

**PART 1—RULES OF PRACTICE IN PATENT CASES**

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 2, unless otherwise noted.

■ 2. Section 1.23 is amended by revising paragraph (b) to read as follows:

**§ 1.23 Methods of payment.**

\* \* \* \* \*

(b) Payments of money required for United States Patent and Trademark Office fees may also be made by credit card, except for replenishing a deposit account. Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge.

■ 3. Section 1.25 is amended by revising paragraph (c)(2) to read as follows:

**§ 1.25 Deposit accounts.**

\* \* \* \* \*

(c) \*\*\*  
(2) A payment to replenish a deposit account may be submitted by electronic funds transfer over the Office's Internet Web site ([www.uspto.gov](http://www.uspto.gov)).

\* \* \* \* \*

**PART 2—RULES OF PRACTICE IN TRADEMARK CASES**

■ 1. The authority citation for 37 CFR part 2 continues to read as follows:

**Authority:** 35 U.S.C. 2, unless otherwise noted.

■ 2. Section 2.207 is amended by revising paragraph (b) to read as follows:

**§ 2.207 Methods of payment.**

\* \* \* \* \*

(b) Payments of money required for trademark fees may also be made by credit card, except for replenishing a deposit account. Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by

credit card, the Office will not be liable if the credit card number becomes public knowledge.

■ 3. Section 2.208 is amended by revising paragraph (c)(2) to read as follows:

**§ 2.208 Deposit accounts.**

\* \* \* \* \*

(c) \*\*\*  
(2) A payment to replenish a deposit account may be submitted by electronic funds transfer over the Office's Internet Web site ([www.uspto.gov](http://www.uspto.gov)).

\* \* \* \* \*

Dated: July 14, 2004.

**Jon W. Dudas,**  
*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

[FR Doc. 04-16753 Filed 7-21-04; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[TX-165-1-7610; FRL-7788-2]

**Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications Including Incorporation of Marine Vessel Emissions in Applicability Determinations**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve revisions to the Texas State Implementation Plan (SIP). This includes revisions that the Texas Commission on Environmental Quality (TCEQ) submitted to EPA on September 16, 2002, to revise the definitions of "building, structure, facility, or installation" and "secondary emissions." This also includes revisions to incorporate updated Federal regulation citations. This action is being taken under section 110 of the Federal Clean Air Act, as amended (the Act or CAA).

**DATES:** This rule is effective on September 20, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made

available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 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.

Copies of any State submittals and EPA's technical support document are 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:** Stephanie Kordzi, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7520; fax number (214) 665-6762; e-mail address [kordzi.stephanie@epa.gov](mailto:kordzi.stephanie@epa.gov).

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

*Outline:*

- I. What State Rules Are Being Addressed in the Document?
- II. What Is the Legal Basis for EPA's Proposed Approval of These State Rules?
- III. Have the Requirements for Approval of a SIP Revision Been Met?
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. What State Rules Are Being Addressed in This Document?**

In today's action we are approving into the Texas SIP revisions to Title 30 of the Texas Administrative Code (30 TAC) sections 116.12, Nonattainment Review Definitions; 116.160, Prevention of Significant Deterioration Requirements; and 116.162, Evaluation of Air Quality Impacts. The TCEQ adopted these revisions on October 10, 2001, and submitted the revisions to us for approval as a revision to the SIP on September 16, 2002.

*30 TAC Section 116.12—Nonattainment Review.* The previous State version of this section, which is the existing SIP-approved version (see 65 FR 43994, July 17, 2000), excludes the "activities of any vessel" from the definition of "building, structure, facility, or installation." The revised

version that the State adopted on October 10, 2001, and that the State has submitted for EPA's approval, deletes the "except the activities of any vessel" clause from section 116.12(4). Texas has explained that this change will allow the inclusion of marine vessel emissions in applicability determinations for nonattainment permits.

*30 TAC Section 116.160—Prevention of Significant Deterioration Requirements.* The previous State version of this section, which is the existing SIP-approved version (see 67 FR 58697, September 18, 2002), incorporates by reference the Federal Prevention of Significant Deterioration (PSD) regulations at 40 CFR 52.21, as amended June 3, 1993. Those regulations excluded the "activities of any vessel" from the definition of "building, structure, facility, or installation." The revised version that the State adopted on October 10, 2001, and that the State has submitted for EPA's approval, excludes the CFR definition of "building, structure, facility, or installation," because the CFR definition includes language vacated by the court in *Natural Resources Defense Council v. EPA*, 725 F.2d 761 (D.C. Cir. 1984) (see discussion below under "Legal Background"). Instead, the revised version of section 116.160 defines "building, structure, facility, or installation" consistent with the definition in revised section 116.12, discussed above. Texas has explained that this change will allow the inclusion of marine vessel emissions in applicability determinations for PSD permits. In addition, the revised section 116.160 replaces the definition of "secondary emissions" at 40 CFR 52.21 with language consistent with the *NRDC* decision.

The revised section 116.160 otherwise incorporates the version of the Federal PSD air quality regulations promulgated at 40 CFR 52.21 in 1996, as well as the most recent version of 40 CFR 51.301 (amended 1999).

