946.98 |
| Area | 68.093 | 8.502 | 21,827.01 | 5,441.14 |
| Nonroad | 38.618 | 28.628 | 9,678.69 | 8,799.27 |
| Onroad | 45.34 | 116.73 | 15,761.71 | 41,265.21 |
| M-A-R | 1.64 | 18.43 | 597.27 | 6,727.63 |
| Anthropogenic BNAA* Subtotal | 162.999 | 285.352 | 50,405.190 | 81,130.694 |

*Baltimore Nonattainment Area (BNAA)

Point sources are large, stationary, and identifiable sources of emissions that release pollutants into the atmosphere. For the 2011 inventory, point sources are defined as stationary commercial or industrial operations that emit more than 10 tpy of VOC or 25 tpy of NO_x. Maryland obtained its point source data from the MDE Air and Radiation Management Administration (ARMA) point source emissions inventory. ARMA identifies and inventories stationary sources for the point source emissions inventory through inspections, investigations, permitting, and equipment registrations.

Quasi-point sources are sources that contain a wide variety of air emission sources, including

traditional point sources, on-road mobile sources, off-road mobile sources, and area sources. For these sources, the emissions are totaled under a single point source and referred to as a “quasi-point source.” MDE identified three facilities that met these requirements which include the Aberdeen Proving Grounds, Baltimore Washington International Airport, and the Port of Baltimore.

Nonpoint sources, also known as area sources, are sources of pollution that are small and numerous and have not been inventoried as specific point or mobile sources. For example, these sources include residential heating emissions and emissions from consumer solvents. To inventory these sources, they are grouped so that emissions can be estimated collectively using one methodology. MDE calculated nonpoint emissions for the Baltimore, Maryland nonattainment area by multiplying emissions factors specific for each source category with some known indicator of collective activity for each source category, such as population or employment data.

Nonroad sources are mobile sources other than onroad vehicles, including aircraft, locomotives, construction and agricultural equipment, and marine vessels. Emissions from different source categories are calculated using various methodologies. The methodologies used for nonroad source emission estimates include EPA’s National Mobile Inventory Model (NMIM-April 5, 2009) and EPA’s emission factors.

Onroad or highway sources are vehicles, such as cars, trucks, and buses, which are operated on public roadways. These onroad emissions were estimated using EPA’s Motor Vehicle Emission Simulator (MOVES) model, version 2010a, using appropriate activity levels, such as vehicle miles traveled (VMT) estimates developed from vehicle count data maintained by the State

Highway Administration (SHA) of the Maryland Department of Transportation (MDOT).

M-A-R sources include marine vessels, airports, and railroad locomotives. M-A-R emissions were estimated using data from surveyed sources or state and federal reporting agencies.

EPA reviewed Maryland's 2011 base year emission inventory's results, procedures, and methodologies for the Baltimore, Maryland moderate nonattainment area and found them to meet the applicable requirements for approval under sections 110, 172(c)(3) and 182(a)(1) and (b) of the CAA. EPA's review and analysis is detailed in a Technical Support Document (TSD) prepared for this rulemaking. The TSD is available online at <http://www.regulations.gov>, Docket Number EPA-R03-OAR-2017-0396.

III. Final Action

EPA is approving the Maryland SIP revision which includes the 2011 base year inventory for the 2008 8-hour ozone NAAQS for the Baltimore, Maryland moderate nonattainment area because the inventory was prepared in accordance with requirements in sections 110, 172(c)(3) and 182(a)(1) and (b) of the CAA and its implementing regulations including 40 CFR 51.915. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of this issue of the **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice unless EPA receives adverse comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all

public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

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. 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 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this issue of the **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action approving Maryland's 2011 base year inventory for the 2008 8-hour ozone NAAQS for the Baltimore, Maryland moderate nonattainment area 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.

Dated: September 7, 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 an entry for “2011 Base Year Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard” at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

EPA approved non-regulatory and quasi-regulatory material

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|--|--|----------------------|---|------------------------|
| * * * | * * * | * * * | * * * | |
| 2011 Base Year Emissions Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard | Baltimore, Maryland 2008 Ozone Moderate Nonattainment Area | 12/30/2016 | [Insert date of publication in the Federal Register] [Insert Federal | See §52.1075(r) |

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|-------------------------------------|----------------------------|----------------------|---------------------------|------------------------|
| | | | <u>Register citation]</u> | |

3. Section 52.1075 is amended by adding paragraph (r) to read as follows:

§ 52.1075 Base year emissions inventory.

* * * * *

(r) EPA approves as a revision to the Maryland state implementation plan the 2011 base year emissions inventory for the Baltimore, Maryland moderate nonattainment area for the 2008 8-hour ozone national ambient air quality standards submitted by the Maryland Department of the Environment on December 30, 2016. The 2011 base year emissions inventory includes emissions estimates that cover the general source categories of stationary point, quasi-point, area (nonpoint), nonroad mobile, onroad mobile, and Marine-Air-Rail (M-A-R). The inventory includes actual annual emissions and typical summer day emissions for the months of May through September for the ozone precursors, VOC and NO_x.

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