

**§ 17.63 Approval of community residential care facilities.**

\* \* \* \* \*

(a) \* \* \*

(2) Meet the requirements in the applicable provisions of NFPA 101 and NFPA 101A (incorporated by reference, *see* § 17.1) and the other publications referenced in those provisions. The institution shall provide sufficient staff to assist patients in the event of fire or other emergency. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director;

\* \* \* \* \*

(4) Meet the following additional requirements, if the provisions for One and Two-Family Dwellings, as defined in NFPA 101, are applicable to the facility:

(i) Portable fire extinguishers must be installed, inspected, and maintained in accordance with NFPA 10 (incorporated by reference, *see* § 17.1); and

(ii) The facility must meet the requirements in section 33.7 of NFPA 101.

\* \* \* \* \*

**■ 4. Amend § 17.81(a)(1) as follows:****■ a.** Revise paragraph (a)(1)(i);**■ b.** Remove paragraphs (a)(1)(v) through (a)(1)(viii);**■ c.** Add a new paragraph (a)(1)(v); and**■ d.** Redesignate paragraph (a)(1)(ix) as paragraph (a)(1)(vi).

The revision and addition read as follows:

**§ 17.81 Contracts for residential treatment services for veterans with alcohol or drug dependence or abuse disabilities.**

(a) \* \* \*

(1) \* \* \*

(i) The building must meet the requirements in the applicable provisions of NFPA 101 (incorporated by reference, *see* § 17.1) and the other publications referenced in those provisions. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director.

\* \* \* \* \*

(v) The facility must meet the following additional requirements, if the provisions for One and Two-Family Dwellings, as defined in NFPA 101, are applicable to the facility:

(A) Portable fire extinguishers shall be installed, inspected, and maintained in accordance with NFPA 10 (incorporated by reference, *see* § 17.1).

(B) The facility shall meet the requirements in section 33.7 of NFPA 101.

\* \* \* \* \*

**■ 5. Amend § 17.82(a)(1) as follows:****■ a.** Revise paragraphs (a)(1)(i) and (iv);**■ b.** Remove paragraphs (a)(1)(v) and (a)(1)(vi); and**■ c.** Redesignate paragraph (a)(1)(vii) as (a)(1)(v).

The revisions read as follows:

**§ 17.82 Contracts for outpatient services for veterans with alcohol or drug dependence or abuse disabilities.**

(a) \* \* \*

(1) \* \* \*

(i) The building must meet the requirements in the applicable provisions of the NFPA 101 (incorporated by reference, *see* § 17.1) and the other publications referenced in those provisions. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director.

\* \* \* \* \*

(iv) As a minimum, fire exit drills must be held at least quarterly, and a written plan for evacuation in the event of fire shall be developed and reviewed annually. The plan shall outline the duties, responsibilities and actions to be taken by the staff in the event of a fire emergency. This plan shall be implemented during fire exit drills.

\* \* \* \* \*

**PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES**

**■ 6.** The authority citation for part 59 continues to read as follows:

**Authority:** 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137.

**■ 7. Amend § 59.130(d)(1) as follows:**

**■ a.** Remove the phrase “(2000 edition)” and add, in its place, “(2009 edition), except that the NFPA requirement in paragraph 19.3.5.1 for all buildings containing nursing homes to have an automatic sprinkler system is not applicable until February 24, 2016 for “existing buildings” with nursing home facilities as of June 25, 2001 (paragraph 3.3.32.5 in the NFPA 101 defines an “[e]xisting [b]uilding” as “[a] building erected or officially authorized prior to the effective date of the adoption of this edition of the *Code* by the agency or jurisdiction”); and

**■ b.** Remove the phrase “(1999 edition)” and add, in its place, “(2005 edition)”.

**■ c.** Remove “Office of Regulations Management (02D), Room 1154” and

add, in its place, “Office of Regulation Policy and Management (02REG), Room 1068”.

