

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
Rule 12. Shipbuilding or Ship Repair Operations in Clark, Floyd, Lake, and Porter Counties:				
8-12-1	Applicability	5/1/1996	1/22/1997, 62 FR 3216.	
8-12-2	Exemptions	7/15/2001	4/1/2003, 68 FR 15664.	
8-12-3	Definitions	5/1/1996	1/22/1997, 62 FR 3216.	
8-12-4	Volatile organic compound emissions limiting requirements.	7/15/2001	4/1/2003, 68 FR 15664.	
8-12-5	Compliance requirements	7/15/2001	4/1/2003, 68 FR 15664.	
8-12-6	Test methods and procedures	7/15/2001	4/1/2003, 68 FR 15664.	
8-12-7	Recordkeeping, notification, and reporting requirements.	7/15/2001	4/1/2003, 68 FR 15664.	
Rule 13. Sinter Plants:				
8-13-1	Applicability	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-2	Definitions	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-3	Emission limit	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-4	Compliance requirements	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-5	Test procedures	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-6	Control measure operation, maintenance, and monitoring.	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-7	Recordkeeping and reporting	7/24/1998	7/5/2000, 65 FR 41350.	
8-13-8	Continuous emissions monitoring	7/24/1998	7/5/2000, 65 FR 41350.	

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 [FR Doc. 2011-26341 Filed 10-12-11; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 93**

[EPA-HQ-OAR-2011-0393; FRL-9478-1]

RIN 2060-AR03

**Transportation Conformity Rule: MOVES Regional Grace Period Extension**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to extend the grace period before the Motor Vehicle Emission Simulator model (currently MOVES2010a) is required for regional emissions analyses for transportation conformity determinations (“regional conformity analyses”). This final rule provides an additional year to the previously established two-year conformity grace period. As a result, EPA is announcing in this **Federal Register** that MOVES is not required for regional conformity analyses until March 2, 2013. This action does not affect EPA’s previous

approval of the use of MOVES in official state air quality implementation plan (SIP) submissions or the existing grace period before MOVES2010a is required for carbon monoxide and particulate matter hot-spot analyses for project-level conformity determinations.

**DATES:** This rule is effective on December 12, 2011 without further notice, unless EPA receives adverse comment by November 14, 2011. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit any comments to Docket ID No. EPA-OAR-2011-0393, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax*: (202) 566-9744.
- *Mail*: Air Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA-HQ-OAR-2011-0393. Please include a total of two copies.
- *Hand Delivery*: Air Docket, Environmental Protection Agency: EPA West Building, EPA Docket Center (Room 3334), 1301 Constitution Ave., NW., Washington, DC, Attention Docket

ID No. EPA-HQ-OAR-2011-0393. Please include two copies. 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-HQ-OAR-2011-0393. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <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 e-mail. 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 e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail 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>.

For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

*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 and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Meg Patulski, State Measures and Conformity Group, Transportation and Regional Programs Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4842; fax number: (734) 214-4052; e-mail address: [patulski.meg@epa.gov](mailto:patulski.meg@epa.gov); or Astrid Larsen, State Measures and Conformity Group, Transportation and Regional Programs Division, Environmental Protection

Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4812; fax number: (734) 214-4052; e-mail address: [larsen.astrid@epa.gov](mailto:larsen.astrid@epa.gov).

**SUPPLEMENTARY INFORMATION:** The content of this preamble is listed in the following outline:

- I. General Information
- II. Background
- III. Extension of MOVES2010a Regional Conformity Grace Period
- IV. Conformity SIPs
- V. Statutory and Executive Order Reviews

If this rule becomes effective, the conformity grace period in applicable areas will end on March 2, 2013, after which MOVES2010a is required to be used for new regional conformity analyses.

**Availability of MOVES2010a and Support Materials**

Copies of the official version of the MOVES2010a motor vehicle emissions model, along with user guides and supporting documentation, are available on EPA's MOVES Web site: <http://www.epa.gov/otaq/models/moves/index.htm>.

