

Dated: May 31, 2011.

**Bernadette Dunham,**

Director, Center for Veterinary Medicine.

[FR Doc. 2011-13907 Filed 6-3-11; 8:45 am]

**BILLING CODE 4160-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2011-0379; FRL-9314-5]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the Inspection and Maintenance (I/M) Program—Quality Assurance Protocol for the Safety Inspection Program in Non-I/M Counties**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of changing the quality assurance program for its motor vehicle inspection and maintenance program (I/M program). Specifically, the Commonwealth is amending a provision of its prior SIP-approved I/M program to amend the duration of the timing of quality assurance audits performed by the Pennsylvania Department of Transportation (PENNDOT) as part of their program oversight. The amendment allows for these audits to be conducted within five days of vehicle inspection, instead of the two day window allowed under the prior approved SIP. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 6, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2011-0379 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:*

*fernandez.cristina@epa.gov.*

C. *Mail:* EPA-R03-OAR-2011-0379, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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-R03-OAR-2011-0379. 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 electronic docket are listed in the <http://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,

is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:**

Brian Rehn, (215) 814-2176, or by e-mail at *rehn.brian@epa.gov*.

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the Rules and Regulations section of this **Federal Register** publication.

Dated: May 18, 2011.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

[FR Doc. 2011-13879 Filed 6-3-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2010-0978; FRL-9315-3]

**Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Permit Renewals**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the applicable State Implementation Plan (SIP) for the State of Texas that relate to the Permit Renewals. These portions of the SIP revisions proposed for approval address the following requirements related to Permit Renewals: Notification of permit holder, permit renewal application, and review schedule. EPA finds that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations and are consistent with EPA policies. EPA is proposing this action under section 110 of the Act.

**DATES:** Comments must be received on or before July 6, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2010-0978 by one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

(2) *E-mail:* Mr. Stanley M. Spruiell at [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

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

(4) *Fax:* Mr. Stanley M. Spruiell, Air Permits Section (6PD-R), at fax number 214-665-6762.

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

(6) *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 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2010-0978. 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 that 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 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 Freedom of Information Act 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 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 submittals, which are part of the EPA docket, are also available for public inspection at the State Air Agency during official business hours by appointment: Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**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; e-mail address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever any reference to “we,” “us,” or “our” is used, we mean EPA.

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## I. The State’s Submittals

### A. What is the background of the Texas permit renewal program?

In this action, EPA is proposing to approve revisions to the Texas regulations relating to renewal of preconstruction permits. The rules for permit renewals are currently approved in the Texas SIP under 30 TAC 116.310, 116.311, 116.312, 116.313, 116.314, and 116.315. EPA approved these rules on March 10, 2006 (71 FR 12285), and revisions on March 20, 2009 (74 FR 11851), and March 11, 2010 (75 FR 11464). The approved rules require each preconstruction permit to be renewed every ten years. Permit renewal is approved based upon a demonstration in the renewal application that the permitted facility will operate in accordance with all requirements and conditions of the existing permit, including representations in the application to construct, and subsequent amendments, any previously granted renewal, and the compliance history of the facility. Although preconstruction permits must remain in effect as long as the source operates and until voided under the approved implementation procedures, periodic renewal of preconstruction permits is neither required nor prohibited under the Act or Federal Regulations.

### B. What changes did the State submit?

On December 15, 1995; July 22, 1998; and September 4, 2002; the State of Texas submitted revisions to the Texas State Implementation Plan (SIP) concerning the Permit Renewals under Title 30 of the Texas Administrative Code (30 TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Subchapter D—Permit Renewals. The

December 15, 1995, revisions to these provisions were superseded and rendered moot by revisions submitted to EPA on July 22, 1998, because the latter submittal repealed and replaced the earlier versions of the same provisions addressed in the December 15, 1995, submittal. Submitted revisions included changes to 30 TAC 116.310—Notification of Permit Holder, 30 TAC 116.311—Permit Renewal Application, 30 TAC 116.312—Public Notification and Comment Procedures, 30 TAC 116.313—Renewal Application Fees, 30 TAC 116.314—Review Schedule, and 30 TAC 116.315—Permit Renewal Submittal. In this proposed action, we are addressing submitted revisions to 30 TAC 116.310, 116.311, and 116.314.

Section 30 TAC 116.310—Notification of Permit Holder—is currently approved as adopted by Texas on August 16, 1993, approved March 10, 2006 (71 FR 12285). Today, we propose to approve revisions adopted by Texas on

November 16, 1995 (submitted December 15, 1995) and June 17, 1998 (submitted July 22, 1998).

