

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2013-0058; FRL-9841-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets for the Lancaster 1997 8-Hour Ozone Maintenance Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's (Pennsylvania) State Implementation Plan (SIP). The revisions consist of an update to the SIP-approved Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOCs), and an updated point source inventory for NO_x and VOCs for the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) SIP for Lancaster County (hereafter referred to as the "Lancaster Maintenance Area"). EPA's approval of the updated MVEBs makes them available for transportation conformity purposes. EPA is approving these revisions to the MVEBs and point source inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 7, 2013 without further notice, unless EPA receives adverse written comment by *September 9, 2013*. 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-2013-0058 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. Email: *fernandez.cristina@epa.gov*.

C. Mail: EPA-R03-OAR-2013-0058, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, 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-2013-0058. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *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 *www.regulations.gov* or email. The *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 email comment directly to EPA without going through *www.regulations.gov*, your email 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 *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 *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 Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814-2071, or by email at *khadr.asrah@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 19, 2012, Pennsylvania submitted formal revisions to its SIP. One SIP revision consists of updated MVEBs for NO_x and VOCs for the 1997 8-Hour Ozone NAAQS. The other SIP revision updates the point source inventory for NO_x and VOCs.

On July 18, 1997 (62 FR 38856), EPA established the 1997 8-Hour Ozone NAAQS. On April 30, 2004 (69 FR 23857), Lancaster County was designated as nonattainment for the 1997 8-Hour Ozone NAAQS. On September 20, 2006, the Pennsylvania Department of Environmental Protection (DEP) submitted a SIP revision which consisted of a maintenance plan, a 2002 base year inventory and MVEBs for transportation conformity purposes. On November 8, 2006, Pennsylvania DEP supplemented their September 20, 2006 submittal. On July 6, 2007 (72 FR 36889), EPA approved the SIP revision as well as the redesignation request made by Pennsylvania DEP and Lancaster County was redesignated as a maintenance area.

The currently SIP-approved MVEBs for the Lancaster Area were developed using the Highway Mobile Source Emission Factor Model (MOBILE6.2). On March 2, 2010 (75 FR 9411), EPA published a notice of availability for the Motor Vehicle Emissions Simulator (MOVES2010) model for use in developing MVEBs for SIPs and for conducting transportation conformity analyses. EPA commenced a two year grace period after which time the MOVES2010 model would have to be used for transportation conformity purposes. The two year grace period was scheduled to end on March 2, 2012. On February 27, 2012 (77 FR 11394), EPA published a final rule extending the grace period for one more year to March 2, 2013 to ensure adequate time for affected parties to have the capacity to use the MOVES model to develop or update the applicable MVEBs in SIPs and to conduct conformity analyses. On September 8, 2010, EPA released MOVES2010a, which is a minor update to MOVES2010 and which is used by Pennsylvania in this SIP revision.

II. Summary of SIP Revision

This MVEBs SIP revision updates the MVEBs for NO_x and VOCs for the years 2009 (interim year) and 2018 (maintenance year) that were produced using the MOVES2010a model. The point source inventory SIP revision updates the point source inventory for NO_x and VOCs. A comparison between the previous point source inventory and the updated point source inventory is

provided in Table 1. The previously approved MVEBs were produced using the Mobile Source Emission Factor Model (MOBILE6.2). A summary of the updated MOVES-based MVEBs and previously approved MOBILE6.2-based MVEBs for the years 2009 and 2018 is provided in Table 2. Even though there is an emissions increase in the MOVES-based MVEBs, the increase is not due to an increase in emissions from mobile sources. The increase is due to the fact that the MOVES model provides more

accurate emissions estimates than MOBILE6.2, rather than growth that had not been anticipated in the maintenance plan. Also, part of the update of the MVEBs is the addition of a two tons per day (tpd) safety margin for both NO_x and VOCs. The MVEBs that will be utilized for transportation conformity purposes and include the safety margins are presented in Table 3. These safety margins were added because emissions in the interim (2009) and maintenance (2018) years are significantly less than

the attainment year emissions, which is the year that the Lancaster Maintenance Area attained the standard. A detailed summary of EPA's review and rationale for proposing to approve this SIP revision may be found in the Technical Support Documents (TSDs) prepared in support of this proposed approval and are available on line at <http://www.regulations.gov>, Docket number EPA-R03-OAR-2013-0058.

