

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 3, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(345)(i)(A)(2) and (c)(347)(i)(B) to read as follows:

§ 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(345) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 1178 adopted on December 21, 2001, and amended on April 7, 2006.

\* \* \* \* \*

(c) \* \* \*

(347) \* \* \*

(i) \* \* \*

(B) South Coast Air Quality Management District.

(1) Rule 1118 adopted February 13, 1998, and amended November 4, 2005.

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[FR Doc. E7-16822 Filed 8-27-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2007-0285; FRL-8460-2]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Shipyard Facilities and Provisions for Distance Limitations, Setbacks, and Buffers in Standard Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision for the State of Texas. This revision adds provisions which incorporate the evaluation of emissions from dockside vessels when reviewing applications for permits for new and modified sources and certain other administrative changes to its air permitting requirements. It also adds provisions concerning compliance with distance limitations, setbacks, and buffers at facilities that are authorized to construct or modify under an air quality standard permit. This action is being taken under section 110 of the Federal Clean Air Act (the Act).

DATES: This rule is effective on October 29, 2007 without further notice, unless EPA receives relevant adverse comment by September 27, 2007. If EPA receives such comment, EPA will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in DOCKET ID No. EPA-R06-OAR-2007-0285, by one of the following methods:

• Federal rulemaking 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.

• E-mail: Mr. Stanley M. Spruiell at spruiell.stanley@epa.gov.

• Fax: Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), at fax number 214-665-7263.

• Mail: Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

• Hand or Courier Delivery: Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), 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 except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in DOCKET ID No. EPA-R06-OAR-2007-0285. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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 index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Permits Section (6PD-R), 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.

The State submittal is also available for public inspection at the State Air Agency listed below 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:**

Stanley M. Spruiell, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7212; fax number 214-665-7263; e-mail address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

**Outline**

- I. What Action Is EPA Taking?
- II. What Did the State Submit?
- III. What Is EPA’s Evaluation of These SIP Revisions?
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. What Action Is EPA Taking?**

We are taking direct final action to approve revisions to the Texas SIP, submitted September 4, 2002, which require evaluation of the emissions from dockside vessels when applying for permits for new and modified sources and certain other administrative changes as described herein. This SIP revision requires that all dockside marine vessel emissions associated with onshore facilities or using onshore equipment be included in all permits. The emissions will require best available control technology (BACT), maximum allowable emission limitations, monitoring, testing, and ambient air impacts analysis. Such emissions originating from a dockside vessel that will be included in permits include: Loading and unloading of bulk liquid materials, liquefied gaseous materials, and solid bulk materials; cleaning and degassing liquid vessel compartments; and abrasive blasting and painting.

We are also taking direct final action to approve SIP revisions to section 116.615, submitted March 12, 2007, which relate to compliance with distance limitations, setbacks, and buffers which are to be determined at facilities that are authorized to construct

or modify under an air quality standard permit. The Commission submitted this amendment to EPA to process as a revision to the Texas SIP. The revised rule provides that if a Standard Permit for a facility requires a distance setback, or buffer from other property or structure as a condition of the permit, the determination of whether the distance setback, or buffer is satisfied shall be made on conditions existing on the earlier of: The date new construction, expansion, or modification of a facility begins; or the date of any application or notice of intent is first filed with the TCEQ to obtain approval for the construction or operation of the facility.

**II. What Did the State Submit?**

We are approving provisions from two SIP revisions that the Texas Commission on Environmental Quality (TCEQ) submitted to EPA. These SIP revisions were dated September 4, 2002, and March 12, 2007. Copies of the revised rules as well as the Technical Support Document (TSD) can be obtained from the Docket, as discussed in the “Docket” section above. A discussion of the specific Texas rules changes that we are approving is included in the TSD and summarized below.

*A. The September 4, 2002, SIP Revision*

On September 4, 2002, the TCEQ submitted a SIP revision which requires evaluation of the emissions from dockside vessels when applying for permits for new and modified sources and certain other administrative changes. This includes revisions to 30 Texas Administrative Code (TAC) Chapter 116—Control of Air Pollution by Permits for New Construction or Modification. The TCEQ submitted revisions to section 116.10—General Definitions, section 116.11—General Application, and section 116.615—General Conditions. These sections are amended to add new definitions of “dockside vessel” and “dockside vessel emissions” in section 116.10 and to revise sections 116.111 and 116.615 to include requirements to evaluate the emissions from dockside vessels when the owner or operator applies for a permit or uses a Standard Permit for new and modified sources.