Section 30 TAC 116.311—Permit Renewal Application—is currently approved as adopted by Texas on April 6, 1994, approved March 10, 2006 (71 FR 12285). The requirements of subsection (c) were later removed from 30 TAC 116.311 and added to Section 116.315 and approved by EPA on March 11, 2010, 75 FR 11464. Today, we propose to approve other revisions adopted by Texas on November 16, 1995 (submitted December 15, 1995); June 17, 1998 (submitted July 22, 1998); and August 21, 2002 (submitted September 4, 2002). Today's proposed action does not address severable revisions to 30 TAC 116.311(a)(2) submitted December 15, 1995; July 22, 1998; and September 4, 2002. This provision was revised to exclude changes under the severable provisions relating to Qualified Facilities. EPA will review these

revisions to 30 TAC 116.311(a)(2) in connection with separately submitted revisions to Texas Qualified Facilities Program, submitted October 5, 2010.

Section 30 TAC 116.314—Review Schedule—is currently approved as adopted by Texas on August 16, 1993, approved March 10, 2006 (71 FR 12285). Today, we propose to approve revisions adopted by Texas on November 16, 1995 (submitted December 15, 1995) and June 17, 1998 (submitted July 22, 1998).

Additional information related to these SIP submittals is contained in the Technical Support Document (TSD), which is in the docket for this action.

The table below summarizes the changes that were submitted and are affected by this action. A summary of EPA's evaluation of each section and the basis for this proposal is discussed in section III of this preamble. The TSD includes a detailed evaluation of the referenced SIP submittals.

Section	Title	Date submitted	Date adopted by the State	Comments
30 TAC 116.310 .....	Notification of Permit Holder.	*12/15/1995 *7/22/1998	*11/16/1995 *6/17/1998	—Non-substantive changes to the section.
30 TAC 116.311 .....	Permit Renewal Application.	*12/15/1995 *7/22/1998  9/4/2002	*11/16/1995 *6/17/1998  8/21/2002	—Removed paragraphs (a)(1), (a)(3), and (a)(4) and redesignated existing paragraphs (a)(2), (a)(5), and (a)(6) to paragraphs (a)(1)–(a)(3), respectively. —Added new paragraphs (a)(4) and (a)(5). —Added new subsection (b). —Revised and redesignated existing subsection (b) to new subsection (c). —Added new paragraph (a)(1) and redesignated existing paragraphs (a)(1)–(a)(5) to paragraphs (a)(2)–(a)(6), respectively.
30 TAC 116.314 .....	Review Schedule .....	*12/15/1995 *7/22/1998	*11/16/1995 *6/17/1998	—Revised and reorganized subsection (a) into subsections (a) and (b) and revisions to these subsections. —Revised and redesignated existing subsections (b) and (c) to subsections (c) and (d), respectively.

\* Because Texas repealed and resubmitted each section under Subchapter D in its 7/22/1998 submittal, our analysis includes 12/15/95 and 7/22/98 SIP submittal together.

## II. What action is EPA proposing to take?

We have evaluated the SIP submissions for consistency with the CAA, NSR regulations for new and modified sources in 40 CFR Part 51, and the approved Texas SIP. We have also reviewed the rules for enforceability and legal sufficiency. On March 10, 2006, EPA approved revisions to 30 TAC, Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Subchapter D—Permit Renewals, Sections 116.310, 116.311, 116.312, 116.313, and 116.314. On March 11, 2010 (75 FR 11464), EPA approved the removal of subsection (c)

from 30 TAC 116.311 and added those provisions to 30 TAC 116.315. Section 30 TAC 116.312 relates to public participation and is severable from the remaining rules (see 75 FR 68291, 68294). We will address the requirements for public participation in a separate action when we act on the Texas rules relating to public participation, submitted July 12, 2010. Under the CAA, EPA's statutory deadline to act on the revised public participation rules is January 12, 2012. The revisions to 30 TAC 116.313 were approved in a separate action on March 20, 2009 (74 FR 11851). The revisions to

116.315 were approved in a separate action on March 11, 2010 (75 FR 11464).