Guidance on how to apply MOVES2010a for SIPs and transportation conformity purposes, including "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (EPA-420-B-09-046, December 2009) and "Technical Guidance on the Use of MOVES2010 for Emission Inventory Preparation in State Implementation Plans and Transportation Conformity" (EPA-420-B-10-023, April 2010) can be found on the EPA's transportation conformity Web site at: <http://www.epa.gov/otaq/stateresources/transconf/policy.htm>.

**I. General Information**

*A. Why is EPA using a direct final rule?*

EPA is publishing this rule without a prior proposed rule because we view

this as a noncontroversial action and anticipate no adverse comment. This rule makes a one-time, minor revision to the transportation conformity rule to provide administrative relief requested by state and local agencies for certain nonattainment and maintenance areas. As described more fully below, there are significant technical differences between MOVES2010a and the previous emissions model, and affected state and local agencies require additional time beyond the two-year grace period provided by 40 CFR 93.111(b) to make the conformity transition to MOVES2010a successfully. Today's action is based on the circumstances unique to this transition, and does not change the grace period provisions applicable to future models. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to extend the MOVES2010a regional conformity grace period if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we would publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

*B. Does this action apply to me?*

Entities potentially regulated by the transportation conformity rule are those that adopt, approve, or fund transportation plans, transportation improvement programs (TIPs), or projects under title 23 U.S.C. or title 49 U.S.C. Chapter 53. Regulated categories and entities affected by today's action include:

Category	Examples of regulated entities
Local government .....	Local transportation and air quality agencies, including metropolitan planning organizations (MPOs).
State government .....	State transportation and air quality agencies.
Federal government .....	Department of Transportation (Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this direct final rule. This table lists the types of entities of which EPA is aware that potentially could be regulated by the transportation

conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in 40 CFR 93.102. If you have questions regarding

the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*C. What should I consider as I prepare any comments for EPA?*

1. Submitting CBI

Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

3. Docket Copying Costs

You may be required to pay a reasonable fee for copying docket materials.

*D. How do I get copies of this direct final rule and other documents?*

1. Docket

EPA has established an official public docket for this action under Docket ID No. EPA-HQ-OAR-2011-0393. You can get a paper copy of this **Federal Register**

document, as well as the documents specifically referenced in this action, any public comments received, and other information related to this action at the official public docket. See the **ADDRESSES** section for its location.

2. Electronic Access

You may access this **Federal Register** document electronically through EPA's transportation conformity Web site at: <http://www.epa.gov/otaq/stateresources/transconf/index.htm>. You may also access this document electronically under the **Federal Register** listings at: <http://www.epa.gov/fedrgstr/>.

An electronic version of the official public docket is available through [www.regulations.gov](http://www.regulations.gov). You may use [www.regulations.gov](http://www.regulations.gov) to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the electronic public docket. Information claimed as CBI and other information for which disclosure is restricted by statute is not available for public viewing in the electronic public docket. EPA's policy is that copyrighted material will not be placed in the electronic public docket but will be available only in printed, paper form in the official public docket.

To the extent feasible, publicly available docket materials will be made available in the electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in the electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in the **ADDRESSES** section. EPA intends to provide electronic access in the future to all of the publicly available docket materials through the electronic public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to the electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in the electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in the electronic public docket along with a

brief description written by the docket staff.

For additional information about the electronic public docket, visit the EPA Docket Center homepage at: <http://www.epa.gov/epahome/dockets.htm>.

**II. Background**

*A. What is transportation conformity?*

Transportation conformity is required under Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) to ensure that transportation plans, transportation improvement programs (TIPs), and federally supported highway and transit projects are consistent with the purpose of the SIP. Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standard (NAAQS) or required interim milestones.

