

**APPENDIX 2**  
**Applicable SIP Excerpts**

has raised questions as to whether these types of units would be effectively regulated under our proposed technical requirements.<sup>11</sup>

All of the information collected to date leads the Agency to believe that technical issues unique to these units may warrant some modifications to the technical standards. At a minimum, this could include changes to the technical requirements to clarify how they apply to overfills (e.g., revisions to the definition of a "new unit;" clarifications as to how the liner requirements for the new landfill relate to the capping requirements for closed units). This could, however, also include substantive modifications to the technical standards and the development of a tailored set of requirements specific to this kind of disposal unit. Specifically, this could include substantive modifications to the location restrictions, design criteria, inspection requirements, groundwater monitoring, and closure.

To aid in the development of final requirements, EPA is soliciting data or information that directly addresses existing engineering guidelines or practices, as well as any regulatory requirements (other than North Carolina's) governing the siting, design, construction and long-term protectiveness of these units. In addition, the Agency is specifically requesting information or data that would allow EPA to address the following set of questions as they relate to CCR overfill units.

- Are the location restrictions included in the proposed rule adequate to ensure protection of human health and the environment or should they be adjusted? For example, should the Agency consider prohibiting the construction of such overfills in certain locations or situations, such as over surface impoundments and landfills that were not closed in accordance with

the closure criteria in the June 2010 proposed rule?

- Should the Agency allow for a CCR overfill unit to be constructed over a partially closed surface impoundment or landfill? If so, would the proposed technical requirements for new units (e.g., composite liners) be adequately protective? Are the ground water monitoring requirements that were proposed in the CCR proposal adequate or are there situations where they could they be inadequate?

- Are there situations where implementing the proposed ground water monitoring requirements would create the potential to damage the integrity of the closed surface impoundment or landfill? In situations where an overfill is constructed partially over a closed landfill or surface impoundment, the proposed rule would require the placement of the groundwater monitoring wells at the waste boundary (i.e., at the boundary of the overfill). This placement, within the parameter of the closed unit, could possibly jeopardize the integrity of the closed unit (e.g., cause damage to the liner). Would this problem be adequately resolved by allowing the groundwater monitoring wells installed to monitor the "closed" landfill or surface impoundment to operate in lieu of separate groundwater monitoring wells at the overfill waste boundary? Should ground water monitoring be required for a longer period, since contamination could be released from the closed surface impoundment or landfill, as well as the overfill unit?

- Should the Agency allow for a CCR overfill unit to not meet the liner and leachate collection requirements if the closed surface impoundment or landfill was equipped and continued to maintain a composite liner and leachate collection system as well as groundwater monitoring? Conversely, should the Agency require an overfill to have a double-liner leak detection system installed and forego groundwater monitoring until such time as a leak of the primary liner is detected?

- Should overfills be subject to the same inspection requirements that EPA originally proposed for surface impoundments (see proposed section 257.83, requiring weekly inspections by qualified personnel and annual inspections by an independent registered professional engineer). Would this adequately address any issues relating to the long-term structural integrity of these units and whether their inherent stability will be maintained through the active life of the unit as well as during post closure care. As an alternative, would it suffice to

only require annual inspections of the overfill? Would it matter if the inspection requirement was paired with a revised certification in the locations restrictions section of the rule? How long should any inspection requirement continue under post-closure care?

Dated: July 26, 2013.

**Mathy Stanislaus,**  
Assistant Administrator, Office of Solid Waste and Emergency Response.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9841-2]

### Adequacy Status of the Houston-Galveston-Brazoria, Texas Reasonable Further Progress and Attainment Demonstration Implementation Plan for the 1997 8-Hour Ozone Standard; Motor Vehicle Emission Budgets for Transportation Conformity Purposes

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

**ACTION:** Notice of adequacy.

**SUMMARY:** EPA is notifying the public that it has found that the motor vehicle emissions budgets (MVEBs) in the Houston-Galveston-Brazoria, Texas (HGB) 1997 8-hour ozone standard Reasonable Further Progress (RFP) and Attainment Demonstration (AD) State Implementation Plan (SIP) revisions, submitted on May 6, 2013 by the Texas Commission on Environmental Quality (TCEQ), are adequate for transportation conformity purposes. As a result of EPA's finding, the HGB area must use these budgets for future conformity determinations.

**DATES:** These budgets are effective August 19, 2013.

**FOR FURTHER INFORMATION CONTACT:** The essential information in this notice will be available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. You may also contact Mr. Jeffrey Riley, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-8542, Email address: [Riley.Jeffrey@epa.gov](mailto:Riley.Jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refers to EPA. The word "budget(s)" refers to the mobile source emissions budget for volatile organic compounds (VOCs) and the mobile source emissions budget for nitrogen oxides (NO<sub>x</sub>).

<sup>11</sup> Seymour, J. and Houlihan, M. F. (2011) Advances in Design of Landfills Over CCR Ponds and CCR Landfills, *Proceedings of the 2011 World of Coal Ash (WOCA) Conference*—May 9-12, 2011, Denver, Colorado, <http://www.flyash.info/>.

