

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

#### *Public Availability of Comments*

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 4, 2012. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### *Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

##### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

##### **List of Subjects in 30 CFR Part 924**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 31, 2012.

**Paul J. Ehret,**

*Acting Regional Director, Mid-Continent Region.*

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#### **ENVIRONMENTAL PROTECTION AGENCY**

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

**[EPA-R06-OAR-2012-0435; FRL-9731-1]**

##### **Approval and Promulgation of Implementation Plans; Texas; Beaumont/Port Arthur Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve Texas' request to revise its Beaumont/Port Arthur (BPA) 1997 8-hour ozone maintenance air quality 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) 2010a emissions model. The BPA 1997

8-hour ozone maintenance area consists of Hardin, Jefferson, and Orange Counties in Texas. Texas submitted this request to EPA for parallel processing on June 28, 2012.

**DATES:** Comments must be received on or before October 19, 2012.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2012-0435, by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6comment.htm>. Please click on "6PD (Multimedia)" and select "Air" before submitting comments.

- *Email:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2012-0435. 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](http://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](http://www.regulations.gov) or email. The [www.regulations.gov](http://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](http://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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202.

The State submittal is also available for public inspection during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey Riley, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-8542; fax number 214-665-6762; email address [riley.jeffrey@epa.gov](mailto:riley.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us," and "our" means EPA.

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**I. What action is EPA proposing?**

EPA is proposing to approve new MOVES2010a-based budgets for the Beaumont/Port Arthur (BPA) 1997 8-hour ozone maintenance area. The BPA area was redesignated to attainment of the 1997 8-hour ozone standard on October 20, 2010 (75 FR 64675, effective date November 19, 2010), and the MOBILE6.2-based budgets were approved in that notice. Should EPA finalize this proposed approval, the newly submitted MOVES2010a budgets will replace the existing, MOBILE6.2-based budgets in the state's 1997 8-hour ozone maintenance plan and must then be used in future transportation conformity analyses for the area. At that time, the previously approved budgets would no longer be applicable for transportation conformity purposes.

Should EPA approve the MOVES2010a-based budgets, the BPA 1997 8-hour ozone maintenance area must use the MOVES2010a-based budgets starting on the effective date of that final approval. See 75 FR 9411-9414 for background and section II.C below for details.

**II. What is the background for this rulemaking?**

**A. SIP Budgets and Transportation Conformity**

Under the Clean Air Act (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 and trucks. 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 delay an interim milestone. The transportation conformity regulations can be found at 40 CFR Part 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 purpose, as is the case with Texas' MOVES2010a 1997 8-hour ozone maintenance plan budgets, EPA must approve the budgets, and can affirm that they are adequate at the same time. Once EPA approves the submitted budgets, they 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 budgets for the Beaumont/Port Arthur 8-hour ozone maintenance area for volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) for the year 2021 on October 20, 2010 (75 FR 64675). These budgets were based on EPA's MOBILE6.2 emissions model. The ozone maintenance plan established 2021 budgets for the Beaumont/Port Arthur area of 4.77 tons per summer day (tpd) for VOCs and 7.24 tpd for NO<sub>x</sub>. The budgets demonstrated a net reduction in emissions from the monitored attainment year and the NO<sub>x</sub> budget included a margin of safety.

*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 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.

EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). This notice approved the use of MOVES2010 in official SIP submissions to EPA and for regional emissions analyses for transportation conformity purposes outside of California. In addition, the notice started a two-year grace period before MOVES2010 is required to be used in new regional emissions analyses for transportation conformity determinations outside of California. EPA has since extended that grace period until March 2, 2013 (77 FR 11394).

On September 8, 2010, EPA released MOVES2010a, which included minor revisions that enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010. Therefore, MOVES2010a is not considered a "new model" under 40 CFR 93.111. As a result, the MOVES2010 grace period for regional conformity analyses applies to the use of MOVES2010a as well.<sup>1</sup>

EPA encouraged Metropolitan Planning Organizations (MPOs), Departments of Transportation, and state air agencies to examine how MOVES would affect future transportation plans and TIP conformity determinations so, if necessary, SIPs and budgets could be revised with MOVES2010 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.

