Reservoir, T14S, R1E (El Cajon map); then

(6) Proceed straight northwesterly approximately 3.9 miles to the 822-meter (2,697-foot) peak of Iron Mountain, T14S, R1W (El Cajon map); and

(7) Proceed straight north-northwest approximately 2.8 miles, crossing onto the Borrego Valley map, and return to the beginning point at the peak of Woodson Mountain.

Signed: August 29, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23684 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0030; FRL–8005–9]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Construction or Modification

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) which the Texas Commission on Environmental Quality (TCEQ) submitted to EPA on February 5, 2004. The adopted amendments revise minimum distance limitation permit requirements for operation of new and modified sources to allow storage of an inoperative concrete crusher within 440 yards of a residence, school, or place of worship; define how distance measurements should be taken and when they would be applicable to concrete crushers and other facilities; and allow concrete crushers to recycle broken concrete at temporary demolition sites within 440 yards of nearby buildings, unless the facility is located in a county with a population of 2.4 million or more, or in a county adjacent to such a county. The TCEQ also revised the existing distance limitation for hazardous waste management facilities to cross-reference duplicative language elsewhere in its regulations. This action is being taken under section 110 of the Federal Clean Air Act (the Act, or CAA).

DATES: This rule is effective on February 6, 2006, without further notice, unless EPA receives adverse comment by January 6, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06–OAR–2005–TX–0030, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Agency Web site: *http://docket.epa.gov/rmepub/,* Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.
- EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm*. Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. David Neleigh at *neleigh.david@epa.gov*. Please also forward a copy to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), at fax number 214–665–7263.
- Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in RME ID No. R06–OAR–2005–TX–0030. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), Regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov are ''anonymous access'' systems, 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 RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/*. 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 RME or in the official file which is available at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7523 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection at the state Air

Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

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

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. What Is Being Addressed in This Document?

We are taking direct final action to approve revisions to Title 30 of the Texas Administrative Code (30 TAC) Section 116.112—Distance Limitations into the Texas SIP. The TCEQ adopted these revisions on January 14, 2004, and submitted the revisions to us for approval as a revision to the SIP on February 5, 2004. The rulemaking implements Texas House Bills 555 and 1287, section 5.07, 78th Legislature, 2003.

Section 116.112 currently establishes distance limitations for lead smelters, hazardous waste facilities, and concrete crushing facilities. These distance limitations apply to new and modified facilities in these source categories as conditions of their new source review authorizations. The existing distance limitations were approved September 30, 2003 (68 FR 56176).

The revisions to section 116.112 which TCEQ submitted to EPA on February 5, 2004, revised the section 116.112 as follows:

- The revised rule allows for storage of an inoperative concrete crusher within 440 yards of a residence, school, or place or worship if the residence, school, or place or worship was in use at the time the owner or operator filed an application for the initial authorization to operate that facility at that location with the TCEQ.
- The revised rule defines how distance measurements should be taken and when they would be applicable to distances between concrete crushers and other facilities.
- The revised rule provides an exemption from minimum distance limitations for concrete crushing which results from on-site demolition for use primarily at that site. The exemption is limited to one period of no more than 180 days and is applicable if the facility is not located in a county with a population of 2.4 million or more, or in a county adjacent to such county.
- The citation of the distance limitations for hazardous waste management facilities was redesignated from section 116.112(2) to section 116.112(c) and revised to refer to the duplicative distance limitations for such facilities in 30 TAC section 335.204 (relating to Unsuitable Characteristics) and section 335.205 (relating to Prohibition of Permit Issuance). These cross-referenced sections are equivalent to the former provisions of section 116.112(2). The TCEQ limited applicability of the cross-referenced provisions to section 335.204, as amended and adopted in the August 22, 2003 issue of the *Texas Register* (28 TexReg 6915), and section 335.205, as amended and adopted in the November 9, 2001 issue of the *Texas Register* (26 TexReg 9135). Thus hazardous waste management facilities must comply with the distance limitations in the specific versions of sections 335.204 and 335.205 identified in section 116.112(c). If TCEQ later revises section 335.204 or section 335.205, it must submit an appropriate SIP revision to EPA to incorporate the revised version of section 335.204 or section 335.205 into section 116.112 and receive EPA approval in order for EPA to recognize the revised versions of these sections.

The Technical Support Document, which is part of the record for this action, contains more detailed information on how the revision meets the requirements of the Act, including Section 110 and implementing regulations.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The distance limitations in section 116.112 are a discretionary measure not mandated by the CAA. The revision strengthens the SIP by providing protection for persons located near a lead smelter, concrete crushing facility, or hazardous waste management facility. By restricting the location of these types of facilities, the SIP provides additional assurance that persons located near these types of facilities will not be adversely affected by exposure to the air contaminants emitted from these facilities. House Bill 1287 restricts Texas' authority to provide an exemption from the distance limitation and measurement requirements to facilities for which the Commission determines that operation at the location will cause no adverse environmental or health effects. Texas has stated that compliance with this condition will be determined during protectiveness review as part of permit development. The permit review will determine compliance with section 116.111(2)(A)(i) of the existing SIP, which provides that the emissions from a new or modified facility will comply with all rules and regulations of the Commission and with the intent of the Texas Clean Air Act, including the protection of the health and physical property of the people. Texas noted that sources must also comply with the nuisance provisions of section 101.4 of the SIP. We have determined that the revision meets the requirements of 40 CFR 51.160(a) and section 110(l) of the CAA because it sets forth legally enforceable procedures that require the TCEQ to determine whether the construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard. The revision also meets the requirement of 40 CFR 51.160(e) to identify types of facilities that will be subject to review.

