VI. 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 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 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.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 2013. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.


Susan Hedman,
Regional Administrator, Region 5.

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.
II. What is the background for this action?

a. SIP Budgets and Transportation Conformity

Under the CAA, states are required to submit control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These SIP revisions and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants, including precursors. Transportation plans and projects “conform” to (i.e., are consistent with) the SIP when they will not cause or contribute to air quality violations, or delay timely attainment of the NAAQS.

b. Prior Approval of Budgets

EPA previously approved budgets for the Lima, Ohio, 8-hour ozone maintenance area for volatile organic compounds (VOCs) and nitrogen oxides (NOx). The area’s ozone maintenance plan established 2009 and 2018 budgets that demonstrated a reduction in emissions from the monitored attainment year of 2004.

c. The MOVES Emissions Model

The MOVES model is EPA’s state of the art tool for estimating highway emissions. EPA announced the release of MOVES2010 on March 2, 2010 (75 FR 9411). Use of the MOVES model is required for regional emissions analyses for transportation conformity determinations outside of California that begin after March 2, 2013. MOVES2010a was used to estimate emissions in the Lima area for the same milestone years as the original budgets in the SIP. The Ohio Environmental Protection Agency (OEPA) is revising the budgets using the latest planning assumptions, including population and employment updates. In addition, new vehicle registration data has been used to update the age distribution of the vehicle fleet. Updating the budgets with MOVES2010a allows the area to continue to show conformity to the SIP in plans, transportation improvement programs, and projects. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

d. Submission of New Budgets Based on MOVES2010a

On January 11, 2013, Ohio submitted final budgets based on MOVES2010a that cover the Lima area. Ohio received no comments during the public review and comment period.

I. What is EPA approving?

EPA is approving new MOVES2010a-based budgets for the Lima, Ohio 1997 8-hour ozone maintenance area that will replace MOBILE-based budgets in the SIP. The Lima, Ohio area was redesignated to attainment of the 1997 8-hour ozone standard effective June 15, 2007 (72 FR 27648), and MOBILE6.2-based budgets were approved in that action. Upon the effective date of approval of the MOVES-based budgets, they must then be used in future transportation conformity analyses for the area as required by section 176(c) of the CAA. See the official release of the MOVES2010 emissions model (75 FR 9411–9414) for background, and section II.(c) below for details.

III. What are the criteria for approval?

EPA is considering the following criteria:

a. SIP Budgets and Transportation Conformity

b. Prior Approval of Budgets

c. The MOVES Emissions Model

d. Submission of New Budgets Based on MOVES2010a

EPA is considering the following criteria:

1. The Revised Inventories.
2. Approval of the MOVES2010a-Based Budgets.
3. Applicability of MOBILE6.2-Based Budgets.
4. What action is EPA taking?
5. Statutory and Executive Order Reviews.

IV. What is EPA’s analysis of the state’s submittal?

a. SIP Budgets and Transportation Conformity

EPA is analyzing the following:

1. Applicability of MOVES2010a-Based Budgets.
2. MOBILE6.2-Based Budgets.
3. What action is EPA taking?

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA approving?
II. What is the background for this action?

a. SIP Budgets and Transportation Conformity

b. Prior Approval of Budgets.

c. The MOVES Emissions Model.

d. Submission of New Budgets Based on MOVES2010a.

III. What are the criteria for approval?

IV. What is EPA’s analysis of the state’s submittal?

a. SIP Budgets and Transportation Conformity

b. Prior Approval of Budgets

c. The MOVES Emissions Model

d. Submission of New Budgets Based on MOVES2010a

The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays. EPA is accepting comments for 30 days, beginning June 11, 2013, and closing on July 11, 2013. The Regional Office official hours of business are Monday through Friday, excluding Federal holidays. EPA is accepting comments for 30 days, beginning June 11, 2013, and closing on July 11, 2013. EPA is accepting comments for 30 days, beginning June 11, 2013, and closing on July 11, 2013.
The new MOVES2010a based budgets are for the years 2009 and 2018, for both VOCs and NOx, and are detailed later in this notice. Ohio also provided Lima’s total emissions, including mobile emissions based on MOVES2010a, for the 2004 attainment year, the 2009 interim budget year, and the 2018 maintenance year. The combined emissions reduction from all sectors between the years 2004 and 2018 is shown as well. Total emissions include point, area, non-road mobile and on-road mobile sources. The total emissions and combined emissions reduction from all sectors from 2004 to 2018 for VOC and NOx for each area is shown in tables 1 and 2. As noted in tables 1 and 2, for on-road emissions of both VOC and NOx for the years 2009 and 2018, a 15% safety margin has been applied to reach the values shown.

III. What are the criteria for approval?

OEPA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (e.g., reasonable further progress, attainment, or maintenance). The SIP must also meet any applicable SIP requirements under CAA section 110. In addition, adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

Areas can revise their budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. For more information, see EPA’s latest “Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes” (April 2012), available online at: www.epa.gov/otag/stateresources/transconf/policy.htm#models. The submittal onto the MOVES-based on-road emissions budgets. In this case, Ohio chose to add a 15% safety margin meets this requirement as described below in the next section.

IV. What is EPA’s analysis of the state’s submittal?

a. The Revised Inventories

The Lima Allen County Regional Planning Commission has added only a portion of the overall safety margin available for NOx and VOCs to the budgets for 2009 and 2018. As shown in tables 1 and 2, the submittal demonstrates how the area’s combined emissions decline from the attainment year of 2004 to maintain the 1997 8-hour ozone standard.

No additional control measures were needed to maintain the 1997 8-hour ozone standard in the Lima, Ohio area. An appropriate safety margin for NOx and VOCs was established by the interagency consultation group, which consists of representatives from the Federal Highway Administration, OEPA, Ohio Department of Transportation, and EPA. The submitted budgets for the Lima, Ohio area are addressed later in this notice.