This proposed action addresses revisions to 30 TAC 116.310, 116.311, and 116.314, submitted December 15, 1995, and July 22, 1998, and revisions to 30 TAC 116.311 submitted September 4, 2002. A technical analysis of the submittals for the Permit Renewal Application and Permit Renewal Submittal sections has found that these changes are consistent with the CAA, 40 CFR Part 51 and EPA policies. Therefore, EPA proposes to approve the

revisions to 30 TAC 116.310, 116.311,<sup>1</sup> and 116.314 submitted on December 15, 1995; July 22, 1998; and September 4, 2002.

### III. EPA's Evaluation

#### A. Section 30 TAC 116.310—Notification of Permit Holder

##### 1. What is the background of 30 TAC 116.310?

The currently approved provisions for 30 TAC 116.310 were submitted to EPA on August 31, 1993. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

##### 2. What did Texas submit for 30 TAC 116.310?

Since EPA's last approval for this section, TCEQ has submitted two SIP revisions to EPA for the Notification of Permit Holder in 30 TAC 116.310 on December 15, 1995, and July 22, 1998. In this proposed action, we are proposing to approve the revisions of the existing provisions of section 116.310. The revisions submitted to this section include updated references to the current agency name and update of a state statutory citation to the current citation.

##### 3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.310?

These submitted revisions are non-substantive and do not change the underlying requirements of the section as currently approved. We propose to approve the revisions to 30 TAC 116.310 as submitted December 15, 1995, and July 22, 1998.

#### B. Section 30 TAC 116.311—Permit Renewal Application

##### 1. What is the background of 30 TAC 116.311?

The currently approved provisions for 30 TAC 116.311 were submitted to EPA on August 31, 1993, and April 29, 1994. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

##### 2. What did Texas submit for 30 TAC 116.311?

Since EPA's last approval for this section, TCEQ has submitted three SIP revisions to EPA for the Permit Renewal Application section on December 15, 1995; July 22, 1998; and September 4, 2002. On March 11, 2010, we approved the recodification and revision of the

existing provisions of section 116.311(c) to a new section 116.315—Permit Renewal Submittal. In this proposed action, we are addressing the remaining revisions as described below, except for the revisions to 30 TAC 116.311(a)(2) and (a)(6). This includes the following revisions:

##### a. Revisions submitted December 15, 1995, and July 22, 1998.

These revisions include:

- Removal of paragraphs (a)(1), (a)(3), and (a)(4), and the redesignation of existing paragraphs (a)(2), (a)(5), and (a)(6) to paragraphs (a)(1) through (a)(3), respectively;

- Addition of new paragraphs (a)(4) and (a)(5);

- Addition of new subsection (b); and

- Redesignation of existing subsection (b) to subsection (c) with non-substantive revisions.

##### b. Revisions submitted September 4, 2002.

These revisions include the addition of new paragraph (a)(1) and redesignation of existing paragraphs (a)(1) through (a)(5) to paragraphs (a)(2) through (a)(6), respectively.

##### 3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.311?

##### a. The addition of new paragraph (a)(1).

Texas submitted paragraph (a)(1) on September 4, 2002. This paragraph ensures that upon renewal, "dockside vessel emissions associated with the permitted facility will comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public and minimization of emissions to the extent possible, consistent with good air pollution practices." This revision is consistent with the provision in the SIP-approved 30 TAC 116.111(a)(2) as it relates to associated dockside vessel emissions.

See 72 FR 49198 (August 28, 2007). The TCEQ obtained the authority to regulate dockside emissions under House Bill (HB) 3040, 77th Legislature, 2001 which amended the Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), § 382.065 (Acts 2001, 77th Legislature, Chapter 1166, § 1). See page 2 of the TCEQ's evaluation of the revisions submitted September 4, 2002. The TCEQ further states:

The commission determined that dockside vessels are facilities as defined in TCAA, § 382.003(6), and thus subject to the requirements of Chapter 116. These emissions will require best available control technology (BACT) review, maximum allowable emission limitations, monitoring, testing, recordkeeping, and ambient air impacts review. The emissions originating from a dockside vessel that are the result of

functions performed by onshore facilities or using onshore equipment include: Loading and unloading of liquid bulk materials, liquified gaseous materials, and solid bulk materials; cleaning and degassing liquid vessel compartments; and abrasive blasting and painting.

See page 4 of the TCEQ's evaluation of the revisions submitted September 4, 2002. Finally, concerning the revision to 30 TAC 116.311, the TCEQ states:

The adopted amendment to § 116.311, Permit Renewal Application, requires that owners or operators submit information that demonstrates that dockside emissions comply with all commission rules and regulations and the intent of the TCAA, including protection of the health and property of the public and the minimization of emissions to the extent practicable, consistent with good air pollution control practices. Existing dockside emissions will be reviewed for off-property effects considering magnitude, frequency, and duration.

