

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
Revision to Maintenance Plan for Southeast Florida Area.	December 20, 2002 .....	February 13, 2004 .....	[Insert citation of publication]	10 year update.
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[FR Doc. 04-3074 Filed 2-12-04; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MD151-3107; FRL-7623-4]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; The 2005 ROP Plan for the Baltimore Severe 1-Hour Ozone Nonattainment Area: Revisions to the Plan's Emissions Inventories and Motor Vehicle Emissions Budgets to Reflect MOBILE6**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions amend the Baltimore severe 1-hour ozone nonattainment area's (the Baltimore area's) rate-of-progress (ROP) plan for 2005. These revisions update the plan's emission inventories and motor vehicle emissions budgets (MVEBs) to reflect the use of MOBILE6 while continuing to demonstrate that the ROP requirement for 2005 will be met. The revisions also amend the contingency measures associated with the 2005 ROP plan. These revisions are being approved in accordance with the Clean Air Act (the Act).

**EFFECTIVE DATE:** February 13, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection

Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 30, 2003 (68 FR 75191), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of revisions to the Baltimore area's ROP plan for 2005. The revisions update the plan's mobile emissions inventories and 2005 MVEBs to reflect the use of MOBILE6, an updated model for calculating mobile emissions of ozone precursors. The NPR also proposed approval of revisions which amend the contingency measures associated with the Baltimore area's 2005 ROP plan. These SIP revisions were proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its SIP. The State's proposed SIP revisions were submitted to EPA on November 3, 2003, by the Maryland Department of the Environment (MDE). On December 30, 2003 (68 FR 75191), EPA proposed approval of Maryland's November 3, 2003, submittal. No comments were received during the public comment period on EPA's December 30, 2003, proposal. The MDE formally submitted the final SIP revisions on December 23, 2003. That final submittal had no substantive changes from the proposed

version submitted on November 3, 2003. A detailed description of Maryland's submittal and EPA's rationale for its proposed approval were presented in the December 30, 2003, NPR and will not be restated in their entirety here.

**II. Summary of SIP Revisions**

Maryland's December 23, 2003, SIP revisions consist of revised 1990 and 2005 motor vehicle emissions inventories and 2005 MVEBs calculated using the MOBILE6 motor vehicle emissions model. Consistent with EPA's "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity," MDE has demonstrated that the new levels of motor vehicle emissions calculated using MOBILE6 continue to demonstrate the required ROP for the Baltimore area by 2005. In addition to the revised motor vehicle emissions, MDE reallocated some of the contingency measures established in prior SIP revisions to the control measures portion of the 2005 ROP plan. EPA guidance allows States an additional year to adopt new contingency measures to replace those reallocated to the control measures portion of the plan. The State of Maryland's December 23, 2003, SIP revision submittal includes an enforceable commitment to replace those contingency measures reallocated to the control measures portion of the plan and to submit an updated plan reflecting these additional contingency measures by October 31, 2004.

The revised mobile inventories and MVEBs being approved for the Baltimore area's 2005 ROP Plan are shown in tons per day (tpd) in Tables 1 and 2, respectively.

TABLE 1.—MOTOR VEHICLE EMISSIONS INVENTORIES IN THE BALTIMORE AREA'S 2005 ROP PLAN

Nonattainment area	1990	2005		
	VOC (tpd)	NO <sub>x</sub> (tpd)	VOC (tpd)	NO <sub>x</sub> (tpd)
Baltimore .....	165.14	228.21	55.3	146.9

TABLE 2.—MOTOR VEHICLE EMISSIONS BUDGETS IN THE BALTIMORE AREA'S 2005 ROP PLAN

Nonattainment area	2005 ROP Plan	
	VOC (tpd)	NO <sub>x</sub> (tpd)
Baltimore .....	55.3	144.5

EPA approved new 2005 MOBILE6-based MVEBs for the Baltimore area's 1-hour ozone attainment demonstration on October 27, 2003 (68 FR 61106). Those MVEBs became effective on November 26, 2003. The approved 2005 attainment plan MVEBs budgets are 55.3 tons per day of VOC and 146.9 tons per day of NO<sub>x</sub>. The 2005 MVEBs of the 2005 ROP plan, as shown above in Table 2, are less than the MVEBs in the approved attainment demonstration. These more restrictive MVEBs, contained in the ROP plan, will become the applicable MVEBs to be used in transportation conformity demonstrations for the year 2005 for the Baltimore area.

### III. Final Action

EPA is taking final action to approve the SIP revisions submitted by the State of Maryland on December 23, 2003. These revisions amend the 1990 and 2005 motor vehicle emissions inventories and 2005 MVEBs of the 2005 ROP plan for the Baltimore severe 1-hour ozone nonattainment area to reflect the use of MOBILE6. The revisions submitted on December 23, 2003, also amend the contingency measures associated with the 2005 ROP plan. These revisions include an enforceable commitment to replace those contingency measures reallocated to the control measures portion of the plan and to submit these additional contingency measures by October 31, 2004.

These SIP revisions were proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its SIP. The State's proposed SIP revisions were submitted to EPA on November 3, 2003, by the Maryland Department of the Environment (MDE). On December 30, 2003 (68 FR 75191), EPA proposed approval of Maryland's November 3, 2003, submittal. No comments were received during the public comment period on EPA's December 30, 2003, proposal. The MDE formally submitted the final SIP revisions on December 23, 2003. EPA has evaluated Maryland's final SIP revisions submitted on December 23, 2003, and finds that no substantive changes were made from the

proposed SIP revisions submitted on November 3, 2003.