*B. The March 12, 2007, SIP Revision.*

On March 12, 2007, the TCEQ submitted amendments to section 116.615 which addresses compliance with distance limitations, setbacks, and buffers at facilities that are authorized to construct or modify under an air quality standard permit. The revised rule

provides that if a Standard Permit for a facility requires a distance setback or buffer from other property or structure as a condition of the permit, the determination of whether the distance setback or buffer is satisfied shall be made on conditions existing on the earlier of: The date new construction, expansion, or modification of a facility begins or the date of any application or notice of intent is first filed with the TCEQ to obtain approval for the construction or operation of the facility.

**III. What Is EPA’s Evaluation of These SIP Revisions?**

*A. September 4, 2002, SIP Submittal*

1. Section 116.10—General Definitions

The new definition of “dockside vessel” in section 116.10(4) defines the term as any water-based transportation, platforms, or similar structures which are connected or moored to the land. The new definition of “dockside vessel emissions” in section 116.10(5) defines the term as those emissions originating from a dockside vessel that are the result of functions performed by onshore facilities or using onshore equipment. These emissions include, but are not limited to: Loading and unloading of liquid bulk materials; loading and unloading of liquefied gaseous materials; loading and unloading of solid bulk materials; cleaning and degassing of liquid vessel compartments; and abrasive blasting and painting.

These definitions meet the requirements of 40 CFR 51.160(e) which provide that any SIP for review of new and modified sources must identify the types and sizes of facilities, building, structures, or installations that will be subject to review and discuss the basis determining which facilities will be subject to review. In this action, Texas has identified dockside vessels as a type of facility that should be reviewed in permits for new and modified facilities. When adopting these revisions to its regulations, the TCEQ determined that dockside vessels are facilities in the Texas Clean Air Act (TCAA), § 382.003(6), and thus subject to the requirements of Chapter 116. These emissions will be subject to BACT review, maximum allowable emission limitations, monitoring, testing, recordkeeping, and ambient air impacts analysis. The TSD contains additional information on our evaluation of the revisions to section 116.10 and the basis for how the revisions meet our requirements for approval.

## 2. Section 116.111—General Application

Texas revised section 116.111(a)(2) to add a requirement to review dockside vessel emissions; made non-substantive changes to clarify section 116.111(a)(2)(A)(i); and revised section 116.111(a)(2)(J) to preclude consideration of dispersion modeling predicting concentrations of non-criteria air contaminants over coastal waters of the state (limited to shipbuilding or ship repair operation).

The revision to section 116.111(a)(2) to add a requirement to review dockside vessel emissions, meets the requirements of 40 CFR 51.160(e) which provide that any SIP for review of new and modified sources must identify the types and sizes of facilities, building, structures, or installations which will be subject to review and discuss the basis determining which facilities will be subject to review. In this action, Texas has identified dockside vessels as a type of facility that should be reviewed in permits for new and modified facilities. When adopting these revisions to its regulations, the TCEQ determined that dockside vessels are facilities in the Texas Clean Air Act (TCAA), section 382.003(6), and thus subject to the requirements of Chapter 116. These emissions will be subject to BACT review, maximum allowable emission limitations, monitoring, testing, recordkeeping, and ambient air impacts analysis.

The revision to section 116.111(a)(2)(A)(i) previously provided that the “emissions from the proposed facility will comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and physical property of the people.” Texas changed the last clause to read “including protection of the health and property of the public.” This change is approvable as a non-substantive change.

Section 116.111(a)(2)(J) was revised to preclude consideration of dispersion modeling which predicts concentrations of non-criteria air contaminants over coastal waters of the state (limited to shipbuilding or ship repair operation). 40 CFR 51.160(a) requires a State or local agency to ensure that the proposed construction or modification of a facility, building, structure, or installation, or combination of these will not interfere with the attainment or maintenance of a national standard. The “national standard” refers to national ambient air quality standards (NAAQS) established under 40 CFR part 50 for the criteria pollutants. Thus, 40 CFR 51.160 requires a State or local agency to

address interference with attainment or maintenance of the NAAQS for the criteria pollutants, and does not address attainment or maintenance of ambient standards for non-criteria pollutants. Texas’ approved SIP for reviewing new and modified sources meets the requirements of 40 CFR 51.160 for the criteria pollutants. There is no requirement under section 51.160 to address ambient impacts for non-criteria pollutants. Thus Texas’ revised provision not to “require and \* \* \* consider air dispersion modeling results predicting ambient concentrations of non-criteria air contaminants over coastal waters of the state” is consistent with the provisions of section 51.160(a). The TSD contains additional information on our evaluation of the revisions to section 116.111 and the basis for how the revisions meet our requirements for approval.

## 3. Section 116.615—General Conditions

Section 116.615 is part of Texas’ program for Standard Permits. Texas revised section 116.615(1) to add a requirement to review dockside vessel emissions; and revised section 116.615(9) to change cross-references from sections 101.6 and 101.7 to sections 101.201 and 101.211.

The revision to section 116.615(1) to add a requirement to review dockside vessel emissions, meets the requirements of 40 CFR 51.160(e) which provide that any SIP for review of new and modified sources must identify the types and sizes of facilities, building, structures, or installations that will be subject to review and discuss the basis determining which facilities will be subject to review. In this action, Texas has identified dockside vessels as a type of facility that should be reviewed in permits for new and modified facilities. When adopting these revisions to its regulations, the TCEQ determined that dockside vessels are facilities in the TCAA, section 382.003(6), and thus subject to the requirements of Chapter 116. These emissions will be subject to BACT review, maximum allowable emission limitations, monitoring, testing, recordkeeping, and ambient air impacts analysis.

The revision to section 116.615(9) changes the cross-references from sections 101.6 and 101.7 to sections 101.201 and 101.211. This change is approvable as an administrative change to remove obsolete provisions of TCEQ’s regulation and replace them with the current provisions.<sup>1</sup> The TSD contains

<sup>1</sup> On March 30, 2005 (70 FR 16129), we approved SIP revisions which approved the replacement of

additional information on our evaluation of the revisions to section 116.615 and the basis for how the revisions meet our requirements for approval.

4. What is the status of other changes submitted in the September 4, 2002, SIP submittal?

In this action, EPA is not approving other provisions that Texas submitted on September 4, 2002. This includes sections 116.311, 116.315, 116.711, 116.715, 116.788, 116.803, and 116.919. These sections affect earlier provisions which were previously submitted and which are presently being reviewed by EPA. EPA will take appropriate action on sections 116.311, 116.315, 116.711, 116.715, 116.788, 116.803, and 116.919 after it completes its review of and takes appropriate action on the earlier submittals of these sections.

Furthermore, the provisions of sections 116.10, 116.111, and 116.615, which we are approving in this action, do not cross-reference or depend on the sections that we are not approving. Accordingly, our taking no action on sections 116.311, 116.315, 116.711, 116.715, 116.778, 116.803, and 116.919 at this time does not affect the ability to approve sections 116.10, 116.111, and 116.615. The TSD contains detailed information concerning the basis for not acting on sections 116.311, 116.315, 116.711, 116.715, 116.778, 116.803, and 116.919 at this time.

## B. March 12, 2007, SIP Submittal

1. Changes to provisions to incorporate provisions for compliance with distance limitations, setbacks, and buffers are to be determined at facilities that are authorized to construct or modify under an air quality Standard Permit.

Texas revised section 116.615 to add a new paragraph (11) which sets forth provisions relating to distance limitations, setbacks, and buffers that are authorized under an air quality Standard Permit. This provision provides that if a Standard Permit for a facility requires a distance limitation, setback, or buffer from other property or structures as a condition of the permit, such distance limitation, setback, or buffer is satisfied based on conditions existing on the earlier of: The date that new construction, expansion, or modification of a facility begins; or the date any application or notice of intent is first filed with the TCEQ to obtain approval or operation of the facility new construction or operation of the facility.

sections 101.6 and 101.7 with sections 101.201 and 101.211.

Any distance limitation, setback, or buffer that is included as a condition in a Standard Permit issued under Subchapter F—Standard Permits—of Chapter 116 is a discretionary measure not mandated by the Act. This revision improves the SIP by providing protection of persons located near the facility that operates under a Standard Permit which contains such distance limitation, setback, or buffer. By restricting the location of these types of facilities, the SIP provides additional assurances that persons located near these facilities will not be adversely affected by exposure to the air contaminants emitted from these facilities. Compliance with this condition will be determined consistent with section 116.111(2)(A)(i) of the SIP, which was revised in the September 4, 2002, SIP submittal (which is also being approved in this action) and which provides that emissions from a new or modified facility will comply with all rules and regulations of the Commission and with the intent of the Texas Clean Air Act, including the protection of the health and property of the public. This revision meets the requirements of 40 CFR 51.160(a) which requires the plan to provide that the construction or modification of facility, building, structure, installation, or combination thereof will not violate applicable portions of the control strategy or interfere with attainment or maintenance of a national standard. The TSD contains additional information on our evaluation of the revisions to section 116.615 and the basis for how the revisions meet our requirements for approval.