Transportation conformity (hereafter, "conformity") applies to areas that are designated nonattainment, and those areas redesignated to attainment after 1990 ("maintenance areas") for transportation-related criteria pollutants: ozone, particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>),<sup>1</sup> carbon monoxide (CO), and nitrogen dioxide (NO<sub>2</sub>). EPA's conformity rule (40 CFR parts 51 and 93) establishes the criteria and procedures for determining whether transportation activities conform to the SIP. EPA first promulgated the conformity rule on November 24, 1993 (58 FR 62188) and subsequently published several other amendments. The Department of Transportation (DOT) is EPA's Federal partner in implementing the conformity regulation. EPA has coordinated with DOT, and they concur with this direct final rule.

*B. What is MOVES2010a, and how has it been implemented to date?*

The Motor Vehicle Emission Simulator model (MOVES) is EPA's state-of-the-art model for estimating emissions from highway vehicles, based on analyses of millions of emission test results and considerable advances in the Agency's understanding of vehicle emissions. MOVES is currently EPA's official emissions model for state and local agencies to estimate volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), PM, CO, and other precursors from cars, trucks, buses, and motorcycles for SIP purposes and

<sup>1</sup> 40 CFR 93.102(b)(1) defines PM<sub>2.5</sub> and PM<sub>10</sub> as particles with an aerodynamic diameter less than or equal to a nominal 2.5 and 10 micrometers, respectively.

conformity determinations outside of California. MOVES' database-centered design allows EPA to update emissions data more frequently and allows users much greater flexibility in organizing input and output data.

MOVES2010a is the latest official version of MOVES that EPA has approved for SIP and conformity purposes. EPA originally announced the release of MOVES2010 in the **Federal Register** on March 2, 2010 (75 FR 9411) and subsequently released MOVES2010a on September 8, 2010. MOVES2010a includes minor revisions that enhance model performance and do not significantly affect criteria pollutant emissions results. Since these are minor revisions to MOVES2010, MOVES2010a is not considered a "new model" under section 93.111 of the conformity rule, as described further below.

MOVES2010a is a significant improvement over the previous emissions model, MOBILE6.2,<sup>2</sup> in terms of quality of results and overall functionality. It incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities. While these changes improve the quality of on-road mobile source inventories, the overall degree of change in the model's function also adds to the start-up time required for the transition from MOBILE6.2 to MOVES2010a.

EPA developed MOVES as a completely new model. Whereas MOBILE6.2 was written in FORTRAN and used simple text files for data input and output, MOVES2010a is written in JAVA and uses a relational database structure in MYSQL to handle input and output as data tables. These changes make MOVES more flexible, and the analysis of new data incorporated within MOVES will enhance state and local agency understanding of how on-road mobile sources contribute to emissions inventories and the relative effectiveness of various control strategies. However, this new model framework has created a significant learning curve for state and local agency staff that are required to use MOVES.<sup>3</sup>

In addition to the challenges of learning new software, state and local agencies also have to make substantial changes in the processes they have developed to create model input and apply model output. While there were incremental changes between each

previous version of the MOBILE model, the basic input and output structure of that model was essentially unchanged since the early 1980s. Over time, state and local agencies developed their own methods for incorporating local inputs in MOBILE format and for post-processing MOBILE results for inventory development and air quality modeling. To help state and local agencies with this part of the current transition, EPA created a number of tools that take input data formatted for MOBILE6.2 and convert that data for use in MOVES2010a.

EPA anticipated many of these challenges when it released MOVES. In order to assist in this model transition, EPA and DOT have already provided hands-on MOVES training in many states.<sup>4</sup> Additional MOVES training for regional inventories has been requested, and will continue to be offered for the foreseeable future. EPA continues to provide other technical assistance to state and local agencies via on-going conference calls with user groups, e-mail and phone support, a frequently asked questions web page, and web-based presentations. All of these efforts are helping state and local agencies make the transition to MOVES2010a, and many agencies are making significant progress in applying the model for official purposes. However, other state and local agencies are still developing the technical capacity to use MOVES2010a, and need more time to transition to the model and then evaluate whether SIPs and their motor vehicle emissions budgets, or transportation plans and TIPs, should be revised for future conformity determinations.

