

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.

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).

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 October 13, 2009. 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 today's **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. This action 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 28, 2009.

Walter W. Kovalick Jr.,
Acting Regional Administrator, Region 5.

■ 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 KK—Ohio

■ 2. Section 52.1870 is amended by adding paragraph (c)(147) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(147) On October 5, 2007, Ohio submitted revisions to Ohio Administrative Code Chapter 3745–112, Rules 3745–112–01 through 3745–112–08. The revisions regulate the volatile organic compounds content of consumer products.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745–112–01 "Definitions.", Rule 3745–112–02 "Applicability.", Rule 3745–112–03 "Standards.", Rule 3745–112–04 "Exemptions.", Rule 3745–112–05 "Administrative requirements.", Rule 3745–112–06 "Reporting requirements.", Rule 3745–112–07 "Variances.", and Rule 3745–112–08 "Test methods.", adopted September 5, 2007, effective on September 15, 2007.

(B) September 5, 2007, "Director's Final Findings and Orders", signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

[FR Doc. E9–19305 Filed 8–12–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0591; FRL–8941–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Motor Vehicle Emission Budgets for the York-Adams Counties 8-Hour Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision amends the

8-hour ozone maintenance plan for the York-Adams Counties 8-Hour Ozone Maintenance Area (the Area). This revision amends the maintenance plan's 2009 and 2018 motor vehicle emissions budgets (MVEBs) by unequally dividing the existing approved MVEBs which covers the entire maintenance area into two sub-regional MVEBs, one set of MVEBs for each county comprising the area. The revised plan continues to demonstrate maintenance of the 8-hour national ambient air quality standard (NAAQS) for ozone. EPA is approving this SIP revision to the Pennsylvania maintenance plan for York-Adams in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 13, 2009 without further notice, unless EPA receives adverse written comment by September 14, 2009. 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 Number EPA–R03–OAR–2008–0591 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* febbo.carol@epa.gov.

C. *Mail:* EPA–R03–OAR–2008–0591, Carol Febbo, Chief, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, 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–2008–0591. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site 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 <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 <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 <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 the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Martin Kotsch, (215) 814-3335, or by e-mail at kotsch.martin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we”, “us”, or “our” is used, we mean EPA.

Table of Contents

- I. Background
- II. Summary of Pennsylvania’s SIP Revision and EPA’s Review
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

On January 14, 2008 (73 FR 2163) EPA redesignated the York-Adams Counties area of Pennsylvania to attainment for the 8-hour ozone NAAQS. For the York-Adams Counties area, the redesignation included approval of an 8-hour ozone maintenance plan, which identifies on-

road MVEBs for Volatile Organic Compounds (VOCs) and Nitrous Oxides (NO_x), which are ozone precursors, which are then used for transportation planning and conformity purposes. There are two separate metropolitan planning organizations (MPOs), in this maintenance area, one in each county, with individual responsibility for doing transportation conformity for their respective county. Pennsylvania has unequally divided the existing MVEBs and created sub-regional MVEBs for each county to better accommodate the transportation planning and conformity processes within the Area.

II. Summary of Pennsylvania’s SIP Revision and EPA’s Review 2009 and 2018 Motor Vehicle Emission Budgets

On May 23, 2008, the State of Pennsylvania submitted to EPA a formal revision to its State Implementation Plan (SIP). The SIP revision proposes MVEBs that reflect the unequal division of the existing MVEBs for the maintenance area. The divided MVEBs continue to ensure maintenance of the NAAQS for ozone for the York-Adams area. The following table lists the previously approved MVEBs and the proposed reallocation of the MVEBs into sub-regional budgets for the York-Adams Counties area.

**YORK-ADAMS AREA REALLOCATION OF THE MVEBs INTO SUB-REGIONAL BUDGETS
CURRENT MVEBs IN THE APPROVED MAINTENANCE PLAN—BOTH COUNTIES**
[Tons/day]

	2004 Base year	2009 Projection	2018 Projection
VOC	16.1	15.9	9.0
NO _x	26.4	22.8	10.0

PROPOSED MVEBs IN THE REVISED MAINTENANCE PLAN FOR BOTH COUNTIES
[Tons/day]¹

	2009 Budget	2018 Budget
Adams County		
VOC	3.84	2.34
NO _x	4.87	2.54
York County		
VOC	12.09	6.72
NO _x	17.96	7.50

¹ Due to rounding, the new reallocated budgets, if combined, are insignificantly higher than the previously approved mobile budgets for the entire area. This slight difference will still ensure maintenance of the 8-hour ozone attainment as the combined MVEBs are still lower than the attainment year budgets.