See page 4 of the TCEQ's evaluation of the revisions submitted September 4, 2002. The addition of new paragraph (a)(1) ensures that permits to construct and permit renewals that pre-date TCEQ's rule change to regulate dockside emissions at 30 TAC 116.111(a)(2) are required at renewal to ensure all dockside emissions comply with the statute and regulations. We propose to approve the addition of paragraph (a)(1), submitted September 4, 2002.

##### b. The removal of existing paragraph (a)(1).

This paragraph provides that upon renewal the emissions from the facility will comply with all applicable specifications and requirements in the Texas Air Control Board (TACB)<sup>2</sup> rules and the Texas Clean Air Act (TCAA). Texas submitted the removal of existing paragraph (a)(1) on December 15, 1995, and July 22, 1998. EPA believes this provision is redundant because the SIP already contains the substantive requirement at 30 TAC

116.115(b)(2)(H)(ii) requiring that "[i]f more than one state or Federal regulation or permit condition are applicable, the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated." The SIP also provides TCEQ with the authority to re-evaluate a source's ability to comply with the statute and regulations at renewal, as provided in the existing SIP rule at 30 TAC 116.311(b), which is recodified to 30 TAC 116.311(c) in this proposal. Because the proposed removal of this paragraph merely is the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore,

<sup>1</sup> Except for 30 TAC 116.311(a)(2). See discussion in section III.B of this preamble for further information on these provisions.

<sup>2</sup> The TACB is a predecessor agency to the TCEQ.

approval of this revision will not interfere with attainment and reasonable further progress or any other applicable Federal requirement, as required by section 110(l) of the CAA. Accordingly, we propose to approve the removal of existing paragraph (a)(1), submitted December 15, 1995, and July 22, 1998.

c. Revisions to paragraph (a)(2).

As currently approved, paragraph (a)(2) provides that upon renewal, facility is being operated in accordance with all requirements and conditions of the existing permit, including representations in the application for permit to construct and subsequent amendments, and any previously granted renewal. This paragraph was revised and redesignated to paragraph (a)(1) in the December 15, 1995, and July 22, 1998, SIP submittals. This paragraph was again redesignated to paragraph (a)(2) in the September 4, 2002, SIP submittal. The revisions submitted December 15, 1995, and July 22, 1998, as redesignated in the September 4, 2002, SIP submittal, were revised to add a provision that excludes changes otherwise authorized for a Qualified Facility. The submitted revisions to paragraph (a)(2) are related to severable provisions that relate to Qualified Facilities that we disapproved on April 14, 2010 (75 FR 19467) and to the separately submitted revisions to the Qualified Facilities Program on October 5, 2010. We propose to take no action on the severable submitted revision to paragraph (a)(2) relating to Qualified Facilities, and we will address these revisions in a separate action on the submitted revisions to the Qualified Facilities Program. The approved SIP will retain currently approved paragraph (a)(2) as adopted by Texas on April 4, 1994 (submitted April 29, 1994), and approved March 10, 2006.

d. The removal of existing paragraph (a)(3).

This paragraph required that upon renewal the facility will continue to have appropriate means to measure the emission of significant air contaminants as determined necessary by the Executive Director. Texas submitted the removal of paragraph (a)(3) on December 15, 1995, and July 22, 1998. In its December 15, 1995 submittal, Texas stated:

Existing § 116.311(a)(3) also duplicates a requirement applicable to the original permit application. An applicant for a permit to construct must demonstrate that a facility will have provisions for measuring the emissions of significant air contaminants, including the installation of sampling ports and sampling platforms. When necessary, such requirements are written as conditions of the permit. The renewal review will

determine whether a facility is in compliance with any sampling requirements in its permit. \* \* \* [A]n owner/operator could not remove sampling ports or platforms in violation of permit conditions.

Further, 30 TAC § 101.9 provides independent authority for the TNRCC to require sampling ports and platforms when necessary. The existing § 116.311(a)(3) was redundant and unnecessary.