The Texas Transportation Institute (TTI) (under contract with the Texas Commission on Environmental Quality (TCEQ)) has used MOVES2010a emission rates with the transportation network information to estimate emissions in the years of the

transportation plan and also for the SIP. Texas is revising the budgets at this time using the latest planning assumptions including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Texas finds that updating the budgets with MOVES2010a will prepare the South East Texas Regional Planning Commission (SETRPC, the Beaumont/Port Arthur area MPO) for the transition to using MOVES for conformity analyses and determinations. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

*D. Submission of New Budgets Based on MOVES2010a*

On June 28, 2012, Texas submitted for parallel processing replacement budgets based on MOVES2010a for the Beaumont/Port Arthur area. Texas is currently providing public review and comment at the state level. The state public comment period ended on August 3, 2012. EPA is proposing to approve the MOVES2010a budgets after completion of the public process and formal submittal of the SIP revision request.

The MOVES2010a budgets are proposed to replace the prior approved MOBILE6.2 budgets and are for the same year and pollutants/precursors. The new MOVES2010a budgets are for the year 2021 for both VOCs and NO<sub>x</sub>. Texas has also submitted MOVES2010a emissions for the attainment year of 2005 (and interim inventory years 2011, 2014 and 2017) as a comparison to the 2021 budget year. Table 4-1 in the submittal demonstrates how mobile source emissions decline from the attainment year of 2005. In 2005, the estimated NO<sub>x</sub> emissions from mobile sources is 45.60 tpd and the estimated VOC emissions from mobile sources is 11.63 tpd. The 2021 estimated emissions for NO<sub>x</sub> from mobile sources is 6.24 tpd and the VOC estimated emissions from mobile sources is 4.77 tpd.

Tables 4-2 and 4-3 in the submittal demonstrate trends in total estimated NO<sub>x</sub> and VOC emissions, respectively, between 2005 to 2021. In 2005, the total estimated NO<sub>x</sub> emissions from all sources (including mobile, point, area and non-road sources) is 148.04 tpd and the total VOC emissions, for the 2005 attainment year, from all sources is 210.51 tpd. The 2021 estimated emissions for total NO<sub>x</sub> from all sources is 137.24 tpd and the total VOC emissions from all sources is 222.69 tpd. Although there is a 5.8% increase in

total VOC emissions from all sources between the 2005 attainment year and the 2021 budget year, there is an offsetting 7.3% decrease in total NO<sub>x</sub> emissions from all sources between these years. Therefore, the mobile source emissions, when included with point, area and non-road sources continue to demonstrate maintenance of the 1997 8-hour ozone standard attainment level of emissions in the Beaumont/Port Arthur area.

No additional control measures were needed to maintain the 1997 ozone standard emissions in the Beaumont/Port Arthur area. The on-road MOVES2010a based budgets are in Table 4-7 of the submittal and are listed as 9.7 tpd for NO<sub>x</sub> and 3.9 tpd for VOCs in the year 2021. These budgets will continue to keep emissions in the Beaumont/Port Arthur area below the calculated attainment year of emissions.

**III. What are the criteria for approval?**

The CAA has always required that revisions to existing SIPs and budgets continue to meet applicable requirements (i.e., reasonable further progress (RFP), 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 transportation conformity rule (at 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 (RFP), 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

<sup>1</sup> For more information, see 77 FR 11394.

baseline/attainment year and maintenance year are the same or greater using MOVES than they were previously. The Texas submittal meets this requirement as described below in section IV.

For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes" available online at: [www.epa.gov/otaq/stateresources/transconf/policy.htm#models](http://www.epa.gov/otaq/stateresources/transconf/policy.htm#models).

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

*A. The Revised Inventories*

The Texas SIP revision request for Beaumont/Port Arthur 1997 8-hour ozone maintenance plan seeks to revise only the on-road mobile source inventories and not the non-road inventories, area source inventories or point source inventories for the 2021 year for which the SIP revises the budgets. TCEQ has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. This is confirmed by the complete, quality-assured 2009–2011 ozone season monitoring data for Beaumont/Port Arthur, which shows continued attainment for the 1997 8-hour ozone standard. Thus, the current control strategies are continuing to keep the area in attainment of the 1997 8-hour ozone NAAQS.