EPA is proposing to approve the 2009 and 2018 MVEBs for VOCs and NO_x emissions listed above in Table 1 as the

new MVEBs for transportation conformity planning.

III. Final Action

EPA is approving Pennsylvania’s May 23, 2008 SIP revision submittal which amends the 8-hour ozone maintenance

plans for the York-Adams area. This revision unequally divides the previously approved 2009 and 2018 MVEBs to create sub-regional MVEBs for the two counties comprising the area. EPA is approving this SIP revision to the maintenance plan for the Area because the May 23, 2008 submittal continues to demonstrate maintenance of the 8-hour ozone NAAQS with the aggregated sub-regional MVEBs. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment, since no significant adverse comments were received on the SIP revision at the State level. However, in the Proposed Rules section of today's **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 October 13, 2009 without further notice unless EPA receives adverse comment by September 14, 2009.

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 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 October 13, 2009. 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 today's **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.

This action to approve the York-Adams Counties revised maintenance plan 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: July 28, 2009.

William C. Early,

Acting Regional Administrator, 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 XX—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the York-Adams, PA Area to read as follows:

§ 52.2020 Identification of plan.

*	*	*	*	*
(e)	*	*	*	
(1)	*	*	*	

EPA-APPROVED NON-REGULATORY OR QUASI-REGULATORY MATERIAL

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan for the York-Adams, PA Area.	York-Adams Counties Area ...	6/14/07	1/14/08, 73 FR 2163.	
		5/23/08	8/13/09 [Insert page number where the document begins].	

* * * * *
 [FR Doc. E9-18864 Filed 8-12-09; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2008-0566; FRL-8939-2]

Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District, Kern County Air Pollution Control District, Mohave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the following actions: A disapproval of revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) portion of the California State Implementation Plan (SIP); a limited approval and limited disapproval of revisions to the Kern County Air

Pollution Control District (KCAPCD) SIP; and, a limited approval and limited disapproval of revisions to the Mohave Desert Air Quality Management District (MDAQMD) SIP. These revisions concern particulate matter (PM) emissions from fugitive dust sources. This action was proposed in the **Federal Register** on November 18, 2008. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs California to correct rule deficiencies in GBUAPCD Rule 401; and, this action simultaneously approves KCAPCD Rule 402 and MDAQMD Rule 403.1 and directs California to correct the deficiencies within these rules.

DATES: *Effective Date:* This rule is effective on September 14, 2009.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2008-0566 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be

publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Jerry Wamsley, EPA Region IX, (415) 947-4111, wamsley.jerry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On November 18, 2008 (73 FR 68369), EPA proposed to disapprove GBUAPCD Rule 401. In this same action, EPA proposed a limited approval and limited disapproval of KCAPCD Rule 402 and MDAQMD Rule 403.1. Table 1 lists the rules that California submitted for incorporation within the SIP.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
GBUAPCD	401	Fugitive Dust	12/04/06	05/08/07
KCAPCD	402	Fugitive Dust	11/03/04	01/13/05
MDAQMD	403.1	Fugitive Dust Control	11/25/96	03/03/97

We proposed to disapprove GBUAPCD Rule 401 because some provisions do not satisfy the requirements of section 110 and part D of the Act. These provisions are discussed below.

1. The rule lacks a 20% opacity limit. GBUAPCD should either incorporate or reference such a 20% opacity limit.

2. The rule lacks a clear description of required control measures for meeting the rule’s opacity and property line PM emission limits. GBUAPCD should also

remove the “reasonable precautions” language.

3. GBUAPCD should either provide a precise wind speed exemption from the rule’s emission standards, or delete the language concerning “normal wind conditions”.

4. GBUAPCD should remove director’s discretionary language in Section D.1.

5. As specified by the PM-10 plan, GBUAPCD should define required BACM provisions beyond those already

adopted to reduce Owens dry lakebed dust emissions, and specify an enforceable implementation schedule.

We proposed a limited approval of KCAPCD Rule 402 and MDAPCD Rule 403.1 because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act.