2. Other changes in the March 12, 2007, SIP submittal

The March 12, 2007, SIP submittal also includes several changes that are approvable as non-substantive changes. These include the following changes:

- Revision of section 116.615(1) to replace “TCAA” with “Texas Clean Air Act (TCAA)”;
- Revision of section 116.615(3) to remove the words “relating to applicability”.
- Revision of section 116.615(5)(A), (6), (8), and (10) to replace “air pollution control program” with “air pollution control agency”.
- Revision of section 116.615(6) to replace “Office of Air Quality” with “commission’s appropriate regional office”.
- Revision of section 116.615(8) to replace “EPA” with “United States Environmental Protection Agency”.

The TSD contains additional information on our evaluation of the

revisions to section 116.615 and the basis for how the revisions meet our requirements for approval.

*C. Does Approval of Texas’ Rule Revisions Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?*

Section 110(l) of the Clean Air Act states that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. Our review of the Texas SIP submittals indicate that the revision will not interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act.

#### IV. Final Action

In this action, we are approving the revisions to sections 116.10, 116.111, and 116.615. These revisions meet the requirements of the Act and our regulations as described above and in the TSD. The change to require evaluation of emissions from dockside vessels and for setting distance limitations, setbacks, and buffers in Standard permits will improve the SIP and improve upon TCEQ’s ability to ensure that emissions from new and modified facilities, buildings, structures, or installations will not violate applicable portions of the control strategy or interfere with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a neighboring state.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on *October 29, 2007* without further notice unless we receive adverse comment by *September 27, 2007*. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that

if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997),

because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *October 29, 2007*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 16, 2007.

**Richard E. Greene,**  
Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart SS—Texas**

■ 2. The table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" is amended by revising the entries for sections 116.10, 116.111, and 116.615 to read as follows:

**§ 52.2270 Identification of the Plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
Subchapter A—Definitions				
Section 116.10 .....	General Definitions	08/21/02 .....	8/28/07 [Insert FR page number where document begins].	The SIP does not include paragraphs (1), (2), (3), (6), (7)(F), (8), (10), (11), (12), and (16).
*	*	*	*	*
Subchapter B—New Source Review Permits				
Division 1—Permit Application				
Section 116.111 .....	General Application.	08/21/02 .....	8/28/07 [Insert FR page number where document begins].	The SIP does not include paragraphs (a)(2)(K) and (b).
*	*	*	*	*
Subchapter F—Standard Permits				
Section 116.615 .....	General Conditions	02/21/07 .....	8/28/07 [Insert FR page number where document begins].	
*	*	*	*	*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2007-0462; FRL-8458-9]

#### Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District and San Joaquin Valley Air Pollution Control District; Technical Amendment

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

**ACTION:** Direct final rule; technical amendment.

**SUMMARY:** On August 1, 2007, EPA published in the *Federal Register* a document to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) and San Joaquin Valley Air Pollution Control District (SJVAPCD) portions of the California State Implementation Plan (SIP). This action corrects the paragraph number of that regulation.

**DATES:** This correction is effective on August 28, 2007.

**ADDRESSES:** Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Francisco Dóñez, EPA Region IX, (415) 972-3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 1, 2007 (72 FR 41894), EPA published direct final rulemaking action approving a section of the California State Implementation Plan (SIP). This action contained amendments to 40 CFR Part 52, Subpart F. The amendment which incorporated material by reference into § 52.220, Identification of plan, paragraph (c)(347) is incorrect. That amendment is being corrected in this action.

EPA has determined that today's action falls under the "good cause" exemption in section 3(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are

impracticable, unnecessary or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to correct 40 CFR part 52 has no substantive impact on EPA's August 1, 2007, direct final rule approval. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of this error or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the approval status.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behaviour and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects an error. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely corrects an error, does not impose any new requirements on sources or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's *Federal Register*. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2007. Filing a