

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R03–OAR–2016–0238; FRL–9957–87–Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Nitrogen Oxide Emissions from Coal-Fired Electric Generating Units**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This SIP submittal consists of a regulation for inclusion in the Maryland SIP which regulates nitrogen oxides (NO<sub>x</sub>) emissions from seven coal-fired electric generating units (EGU) in the State. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before February 10, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0238 at <http://www.regulations.gov>, or via email to [pino.maria@epa.gov](mailto:pino.maria@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the 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. The 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:** Marilyn Powers, (215) 814–2308 or by email at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 20, 2015, the State of Maryland, through the Maryland Department of the Environment (MDE), submitted a revision to its SIP seeking to include regulation COMAR 26.11.38.01—.05—Control of NO<sub>x</sub> Emissions from Coal-Fired Electric Generating Units, in the Maryland SIP. On September 8, 2016, MDE provided a letter to EPA to clarify that this regulation was submitted as a SIP strengthening measure, and not as a submission to address reasonably available control technology (RACT) for coal-fired EGUs.<sup>1</sup>

**I. Background**

On March 12, 2008, EPA strengthened the national ambient air quality standards (NAAQS) for ground level ozone, setting both the primary and secondary standards to a level of 0.075 parts per million (ppm) or 75 parts per billion (ppb) averaged over an 8-hour period (2008 ozone NAAQS). On May 21, 2012 (77 FR 30088), EPA designated areas that were not attaining the 2008 ozone NAAQS as nonattainment, including the following three areas or portions of areas in Maryland: Cecil County (part of the Philadelphia-Wilmington-Atlantic City Nonattainment Area); Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties (part of the Washington, DC-MD-VA Nonattainment Area); and Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the City of Baltimore (the Baltimore Nonattainment Area). The Philadelphia-Wilmington-Atlantic City Area and Washington, DC-MD-VA Area were classified as marginal nonattainment areas, and the Baltimore Area was classified as a moderate nonattainment area for the 2008 ozone NAAQS.

**II. Summary of SIP Revision and EPA Analysis**

On November 20, 2015, MDE submitted a regulation as a SIP revision for EPA approval and incorporation into the Maryland SIP. The revision consists of Maryland regulation COMAR 26.11.38—Control of NO<sub>x</sub> Emissions from Coal-Fired Electric Generating

Units. The regulation, effective in August 2015, establishes NO<sub>x</sub> emission standards and additional monitoring and reporting requirements for coal-fired EGUs.

COMAR 26.11.38 defines the affected units for the regulation as Brandon Shores Units 1 and 2, C.P. Crane Units 1 and 2, Chalk Point Units 1 and 2, Dickerson Units 1, 2, and 3, H.A. Wagner Units 2 and 3, Morgantown Units 1 and 2, and Warrior Run. The regulation requires an affected EGU to minimize NO<sub>x</sub> emissions by operating and optimizing the use of all installed pollution controls and combustion controls during all times that the unit is in operation while burning coal. For demonstrating compliance with this requirement, the owner or operator is required to submit a plan to MDE and EPA for approval that summarizes the data to be collected to show that each affected EGU is operating its installed controls.

The regulation establishes a system-wide emissions rate of 0.15 pounds per million British thermal units (lbs/mmBtu) on a 30-day rolling average for coal-burning EGUs during the ozone season.<sup>2</sup> System-wide emissions are an aggregation of NO<sub>x</sub> emissions from all coal-fired EGUs owned, operated, or controlled by the same company. Continuous emissions monitoring (CEM) systems already installed on these units as a requirement of previous federal and state programs, will be used to track system-wide emissions and to determine compliance with the 30-day rolling average emissions limit. See COMAR 26.11.38.05. The 0.15 lb/mmBtu emission rate does not apply to C.P. Crane and AES Warrior Run, as they are not a part of a system.