[FR Doc. 2011–3887 Filed 2–23–11; 8:45 am]

BILLING CODE 8320–01–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R06–OAR–2010–0252; FRL–9269–9]

**Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions To Control Volatile Organic Compound Emissions From Consumer Related Sources**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to approve revisions to the Texas State Implementation Plan (SIP). We are approving revisions to Title 30 of the Texas Administrative Code (TAC), Chapter 115, which the State submitted on March 4, 2010. These revisions remove the Texas Portable Fuel Container rule as an ozone control strategy from the Texas SIP for the Control of Ozone Air Pollution. In the submittal, Texas demonstrates that Federal portable fuel container standards promulgated by EPA in 2007 are expected to provide equal to or greater emissions reductions than those resulting from the State regulations. The EPA is approving these revisions pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule will be effective on April 25, 2011 without further notice unless EPA receives relevant adverse comments by March 28, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2010–0252, by one of the following methods:

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

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

- *E-mail:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person

listed in the **FOR FURTHER INFORMATION CONTACT** section below.

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

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

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

*Instructions:* Direct your comments to Docket No. EPA-R06-OAR-2010-0252. 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 <http://www.regulations.gov> or e-mail. The <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 <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.

*Docket:* All documents in the docket are listed in the <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 <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Dayana Medina, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-7241; fax number 214-665-7263; e-mail address [medina.dayana@epa.gov](mailto:medina.dayana@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" means the EPA.

## Outline

- I. Background
- II. What action is EPA taking?
- III. Comparison of the Texas and Federal Portable Fuel Container Regulations
- IV. What is the effect of this action?
- V. Final Action
- VI. Statutory and Executive Order Reviews

### I. Background

Section 110 of the CAA requires States to develop air pollution regulations and control strategies to ensure that air quality meets the National Ambient Air Quality Standards (NAAQS) established by EPA. The NAAQS are established under section 109 of the CAA and currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

A SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical

analyses developed by the State, to ensure that air quality in the State meets the NAAQS. It is required by section 110 and other provisions of the CAA. A SIP protects air quality primarily by addressing air pollution at its point of origin. A SIP can be extensive, containing State regulations or other enforceable documents and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each State must submit regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Revisions to the SIP must comply with Section 110(l) of the CAA which states, "Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of this chapter."

### II. What action is EPA taking?

EPA is taking direct final action to approve a revision to the Texas SIP for the Control of Ozone Air Pollution that pertains to regulations which control VOC emissions from consumer related sources. The revision repeals sections 115.620—115.622, 115.626, 115.627, and 115.629 of 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds, Subchapter G, Consumer-Related Sources. This revision consists of the repeal of the Texas Portable Fuel Container rule, as submitted to EPA by the TCEQ on March 4, 2010. This revision is substantive in nature, and eliminates the redundancy that has been created with the adoption by EPA of the Federal portable fuel container regulations in 2007. We are approving this revision in accordance with section 110 of the CAA.

On October 27, 2004, the State adopted the Texas Portable Fuel Container rule, which set requirements for portable fuel containers and spouts sold or distributed in Texas that are manufactured on or after December 31, 2005. The Texas Portable Fuel Container rule established design criteria for "no-spill" portable fuel containers based primarily on standards adopted by the California Air Resources Board (CARB) in 2001. The purpose of the Texas Portable Fuel Container rule was to lower VOC emissions in Texas from portable fuel containers that spill or leak. EPA approved the Texas Portable

Fuel Container rule into the SIP on February 10, 2005 (70 FR 7041).

On February 26, 2007, EPA adopted Federal portable fuel container regulations that set new national standards for gasoline, diesel, and kerosene portable fuel containers.<sup>1</sup> Based on this rulemaking, all containers manufactured on or after January 1, 2009, are required to comply with the Federal standards. The Federal regulations can be found at 40 CFR part 59 subpart F. The Federal regulations are very similar to the revised portable fuel container regulations adopted by the CARB on September 15, 2005. The standards in the Federal portable fuel container regulations aim to reduce nationwide hydrocarbon emissions from containers due to evaporation, permeation, and spillage. The portable fuel container standards in the national regulations are more stringent than those found in the Texas regulations. Texas repealed the State portable fuel container regulations on February 10, 2010, and submitted this SIP revision to EPA on March 4, 2010. In their submittal, Texas asserted that the State portable fuel container regulations have become unnecessary with EPA's implementation of the more stringent Federal regulations, and that the repeal of the State rule is intended to eliminate duplication and to provide a clear regulatory structure for manufacturers who may otherwise become confused about which standards they are required to comply with.

EPA is approving this revision to the SIP because it is expected that reliance on the more stringent Federal portable fuel container standards will ensure that emission reductions equivalent to or greater than those in the repealed Texas portable fuel container regulations will continue to be achieved in the State of Texas. Accordingly, it is expected that this SIP revision will not have a negative impact neither on the emission reductions claimed in the Texas SIP, nor in Texas' attainment of the NAAQS for ozone. Thus, EPA can approve this revision in compliance with section 110(l) of the CAA.

### III. Comparison of the Texas and Federal Portable Fuel Container Regulations

On October 27, 2004, the State adopted the Texas Portable Fuel Container rule, which set provisions specifying performance standards, testing requirements, and labeling requirements for portable fuel containers and spouts sold or distributed in Texas that are

manufactured on or after December 31, 2005. The Texas Portable Fuel Container rule did not apply to or affect in any way the sale of portable fuel containers or spouts manufactured prior to December 31, 2005. The Texas Portable Fuel Container rule established design criteria for "no-spill" portable fuel containers based primarily on presently outdated standards adopted by the CARB in 2001. The purpose of the Texas Portable Fuel Container rule was to lower VOC emissions in Texas from portable fuel containers that spill or leak. The State regulations mandated that portable fuel containers must have only one opening in the vessel. Spouts for these containers must (1) have an automatic shutoff device to prevent spilling, (2) automatically close and seal when removed from the fuel tank, (3) seal without leakage when affixed to the portable fuel container vessel, and (4) meet fuel flow rate and fuel flow cut-off standards.<sup>2</sup>

On February 26, 2007, EPA adopted Federal portable fuel container regulations that set new national standards for gasoline, diesel, and kerosene portable fuel containers.<sup>3</sup> Based on this rulemaking, all containers manufactured on or after January 1, 2009, are required to comply with the Federal portable fuel container standards. As of July 1, 2009, manufacturers and importers must not enter into U.S. commerce any products manufactured prior to January 1, 2009, which do not meet the Federal standards. The Federal regulations are very similar to the revised portable fuel container regulations adopted by the CARB on September 15, 2005. The standards in the Federal portable fuel container regulations aim to reduce nationwide hydrocarbon emissions from containers due to evaporation, permeation, and spillage. Rather than establishing design criteria for portable fuel containers, the Federal regulations established a performance-based standard of 0.3 grams per gallon per day (g/gal/day) of hydrocarbons to control evaporative and permeation losses. The standard is based on the performance of best available control technologies, such as durable permeation barriers, automatically closing spouts, and cans that are well-sealed, and it is expected that in order to comply with the performance-based standard, manufacturers will incorporate these control technologies in the design of their containers. The Federal standard is

measured based on the emissions from the container over a diurnal test cycle, after the container has been preconditioned by going through three durability aging cycles, a fuel soak to allow the hydrocarbon permeation rate to stabilize, and a durability demonstration of the spout. These test procedures ensure that containers meet the emissions standard over a range of in-use conditions such as different temperatures, different fuels, and taking into consideration factors affecting durability.<sup>4</sup> In order to insure that containers meet the emission standard in use over the life of the container, the Federal regulations also established a new certification and compliance program. The Federal regulations also require an emissions warranty period of one year to be provided by the manufacturer of the portable fuel container to the consumer. The warranty covers emissions-related materials defects and breakage under normal use, which promotes the objective of the rule by helping ensure that manufacturers will "stand behind" their product if they fail in-use, thus improving product design and performance.

Comparison of the State and Federal regulations demonstrates that the Federal regulations adopted more stringent portable fuel container standards than those found in the Texas regulations.<sup>5</sup> While the Texas regulations merely adopted design criteria for portable fuel containers and spouts, the performance-based standard established by the Federal regulations, along with the various other requirements, including test procedures, and the certification and compliance program, help ensure that containers meet the emission standard over a range of in-use conditions. Although the Federal regulations do not specify required design criteria for portable fuel containers, it is expected that in order to comply with the performance-based standard, manufacturers will have to use best available control technologies such as durable permeation barriers, automatically closing spouts, and cans that are well-sealed.

In the submittal Texas submitted to EPA on November 16, 2004, requesting approval of the Texas Portable Fuel Container rule into the SIP, Texas estimated that the reduction in spills and evaporation expected from the State

<sup>4</sup> A more detailed description of the test procedures can be found at 72 FR 8432.

<sup>5</sup> See the TSD for a complete description of our evaluation. The TSD can be found in the docket for this rulemaking, and is available at <http://www.regulations.gov>. The docket number is EPA-R06-OAR-2010-0252.

<sup>2</sup> For a more detailed description of the PFC requirements in the Texas PFC regulations approved into the Texas SIP, please see 70 FR 7041.

<sup>3</sup> See 72 FR 8432.

<sup>1</sup> See 72 FR 8432.

portable fuel container regulations would eventually reduce statewide emissions from portable fuel containers by 45%.<sup>6</sup> In the February 26, 2007 rulemaking in which EPA approved the Federal portable fuel container regulations, we provided estimates of the national reductions in VOC emissions expected from the Federal standards. We estimated that in 2010, national VOC emissions from portable fuel containers will be reduced by 19% because of reduced permeation, spillage, and evaporative emissions.<sup>7</sup> We also estimated that in 2015, 2020, and 2030, the national VOC emissions from portable fuel containers will be reduced by 61% for each year. In the submittal for the present rulemaking, Texas also submitted a table comparing the estimated statewide VOC emissions reductions in ozone season tons per day expected from the Federal and State portable fuel container regulations.<sup>8</sup> According to these estimates, the statewide VOC emissions reductions expected from the Federal and State regulations for the year 2002 are equal to each other. For each of the years 2008, 2011, 2014, 2017, 2018, and 2019, the estimated statewide VOC emissions reductions expected from the Federal portable fuel container regulations exceed those expected from the State regulations.

#### IV. What is the effect of this action?

This action approves revisions to the Texas SIP that pertain to regulations to control VOC emissions from consumer related sources. These revisions remove the Texas portable fuel container regulations as an ozone control strategy from the Texas SIP for the Control of Ozone Air Pollution because more stringent national standards are in place. Portable fuel containers sold or distributed in Texas must meet national VOC emission standards and related requirements found in 40 CFR part 59 subpart F.

#### V. Final Action

EPA is approving revisions to the Texas SIP pertaining to control of VOC emissions from consumer related sources.

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the

Clean Air Act and EPA air quality regulations. Therefore, we are approving revisions to the Texas SIP which repeal the Texas Portable Fuel Container rule because it is expected that reliance on the more restrictive Federal portable fuel container standards will ensure that emission reductions equivalent to or greater than those in the repealed Texas portable fuel container regulations will continue to be achieved. Accordingly, it is expected that this SIP revision will not have a negative impact neither on the emission reductions claimed in the Texas SIP, nor in Texas' attainment of the NAAQS for ozone.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant 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 revisions if relevant adverse comments are received. This rule will be effective on April 25, 2011 without further notice unless we receive relevant adverse comments by March 28, 2011. 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 now. Please note that if we receive adverse comments 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.

#### VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action 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

<sup>6</sup> This submittal dated November 16, 2004, can be found in the docket for the rulemaking in which we approved the Texas PFC regulations (70 FR 7041), and is available at <http://www.regulations.gov>. The docket number is R06-OAR-2005-TX-0001.

<sup>7</sup> See 72 FR 8432.

<sup>8</sup> The submittal can be found in the docket for this rulemaking, and is available at <http://www.regulations.gov>. The docket number is EPA-R06-OAR-2010-0252.

this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Volatile organic compounds.

Dated: February 9, 2011.

**Al Armendariz,**  
*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. Section 52.2270 is amended as follows:

■ a. The table in paragraph (c) entitled “EPA Approved Regulations in the

Texas SIP” is amended under Chapter 115 (Reg 5), Subchapter G, by removing the centered heading “Division 2: Portable Fuel Containers” and by removing the entries under Division 2 for Sections 115.620 through 115.629.

■ b. The second table in paragraph (e) entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding to the end of the table a new entry entitled “Texas Portable Fuel Container State Implementation Plan” to read as follows:

**§ 52.2270 Identification of plan**

\* \* \* \* \*  
(e) \* \* \*

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP**

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/effective date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Texas Portable Fuel Container State Implementation Plan.	All Affected 1997 Eight-Hour Ozone Standard Nonattainment And Near Nonattainment Areas In The State Of Texas.	3/4/2010	2/24/2011 [Insert FR page number where document begins].	

[FR Doc. 2011–3996 Filed 2–23–11; 8:45 am]  
**BILLING CODE 6560–50–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

**Docket ID FEMA–2010–0003**

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained

by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) [luis.rodriquez1@dhs.gov](mailto:luis.rodriquez1@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain

management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

**National Environmental Policy Act.** This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

**Regulatory Flexibility Act.** As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism.** This final rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform.** This final rule meets the applicable standards of Executive Order 12988.