Schmitt, N. and Cole, M. (2013) Use of Bottom Ash in the Reinforced Zone of a Mechanically Stabilized Earth Wall for the Vertical Expansion of a Sluiced CCR Pond at the Trimble County Generating Station, *Proceedings of the 2013 World of Coal Ash (WOCA) Conference*—April 22-25, 2013, Lexington, KY <http://www.flyash.info/>.

Houlihan, M., *Advances in Design of Landfills Over CCB Ponds and Landfills*, 16 January 2013.

North Carolina statute allowing landfills on top of surface impoundments, <http://law.onecle.com/north-carolina/130a-public-health/130a-295.4.html>

Docket item EPA-HQ-RCRA-2009-0640-6877. Comment to the proposed rule from The Detroit Edison Company.

On May 6, 2013, TCEQ submitted as a SIP revision updated MVEBs for the HGB area. The MVEBs updated the March 2010 HGB 1997 8-hour ozone RFP and AD SIP revisions to replace the on-road mobile source emissions

inventories for NO<sub>x</sub> and VOCs based on EPA's MOBILE model with those based on EPA's MOVES model. This submittal established MVEBs for the HGB area for the years 2008, 2011, 2014, 2017 and 2018. The MVEB is the amount of

emissions allowed in the state implementation plan for on-road motor vehicles; it establishes an emissions ceiling for the regional transportation network. The MVEBs are provided in Tables 1 and 2:

TABLE 1—HOUSTON-GALVESTON-BRAZORIA 1997 8-HOUR OZONE REASONABLE FURTHER PROGRESS NO<sub>x</sub> AND VOC MVEBS

| Pollutant             | 2008   | 2011   | 2014   | 2017   | 2018   |
|-----------------------|--------|--------|--------|--------|--------|
| NO <sub>x</sub> ..... | 261.95 | 234.92 | 171.63 | 130.00 | 120.99 |
| VOC .....             | 102.50 | 93.56  | 71.56  | 59.76  | 57.02  |

TABLE 2—HOUSTON-GALVESTON-BRAZORIA 1997 8-HOUR OZONE ATTAINMENT DEMONSTRATION NO<sub>x</sub> AND VOC MVEBS

[Summer season tons per day]

| Pollutant             | 2018   |
|-----------------------|--------|
| NO <sub>x</sub> ..... | 103.34 |
| VOC .....             | 50.13  |

On May 14, 2013, EPA posted the availability of the HGB area MVEBs on EPA's Web site for the purpose of soliciting public comments, as part of the adequacy process. The comment period closed on June 13, 2013, and we received no comments.

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region 6 sent a letter to TCEQ on July 17, 2013, finding that the MVEBs in the HGB 1997 8-hour ozone RFP and AD SIPs, submitted on May 6, 2013 are adequate and must be used for transportation conformity determinations in the HGB area. This finding has also been announced on EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule, 40 Code of Federal Regulations (CFR) part 93, requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which EPA determines whether a SIP's MVEB is adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e)(4). We have also described the process for determining the adequacy of submitted

SIP budgets in our July 1, 2004, final rulemaking entitled, "Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes" (69 FR 40004). Please note that an adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the HGB 1997 8-hour ozone RFP and AD SIP revision submittals. Even if EPA finds the budgets adequate, the HGB RFP and AD SIP revision submittals could later be disapproved.

Within 24 months from the effective date of this notice, the HGB-area transportation partners, such as the Houston-Galveston Area Council, will need to demonstrate conformity to the new MVEBs if the demonstration has not already been made, pursuant to 40 CFR 93.104(e). See 73 FR 4419 (January 24, 2008).

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

**Dated:** July 19, 2013.

**Ron Curry,**

*Regional Administrator, Region 6.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9841-5]

#### Proposed Agreement Regarding Site Costs and Covenants Not To Sue for American Lead and Zinc Mill Site, Ouray County, Colorado

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

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response Compensation,

and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(h)(1), notice is hereby given of the proposed administrative settlement agreement (Settlement Agreement) under section 122(h) of CERCLA, 42 U.S.C. 9622(h) between the EPA and The Blue Tee Corporation (hereinafter referred to as the "the Settling Party"). The Settlement Agreement provides for Settling Party's payment of certain response costs incurred at the American Lead and Zinc Mill Superfund Site near Ouray, Colorado.

The Settling Party will pay within 30 days after the effective date of this Settlement Agreement (\$1,630,764), plus an additional sum for interest on that amount calculated from April 1, 2012 through the date of payment.

In accordance with Section 122(i) of CERCLA, this notice is being published to inform the public of the proposed Settlement Agreement and of the opportunity to comment. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Settlement Agreement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. **DATES:** Comments must be received by September 3, 2013.

**ADDRESSES:** Comments should be sent Michael Rudy, Senior Enforcement Specialist (Mail Code ENF-RC), Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6332 or via electric mail at [rudy.mike@epa.gov](mailto:rudy.mike@epa.gov) and should reference the American Lead and Zinc Mill Site, the EPA Docket No. CERCLA-08-2013-0004. The Agency's response to any comments, the proposed agreement and additional background information relating to the agreement is available for public inspection at the