### *C. Why is EPA conducting this rulemaking?*

Today's action provides additional time that is critical for nonattainment and maintenance areas to learn and apply MOVES2010a for regional conformity analyses.<sup>5</sup> EPA has been contacted by several state and local transportation and air quality agencies and associations that are concerned that there has not been sufficient transition time for using MOVES2010a in regional conformity analyses. These concerns revolve around the time needed to build technical capacity for using

MOVES2010a as well as completing necessary SIP and/or transportation plan/TIP changes to assure conformity in the future. Further details on today's action are provided below.

Today's action does not affect EPA's previous approval of MOVES2010a for official SIP submissions developed outside of California.<sup>6</sup> Today's rulemaking also does not affect the existing grace period before MOVES2010a is required for PM<sub>2.5</sub>, PM<sub>10</sub>, and CO hot-spot analyses for project-level conformity determinations (75 FR 79370). EPA coordinated closely with DOT in developing today's action, and DOT concurs on this direct final rule.

## **III. Extension of MOVES2010a Regional Conformity Grace Period**

### *A. Background*

CAA section 176(c)(1) states that " \* \* \* [t]he determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel, and congestion estimates \* \* \*." To meet this requirement, section 93.111 of the conformity rule requires that conformity determinations be based on the latest motor vehicle emissions model approved by EPA. When EPA approves a new emissions model, EPA consults with DOT to establish a grace period before the model is required for conformity analyses (40 CFR 93.111(b)). EPA must consider many factors when establishing a grace period for conformity determinations (40 CFR 93.111(b)(2)). The length of the grace period will depend on the degree of change in the model and the scope of re-planning likely to be necessary for MPOs in order to assure conformity. The conformity rule provides for a grace period for new emissions models of between three and 24 months (40 CFR 93.111(b)(1)).

In the preamble to the original 1993 conformity rule, EPA articulated its intentions for establishing the length of conformity grace period for a new emissions model (58 FR 62211):

"EPA and DOT will consider extending the grace period if the effects of the new emissions model are so significant that previous SIP demonstrations of what emission levels are consistent with attainment would be substantially affected. In such cases, states should have an opportunity to revise their SIPs before MPOs must use the model's new emissions factors.

<sup>2</sup> EPA announced the release of MOBILE6.2 in 2004 (69 FR 28830).

<sup>3</sup> Some states also purchased computers with additional capacity and features for running MOVES.

<sup>4</sup> To date, EPA and DOT staff have provided a 2-day hands-on MOVES course for regional emissions inventories (including regional conformity analyses) at over 30 locations around the country.

<sup>5</sup> MPOs conduct regional conformity analyses to demonstrate that transportation plans and TIPs are consistent with the air quality purposes of the SIP. Regional conformity analyses are also conducted in "isolated rural nonattainment and maintenance areas" (defined by 40 CFR 93.101).

<sup>6</sup> MOVES is not approved for use in California. EPA approved and announced the latest version of California's EMFAC model (EMFAC2007) for SIP development and regional conformity analyses in that state on January 18, 2008 (73 FR 3464).

EPA encourages all agencies to inform EPA of the impacts of new emissions models in their area, and EPA may pause to seek such input before determining the length of the grace period.”

Section 93.111 conformity requirements have not changed since 1993, and have been implemented successfully for many previous model transitions.

On March 2, 2010, EPA announced the official release of MOVES2010 and established a two-year grace period before this model was required for new regional conformity analyses (75 FR 9411). Although the original grace period was established for MOVES2010, EPA clarified in September 2010 that the same grace period for regional conformity analyses also applies to MOVES2010a.<sup>7</sup> EPA based its decision to establish a two-year conformity grace period on the factors under section 93.111(b)(2), and advised areas to use the interagency consultation process to examine the impact of using MOVES in their future regional conformity analyses.

