the federal General Conformity regulations at 40 CFR 93, Subpart B. Particularly, Alabama's May 2, 2011, SIP submission updates the IBR date at 335–3–17.02 to July 1, 2010, to be consistent with federal General Conformity rules (as promulgated on April 5, 2010) and updates its Transportation Conformity SIP at 335–3–17–.01 effective May 23, 2011, to include EPA's transportation conformity rule updates regarding implementation of the $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas. EPA has preliminarily determined that Alabama's May 2, 2011, updates to Alabama's general and transportation Conformity regulations are consistent with CAA and EPA's regulations governing conformity.

IV. Proposed Action

EPA is proposing to approve portions of Alabama's May 2, 2011, SIP revision adopting federal regulations amended in the May 16, 2008, NSR $PM_{2.5}$ Rule; the October 20, 2010, $PM_{2.5}$ PSD Increment-SILs-SMC rule; and updates to the State's general and transportation conformity regulations into the Alabama SIP with the exception of the provisions listed in Section I. EPA has made the preliminary determination that this SIP revision, with regard to aforementioned proposed actions, is approvable because it is consistent with section 110 of the CAA and EPA regulations regarding NSR permitting and conformity.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 proposed 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 proposed 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 20, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–19048 Filed 8–3–12; 8:45 am]

BILLING CODE 6560–50–P

conform with the SIP. *See* 58 FR 62188. On November 30, 1993, EPA promulgated regulations, known as the General Conformity Regulations (applicable to everything else), to ensure that other federal actions also conformed to the SIPs. *See* 58 FR 63214).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0444; FRL–9711–7]

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: Proposed rule.

SUMMARY: EPA is proposing to approve the Commonwealth of Virginia's State Implementation Plan (SIP) submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2011. The SIP revision consists of updating the 2009 and 2015 motor vehicle emission budgets (MVEBs) in the Fredericksburg 8-Hour Ozone Maintenance Area (Fredericksburg Area) by replacing the previously approved MVEBs with budgets developed using EPA's Motor Vehicle Emissions Simulator emissions model (MOVES2010a). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before September 5, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0444 by one of the following methods:

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

B. *Email: mastro.donna@epa.gov.*

C. *Mail:* EPA–R03–OAR–2012–0444, Donna Mastro, Acting 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–2012–0444. 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 Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@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:

Table of Contents

I. What action is EPA proposing to take?
II. What is the background for this action?
A. SIP Budgets and Transportation Conformity
B. Prior Approval of Budgets
C. The MOVES Emissions Model and Regional Transportation Conformity Grace Period
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. The Revised Inventories
B. Approvability of the MOVES2010a-Based Budgets
C. Applicability of MOBILE6.2-Based Budgets
V. What are the effects of EPA's proposed action?
VI. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia
VII. Statutory and Executive Order Reviews

I. What action is EPA proposing to take?

EPA is proposing to approve new MOVES2010a-based motor vehicle emission budgets (''budgets'') for the Fredericksburg Area. If EPA finalizes this proposed approval, the newly submitted MOVES2010a budgets will replace the existing, MOBILE6.2-based budgets in Virginia's SIP and must then be used in future transportation conformity analyses for the area according to the transportation conformity rule (40 CFR 93.118). At that time, the previously approved budgets would no longer be applicable for transportation conformity purposes.

If EPA approves the MOVES2010a-based budgets, the regional transportation conformity grace period for using MOVES2010a for the pollutants included in these budgets will end for the Fredericksburg Area on the effective date of that final approval. See 75 FR 9411, March 2, 2010, for background and Section II.C for details.

II. What is the background for this action?

A. SIP Budgets and Transportation Conformity

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given national ambient air quality standard (NAAQS). These emission control strategy SIP revisions (e.g., reasonable further progress and attainment demonstration SIP revisions) and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars, trucks, and other on-road vehicles. SIP budgets are the portions of the total allowable emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. The budget serves as a ceiling on emissions from an area's planned transportation system. For more information about budgets, see the preamble to the November 24, 1993, transportation conformity rule. 58 FR 62188.

Under section 176(c) of the 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 an interim milestone. The transportation conformity regulations can be found at 40 CFR Parts 51 and 93.

Before budgets can be used in conformity determinations, EPA must affirmatively find the budgets adequate. However, adequate budgets do not supersede approved budgets for the same CAA purpose. If the submitted SIP budgets are meant to replace budgets for the same CAA purpose and year(s) addressed by a previously approved SIP, as is the case with Virginia's MOVES2010a nitrogen oxides (NO_X) motor vehicle emission budgets, EPA must approve the revised SIP and budgets and can affirm the budgets are adequate at the same time. Once EPA approves the SIP, the revised budgets must be used by state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of budgets are set out in 40 CFR 93.118(e)(4).