See the December 15, 1995 SIP submittal at page 5 of the Section entitled "Evaluation of Testimony." EPA believes this provision is redundant because the SIP already contains the substantive requirement in the rules at 30 TAC 101.9 and 30 TAC 116.111(a)(2)(B). These two SIP rules require the following:

Any person, at the request of the Texas Natural Resource Conservation Commission (TNRCC or Commission), shall provide in connection with each flue a power source near the point of testing in addition to such sampling and testing facilities and sampling ports, including safe and easy access thereto, exclusive of instruments and sensing devices, as may be necessary for the Commission to determine the nature and quality of emissions which are or may be discharged as a result of source operations. Evidence and data based on these samples and calculations may be used to substantiate violations of the Act, rules, and regulations. Agents of the Commission shall be permitted to sample the stacks during operating hours.

30 TAC 101.9

(B) Measurement of emissions. The proposed facility will have provisions for measuring the emission of significant air contaminants as determined by the executive director. This may include the installation of sampling ports on exhaust stacks and construction of sampling platforms in accordance with guidelines in the "Texas Natural Resource Conservation Commission (TNRCC) Sampling Procedures Manual."

30 TAC 116.111(a)(2)(B). Because the proposed removal of this paragraph merely is the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore, approval of this revision will not interfere with attainment and reasonable further progress or any other applicable Federal requirement, as required by section 110(l) of the CAA. Accordingly, we propose to approve the removal of existing paragraph (a)(3), submitted December 15, 1995, and July 22, 1998.

e. The removal of existing paragraph (a)(4).

This paragraph required that upon renewal the facility will continue to use the control technology determined by the Executive Director to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area.

Texas submitted the removal of paragraph (a)(4) on December 15, 1995, and July 22, 1998. EPA believes that this provision is redundant because the SIP already provides for this substantive requirement at 30 TAC 116.311(a)(2) and 30 TAC 116.111(a)(2)(C). Section 30 TAC 116.311(a)(2) provides that upon renewal, the facility is being operated in accordance with all requirements and conditions of the existing permit, including representations in the application for permits to construct and subsequent amendments, and any previously granted renewal. Therefore, the SIP-approved requirements 30 TAC 116.311(a)(2) require that upon renewal, a facility will continue to meet the requirements of 30 TAC 116.111(a)(2)(C). This SIP rule requires that a proposed facility will utilize Best Available Control Technology (BACT), with consideration given to technical practicability and economic reasonableness of reducing or eliminating the emissions from the facility. Because the proposed removal of paragraph (a)(4) merely is the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore, approval of the removal of 30 TAC 116.311(a)(4) will not interfere with attainment and reasonable further progress or any other applicable Federal requirement, as required by section 110(l) of the CAA.

The removal of paragraph (a)(4) also removes a provision that allows director discretion relating to the control technology that could be utilized at a facility following renewal. Further, the TCEQ maintains the authority to impose, as a condition of renewal, additional requirements that it determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area, as provided in the submitted revisions related to 30 TAC 116.311(b) (which is evaluated in section III.B.3.i of this preamble). Accordingly, we propose to approve the removal of existing paragraph (a)(4), submitted December 15, 1995, and July 22, 1998.

f. Revisions to currently submitted paragraphs (a)(3) and (a)(4).

These paragraphs are currently approved as paragraphs (a)(5) and (a)(6). These paragraphs require that upon renewal, the facility must continue to meet the applicable requirements of the New Source Performance Standards (required under section 111 of the Act and 40 CFR part 60) and the National Emission Standards for Hazardous Air Pollutants (required under section 112 of the Act and 40 CFR part 61). These

paragraphs were redesignated to paragraphs (a)(2) and (a)(3) with non-substantive changes in revisions submitted December 15, 1995, and July 22, 1998, and were again redesignated to paragraphs (a)(3) and (a)(4) in a revision submitted September 4, 2002, with no substantive changes. These changes are non-substantive revisions to the existing SIP. Accordingly, we propose to approve the redesignations and non-substantive changes to these paragraphs as submitted December 15, 1995; July 22, 1998; and September 4, 2002.

**g. Addition of new paragraph (a)(5).**

This paragraph was submitted as paragraph (a)(4) on July 22, 1998, and then recodified to paragraph (a)(5), as submitted September 4, 2002. This paragraph requires that upon renewal, the facility must continue to meet the applicable requirements of the maximum achievable control technology standard as listed under 40 CFR Part 63, promulgated by EPA under the authority of section 112 of the CAA, or as listed under 30 TAC Chapter 113, Subchapter C of this title (relating to National Emissions Standards for Hazardous Air Pollutants for Source Categories) (FCAA § 112, 40 CFR 63). This paragraph ensures that upon renewal the facility continues to meet the requirements of the current SIP at 30 TAC 116.111(a)(2)(F) which requires permitted facilities to comply with the requirements of 40 CFR part 63.