EPA has reviewed the emission estimates for point, area and non-road sources and concluded that no major changes to the projections need to be made. The submittal states that analysis of emissions in these source categories using more recent growth and control strategy assumptions than the original 2008 submittal resulted in lower emissions estimates of NO<sub>x</sub> and VOCs for each inventory year. Because of this, EPA concludes that the growth and control strategy assumptions for non-mobile sources for the years 2005, 2011, 2014, 2017 and 2021 continue to be valid and do not affect the overall conclusions of the original plan.

Texas confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) are 148.04 tpd for NO<sub>x</sub> and 210.51 tpd for VOCs in the 2005 attainment year. The total emissions from all sources in the

2021 year are 137.24 tpd for NO<sub>x</sub> and 222.69 tpd for VOCs. Although there is a 5.8% increase in total VOC emissions from all sources between the 2005 attainment year and the 2021 budget year, there is an offsetting 7.3% decrease in total NO<sub>x</sub> emissions from all sources between these years. These totals demonstrate that emissions in the Beaumont/Port Arthur area are continuing to decline and remain below the 1997 8-hour ozone standard attainment levels.

Texas has submitted MOVES2010a-based budgets for the Beaumont/Port Arthur area that are clearly identified in Table 4–7 of the submittal. The budgets for 2021 are 9.7 tpd for NO<sub>x</sub> and 3.9 tpd for VOCs.

**TABLE 1—BEAUMONT/PORT ARTHUR MOVES2010A-BASED MVEBS (TPD)**

Budget year	NO <sub>x</sub> MVEB	VOC MVEB
2021 .....	9.7	3.9

*B. Approvability of the MOVES2010a-Based Budgets*

EPA is proposing to approve the MOVES2010a-based budgets submitted by the state for use in determining transportation conformity in the Beaumont/Port Arthur 1997 ozone maintenance 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 the State's submittal and SIP requirements. EPA has determined, based on its evaluation, that the area's maintenance plan would continue to serve its intended purpose with the submitted MOVES2010a-based budgets and that the budgets themselves will meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4) after the state public hearing is completed and the SIP is formally submitted.

EPA is parallel processing this SIP revision request which means that EPA is proposing approval at the same time that the state is completing the public process at the state level. This SIP revision request will not be complete and will not meet all the adequacy criteria until the state public process is complete and the SIP revision is submitted in final with a letter from the Governor or Governor's designee. EPA is proposing to approve the SIP revision request after completion of the state public process and final submittal. If any comments are received, EPA will consider those comments received both at the state and Federal level.

EPA is moving forward with proposing approval with this parallel process because transportation projects cannot be amended to the Beaumont/Port Arthur Transportation Plan and transportation improvement program until this budget replacement is completed. The budgets need to be updated, not only to accommodate the use of MOVES2010a, but also because of the updated planning assumptions for mobile sources.

The adequacy criteria found in 40 CFR 93.118(e)(4) are as follows:

- The submitted SIP was endorsed by [the Governor/Governor's designee] and was subject to a state public hearing (§ 93.118(e)(4)(i));
- The submitted SIP underwent consultation among Federal, state, and local agencies and the state fully documented the submittal (§ 93.118(e)(4)(ii));
- The budgets are clearly identified and precisely quantified (§ 93.118(e)(4)(iii));
- The budgets, when considered with other emission sources, are consistent with applicable requirements for [reasonable further progress/attainment/maintenance] (§ 93.118(e)(4)(iv));
- The budgets are consistent with and clearly related to the emissions inventory and control measures in the SIP (§ 93.118(e)(4)(v)); and
- The revisions explain and document changes to the previous budgets, impacts on point and area source emissions and changes to established safety margins (§ 93.118(e)(4)(vi)).