### IV. Good Cause for the Final Rule To Be Effective Upon Publication

This action shall be effective on publication pursuant to 5 U.S.C. 553(d)(1). On February 4, 2004, the current Transportation Improvement Program (TIP) for the Baltimore ozone nonattainment area lapsed. This lapse means that the Baltimore ozone nonattainment area is subject to restrictions for the Federal funding of certain transportation projects until and unless a new TIP is approved. A new TIP has been developed which includes the required analyses to demonstrate conformity with the new MOBILE6-based motor vehicle emissions budgets (MVEBs) that are the subject of this final action. However, these MOBILE6-based MVEBs must be effective before that new TIP can be formally reviewed by EPA and approved by the Federal Highway Administration (FHWA). EPA, therefore, finds good cause to make this final rule approving the new MOBILE6-based MVEBs effective upon publication to minimize the period of time the Baltimore ozone nonattainment area is under a transportation conformity lapse.

### V. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond

that required by State law, it 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). This rule also does not have tribal implications because it will not have a 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). This action also does not have Federalism implications because it does not 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 government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### 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 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 rule 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 April 13, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 to approve SIP revisions to the 1-hour ozone ROP plan for the Baltimore area which revise the 1990 and 2005 motor vehicle emissions inventories and 2005 motor vehicle emissions budgets to reflect the use of MOBILE6 may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2004.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart V—Maryland

■ 2. Section 52.1076 is amended by adding paragraph (n) to read as follows:

#### § 52.1076 Control strategy plans for attainment and rate-of-progress plan: ozone.

\* \* \* \* \*

(n) EPA approves revisions to the Maryland State Implementation Plan for Post-1996 Rate of Progress (ROP) Plans for the Baltimore severe 1-hour ozone nonattainment area. These revisions were submitted by the Secretary of the Maryland Department of the Environment on December 23, 2003 and consist of the following:

(1) Revisions to the base year 1990 emissions inventory which reflect the use of the MOBILE6 motor vehicle emissions model. These revisions establish motor vehicle emissions inventories for 1990 of 165.14 tons per day of volatile organic compounds (VOC) and 228.21 tons per day of oxides of nitrogen (NO<sub>x</sub>).

(2) Revisions to the year 2005 motor vehicle emissions budgets (MVEBs) for transportation conformity purposes, reflecting the use of the MOBILE6 motor vehicle emissions model. These revisions establish a motor vehicle emissions budget of 55 tons per day of volatile organic compounds (VOC) and 144.5 tons per day of oxides of nitrogen (NO<sub>x</sub>). EPA approved new 2005 MOBILE6-based MVEBs for the Baltimore area's 1-hour ozone attainment demonstration on October 27, 2003 (68 FR 61106). Those MVEBs became effective on November 26, 2003. The approved 2005 attainment plan MVEBs budgets are 55.3 tons per day of VOC and 146.9 tons per day of NO<sub>x</sub>. The MVEBs of the 2005 ROP plan are less than the MVEBs in the approved attainment demonstration. These more restrictive MVEBs, contained in the ROP plan, are the applicable MVEBs to be used in transportation conformity demonstrations for the year 2005 for the Baltimore area.

(3) Revisions to the 2005 ROP plan to reallocate some of the contingency measures established in prior SIP revisions to the control measures portion of the plan. EPA guidance allows states an additional year to adopt new contingency measures to replace those reallocated to the control measures portion of the plan. The State of Maryland's December 23, 2003 SIP revision submittal includes an enforceable commitment to replace those contingency measures reallocated to the control measures portion of the 2005 ROP plan and to submit these additional contingency measures by October 31, 2004.

[FR Doc. 04-3224 Filed 2-12-04; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 60

[FRL-7623-2]

#### Delegation of Authority to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, Spokane County Air Pollution Control Authority, Southwest Clean Air Agency, and Yakima Regional Clean Air Authority for New Source Performance Standards

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

**ACTION:** Delegation of authority; technical amendment.

**SUMMARY:** The Washington State Department of Ecology (Ecology), Benton Clean Air Authority (BCAA), Northwest Air Pollution Authority (NWAPA), Olympic Regional Clean Air Agency (ORCAA), Puget Sound Clean Air Agency (PSCAA), Spokane County Air Pollution Control Authority (SCAPCA), Southwest Clean Air Agency (SWCAA), and Yakima Regional Clean Air Authority (YRCAA) have submitted requests for delegation of EPA authority for implementation and enforcement of New Source Performance Standards (NSPS). The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated to these agencies. EPA has reviewed the updated regulations and determined that these State and local air agencies have adequate and effective procedures for the implementation and enforcement of these Federal NSPS standards. This action informs the public of delegations to the above-mentioned State and local air agencies.

EPA is also making a technical amendment to update the names and addresses of the State and local air agencies that have delegation of NSPS standards in Washington and to update the informational table that shows which NSPS standards have been delegated to State and local agencies in Washington. This is a nonregulatory action.

**DATES:** This rule is effective on February 13, 2004. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Copies of information relating to this action, including the letters requesting and granting delegation, are available for inspection during normal business hours at the