TABLE 1—SUMMARY OF POINT SOURCE INVENTORY FOR THE LANCASTER MAINTENANCE AREA

Year	Current		Updated	
	2009	2018	2009	2018
VOCs (tpd)	8.7	11	5.5	7.7
NO _x (tpd)	4.1	4.6	3.2	3.6

TABLE 2—SUMMARY OF MOTOR VEHICLE EMISSIONS FOR THE LANCASTER MAINTENANCE AREA

Model	MOBILE6.2		MOVES2010a	
	2009	2018	2009	2018
VOCs (tpd)	14.33	7.77	14.29	8.14
NO _x (tpd)	22.32	8.99	33.18	18.57

TABLE 3—UPDATED MVEBs FOR THE LANCASTER MAINTENANCE AREA

Year	2009	2018
VOCs (tpd)	35.18	14.29
NO _x (tpd)	20.57	10.14

III. Final Action

EPA is approving Pennsylvania's SIP revision from November 19, 2012 to update the SIP-approved MVEBs for the Lancaster County Maintenance Area to reflect the use of the MOVES model. EPA is also approving the update to the SIP-approved point source inventory. This SIP revision allows the Lancaster County Maintenance Area to continue to be in attainment of the 1997 8-Hour Ozone NAAQS. The updated MVEBs meet the adequacy requirements set forth in 40 CFR 93.118(e)(4)(i)-(vi), and have been correctly calculated to reflect the use of the MOVES model. Upon final approval, these updated MVEBs will be both adequate and SIP-approved for purposes of transportation conformity. 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 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 7, 2013 without further notice unless EPA receives adverse comment by September 9, 2013. 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 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.

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 October 7, 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 action.

This action pertaining to the update of the SIP-approved MVEBs and point source inventory for the Lancaster Maintenance 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, Volatile organic compounds.

Dated: July 18, 2013.

W.C. Early,

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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory. The revised text reads as follows:

§ 52.2020 Identification of plan.

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

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Lancaster Area (Lancaster County).	9/20/06, 11/8/06	7/6/07, 72 FR 36889	
		11/29/12	8/8/13 [Insert page number where the document begins].	Revised 2009 and 2018 Motor Vehicle Emission Budgets. Revised 2009 and 2018 point source inventory. See sections 52.2043 and 52.2052.

■ 3. Section 52.2043 is added to read as follows:

§ 52.2043 Control strategy for maintenance plans: ozone.

As of August 8, 2013, EPA approves the following revised 2009 and 2018 point source inventory for nitrogen oxides (NO_x) and volatile organic

compounds (VOCs) for the Lancaster 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO _x	Tons per day VOCs
Lancaster 1997 8-Hour Ozone Maintenance Area	2009	3.2	5.5
Lancaster 1997 8-Hour Ozone Maintenance Area	2018	3.6	7.7

■ 4. Section 52.2052 is added to read as follows:

§ 52.2052 Motor vehicle emissions budgets for Pennsylvania ozone areas.

As of August 8, 2013, EPA approves the following revised 2009 and 2018

Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) for the Lancaster 1997 8-Hour Ozone

Maintenance Area submitted by the
Secretary of the Pennsylvania

Department of Environmental
Protection:

Applicable geographic area	Year	Tons per day NO _x	Tons per day VOCs
Lancaster 1997 8-Hour Ozone Maintenance Area	2009	20.57	35.18
Lancaster 1997 8-Hour Ozone Maintenance Area	2018	10.14	14.29

[FR Doc. 2013-18878 Filed 8-7-13; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0913; FRL-9843-7]

Partial Disapproval of State Implementation Plan; Arizona; Regional Haze Requirements

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a partial disapproval of the Arizona State Implementation Plan (SIP) to implement the regional haze program for the first planning period through 2018. Regional haze is caused by emissions of air pollutants from numerous sources located over a broad geographic area. The Clean Air Act ("CAA" or the "Act") and EPA's regulations require states to adopt and submit to EPA SIPs that assure reasonable progress toward the national goal of achieving natural visibility conditions in 156 national parks and wilderness areas designated as Class I areas.