Our review finds that Texas has met all of the adequacy criteria, except the public process and final submittal by the Governor or Governor's designee. The interagency consultation group, which is composed of the state air agency, state Department of Transportation, Federal Highway Administration, EPA, and SETRPC have discussed and reviewed the budgets developed with MOVES2010a. The budgets are clearly identified and precisely quantified in the submittal in table 4–7. The budgets when considered with other emissions sources (point, area, non-road) are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the Appendix to the submittal. EPA has reviewed the inputs to the

MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration-Texas Division and the Texas Department of Transportation have taken a lead role in working with the MPO and contractor to provide accurate, timely information and inputs to the MOVES2010a model runs. The SETRPC network model provided the vehicle miles of travel and other necessary data from the travel demand networks.

The CAA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (in this case, maintenance). 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, Texas' submitted MOVES2010a budgets meet EPA's two criteria for revising budgets without revising the entire SIP:

(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) 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.

EPA has reviewed the emission estimates for point, area and non-road sources and concluded that no major changes to the projections need to be made. The submittal states that analysis of emissions in these source categories using more recent growth and control strategy assumptions than the original 2008 submittal resulted in lower emissions estimates of NO<sub>x</sub> and VOCs for each inventory year. Because of this, EPA concludes that the growth and control strategy assumptions for non-mobile sources for the years 2005, 2011, 2014, 2017 and 2021 continue to be valid and do not affect the overall conclusions of the original plan.

Texas confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard

because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions for mobile sources) decrease from 148.04 tpd for NO<sub>x</sub> and 210.51 tpd for VOCs in the 2005 attainment year to 137.24 tpy NO<sub>x</sub> and 222.69 tpd VOC in 2021. Although there is a 5.8% increase in total VOC emissions from all sources between the 2005 attainment year and the 2021 budget year, there is an offsetting 7.3% decrease in total NO<sub>x</sub> emissions from all sources between these years. These totals demonstrate that emissions in the Beaumont/Port Arthur area are continuing to decline and remain below the 1997 8-hour ozone standard attainment levels. Table 2 shows total emissions in the Beaumont/Port Arthur area including point, area, non-road, and mobile sources, and demonstrates the declining emissions from the 2005 attainment year.

TABLE 2—TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS

	2005	2011	2014	2017	2021
VOC (tpd) .....	210.51	216.60	217.20	219.14	222.69
NO <sub>x</sub> (tpd) .....	148.04	142.80	138.02	136.27	137.24

Based on our review of the SIP and the new budgets provided, EPA has determined 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 the State's request, EPA is proposing that, if we finalize the approval of the revised budgets, the state's existing MOBILE6.2-based 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 Beaumont/Port Arthur ozone maintenance area on the effective date of that final approval.<sup>2</sup>

<sup>2</sup>For more information, see Question 11 of EPA's "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development,

**V. Proposed Action**

EPA is proposing in this action that the Beaumont/Port Arthur existing approved budgets for VOCs and NO<sub>x</sub> for 2021 for the 1997 8-hour ozone maintenance plan be replaced with new budgets based on the MOVES2010a emissions model. Once 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. EPA is also proposing to find that the Beaumont/Port Arthur area's maintenance plan would continue to meet its requirements as set forth under the CAA when these new budgets are included.

**VI. 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,

Transportation Conformity, and Other Purposes" and 75 FR 9411.

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.

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: September 11, 2012.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2012-0100; FRL-9728-8]

#### Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) for the Houston/Galveston/Brazoria (HGB) 1997 8-Hour ozone nonattainment Area (Area). The HGB Area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Specifically, we

are proposing to approve portions of two revisions to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) as meeting certain Reasonably Available Control Technology (RACT) requirements for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>) in the HGB Area. We are also proposing to approve the 2007 Voluntary Mobile Emission Reduction Program (VMEP) commitments for the HGB Area. This action is in accordance with section 110 of the federal Clean Air Act (the Act, CAA).

**DATES:** Comments must be received on or before October 19, 2012.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2012-0100, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- *Email:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:00 a.m. and 4:00 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2012-0100. The 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](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through [www.regulations.gov](http://www.regulations.gov) or email that you consider to be CBI or otherwise protected from disclosure. The

[www.regulations.gov](http://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](http://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 docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: TCEQ, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone