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**Implementation, Maintenance,
and Enforcement of the 8-hour Ozone
National Ambient Air Quality Standard
State Implementation Plan**

SIP Number:
07-06

June 15, 2007

Prepared for:

U.S. Environmental Protection Agency

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1.0 Introduction

The purpose of this document is to examine Maryland's State Implementation Plan (SIP) and determine if all necessary implementation, maintenance, and enforcement measures for the 8-hour ozone National Ambient Air Quality Standard (NAAQS) are in place. §110(a)(2) of the Clean Air Act lists specific requirements of any plan. Should any portion of Maryland's state implementation plan be found lacking, a prompt submittal to correct such deficiencies must be made.

Maryland's Approach

§110(a)(2) of the Clean Air Act provides a detailed listing of various requirements for Maryland's state implementation plan regarding the national ambient air quality standards. Below, each subparagraph from (A) through (M) is broken down, with various provisions supporting the requirements.

§110(a)(2) of the Clean Air Act (Subparagraphs A – M) EPA and Maryland Requirements

(A) EPA Requirement:

Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance.

Maryland Requirement:

- COMAR 26.11 Air Quality.
- Mirant Consent Decree, which was entered by the United States District Court for the Eastern District of Virginia on April 20, 2007.
- In addition, in June of 2007 Maryland will be submitting 8-Hour Ozone State Implementation Plans that will include adopted regulations necessary to meet the NAAQS.

(B) EPA Requirement:

Provide for establishment and operation of devices, methods, systems, and procedures to: (i) monitor, compile, and analyze data on ambient air quality, and (ii) make such data available to EPA.

Maryland Requirement:

- Maryland's authority to monitor ambient air quality is found under §§2-103(b)(2) and 2-301 (a)(1), Environment Article, Annotated Code of Maryland; and COMAR 26.11.04.03 (specifying methods of measuring ambient air quality levels shall be those specified in 40 C.F.R. Parts 50, 53 and 58).
 - No specific statutory authority is necessary to authorize data analysis or the submission of such data to EPA. Federal grant requirements establish the obligation to provide data to EPA.
 - Maryland has and will continue to submit data to EPA's Air Quality System (AQS).
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(C) EPA Requirement:

Include a program to provide for enforcement of measures in (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D.

Maryland Requirement:

- Enforcement and Penalties: §§2-601—614, Environment Article, Annotated Code of Maryland.
 - Permit Program requirements under COMAR 26.11.02 & COMAR 26.11.03.
 - PSD requirements under COMAR 26.11.06.14.
 - NSR requirements under COMAR 26.11.17.
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(D) EPA Requirement:

(i) Contain adequate provisions prohibiting any source or other type of emissions activity from emitting any air pollutant in amounts which will:

- (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard.

Maryland Requirement:

- Permitting requirements under COMAR 26.11.02 and Nonattainment New Source Review regulations under COMAR 26.11.17.

EPA Requirement:

- (i) Contain adequate provisions prohibiting any source or other type of emissions activity from emitting any air pollutant in amounts which will:
 - (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.

Maryland Requirement:

- PSD requirements under COMAR 26.11.06.14.
- Maryland is required to develop and implement a Regional Haze State Implementation Plan to protect visibility. In addition, Maryland will be developing and implementing a PM2.5 SIP in 2008 that will assist with reducing visibility reducing pollutants.

EPA Requirement:

- (ii) Insure compliance with the applicable requirements of §§ 126¹ and 115² (interstate and international pollution abatement).

¹ §126 (a) Each plan shall (1) require each major proposed new or modified source (A) subject to Part C or (D) which may significantly contribute to pollution in excess of the NAAQS in any AQCR outside the State in which such source intends to locate or modify, to provide written notice to all nearby States the pollution levels of which may be affected by such source 60 days prior to the date on which commencement of construction is to be permitted by the State, and (2) identify all major existing stationary sources which may have the impact described in (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources. (b) Any State may petition EPA for a finding that any major source or group of stationary sources emits or would emit any pollutant in violation of the prohibition of § 110(a)(2)(D)(ii) or this section. (c) Notwithstanding any permit which may have been granted by the State, it shall be a violation of this section and the plan - (1) for any major proposed new or modified source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of this section and the prohibition of § 110(a)(2)(D)(ii) or this section, or (2) for any major existing source to operate more than 3 months after such finding has been made. EPA may permit the continued operation of a source beyond the expiration of the 3-month period if the source complies with the emission limitations and compliance schedules as may be provided by EPA to bring about compliance with the requirements of § 110(a)(2)(D)(ii). Nothing shall be construed to preclude any such source from being eligible for an enforcement order under § 113(d) after the expiration of such period during which EPA has permitted continuous operation.

² § 115 (a) Whenever EPA, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any pollutants emitted in the US cause or contribute to pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests it to do so, EPA shall give formal notification to the Governor of the State in which such emissions originate. (b) The EPA notice shall be deemed to be a finding under § 110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable plan as is inadequate to prevent or eliminate the endangerment. Any foreign country so affected by such emission of pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable plan. (c) This section shall apply only to a foreign country which EPA determines has given the US the same rights with respect to the prevention or control of air pollution occurring in that country. (d) Recommendations issued following any abatement conference conducted prior to CAA 1977 shall remain in effect with respect to any pollutant for which no NAAQS has been established under § 109 unless EPA, after consultation with all agencies, which were party to the conference, rescinds any such recommendation.

Maryland Requirement:

- Permitting regulations under COMAR 26.11.02.
 - PSD regulation under COMAR 26.11.06.14.
 - §2-301(a)(1) Environment Article, Annotated Code of Maryland (authority to control air pollution).
 - In addition, nothing in Maryland's statutory or regulatory authority prohibits or otherwise interferes with Maryland's ability to exercise sections 126 and 115 of the CAA.
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(E) EPA Requirement:

Provide:

- (i) necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such plan).

Maryland Requirement:

- This is accomplished through the §105 grant process and the Maryland Clean Air Fund (§2-107 Environment Article, Annotated Code of Maryland) composed of funds collected from application fees, permit fees, renewal fees, and civil or administrative penalties or fines.
- The Clean Air Fund may be used for (1) identifying, monitoring, and regulating air pollution in the State, including program development of these activities as provided in the State budget; and (2) providing grants to local governments to supplement funding for programs conducted by local governments that are consistent with the Maryland program.

EPA Requirement:

- (ii) Requirements that the State comply with the requirements respecting State boards under § 128³.

³ § 128 (a) each plan shall contain requirements that - (1) any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be disclosed. A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of (1) and (2).

Maryland Requirement:

- Maryland does not have any board or body, which approves air quality permits or enforcement orders.

EPA Requirement:

- (iii) Necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.

Maryland Requirement:

- Maryland does not rely on localities for specific SIP implementation.
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(F) EPA Requirement:

Require, as may be prescribed by EPA:

- (i) installation, maintenance, and replacement of equipment, and implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions.

Maryland Requirement:

- §2-103(b)(2) Environment Article, Annotated Code of Maryland.
- §2-301(a)(1) Environment Article, Annotated Code of Maryland.
- Specific monitoring requirements are found throughout COMAR 26.11 (i.e. COMAR 26.11.01.10 & COMAR 26.11.01.11).

EPA Requirement:

- (ii) Periodic reports on the nature and amounts of emissions and emissions-related data.

Maryland Requirement:

- COMAR 26.11.01.04 Testing & Monitoring.
- COMAR 26.11.01.05 Records and Information.
- COMAR 26.11.01.05-1 Emission Statements.

- COMAR 26.11.01.07 Malfunctions & Other Temporary Increases in Emissions.
- COMAR 26.11.01.10 & .11 CEM Requirements.
- Also, specific monitoring requirements for specific types of sources under other chapters.

EPA Requirement:

- (iii) Correlation of such reports by the State agency with any emission limitations or standards established pursuant to CAA, which reports shall be available at reasonable times for public inspection.

Maryland Requirement:

- §2-302 (b) and (c) and specific monitoring requirements are found throughout COMAR 26.11 (i.e. COMAR 26.11.01.10 & COMAR 26.11.01.11).

(G) EPA Requirement:

Provide for authority comparable to that in § 303⁴ and adequate contingency plans to implement such authority.

Maryland Requirement:

- §2-105, Environment Article, Annotated Code of Maryland.
- §2-604 (Administrative corrective order authority) and § 2-609 (a) (Civil injunctive authority) Environment Article, Annotated Code of Maryland used to address accidental or other releases that are not authorized by statute, regulation or permit or occur in conjunction with violations of existing regulatory requirements.

⁴ § 303. Notwithstanding any other CAA provisions, EPA upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to public health or welfare, or the environment, may bring suit on behalf of the US in district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of pollutants causing or contributing to such pollution or to take such other action as may be necessary. If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, EPA may issue such orders as may be necessary to protect public health or welfare or the environment. Prior to taking any action, EPA shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the proposed action is based. Any order issued by EPA shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless EPA brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever EPA brings such an action within the 60-day period, such order shall remain in effect for an additional 14 days or longer as authorized by the court.

(H) EPA Requirement:

Provide for revision of such plan:

- (i) from time to time as necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard.

Maryland Requirement:

- §2-301(a)(1) Environment Article, Annotated Code of Maryland.

EPA Requirement:

Provide for revision of such plan:

- (ii) except as provided in (3)(C), whenever EPA finds on the basis of information available to EPA that the plan is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional CAA requirements.

Maryland Requirement:

- §2-301(a)(1) Environment Article, Annotated Code of Maryland.
 - Maryland's SIP is essentially a compilation of regulations. The authority to develop or revise a SIP is based on the authority to adopt new regulations and revise existing regulations to meet the NAAQS.
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(I) EPA Requirement:

In the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas).

Maryland Requirement:

- §2-301(a)(1) and §2-302(d) Environment Article, Annotated Code of Maryland.
 - COMAR 26.11.17 Requirements for Major New Sources and Modifications.
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(J) EPA Requirement:

Meet applicable requirements of § 121⁵ (consultation).