Without further EPA action, MOVES2010a would be required for regional conformity analyses that begin after March 2, 2012. As discussed further in today’s action, the special circumstances of the transition from MOBILE to MOVES2010a require a reevaluation of the length of this conformity grace period.

#### B. Description of Direct Final Rule

In today’s action, EPA is providing an additional year before MOVES2010a is required for regional conformity analyses. As a result, EPA is also announcing in today’s **Federal Register** that MOVES2010a will be required for new regional conformity analyses that begin after March 2, 2013. State and local agencies outside California can use MOVES2010a for regional conformity analyses earlier than March 2, 2013, if desired, and would be required to do so under limited circumstances such as after MOVES2010a SIP motor vehicle emissions budgets have been found adequate or approved for conformity purposes.

Due to the unique circumstances presented by the transition from MOBILE6.2 to MOVES2010a, today’s action adds a new paragraph (b)(3) to section 93.111 of the conformity rule. Today’s final rule only applies to MOVES2010a and any future minor revisions to this model that EPA releases before March 2, 2013. Such

minor revisions will not start a new grace period for regional conformity analyses and could include performance enhancements that reduce MOVES run time or model improvements to reduce errors in operating the model. Any major model updates would be evaluated separately as a “new model” under conformity rule section 93.111, pursuant to previously established requirements.

Between now and the end of the extended conformity grace period (March 2, 2013), areas should use the interagency consultation process to examine how MOVES2010a will impact their future MPO transportation plan/TIP conformity determinations. Isolated rural areas should also consider the impact of using MOVES2010a on future regional conformity analyses. Agencies should carefully consider whether the SIP and its motor vehicle emissions budgets should be revised with MOVES2010a or if transportation plans and TIPs should be revised before the end of the conformity grace period, since doing so may be necessary to ensure conformity in the future.

In general, regional conformity analyses that are started during the grace period can use either MOBILE6.2 or MOVES2010a. When the grace period ends on March 2, 2013, MOVES2010a will become the only approved motor vehicle emissions model for regional conformity analyses outside California. This means that all new regional conformity analyses started after the end of the grace period must be based on MOVES2010a, even if the SIP is based on MOBILE6.2 or earlier versions of MOBILE.

If you have questions about which model should be used in your conformity determination, you can consult with your EPA Regional Office. For complete explanations of how MOVES2010a is to be implemented for transportation conformity, including details about using MOVES2010a during the grace period, refer to EPA’s existing MOVES policy guidance.<sup>8</sup>

#### C. Rationale

MOVES2010a is EPA’s best tool for estimating criteria pollutant emissions, and it is a significant improvement over previous MOBILE models. State and local agencies have made significant progress to date in using MOVES2010a, and EPA supports these efforts and

encourages that they continue. However, as discussed above, challenges related to start-up and model application have been much greater in the transition to MOVES2010a, compared to past transitions between MOBILE model versions. As a result, EPA has determined that a one-year extension of the MOVES2010a grace period is necessary for state and local agencies to complete the current transition. Today’s action ensures that state and local governments have the necessary time to implement the conformity rule as originally intended.

Since 1993, the fundamental purpose of section 93.111(b) of the conformity rule has been to provide a sufficient amount of time for MPOs and other state and local agencies to adapt to using new emissions tools. As discussed above, the transition to a new emissions model for conformity involves more than learning to use the new model and preparing input data and model output. After model start-up is complete, state and local agencies also need to consider how the model affects regional conformity analysis results and whether SIP and/or transportation plan/TIP changes are necessary to assure future conformity determinations. EPA believes that this one-time extension of the current MOVES2010a regional grace period is critical to assure future conformity determinations based on MOVES2010a.

EPA has the discretion to establish an extended grace period for MOVES2010a, and today’s action is consistent with CAA section 176(c)(1) requirements. EPA believes that providing one additional year is appropriate due to this unique transition from MOBILE6.2 to MOVES2010a. This decision is consistent with the existing conformity criteria in section 93.111(b)(2) of the conformity rule that requires the length of the grace period to be based on “the degree of change in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity.”