B. Prior Approval of Budgets

EPA had previously approved the 1997 ozone NAAQS Fredericksburg maintenance plan and redesignation request into the Virginia SIP on December 23, 2005 (70 FR 76165). EPA also approved the MVEBs for NO_X and volatile organic compounds (VOC) during the rulemaking notice. The SIP's budgets were based on EPA's MOBILE6.2 emissions model. The approval identified NO_X and VOC MVEBs for transportation conformity purposes for the years 2004, 2009 and 2015. VADEQ chose 2009 as an interim year in the 10-year maintenance demonstration period to demonstrate that the VOC and NO_X emissions were not projected to increase above the 2004 attainment level during the time of the 10-year maintenance period. The 2004, 2009 and 2015 MVEBs for the Fredericksburg area were approvable because the MVEBs for NO_X and VOC

including the allocated safety margins continued to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

C. The MOVES Emissions Model and Regional Transportation Conformity Grace Period

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 EPA'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.

EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). EPA subsequently released two minor model revisions: MOVES2010a in September 2010 and MOVES2010b in April 2012. Both of these minor revisions enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010.

MOVES will be required for new regional emissions analyses for transportation conformity determinations (''regional conformity analyses'') outside of California that begin after March 2, 2013 (or when EPA approves MOVES-based budgets, whichever comes first).[1] The MOVES grace period for regional conformity analyses applies to both the use of MOVES2010 and approved minor revisions (e.g., MOVES2010a and MOVES2010b). For more information, see EPA's ''Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (April 2012), available online at: *www.epa.gov/otaq/stateresources/transconf/policy.htm#models* (hereafter MOVES2010 Policy Guidance).

EPA encouraged areas to examine how MOVES would affect future transportation plan and TIP conformity determinations so, if necessary, SIPs and budgets could be revised with MOVES or transportation plans and TIPs could be revised (as appropriate) prior to the end of the regional transportation conformity grace period. EPA also encouraged state and local air agencies to consider how the release of MOVES would affect analyses supporting SIP submissions under development (77 FR 9411 and 77 FR 11394).

D. Submission of New Budgets Based on MOVES2010a

On September 26, 2011, VADEQ submitted a new SIP with budgets based on MOVES2010a for the years 2009 and 2015 to help ensure that the Fredericksburg area can demonstrate transportation conformity using MOVES2010a once the grace period expires. Table 1 compares the NO_X MVEBs developed using MOBILE6.2 to the inventories developed using MOVES2010a.

TABLE 1—FREDERICKSBURG MAINTENANCE AREA MOBILE SOURCE EMISSIONS COMPARISON TONS NO_X/DAY

Year	MOBILE6.2 MVEB *	MOVES2010a
2004	19.742	24.064
2009	13.062	17.615
2015	7.576	9.933

* Includes conformity buffers

III. What are the criteria for approval?

EPA has always required under the CAA that revisions to existing SIPs continue to meet applicable requirements (i.e., reasonable further progress, attainment, or maintenance). States that revise their existing SIPs to include MOVES budgets must therefore show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The SIP must also meet any applicable SIP requirements under CAA section 110.

In addition, 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).'' This and the other adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate or approve them for conformity purposes.

In addition, EPA has stated that 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 example, the first criterion could be satisfied by demonstrating that the emissions reductions between the base year and attainment or maintenance year are the same or greater using MOVES than they were previously. For more information, see EPA's MOVES2010 Policy Guidance.

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

A. The Revised Inventories

Virginia included the updated 2004, 2009, and 2015 NO_X MVEBs calculated using the latest planning assumptions for the Fredericksburg area and MOVES2010a in Table 2 below. Since existing VOC MVEBs using MOBILE6.2 allow a seamless transportation conformity process when using MOVES2010a, the existing VOC MVEBS were not revised in this SIP revision. More detailed information on the assumptions used in the MOVES2010a modeling, including growth assumptions, can be found in the docket prepared for this rulemaking action.

TABLE 2—NO_X MOTOR VEHICLE EMISSIONS BUDGETS CALCULATED WITH MOVES2010A

Year	NO_X Emissions tons/day
2004 Attainment year	24.064
2009 Predicted Emissions	17.615
Conformity Buffers	2.000
2009 Interim Budget Year	19.615
2015 Predicted Emissions	9.933
Conformity Buffers	3.000
2015 Final Budget	12.933

In its September 26, 2011 SIP revision submission, Virginia demonstrated how future emissions of NO_X would not exceed the level of the attainment inventory for a 10-year period following redesignation in Table 3 below. The projected emissions for the point and area source categories reflect the expected ozone season daily emissions based on the best available growth rates and projections used in the 1997 ozone NAAQS Fredericksburg maintenance plan. The nonroad category reflects emissions estimated using NONROAD2008a. More detailed information on the analyses showing

[1] Upon the release of MOVES2010, EPA established a two-year grace period before MOVES is required to be used for regional conformity analyses (75 FR 9411). EPA subsequently promulgated a final rule on February 27, 2012 to provide an additional year before MOVES is required for these analyses (77 FR 11394).

that the projected emissions from the point and area source categories do not need to be updated and continue to demonstrate that air quality will remain compliant with the 1997 ozone NAAQS through 2015 and beyond can be found in the docket prepared for this rulemaking action.