Accordingly, we propose to approve the addition of paragraph (a)(5) as submitted December 15, 1995; July 22, 1998; and September 4, 2002.

**h. Addition of new subsection (b).**

Texas submitted subsection (b) on December 15, 1995, and July 22, 1998. This section provides that in addition to the requirements in subsection (a) of this section, if the TCEQ determines it necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable Federal or state air quality control requirements, then: (1) The applicant may be required to submit additional information regarding the emissions from the facility and their impacts on the surrounding area; and (2) the TCEQ shall impose as a condition for renewal those requirements the Executive Director determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. This new subsection provides the Executive Director of the TCEQ with authority to require additional information and to require additional requirements above and beyond the requirements stipulated in subsection (a) whenever the Executive Director deems such

additional measures are necessary. EPA has already approved subsection (a) (as adopted by the State on April 6, 1994) as meeting the requirements of the Act and 40 CFR part 51. Because the requirements in subsection (b) are in addition to the requirements in subsection (a) of this section, and because EPA has approved subsection (a), subsection (b) can only be used to impose additional measures when the Executive Director deems them necessary. Subsection (b) does not authorize the Executive Director to use the permit renewal process to relax terms and conditions of the existing permit. Such relaxations of the existing permit must be authorized through the SIP-approved procedures for changing a permit under 30 TAC 116, Chapter 116, Subchapter B—New Source Review Permits.<sup>3</sup> Further, the addition of subparagraph (b) provides a mechanism to ensure that upon renewal, the permit continues to meet the approved SIP requirements at 30 TAC 116.111(a)(2)(A)(1) which requires the initial permit must “comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public.” The addition of subsection (b) provides TCEQ with a mechanism to impose additional requirements at renewal when TCEQ deems it necessary to address changes in air quality or changes to applicable Federal and state requirements that may occur after issuance of the initial permit. We therefore find that the submitted revision to add subsection (b) to 30 TAC 116.311 meets section 110(a)(2)(C) of the Act and 40 CFR part 51; and does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Accordingly, we propose to approve the addition of the new subsection (b) to the SIP.

**i. Revisions to subsection (c).**

This provision is currently approved as subsection (b). This subsection requires that upon renewal, the facility shall continue to meet the requirements under the undesignated heading in Subchapter B relating to compliance history. This provision was redesignated to subsection (c) with revisions, submitted December 15, 1995, and July 22, 1998. The submitted revisions

<sup>3</sup> Also see the SIP approved rule at 30 TAC 116.315(c) which provides that a renewal application may be submitted at the same time as an amendment application to modify an existing facility as long as it is submitted no more than three years before the permit's expiration date and the amendment is subject to public notice requirements.

include changing the citations to refer to the Compliance History provisions to refer to the SIP-approved requirement under 30 TAC 116.120 through 116.126 under Subchapter B, Division 2—Compliance History. The changes also include clarifications that failure to demonstrate compliance with the Compliance History requirements shall result in the renewal not being granted. It further changes the rule to provide that if a contested case hearing has not been requested, the Executive Director, not the staff, must notify the applicant of intent to recommend denial of an application for permit renewal if the TCEQ finds that violations of the compliance history constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including failure to make a timely and substantial attempt to correct the violations. Accordingly, we propose to approve the redesignation of subsection (b) to subsection (c) and the revisions thereto as submitted December 15, 1995, and July 22, 1998.

**C. Section 30 TAC 116.314—Review Schedule**

**1. What is the background of 30 TAC 116.314?**

The currently approved provisions for 30 TAC 116.314 were submitted to EPA on August 31, 1993. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

**2. What did Texas submit for 30 TAC 116.314?**

Since EPA's last approval for this section, TCEQ has submitted two SIP revisions to EPA for this section on December 15, 1995, and July 22, 1998. In this action, we are proposing to approve the revisions of the existing provisions of section 116.314. The revisions submitted to this section include the following:

- Reorganization of subsection (a) into subsections (a) and (b) and redesignation of existing subsections (b) and (c) to subsections (c) and (d).
- Non-substantive revisions to the reorganized subsections (a) and (b).
- Revisions to subsection (c) as recodified.
- Non-substantive revisions to subsection (d) as recodified.

**3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.314?**

The revisions to 30 TAC 116.314 are evaluated and addressed in this proposed action as described below:

- a. Revisions to subsections (a) and (b).

