



**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).

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects an error in the rule language of a final rule pertaining to EPA's approval of the revised motor vehicle emissions budgets (MVEBs) for the Fredericksburg 8-Hour Ozone Maintenance Area (Fredericksburg Area). The previous rulemaking updated the 2009 and 2015 MVEBs using EPA's Motor Vehicle Emissions Simulator emissions model (MOVES2010a).

**DATES:** This correcting amendment is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and is applicable beginning November 28, 2012.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** On October 29, 2012 (77 FR 65490), EPA published a final rulemaking action announcing approval of updated MVEBs for the Fredericksburg Area. The document inadvertently removed historical information in section 52.2420(e) concerning the underlying 8-Hour Ozone Maintenance Plan for the Fredericksburg Area. The document also listed incorrect emissions budgets in section 52.2424(c) for the Fredericksburg Area. This action

corrects these oversights.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

**Statutory and Executive Order Reviews:**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and is therefore 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 Fed. Reg. 28355 (May 22, 2001)). Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This rule also does 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), 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 technical 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 November 28, 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 52.2424 for the Commonwealth of Virginia 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Accordingly, in 40 CFR part 52, the following correcting amendments are made:

#### **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for 40 CFR part 52 continues to read as follows:

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

#### **Subpart VV—Virginia**

2. In § 52.2420, the table in paragraph (e) is amended by revising the entry for the

8-Hour Ozone Maintenance Plan for the Fredericksburg Area to read as follows:

§ 52.2420 Identification of plan.

\* \* \* \* \*

(e) *EPA-approved nonregulatory and 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 Fredericksburg Area	City of Fredericksburg, Spotsylvania County, and Stafford County	5/4/05	12/23/05, 70 FR 76165	
		9/26/11	[Insert <u>Federal Register publication date</u> ] [Insert <u>page number where the document begins</u> ]	Revised 2009 and 2015 motor vehicle emission budgets for NOx.
* * * * *				

3. Section 52.2424 paragraph (c) is revised to read as follows:

§ 52.2424 Motor vehicle emissions budgets.

\* \* \* \* \*

(c) EPA approves the following revised 2009 and 2015 motor vehicle emissions budgets (MVEBs) for the Fredericksburg 8-Hour Ozone Maintenance Area submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2011:

<b>Applicable geographic area</b>	<b>Year</b>	<b>Tons per day (TPD) NO<sub>x</sub></b>
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2009	19.615
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2015	12.933

Dated: November 27, 2012

W. C. Early,  
Acting Regional Administrator,  
Region III.

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