Today’s action does not delay the use of MOVES2010a in SIP development or slow down past progress toward using the new model for regional conformity analyses. As noted above, many state and local agencies are already learning and applying MOVES2010a. Some are revising existing SIP budgets using the new model, while others may be incorporating MOVES2010a into new maintenance plans or clean data determinations. Under EPA’s existing MOVES policy guidance, new or revised SIP budgets must still be based on MOVES2010a. For example, MOVES2010a continues to be required for attainment SIPs for the 2006 24-hour

<sup>7</sup> See “EPA Releases MOVES2010a Mobile Source Emissions Model Update: Questions and Answers” (EPA-420-F-10-050, August 2010) at: <http://www.epa.gov/otaq/models/moves/MOVES2010a/420f10050.pdf>.

<sup>8</sup> “Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes” (EPA-420-B-09-046, December 2009) can be found on the EPA’s transportation conformity Web site at: <http://www.epa.gov/otaq/stateresources/transconf/policy.htm>.

PM<sub>2.5</sub> NAAQS. MOVES2010a is also required for any regional conformity analyses prior to March 2, 2013 if SIP budgets based on MOVES2010 or MOVES2010a are approved or found adequate sooner.<sup>9</sup>

In addition, today's action does not change the current MOVES2010a grace period for new PM<sub>2.5</sub>, PM<sub>10</sub>, and CO hot-spot analyses for project-level conformity determinations. EPA noted previously that a two-year conformity grace period was necessary to apply MOVES2010a for hot-spot analyses (75 FR 79370). However, the transition to MOVES2010a for project-level hot-spot analyses does not involve the complexity associated with the regional level, where SIP budgets and/or transportation plans/TIPs may need to be revised before regional conformity analyses based on MOVES2010a can be completed.

Finally, in issuing this rule, EPA is not proceeding pursuant to or reopening as a general matter the process and length of conformity grace periods for future emissions model approvals, which were previously established in 1993 (58 FR 62211). The unique set of circumstances involved in the current transition warrants additional state and local flexibility before MOVES2010a is required for regional conformity analyses.

#### IV. Conformity SIPs

The MOVES2010a regional grace period extension applies on the effective date of today's direct final rule in all nonattainment and maintenance areas. Section 51.390(a) of the conformity rule states that the Federal rule applies for the portion of the requirements that are not included in a state's approved conformity SIP.<sup>10</sup> Section 51.390(b) further allows state conformity provisions to contain criteria and procedures that are more stringent than the Federal requirements. However, in the case of states with conformity SIPs that include the grace period provision in 40 CFR 93.111(b)(1), EPA concludes that such states did not intend to require a shorter grace period than EPA, in consultation with DOT, believes is needed. Therefore, since the MOVES2010a grace period extension is a new provision being added to the conformity rule, it is not included in

any current state conformity SIP and therefore applies immediately in all areas pursuant to section 51.390(a).

In addition, section 51.390(c) of the conformity rule requires states to submit a new or revised conformity SIP to EPA within 12 months of the **Federal Register** publication date of any final conformity amendments for certain situations. States with approved conformity SIPs that are prepared in accordance with current CAA requirements are not required to submit new conformity SIP revisions, since section 93.111 of the conformity rule is not contained in these SIPs. A conformity SIP prepared in accordance with current CAA requirements contains only the state's criteria and procedures for interagency consultation (40 CFR 93.105) and two additional provisions related to written commitments for certain control and mitigation measures (40 CFR 93.122(a)(4)(ii) and 93.125(c)). However, states with approved conformity SIPs that include section 93.111 from a previous rulemaking are required to submit a SIP revision by October 12, 2012, although EPA strongly encourages these states to submit a SIP revision with only the three required provisions.<sup>11</sup> A state without an approved conformity SIP is not required to submit a new conformity SIP within one year of today's action, but previous conformity SIP deadlines continue to apply.