Maryland Requirement:

- Metropolitan Washington Air Quality Committee (MWAQC) was certified in 1991 by chief executives of Maryland, Virginia and the District of Columbia as the entity responsible for carrying out the regional planning requirements of the Clean Air Act Amendments of 1990 (membership includes local elected officials).
- Interstate Air Quality Council (IAQC) Memorandum of Understanding signed 3/24/05 by the Governors of Maryland, Virginia and the District of Columbia.
- COMAR 26.11.26 provides a legal platform for the various consultation procedures that have been developed between the Maryland Department of the Environment (MDE), Maryland Department of Transportation (MDOT), and Metropolitan Planning Organizations (MPOs). The MPOs provide the forum for consultation with local governments. Maryland's MPOs are: (1) the Baltimore Regional Transportation Board (BRTB), (2) the National Capital Transportation Planning Board (TPB) for the Washington region, (3) the Wilmington Area Planning Council (WILMAPCO) for New Castle County, Delaware and Cecil County, Maryland, and (4) the Hagerstown/Eastern Panhandle (HEP) for the Hagerstown area, which includes Washington County, Maryland and the counties of Berkeley and Jefferson in West Virginia.
- The Air Quality Control Advisory Council consultation process (§§ 2-201-206 Environment Article, Annotated Code of Maryland).
- COMAR 26.11.17 nonattainment New Source Review requirements; PSD permit requirements under COMAR 26.11.06.14.

EPA Requirement:

Meet applicable requirements of § 127⁶ (public notification).

⁵ § 121. In carrying out requirements for plans to contain - (1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of pollution, or (2) any measure referred to - (A) in part D), or (B) in part C, and in carrying out the requirements of § 113(d), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any FLM having authority over Federal land to which the State plan applies. Such process shall be in accordance with regulations promulgated by EPA. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of EPA approving any portion of a plan may petition for judicial review.

⁶ § 127. (a) Each plan shall contain measures to regularly notify the public of when any NAAQS is exceeded or was exceeded during the preceding year, to advise the public of health hazards associated with such pollution, and to enhance awareness of measures which can be taken to prevent the standards from being exceeded and ways in which the public can participate in regulatory and other efforts to improve air quality.

Maryland Requirement:

- All relevant SIPs and plans to achieve the NAAQS contain public notification provisions related to air monitoring levels such as Ozone Action Days, Air Quality Action Days, Clean Air Partners, Airwatch.net, and MDE's website.
- MDE provides extended range air quality forecasts, which give the public advanced notice of air quality events. This advance notice allows the public to limit their exposure to unhealthy air and enact a plan to reduce pollution at home and at work.
- MDE forecasts daily ozone and particle levels and issues e-mails to the public, businesses and the media via AirAlerts. AirAlert e-mail forecasts and notifications are free to the public and users can sign-up at www.cleanairpartners.net. The forecast is also available on the air quality hotline at (410) 537-3247. Visitors to the Clean Air Partners web site can also monitor current air quality conditions throughout the region and can customize their AirAlert profile to meet their air quality information needs.
- In addition, air quality calendars display past air quality information and dynamic graphs provide summaries of unhealthy air quality experienced throughout the region. This feature of the web site allows the public to monitor long term air quality and see how one year compares to previous years.

EPA Requirement:

Meet applicable requirements of Part C (PSD and visibility protection).

Maryland Requirement:

- Maryland incorporated PSD requirements by reference (COMAR 26.11.06.14).
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(K) EPA Requirement:

- (i) Provide for performance of air quality modeling as EPA may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS.

Maryland Requirement:

- §2-302 Environment Article, Annotated Code of Maryland.
- Inherent in the obligation to meet the NAAQS is the authority for the Department to perform modeling as required under the CAA to demonstrate attainment.

EPA Requirement:

- (ii) Provide for the submission, upon request, of data related to such air quality modeling to EPA.

Maryland Requirement:

- Air quality modeling data is submitted as part of Maryland's relevant SIP submissions and through federal grant commitments.
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(L) EPA Requirement:

Require owner of a major stationary source to pay, as a condition of any permit required under CAA, a fee sufficient to cover: (i) reasonable cost of reviewing and acting upon any permit application, and (ii) if the owner receives a permit, the reasonable costs of implementing and enforcing the terms and conditions of the permit (not including court costs or costs associated with enforcement), until fee requirement is superseded by EPA approval of a Title V fee program.

Maryland Requirement:

- COMAR 26.11.02.16—19.
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(M) EPA Requirement:

Provide for consultation and participation by local political subdivisions affected by the plan.

Maryland Requirement:

- Broad authority under §2-301(a)(1) Environment Article, Annotated Code of Maryland.
 - COMAR 26.11.26 for conformity purposes.
 - Other significant consultation processes include the Metropolitan Washington Air Quality Committee (MWAQC) and the Interstate Air Quality Committee (IAQC).
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2.0 Conclusion

Based on the information provided above, Maryland fully complies with the requirements of §110(a)(2)(A) through §110(a)(2)(M). Therefore, no implementation plan to correct deficiencies is needed.