DATES: *Effective Date:* This rule is effective on September 9, 2013.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2012-0913 for this action. Generally, documents in the docket for this action are available electronically at 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 at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Thomas Webb, U.S. EPA, Region 9, Planning Office, Air Division, Air-2, 75 Hawthorne Street, San Francisco, CA

94105. Thomas Webb can be reached at telephone number (415) 947-4139 and via electronic mail at webb.thomas@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

Table of Contents

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

I. Overview of Proposed Action

We proposed on February 5, 2013, to disapprove Arizona's SIP to implement the regional haze program under 40 CFR 51.309.¹ Specifically, we proposed to disapprove in part a December 24, 2008, submittal by the Arizona Department of Environmental Quality (ADEQ) in which the State resubmitted materials previously submitted on December 23, 2003, and December 30, 2004 (collectively "Arizona's 309 Regional Haze SIP").² These SIP submittals were intended to address the regional haze requirements of the CAA and EPA's implementing regulations at 40 CFR 51.309 for four of Arizona's mandatory Class I areas. Our proposed rule includes additional information about these requirements and Arizona's SIP submittals.

II. Public Comments and EPA Responses

During the 30-day comment period on our proposal, we received comments from:

- Eric Massey, Director Air Quality, ADEQ; and
- David Nimkin, Gloria Smith, Barbara Warren, Donna House and Dan Randolph, on behalf of National Parks Conservation Association, Sierra Club, Physicians for Social Responsibility (Arizona Chapter), Dine' Citizens Against Ruining Our Environment, and San Juan Citizens Alliance (collectively, the "Conservation Organizations").

¹ 78 FR 8083.

² As explained in our proposal, this disapproval is "partial" rather than "full" because EPA previously approved certain burning and smoke management rules that were part of the 2008 SIP submittal.

We carefully considered these comments, which are located in the docket for this action. In the following sections, we provide summaries of and our responses to these comments.

Comment 1: ADEQ commented that its December 24, 2008, "re-submittal" letter was not a revision to Arizona's 309 Regional Haze SIP because it did not include new information and was not subject to a formal public comment period. ADEQ further asserted that its 2003 and 2004 SIP submittals were deemed complete by operation of law six months after submission, pursuant to CAA section 110(k)(1)(B), and that EPA should have acted on these submittals within 18 months pursuant to CAA section 110(k)(2).

Response 1: As an initial matter, ADEQ's comment appears to have no relevance to the substance of EPA's proposed action. Regardless of whether ADEQ's December 24, 2008, re-submittal letter was a SIP revision or merely a request that EPA act upon ADEQ's 2003 and 2004 SIP submittals, the fact remains that Arizona's 309 Regional Haze SIP does not satisfy the requirements of 40 CFR 51.309(d)(4) and is therefore not approvable. We also note that ADEQ's comment appears to contradict the statements made in the December 24, 2008, re-submittal letter itself.³ The re-submittal letter states that:

Plan submittal is consistent with the provisions of Arizona Revised Statutes (ARS) Title 49, §§ 49-104, 49-06, 49-404, 49-406, 49-414, and 49-414.0 1 and the Code of Federal Regulations (CFR) Title 40, §§ 51.102-51.104. The plan also complies with the public process requirements in Section 110(a)(1) and (a)(2) of the Clean Air Act; 40 CFR 51.102 regarding preparation, notice, and submission of state implementation plans; and Arizona Revised Statutes 49-425 regarding notice and [public] review of rules.⁴

Consistent with these statements regarding public process, EPA viewed the re-submittal letter as a SIP revision. However, if Arizona did not intend for the letter to be a SIP revision, then we construe it as a withdrawal of those

³ Letter from Stephen A. Owens, ADEQ, to Wayne Nastri, EPA, December 24, 2008 ("re-submittal letter").

⁴ *Id.* at 1.