To demonstrate compliance with the requirement to optimize controls, MDE established 24-hour block emissions levels for each coal-burning EGU based on historical emissions data. *Id.* During the ozone season, EGU owners are required to provide a daily report for any unit that exceeds its 24-hour emissions level. The report requires specific operating data and an explanation of any exceedances of the 24-hour level. A detailed discussion of the requirements of regulation COMAR 26.11.38 may be found in the EPA technical support document (TSD) prepared in support of this proposed rulemaking, which is available in the

<sup>1</sup> Subsequent to MDE's submission of this SIP revision to EPA, the State finalized several changes to COMAR 26.11.38 that were effective on December 10, 2015. This subsequent MDE action modified sections .01, recodified sections .04 and .05 to sections .05 and .06, respectively, and added new sections .04 and .07. These changes to COMAR 26.11.38 have not yet been submitted to EPA for incorporation in the Maryland SIP. EPA is proposing approval of sections .01 through .05 of COMAR 26.11.38 as submitted by MDE on November 20, 2015, which had a state effective date of August 31, 2015.

<sup>2</sup> The limit does not apply to an EGU located at a facility that is solely owned, operated, or controlled. AES Warrior Run is subject to a limit of 0.10 lb/mmBtu and Charles P. Crane is subject to the 24-hour block average rates which trigger reporting requirements.

docket for this rulemaking action and online at [www.regulations.gov](http://www.regulations.gov).

The 14 affected units at the seven plants that are subject to COMAR 26.11.38 have all installed controls as a result of programs requiring NO<sub>x</sub> reductions by previous regulatory requirements such as the NO<sub>x</sub> SIP Call (65 FR 57356, October 27, 1998), the Clean Air Interstate Rule (CAIR) (70 FR 25162, May 12, 2005), the Cross State Air Pollution Rule (CSAPR) (76 FR 48208, August 8, 2011), and Maryland's Healthy Air Act (HAA). All of the affected units have either selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR), or selective alternative catalytic reduction (SACR).

EPA finds that the submittal strengthens the Maryland SIP. COMAR 26.11.38 imposes NO<sub>x</sub> emissions limits on units subject to the regulation which are expected to lower NO<sub>x</sub> emissions within the State. The NO<sub>x</sub> emissions limits plus the operation and optimization of the existing NO<sub>x</sub> controls whenever the units are in operation will help Maryland's attainment and maintenance of the 2008 ozone NAAQS. EPA's detailed analysis of the Maryland submittal can be found in the TSD developed in support of this proposed rulemaking action, and can be found in the docket for this rulemaking action and at [www.regulations.gov](http://www.regulations.gov).

### III. Proposed Action

EPA is proposing to approve the November 20, 2015 Maryland SIP submittal which seeks to include regulation COMAR 26.11.38, Control of Nitrogen Oxides Emissions from Coal-Fired Electric Generating Units, in the Maryland SIP as a SIP strengthening measure in accordance with CAA section 110. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Maryland regulation COMAR 26.11.28—Control of Nitrogen Oxides Emissions from Coal-Fired Electric Generating Units. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### V. 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 approves 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 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 (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 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 action proposing to approve Maryland's regulation to control NO<sub>x</sub> emissions from coal-fired electric generating units 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: December 16, 2016.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2012-0773; FRL-9957-92-Region 4]

### Air Plan Approval and Air Quality Designation; KY; Redesignation of the Kentucky Portion of the Louisville 1997 Annual PM<sub>2.5</sub> Nonattainment Area to Attainment

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

**ACTION:** Proposed rule.

**SUMMARY:** On March 5, 2012, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Kentucky that is within the bi-state Louisville, KY-IN fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as the "bi-state Louisville Area" or "Area") to attainment for the 1997 Annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to approve the Commonwealth's plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxide (NO<sub>x</sub>) and PM<sub>2.5</sub> for the years 2015 and 2025 for the bi-state Louisville Area, and incorporate it into the SIP, and to redesignate the Kentucky portion of the Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the bi-state Louisville Area.