For additional information on conformity SIPs, please refer to the January 2009 guidance entitled, "Guidance for Developing Transportation Conformity State Implementation Plans" available on EPA's Web site at: <http://www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf>.

#### V. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735; October 4, 1993), this action is a "significant regulatory action." Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and 13563 (76 FR 3821; January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

Under Executive Order 12866, this action is a "significant regulatory action." Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and 13563 and any changes made in response to OMB recommendations have been documented in the docket for this action.

##### B. Paperwork Reduction Act

This action does not impose any new information collection burden. The information collection requirements of EPA's existing transportation conformity regulations and the revisions in today's action are already covered by EPA information collection request (ICR) entitled, "Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects." OMB has previously approved the information collection requirements contained in the existing regulations at 40 CFR Part 93 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0561. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an Agency to prepare a regulatory flexibility analysis of rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit organizations and small government jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This regulation directly affects Federal agencies and MPOs that, by definition, are designated under Federal

<sup>9</sup> See Questions 5, 6, and 11 of "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (EPA-420-B-09-046, December 2009).

<sup>10</sup> A conformity SIP is required by the CAA and contains a state's conformity requirements, including the state's specific interagency consultation procedures.

<sup>11</sup> The conformity SIP may contain provisions more stringent than the Federal requirements, and in these cases, states would specify this intention in its original conformity SIP submission.

transportation laws only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities within the meaning of the RFA. Therefore, this rule will not impose any requirements on small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. This rule merely implements already established law that imposes conformity requirements and does not itself impose requirements that may result in expenditures of \$100 million or more in any year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule will not significantly or uniquely impact small governments because it directly affects Federal agencies and MPOs that, by definition, are designated under Federal transportation laws only for metropolitan areas with a population of at least 50,000.

*E. Executive Order 13132: Federalism*

This rule does not have federalism implications. It will not have substantial direct effects on states, on the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA requires conformity to apply in certain nonattainment and maintenance areas as a matter of law, and today's action merely revises one provision for transportation planning entities in subject areas to follow in meeting their existing statutory obligations. Thus, EO 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The CAA requires transportation conformity to apply in any area that is designated nonattainment or maintenance by EPA. Because today's rule does not significantly or uniquely affect the communities of Indian tribal governments, EO 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 18355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency regarding energy. This action is not subject to EO 13211 because it does not have any adverse energy effects.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or

environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. The final rule involves a minor revision that provides administrative relief but does not change the conformity rule's underlying requirements for regional conformity analyses.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. 804(2). This rule will be effective November 14, 2011.

**List of Subjects in 40 CFR Part 93**

Administrative practice and procedure, Air pollution control, Carbon monoxide, Clean Air Act, Environmental protection, Highways and roads, Intergovernmental relations, Mass transportation, Nitrogen dioxide, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Dated: October 4, 2011.

**Lisa P. Jackson,**  
*Administrator.*

For the reasons discussed in the preamble, 40 CFR Part 93 is amended as follows:

**PART 93—[AMENDED]**

■ 1. The authority citation for Part 93 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

■ 2. Section 93.111 is amended by adding paragraph (b)(3) to read as follows:

**§ 93.111 Criteria and procedures: Latest emissions model.**

\* \* \* \* \*  
(b) \* \* \*

(3) Notwithstanding paragraph (b)(1) of this section, the grace period for using the MOVES2010a emissions model (and minor model revisions) for regional emissions analyses will end on March 2, 2013.

\* \* \* \* \*

[FR Doc. 2011-26347 Filed 10-12-11; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

[WT Docket No. 05-265; FCC 11-52]

#### Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services; Public Information Collection Approved by Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Federal Communications Commission (FCC) announces that it has received Office of Management and Budget (OMB) approval for public information collection 3060-0411, which is associated with the new complaint mechanism for resolving data roaming disputes with commercial mobile data service providers.