TABLE 3—FREDERICKSBURG AREA NO_X EMISSIONS FROM 2004 TO 2015

	NO_X in tons/day				
Year	Point	Area [1]	Nonroad	Mobile [2]	Total
Year 2004	0.179	3.465	4.950	24.064	32.658
Year 2009	0.180	3.926	4.286	19.615	28.007
Δ 2004–2009	0.001	0.461	−0.664	−4.449	−4.651
Year 2015	0.182	4.742	2.953	12.933	20.810
Δ 2004–2015	0.003	1.277	−1.997	−11.131	−11.848

[1] Includes selected local controls (open burning).
[2] Includes conformity buffers identified in Table 2.

B. Approvability of the MOVES2010a-Based Budgets

EPA is proposing to approve the MOVES2010a-based budgets submitted by Virginia for use in determining transportation conformity in the Fredericksburg area. EPA is making this proposal based on our evaluation of these budgets using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of Virginia's submittal and compliance with SIP requirements. EPA has determined, based on its evaluation, that the area's SIP would continue to serve its intended purpose with the submitted MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4). Specifically:

- The submitted SIP was endorsed and subject to a state public hearing ((e)(4)(i));
- Before the submitted SIP was submitted to EPA, consultation among Federal, state, and local agencies occurred, and full documentation was provided to EPA ((e)(4)(ii));
- The budgets are clearly identified and precisely quantified ((e)(4)(iii));
- The budgets, when considered together with all other emissions sources, are consistent with applicable requirements for reasonable further progress, attainment, or maintenance ((e)(4)(iv));
- The budgets are consistent with and clearly related to the emissions inventory and control measures in the submitted SIP ((e)(4)(v)); and
- The revisions explain and document changes to the previous budgets, impacts on point and area source emissions, changes to established safety margins, and reasons for the changes (including the basis for any changes related to emission factors or vehicle miles traveled) ((e)(4)(vi)).

The SIP revision satisfies all of the above criteria for adequacy. The updated NO_X MVEBs presented in Table 2 show that air quality in the Fredericksburg area will continue to maintain compliance with the 1997 ozone NAAQS. Similar to the previously approved budgets, the 2009 and 2015 MVEBs for the Fredericksburg area are approvable because the MVEBs for NO_X including the allocated safety margins continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations. The updated NO_X MVEBs using MOVES2010a will not negatively affect the Fredericksburg area's ability to comply with the 1997 ozone standard.

EPA has always required under the CAA that revisions to existing SIPs and budgets continue to meet applicable requirements (e.g., reasonable further progress or attainment). Therefore, states that revise existing SIPs with MOVES must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions calculated by the new model.

To that end, Virginia's submitted SIP meets EPA's two criteria for revising budgets without revising the entire SIP because: (1) The SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES2010a base year and milestone, attainment, or maintenance year inventories, and (2) Virginia 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.

The VADEQ September 26, 2011 SIP revision submission updates the 2009 and 2015 MVEBs using the MOVES2010a model. EPA has articulated its policy regarding the use of MOVES2010a in SIP development in its MOVES2010 Policy Guidance. EPA's review of VADEQ's submittal indicates that Virginia has appropriately applied this policy and meets the two criteria for revising budgets without revising the entire SIP. EPA policy guidance also requires that Virginia consider whether growth and control strategy assumptions for non-motor vehicle sources (i.e., point, area, and non-road mobile sources) are still accurate at the time the proposed revision is developed. Virginia reassessed the growth and control strategy assumptions for non-motor vehicle sources and concluded that these assumptions will continue to remain compliant with the 1997 ozone NAAQS through 2015 and beyond for the Fredericksburg area. Based on our review of the SIP and the new budgets provided, EPA is proposing that the SIP will continue to meet its requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

C. Applicability of MOBILE6.2-Based Budgets

Pursuant to Virginia's request, EPA is proposing that, if we finalize the approval of the revised budgets, the state's existing MOBILE6.2 budgets will no longer be applicable for transportation conformity purposes upon the effective date of that final approval. In addition, once EPA approves the MOVES2010a-based budgets, the regional transportation conformity grace period for using MOVES2010 (and subsequent minor revisions) for the pollutants included in these budgets will end for the Fredericksburg area on the effective date of that final approval.[2]

V. What are the effects of EPA's proposed action?

EPA is proposing in this action that the Fredericksburg's area existing approved budgets for NO_X be replaced with new budgets based on the

[2] For more information, see EPA's MOVES2010 Policy Guidance (April 2012).

MOVES2010a emissions model. If this proposal is finalized, future transportation conformity determinations would use the new, MOVES2010a-based budgets and would no longer use the existing MOBILE6.2-based budgets for applicable years. EPA is also proposing that the Fredericksburg area would continue to meet its requirements under the CAA when these new budgets are included.

VI. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude Virginia from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VII. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 proposed rule, pertaining to Virginia's update of the Fredericksburg area motor vehicle emission budgets based on MOVES2010a, 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Volatile organic compounds.

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

Dated: July 26, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–19171 Filed 8–3–12; 8:45 am]

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