The revisions submitted July 22, 1998, revised and reorganized subsection (a) into subsections (a) and (b). These revisions include clarifying amendments which streamline and reorganize the requirements of subsections (a) and (b). The submitted changes are non-substantive.

Accordingly, we propose to approve subsections (a) and (b) as submitted December 15, 1995, and July 22, 1998.

**b. Revisions to subsection (c).**

These provisions are currently approved as subsection (b). As approved, this subsection provides that in the event that the permit holder fails to satisfy the requirements for corrective action by the deadline specified in the report filed by the TCEQ, the applicant shall be required to show cause in a contested case proceeding why the permit should not expire. The proceeding will be pursuant to the requirements of the Administrative Procedure and Texas Register Act, Article 6252-13a, V.T.C.S. This subsection was recodified to subsection (c) in the revisions submitted December 15, 1995, and July 22, 1998. The submitted revisions update the agency name and the statutory citation relating to contested case hearings and referred to the contested case hearing provisions in 30 TAC Chapters 1, 55, and 80. The submitted revision to 30 TAC 116.314(c) includes specific cross-references to 30 TAC Chapters 1, 55, and 80, which relate to Purpose of Rules, General Provisions; Request for Contested Case Hearings; Public Comment; and Contested Case Hearings. In contrast, the current SIP refers to the Contested Case Hearing Process without cross references to specific rules relating to Contested Case Hearings. Although the revision provides references to the specific rules relating to Contested Case Hearings, the revision *does not* make substantive changes to the requirements of the existing SIP. Texas's use of the Contest Hearing Process in this context in both the current SIP and the submitted revisions is to inform the permit applicant of the availability of the contested case hearing but does not incorporate the specific requirements of Chapters 1, 55, and 80 into the SIP. Further, the submitted revision to 30 TAC 116.314(c) meets the requirements of section 110(a)(2)(C) of the Act and 40 CFR part 51, does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Accordingly, EPA proposes to approve the revisions to subsection (c) as submitted December 15, 1995, and July 22, 1998.

**d. Revisions to subsection (d).**

These provisions are currently approved as subsection (c) and relate to the effective date of the existing permit. This subsection was revised and recodified to subsection (d) in revisions submitted December 15, 1995, and July 22, 1998. These revisions include clarifying amendments which streamline the requirements relating to Permit Renewals. The submitted changes are non-substantive.

Accordingly, we propose to approve the revision to subsection (d) as submitted December 15, 1995, and July 22, 1998.

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

Today, EPA proposes to approve the following revisions to the Texas SIP:

- Revisions to 30 TAC 116.310—Notification of Permit Holder—submitted December 15, 1995, and July 22, 1998.
- Revisions to 30 TAC 116.311—Permit Renewal Application—submitted December 15, 1995; July 22, 1998; and September 4, 2002; as follows:
  - Addition of new paragraph (a)(1);
  - Removal of existing paragraphs (a)(1), (a)(3), and (a)(4);
  - Revisions to and redesignation of existing paragraphs (a)(5) and (a)(6) to paragraphs (a)(3) and (a)(4), respectively;
  - Addition of new paragraph (a)(5);
  - Addition of new subsection (b); and
  - Revisions to and redesignation of existing subsection (b) to subsection (c)
- Revisions to 30 TAC 116.314—Review Schedule—submitted December 15, 1995, and July 22, 1998, as follows:
  - The revisions to and reorganization of existing subsection (a) to subsections (a) and (b); and
  - The revisions to and redesignation of existing subsections (b) and (c) to subsections (c) and (d).

Much of this SIP revision re-organizes and makes non-substantive changes to the Texas renewals program. This revision also revises the SIP by adding a requirement to ensure that permits that pre-date TCEQ's rule change to regulate dockside emissions are required at renewal to ensure all dockside emissions comply with the statute and regulations. The revision also removed the following three requirements from the renewals process: (1) Upon renewal the emissions from the facility will comply with all applicable specifications and requirements in the Texas Air Control Board (TACB) rules and the Texas Clean Air Act (TCAA); (2) upon renewal the facility will continue to have appropriate means to measure the emission of significant air contaminants as determined necessary by the

Executive Director; and (3) upon renewal the facility will continue to use the control technology determined by the Executive Director to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. We believe that the removal of these provisions is approvable because these requirements are provided elsewhere in the Texas SIP; and therefore, their deletion will not interfere with attainment and reasonable further progress of the NAAQS or any other applicable requirement, as required by section 110(l) of the CAA.