### TABLE 1—TOTAL VOC EMISSIONS WITH MOVES2010a MOBILE EMISSIONS IN LIMA, OHIO

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Point</td>
<td>4.92</td>
<td>5.28</td>
<td>6.44</td>
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<tr>
<td>Area</td>
<td>5.08</td>
<td>4.85</td>
<td>4.89</td>
<td></td>
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<tr>
<td>On-road Mobile</td>
<td>6.35</td>
<td>5.39</td>
<td>2.38</td>
<td></td>
</tr>
<tr>
<td>Non-road Mobile</td>
<td>2.11</td>
<td>1.89</td>
<td>1.36</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>18.46</td>
<td>17.41</td>
<td>15.07</td>
<td>3.39</td>
</tr>
</tbody>
</table>

### TABLE 2—TOTAL NOx EMISSIONS WITH MOVES2010a MOBILE EMISSIONS IN LIMA, OHIO

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Point</td>
<td>12.57</td>
<td>13.66</td>
<td>15.98</td>
<td></td>
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<tr>
<td>Area</td>
<td>0.47</td>
<td>0.52</td>
<td>0.55</td>
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<tr>
<td>On-road Mobile</td>
<td>12.23</td>
<td>10.65</td>
<td>6.18</td>
<td></td>
</tr>
<tr>
<td>Non-road Mobile</td>
<td>4.85</td>
<td>3.72</td>
<td>2.82</td>
<td></td>
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<tr>
<td>Total</td>
<td>30.12</td>
<td>28.55</td>
<td>25.53</td>
<td>4.59</td>
</tr>
</tbody>
</table>
Ohio has submitted MOVES2010a-based budgets for the Lima, Ohio area that are clearly identified in the submittal. The budgets are displayed in table 3.

Table 3—Motor Vehicle Emission Budgets (MOVES) for the Lima 1997 Ozone Area (Allen County, Ohio)

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>VOC</td>
<td>5.39</td>
<td>2.38</td>
</tr>
<tr>
<td>NOX</td>
<td>10.65</td>
<td>6.18</td>
</tr>
</tbody>
</table>

b. Approvability of the MOVES2010a-Based Budgets

EPA is approving the MOVES2010a-based budgets submitted by Ohio for use in determining transportation conformity in the Lima, Ohio 1997 ozone maintenance area. EPA evaluated the MOVES-based budgets submitted on January 11, 2013, using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the state’s submittal and SIP requirements.

Before submitting the revised budgets, OEPA has shown that it followed all necessary conformity procedures. The budgets are clearly identified and precisely quantified in the submittal. The budgets, when considered with other emissions sources, are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration and the Ohio Department of Transportation have taken a lead role in working with the Lima Allen County Regional Planning Commission to provide accurate, timely information and inputs to the MOVES2010a model run. The state has documented that growth and control strategy assumptions for non-motor vehicle sources (i.e., area, non-road, and point) continue to be valid and any minor updates do not change the overall conclusions of the SIP.

Ohio’s submission confirms that the SIP continues to demonstrate maintenance of the 1997 ozone standard because the total emissions in the revised SIP (including MOVES2010a emissions for mobile sources) continue to decrease from the attainment year to the final year of the maintenance plan, as shown in tables 1 and 2. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level. As table 3 shows, the submitted budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Based on our review of the January 11, 2013, submittal, EPA has determined that the SIP will continue to meet the requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

c. Applicability of MOBILE6.2-Based Budgets

Upon the effective date of the approval of the revised budgets, the state’s existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes.

VI. 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); 49 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 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.);
- 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.

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); 49 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 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.);
- 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 2013. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.
Susan Hedman,
Regional Administrator, Region 5.

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.

2. Section 52.1885 is amended by adding paragraph (ff)(16) to read as follows:

§ 52.1885 Control strategy: Ozone.
(f) * * *
(16) Approval—On January 11, 2013, Ohio submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Lima, Ohio area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2009 motor vehicle emissions budgets for the Lima, Ohio area are 5.39 tpd VOC and 10.65 tpd NOx. The 2018 motor vehicle emissions budgets for the Lima, Ohio area are 2.38 tpd VOC and 6.18 tpd NOx.

[FR Doc. 2013–13734 Filed 6–10–13; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52
Approval and Promulgation of Implementation Plans; Maryland; Revisions to the State Implementation Plan Approved by EPA Through Letter Notice Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is taking final action on administrative changes to the Maryland State Implementation Plan (SIP) which EPA had previously approved through a Letter Notice action. The revision removes an obsolete Consent Decree for the Allegany County Board of Education, Beall Jr./Sr. High School since the school’s coal-fired boiler was demolished in 2007. EPA determined that the revision was a minor SIP revision without any substantive changes and complies with all applicable requirements of the CAA and EPA regulations concerning such SIP revisions. EPA approved this revision through Letter Notice to Maryland dated February 6, 2013 consistent with the procedures outlined in EPA’s Notice of Procedural Changes on SIP processing published on January 19, 1989 at 54 FR 2214 and consistent with the procedures outlined in an April 6, 2011 memo from Janet McCabe, Deputy Assistant Administrator for the Office of Air and Radiation, regarding Regional Consistency for the Administrative Requirements of State Implementation. Today’s action completes the February 6, 2013 administrative amendment to the SIP by removing the Consent Order entry for Beall Jr./Sr. High School from the 40 CFR 52.1070(d) table.

II. EPA Action

EPA is taking final action on administrative changes to the Maryland SIP. EPA has determined that today’s action falls under the “good cause” exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA)