

submittal. The State held another public hearing on August 18, 2011.

40 CFR 51.308(i)(3) requires that South Dakota provide in its Regional Haze SIP a description of how it addressed any comments provided by the FLMs. The FLMs communicated to the State (and EPA) their concerns on the January 15, 2010 draft Regional Haze SIP. South Dakota responded to the FLM's comments and concerns in Appendix D of the Regional Haze SIP. The National Park Service commented on the Regional Haze SIP amendment regarding its concerns pertaining to a reasonable progress four-factor analysis to evaluate controls at GCC Dacotah's Kiln 6 and additional consultation with Nebraska on Gerald Gentleman Station. South Dakota provided us with its rationale on GCC Dacotah's Kiln 6 which we discussed in section III.D.2. above. We also noted our agreement with the level of consultation with Nebraska for this planning period in section III.D.6. above. According to the Regional Haze Rule, South Dakota should consult with Nebraska during the next planning period.

Lastly, 40 CFR 51.308(i)(4) specifies the regional haze SIP must provide procedures for continuing consultation between the state and FLMs on the implementation of the visibility protection program required by 40 CFR 51.308, including development and review of implementation plan revisions and 5-year progress reports, and on the implementation of other programs having the potential to contribute to impairment of visibility in mandatory Class I Federal areas. South Dakota commits in Section 10 of its Regional Haze SIP to continue to coordinate and consult with the FLMs as required by 40 CFR 51.308(i)(4). South Dakota states that it intends to consult the FLMs in the development and review of implementation plan revisions; review of progress reports; and development and implementation of other programs that may contribute to impairment of visibility at South Dakota and other Class I areas.

We are proposing that the State complied with the requirements of 40 CFR 51.308(i).

#### *I. Periodic SIP Revisions and Five-Year Progress Reports*

South Dakota commits in Section 11 of the SIP to complete items required in the future by the Regional Haze Rule. South Dakota acknowledged its obligation under 40 CFR 51.308(f) to submit periodic progress reports and Regional Haze SIP revisions, with the first report due by July 31, 2018 and every ten years thereafter.

South Dakota acknowledged its obligation under 40 CFR 51.308(g) to submit a progress report in the form of a SIP revision to us every five years following the initial submittal of the Regional Haze SIP. The report will evaluate the progress made towards the reasonable progress goals for each mandatory Class I area located within South Dakota and in each mandatory Class I area located outside South Dakota that may be affected by emissions from within South Dakota.

#### **IV. Proposed Action**

We are proposing to approve South Dakota's Regional Haze SIP revision, including ARSD Chapter 74:36:21, that was submitted on January 21, 2011 and an amendment to this submittal that was submitted on September 19, 2011.

#### **V. Statutory and Executive Order Reviews**

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: November 29, 2011.

**Howard M. Cantor,**

*Acting Regional Administrator, EPA, Region 8.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R06-OAR-2005-TX-0025; FRL-9502-5]

### **Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); General Definitions; Definition of Modification of Existing Facility**

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

**ACTION:** Withdrawal of Proposed Disapproval.

**SUMMARY:** EPA is withdrawing a proposed disapproval proposed on September 23, 2009, regarding two provisions that have been superseded by later submitted revisions. EPA is taking these actions under section 110 of the Clean Air Act.

**DATES:** The proposed rule published September 23, 2009 (74 FR 48450) is withdrawn as of December 8, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. 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) 665-6762; email address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:** The EPA is withdrawing severable portions of its September 23, 2009, proposed disapproval of revisions to Title 30 of the Texas Administrative Code (30 TAC) Section 116.10(11)(A) and (B), submitted March 13, 1996; July 22, 1998; and September 4, 2002. These are severable portions of the definition of "modification of existing facility."

As noted in the September 23, 2009, proposed action on Subparagraphs (A) and (B), the two Subparagraphs are not severable from each other. See 74 FR 48450, at 48452. The two provisions were considered in conjunction with each other as our basis of evaluation in the original proposal. Because (B) is now repealed, and the wording of (A) has been changed in an October 5, 2010, submitted revision,<sup>1</sup> the basis of evaluation in the original proposed action has changed. As proposed July 18, 2011 (76 FR 42078), EPA therefore withdraws its previously proposed action so that the submitted revised Subparagraph (A) and the impact of the repeal of Subparagraph (B) upon the revised Subparagraph (A) may be addressed in a future separate action. This course of action will promote efficiency, mitigate confusion, and facilitate new comments on the future proposed action on the October 5, 2010, submittal with a proper basis of evaluation. Given the need for comments and evaluation of the newly submitted regulatory wording changes to Subparagraph (A), EPA considers any established deadline under the *Business Coalition for Clean Air Appeal Group (BCCA) Settlement Agreement* to be inapplicable with respect to this provision.

The repeal of Subparagraph (B) in the October 2010 SIP submittal also renders moot and inapplicable any obligation to act on that provision under the *BCCA Settlement Agreement*. Because Subparagraph (B) was repealed and is no longer before EPA for action, no further action is needed on this provision. Consequently, EPA now withdraws its previously proposed action on Subparagraph (B).

In response to our July 18, 2011, proposed withdrawal of 30 TAC 116.10(11)(A) and (B), we received

comments from Texas Industry Project and BCCA Appeal Group. The commenters agree that it is appropriate to withdraw the proposed disapproval of these provisions because Subparagraph (A) has been amended since EPA's proposed disapproval and because Subparagraph (B) has been repealed. Based upon the proposal and consideration of the comments we received, we are withdrawing the proposed September 23, 2009, disapproval of 30 TAC 116.10(11)(A) and (B), as submitted March 13, 1996; July 22, 1998; and September 4, 2002. Subparagraph (A) as it appears in the October 5, 2010, submittal will be evaluated and will be addressed in a separate future action.

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

Environmental protection, Air pollution control, Intergovernmental relations.

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

Dated: November 29, 2011.

**Al Armendariz,**

*Regional Administrator, Region 6.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2011-0082; FRL-9328-8]

#### Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

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

**ACTION:** Notice of filing of petitions and request for comment.

**SUMMARY:** This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before January 9, 2012.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) number of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to the docket ID number and the pesticide petition number of interest as shown in the body of this document. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 [regulations.gov](http://www.regulations.gov) or email. The [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at <http://www.regulations.gov>. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at [http://](http://www.regulations.gov)

<sup>1</sup> The October 5, 2010 Submittal also redesignated Section 116.10(11) to Section 116.10(9).