Final action on these revisions on or before October 31, 2011, will meet EPA's obligation on the Permit Renewals component of the May 21, 2009, Consent Decree between EPA and the Business Coalition for Clean Air Appeal Group, Texas Association of Business, and Texas Oil and Gas Association.

EPA proposes to take no action on the following revisions to 30 TAC 116.311, December 15, 1995; July 22, 1998; and September 4, 2002:

- Severable revisions to paragraph (a)(2), which relate to the Qualified Facilities Program. Today, we propose to retain the currently approved provisions of paragraph (a)(2) in the SIP as adopted by Texas on April 6, 1994, approved March 10, 2006 (71 FR 12285). We will address the revisions to paragraph (a)(2) in connection with a separate SIP submittal that revises the Qualified Facilities Program, submitted October 5, 2010. EPA disapproved Texas Qualified Facilities Program on April 14, 2010 (75 FR 19467). Under the CAA, EPA's statutory deadline to take action on the revised Qualified Facilities Program is April 5, 2012.

#### **V. 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. See 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 notice merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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.

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

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

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

Dated: May 20, 2011.

**Al Armendariz,**

*Regional Administrator, Region 6.*

[FR Doc. 2011-13872 Filed 6-3-11; 8:45 am]

**BILLING CODE 6560-50-P**

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Parts 301-11, 302-2, 302-3, and 302-17

[FTR Case 2009-307; Docket 2009-0013; Sequence 1]

RIN 3090-AI95

### Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes)

**AGENCY:** Office of Governmentwide Policy (OGP), General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** GSA is proposing to amend the Federal Travel Regulation (FTR) by incorporating recommendations of the Governmentwide Relocation Advisory Board (GRAB) concerning calculation of reimbursements for taxes on relocation expenses. In addition, this proposed rule alters the process for calculating reimbursements for taxes on extended temporary duty (TDY) benefits to correct errors and to align that process with the proposed changes to the relocation income tax process.

**DATES:** Interested parties should submit comments in writing on or before August 5, 2011 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FTR case 2009-307 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “FTR Case 2009-307” under the heading “Comment or Submission.” Select the link “Send a Comment or Submission” that corresponds with FTR Case 2009-307. Follow the instructions provided to complete the “Public Comment and Submission Form.” Please include your name, company name (if any), and “FTR Case 2009-307” on your attached document.

- *Fax:* 202-501-4067.
- *Mail:* General Services

Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Room 783E, ATTN: Hada Flowers, Washington, DC 20417.

**Instructions:** Please submit comments only and cite FTR case 2009-307 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** The General Services Administration, Regulatory Secretariat (MVCB), 1275

First Street, NE., Washington, DC 20417, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ed Davis, Office of Governmentwide Policy (MT), General Services Administration, at (202) 208-7638 or e-mail at [ed.davis@gsa.gov](mailto:ed.davis@gsa.gov). Please cite FTR case 2009-307.

#### SUPPLEMENTARY INFORMATION:

##### A. Request for Input on the Final Effective Date

GSA recognizes that implementing the final rule that will result from this proposed rule will be challenging and time-consuming, both for Federal agencies and software providers. To help set a final effective date that allows adequate time to implement the final rule, GSA requests comments from affected parties on how much time they will need to change their systems and processes to implement the eventual final rule.

##### B. Background

The GSA Office of Governmentwide Policy seeks to incorporate best practices from Federal agencies and the private sector into the policies that GSA issues. To this end, GSA created the GRAB, consisting of Government and private industry relocation experts, to examine Government relocation policy. The GRAB was chartered under the Federal Advisory Committee Act on July 9, 2004, and it submitted its “Findings and Recommendations” on September 15, 2005. The GRAB “Findings and Recommendations” and corresponding documents may be accessed at GSA’s Web site at <http://www.gsa.gov/grab>. The GRAB made a number of recommendations with regard to taxes, and GSA has developed this proposed rule in response to those recommendations.

GSA has worked with the Executive Relocation Steering Committee (ERSC), an interagency group chartered by GSA, to analyze the GRAB recommendations regarding taxes. The first product of the analysis by the ERSC was a set of four principles:

- “Substantially all”—Federal agencies are required by 5 U.S.C. 5724b to reimburse “substantially all” of the additional income taxes incurred by employees as a result of relocation and to reimburse “all” of the taxes imposed on any reimbursement for taxes.

- Fair and equitable—In personnel matters, the Government seeks to treat all employees fairly and equitably. A key piece of this is transparency. Everyone must be able to see and understand how the benefits are being computed. Another key piece is seeking