III. What Final Action Is EPA Taking?

We are approving as a revision to the Texas SIP revisions of 30 TAC section 116.112—Distance Limitations, which Texas submitted on February 5, 2004. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on February 6, 2006 without further notice unless we receive adverse comment by January 6, 2006. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 6, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 30, 2005.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entry for Section 116.112 to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval submittal date	EPA approval date	Explanation
* * * * * * *				
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
* * * * * * *				
Subchapter B—New Source Review Permits Division 1—Permit Application				
* * * * * * *				
Section 116.112	Distance Limitations	01/14/04	12/07/05	
* * * * * * *				

[FR Doc. 05–23717 Filed 12–6–05; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–312; FCC 05–192]

Digital Television Distributed Transmission System Technologies; Clarification Order

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: In this document, the Commission clarifies the interim guidelines relating to DTS that were established in the *Second DTV Periodic Report and Order.* The interim rules apply to stations that wish to use DTS during the pendency of this rulemaking proceeding in this docket.

DATES: Effective October 4, 2004.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Clarification Order,* FCC 05–192, adopted on November 3, 2005, and released on November 4, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Summary of the Clarification

I. Introduction

1. In the *Second DTV Periodic Report and Order*, we approved in principle the use of distributed transmission system (DTS) technologies but deferred to a separate proceeding the development of rules for DTS operation and the examination of several policy issues related to its use. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 69 FR 59500, October 4, 2004, (*Second DTV Periodic Report and Order*)). With this *Clarification*, we clarify the interim rules established in the *Second DTV Periodic Report and Order*, which will continue to be available for stations that wish to apply to use DTS technology during the pendency of this rulemaking proceeding. In the Notice of Proposed Rulemaking (*NPRM*), which is published elsewhere in this issue of the **Federal Register**, we examine the issues related to the use of DTS and propose rules for future DTS operation. The rules we propose in the *NPRM* will apply with respect to existing authorized facilities and to use of DTS after establishment of the new DTV Table of Allotments, which may afford stations the opportunity to apply to maximize their service areas after our current freeze on the filing of most applications.

II. Background

2. In the *Second DTV Periodic NPRM* in MB Docket No. 03–15, we sought comment on whether we should permit DTV stations to use DTS technologies. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03–15, 68 FR 7737 February 18, 2003, (*Second DTV Periodic NPRM*).). A DTV distributed transmission system would employ multiple synchronized transmitters spread around a station's service area. Each transmitter would broadcast the station's DTV signal on the same channel, relying on the performance of ''adaptive equalizer'' circuitry in DTV receivers to cancel or combine the multiple signals plus any reflected signals to produce a single signal. Such distributed transmitters could be considered to be similar to analog TV booster stations, a secondary, low power service used to fill in unserved areas in the parent station's coverage area, but DTV technology has the ability to enable this type of operation in a much more efficient manner. For analog TV boosters, in contrast to DTV DTS operation, significant self-interference will occur unless there is substantial terrain blocking the arrival of multiple signals into the same area (for example, interference will occur if one signal arrives from the primary analog station directly and a second signal arrives from a booster station).

3. We received 18 comments in the *Second DTV Periodic Report and Order* relating to the use of DTS, with the parties generally supporting use of this technology. We agreed with the generally supportive comments that DTS technology offers potential benefits to the public and noted the encouraging, though limited, reports of the technology tested thus far. Accordingly, in the *Second DTV Periodic Report and Order* we approved in principle the use of DTS technology, set forth interim guidelines, and committed to undertake a rulemaking proceeding to adopt rules for DTS operations. We now initiate that rulemaking to propose rules for future DTS operation, seek further comment on DTS operations and clarify certain aspects of the interim rules established in the *Second DTV Periodic Report and Order*.

III. Clarification of DTS Interim Authorization Policy

4. In the *Second DTV Periodic Report and Order*, we decided to permit interim DTS operations if they provided predicted service only within a station's currently authorized area (including its replication area as well as any maximization area resulting from facilities granted by a construction permit or license). In addition, for an interim DTS proposal to be approved, we stated that it needed to be designed to serve essentially all of its replication coverage area. We now take this opportunity to respond to informal industry inquiries by clarifying how the interim guidelines apply to DTS during the pendency of this proceeding. Specifically, consistent with the requirement to serve the population that is currently served, DTS transmitters must be located within the DTV station's predicted noise-limited service contour (PNLC). We will consider on a case-by-case basis requests to extend beyond the PNLC by a minimal distance, provided such extension is necessary to permit coverage of the area within the PNLC. Further, consistent with this limitation, DTS transmitters will be limited to power levels such that any individual DTS transmitter's PNLC would only exceed the station's PNLC by a minimal amount consistent with the use of DTS to serve viewers within the PNLC. For this interim policy, a station's PNLC is based on its existing authorizations (combined coverage areas