**DATES:** 47 CFR 20.12(e)(2), published May 6, 2011 at 76 FR 26199, is effective October 13, 2011.

**FOR FURTHER INFORMATION CONTACT:** Contact Judith B. Herman, Federal Communications Commission, at (202) 418-0214 or via the Internet at [Judith.B.Herman@fcc.gov](mailto:Judith.B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On September 7, 2011, the Commission received approval from the Office of Management and Budget for a revision to public information collection 3060-0411, which relates to the filing of complaints with the Federal Communications Commission.

The revision was necessitated by the adoption of a new data roaming rule requiring commercial mobile data service providers to offer data roaming arrangements to other such providers.<sup>1</sup> The Commission also provided a complaint process by adopting 47 CFR

20.12(e)(2). Specifically, a party alleging a violation of 47 CFR 20.12(e) may file a formal or informal complaint pursuant to the procedures in 47 CFR 1.716-1.718, 1.720, 1.721, and 1.723-1.735. It is this rule, 47 CFR 20.12(e)(2), that is now effective.

*Rule:* 47 CFR 20.12(e)(2).

*Effective date:* 10/13/2011.

*OMB Control No.:* 3060-0411.

*OMB Approval Date:* 09/07/2011.

*Collection 3060-0411 Expiration Date:* 09/30/2014.

*Title:* Procedures for Formal Complaints.

*Form No.:* FCC Form 485.

*Estimated Annual Burden:* 20 respondents; 301 responses; 1,349 total annual hours.

*Needs and Uses:* On April 7, 2011, the Commission adopted, for data roaming, a complaint procedure using most of the procedural processes already in place for resolving formal complaints against common carriers. Specifically, a party alleging a violation of 47 CFR 20.12(e) may file a formal or informal complaint pursuant to the procedures in 47 CFR 1.716-1.718, 1.720, 1.721, and 1.723-1.735. The Commission finds that it is in the public interest to ensure a consistent Commission process for resolving both voice and data roaming complaints. Moreover, some roaming disputes will involve both data and voice and are likely to have factual issues common to both types of roaming. This approach allows a party to bring a single proceeding to address such a dispute, rather than having to bifurcate the matter and initiate two separate proceedings under two different sets of procedures. This, in turn, will be more efficient for the parties involved, as well as for the Commission, and should result in faster resolution of such disputes.

This collection of information includes the process for submitting a formal complaint. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. Orders issued by the Commission in formal complaint proceedings are based upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier or commercial mobile data service provider related complaint proceedings. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2011-26398 Filed 10-12-11; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[DA 11-1649]

#### Common Carriers; Editorial Amendments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission via the Office of Managing Director makes two nonsubstantive, editorial amendments to Part 64 of the Commission's rules. The Managing Director makes these amendments to delete certain provisions and notes that are without current legal effect and thus obsolete. The Chief of the Consumer and Governmental Affairs Bureau has approved these editorial amendments.

**DATES:** Effective October 13, 2011.

**FOR FURTHER INFORMATION CONTACT:** Deborah Broderson, Office of the Bureau Chief, Consumer and Governmental Affairs Bureau at (202) 418-0652, or e-mail: [Deborah.Broderson@fcc.gov](mailto:Deborah.Broderson@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Amendment of Part 64 of the Commission's Rules Regarding Telecommunication Relay Services and Related Customer Premises Equipment for Persons with Disabilities; Truth-in-Billing Requirements for Common Carriers*, Order (Order), document DA 11-1649, adopted September 30, 2011, and released September 30, 2011. The full text of document DA 11-1649 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document DA 11-1649 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc. (BCPI), at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI at its Web site, <http://www.bcpweb.com>, or by calling 202-488-5300. Document DA 11-1649 can also be downloaded in Word or Portable Document Format

<sup>1</sup> See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, WT Docket No. 05-265, FCC 11-52, *Second Report and Order*, 26 FCC Rcd 5411, 76 FR 26199 (2011); 47 CFR 20.12(e).