

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and

established an effective date of December 20, 2012. EPA will submit a report containing this rule 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**. This correction to 40 CFR 52 for Illinois is not a "major rule" as defined by 5 U.S.C. 804(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: December 10, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

For the reasons stated in the preamble, part 52, title 40, chapter I of the Code of the Federal Regulations 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.*

##### **§ 52.731 [Redesignated as § 52.745]**

- 2. Redesignate § 52.731 as § 52.745.
- 3. A new § 52.731 is added to read as follows:

##### **§ 52.731 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?**

(a)(1) The owner and operator of each source and each unit located in the State of Illinois and for which requirements are set forth under the TR NO<sub>x</sub> Annual Trading Program in subpart AAAAA of part 97 of this chapter must comply with such requirements. The obligation to comply with such requirements will be eliminated by the promulgation of an approval by the Administrator of a revision to Illinois' State Implementation Plan (SIP) as correcting the SIP's deficiency that is the basis for the TR Federal Implementation Plan under § 52.38(a), except to the extent the Administrator's approval is partial or conditional.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, if, at the time of the approval of Illinois' SIP revision described in paragraph (a)(1) of this section, the Administrator has already started recording any allocations

of TR NO<sub>x</sub> Annual allowances under subpart AAAAA of part 97 of this chapter to units in the State for a control period in any year, the provisions of subpart AAAAA of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR NO<sub>x</sub> Annual allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision. (b)(1) The owner and operator of each source and each unit located in the State of Illinois and for which requirements are set forth under the TR NO<sub>x</sub> Ozone Season Trading Program in subpart BBBBB of part 97 of this chapter must comply with such requirements. The obligation to comply with such requirements will be eliminated by the promulgation of an approval by the Administrator of a revision to Illinois' State Implementation Plan (SIP) as correcting the SIP's deficiency that is the basis for the TR Federal Implementation Plan under § 52.38(b), except to the extent the Administrator's approval is partial or conditional.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, if, at the time of the approval of Illinois' SIP revision described in paragraph (b)(1) of this section, the Administrator has already started recording any allocations of TR NO<sub>x</sub> Ozone Season allowances under subpart BBBBB of part 97 of this chapter to units in the State for a control period in any year, the provisions of subpart BBBBB of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR NO<sub>x</sub> Ozone Season allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision.

[FR Doc. 2012–30533 Filed 12–19–12; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[EPA–R05–OAR–2012–0537; FRL–9762–9]

#### **Approval and Promulgation of Air Quality Implementation Plans; Indiana; Delaware County (Muncie), Indiana Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving Indiana's request to revise the Delaware County (Muncie), Indiana 1997 8-hour ozone maintenance State Implementation Plan (SIP) by replacing the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. EPA proposed approval on October 26, 2012, and did not receive any public comments on the proposal.

**DATES:** This final rule is effective on January 22, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0537. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Patricia Morris, Environmental Scientist, at (312) 353-8656 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8656, [morris.patricia@epa.gov](mailto:morris.patricia@epa.gov).

**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 the background for this action?
- II. What public comments were received?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

#### I. What is the background for this action?

On June 15, 2012, Indiana submitted replacement budgets based on MOVES2010a for Delaware County, Indiana. This SIP revision replaces MOBILE6.2-based approved budgets in the 1997 8-hour ozone maintenance

plan for Delaware County, Indiana with MOVES2010a-based budgets. Indiana supplemented the SIP revision request on August 17, 2012. The August 17, 2012, submittal letter with the state public comment documentation completed the requirements for the SIP submittal.

On October 26, 2012, EPA proposed to approve the Indiana SIP revision (see 77 FR 65341). Additional information for today's action is contained in EPA's October 26, 2012, proposal.

The MOVES model is EPA's state-of-the-art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in MOBILE6.2.

Under section 176(c) of the Clean Air Act (CAA), transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must "conform" to (i.e., be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The transportation conformity regulations can be found at 40 CFR parts 51 and 93. The Delaware County, Indiana area must use the updated budgets to demonstrate transportation conformity.

States that revise their existing SIPs to include MOVES budgets must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The transportation conformity rule (40 CFR 93.118(e)(4)(iv)) requires that "the motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission)."

EPA has determined, based on its evaluation, that the area's maintenance plan continues to serve its intended purpose with the MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4). The basis for this conclusion is contained in the proposed approval (77 FR 65341).

On the effective date of EPA's approval of the submitted budgets, the budgets must be used by local, state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA.

#### II. What public comments were received?

The State public comment period ended on July 18, 2012. The State offered to hold a public hearing on request but one was not requested. The State received no public comments during the comment period.

EPA also had a public comment period on the proposal. The public comment period closed on November 26, 2012. EPA received no comments during the public comment period.

#### III. What action is EPA taking?

EPA is approving new MOVES2010a-based budgets for the Delaware County, Indiana 1997 ozone maintenance area because the submitted budgets should continue to keep emissions below the attainment level and maintain air quality. On the effective date of this rulemaking, the submitted MOVES2010a-based budgets will replace the existing, MOBILE6.2-based budgets in the State's 1997 8-hour ozone maintenance plan and will be used in future transportation conformity analyses for the area. The previously approved MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes. The table below shows the MOVES budgets for Delaware County, Indiana for the year 2015. These are the budgets that are being approved.

#### MOTOR VEHICLE EMISSION BUDGETS FOR DELAWARE COUNTY, INDIANA [MOVES-Based Onroad Emissions]

|   |      |
|---|------|
| Year .....                                | 2015 |
| Nitrogen oxides tons/day .....            | 7.02 |
| Volatile organic compounds tons/day ..... | 2.53 |

#### IV. 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 February 19, 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. 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 dioxides, Ozone, Volatile organic compounds.

Dated: December 10, 2012.

**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. The table in § 52.770 paragraph (e) is amended by adding an entry in alphabetical order for “Muncie 1997 8-hour ozone maintenance plan” to read as follows:

#### § 52.770 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

#### EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

| Title                                      | Indiana date | EPA approval                                    | Explanation                                 |
|--|--------------|---|---|
| * * *                                      | * * *        | * * *   | * * *                                       |
| Muncie 1997 8-hour ozone maintenance plan. | 12/20/12     | [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]. | Revision to motor vehicle emission budgets. |
| * * *                                      | * * *        | * * *   | * * *                                       |

- 3. Section 52.777 is amended by redesignating the existing paragraph (cc) as paragraph (cc)(1) and by adding paragraph (cc)(2) to read as follows:

#### § 52.777 Control Strategy: Photochemical oxidants (hydrocarbons).

\* \* \* \* \*

(cc) \* \* \*

(2) Approval—On August 17, 2012, Indiana submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Delaware County (Muncie), Indiana area. The budgets are being revised with

budgets developed with the MOVES2010a model. The 2015 budgets for Delaware County, Indiana are 2.53 tons per day volatile organic compounds (VOCs) and 7.02 tons per day nitrogen oxides (NO<sub>x</sub>).

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R03–OAR–2012–0444; FRL–9760–9]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Fredericksburg 8-Hour Ozone Maintenance Area Revision to Approved Motor Vehicle Emissions Budgets

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