Finally, revised subsections 116.160(d) and (e) make minor changes such as clarifying references to the "administrator" and "executive director."

*30 TAC Section 116.162, Evaluation of Air Quality Impacts.* EPA approved the previous State version of this section into the SIP on August 19, 1997. 62 FR 44083. The new version submitted to EPA contains only minor typographical and citation changes.

## II. What Is the Legal Basis for EPA's Proposed Approval of These State Rules?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the National Ambient Air Quality Standards. Each State must submit these regulations and control strategies to us for approval and incorporation into the federally-enforceable SIP. In order for State regulations to be incorporated into the federally-enforceable SIP, States must formally adopt these regulations and control strategies consistent with State and Federal requirements. Section 116 of the Act provides that the States retain the authority to adopt measures no less stringent than Federal requirements, unless otherwise preempted.

Once a State adopts a rule, regulation, or control strategy, the State may submit it to us for inclusion into the SIP in accordance with section 110 of the Act. We must then decide on an appropriate Federal action, provide public notice and seek additional comment regarding the proposed Federal action on the State submission. If we receive relevant adverse comments, we must address them before taking a final action. We did not receive any comments during the public comment period on the proposed rule.

Under section 110 of the Act, when we approve all State regulations and supporting information, those State regulations and supporting information become a part of the federally approved SIP.

Additional details on the legal basis for this final rule may be found in the Technical Support Document (TSD) for this action.

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

Currently, the State of Texas issues and enforces PSD permits directly in all areas of the State without final approval by EPA, with the exception of Indian lands and situations where the applicability determinations would be affected by dockside emissions of vessels. As currently approved, Chapter 116 incorporates the PSD/Nonattainment (NA) review permitting requirements and definitions from the vacated 1982 regulations in section 116.12(4) for NA and section 116.160(a) for PSD.

Final approval of the changes to section 116.12 and section 116.160(c) will grant full approval of the State's preconstruction permitting SIP for all sources, except for those sources located on land under the control of Indian

governing bodies. These changes to section 116.12 are not inconsistent with the requirements of the Clean Air Act.

## IV. Final Action

We are approving as a revision to the Texas SIP revisions of 30 TAC sections 116.12, Nonattainment (NA) Review Definitions; 116.160, Prevention of Significant Deterioration Requirements; and section 116.162, Evaluation of Air Quality Impacts, which Texas submitted on September 16, 2002.

We are revising 40 CFR 52.2303, Significant deterioration of air quality, as follows. First, we are removing paragraph (d), which retained applicable requirements of 40 CFR 52.21 for new major sources or major modifications to existing stationary sources for which applicability determinations of PSD would be affected by dockside emissions of vessels. Because the regulations that we are approving today enable Texas to make PSD applicability determinations for such sources, paragraph (d) is no longer necessary. Second, we are revising and reorganizing paragraph (a) to reflect the current information concerning Texas' PSD program and to make paragraph (a) easier to understand.

## V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 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 September 20, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

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

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

Dated: July 7, 2004.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

*Authority:* 42 U.S.C. 7402 *et seq.*

**Subpart SS—Texas**

■ 2. The table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" is amended as follows:

- a. Under chapter 116, subchapter A, by revising the existing entry for section 116.12;
- b. Under chapter 116, subchapter B, division 6, by revising the existing entries for sections 116.160 and 116.162.

The revised entries 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
* * *	* * *	* * *	* * *	* * *
<b>Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification</b>				
<i>Subchapter A—Definitions</i>				
* * *	* * *	* * *	* * *	* * *
Section 116.12 .....	Nonattainment Review Definitions .....	10/10/01	[7/22/04 Insert Federal Register page number].	.....
* * *	* * *	* * *	* * *	* * *
<i>Subchapter B—New Source Review Permits</i>				

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Division 6—Prevention of Significant Deterioration Review				
Section 116.160 .....	Prevention of Significant Deterioration Review Requirements.	10/10/01	[7/22/04 Insert Federal Register page number].	.....
*	*	*	*	*
Section 116.162 .....	Evaluation of Air Quality Impacts .....	10/10/01	[7/22/04 Insert Federal Register page number].	.....
*	*	*	*	*

- 3. Section 52.2303 is amended as follows:
- a. Paragraph (d) is removed.
- b. Paragraph (a) is revised to read as follows:

**§ 52.2303 Significant deterioration of air quality.**

(a) The plan submitted by Texas is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality. The plan consists of the following:

- (1) Prevention of significant deterioration plan requirements as follows:
  - (i) December 11, 1985 (as adopted by the Texas Air Control Board (TACB) on July 26, 1985).
  - (ii) October 26, 1987 (as revised by TACB on July 17, 1987).
  - (iii) September 29, 1988 (as revised by TACB on July 15, 1988).
  - (iv) February 18, 1991 (as revised by TACB on December 14, 1990).
  - (v) May 13, 1992 (as revised by TACB on May 8, 1992).
  - (vi) August 31, 1993 (as recodified, revised and adopted by TACB on August 16, 1993).
  - (vii) July 12, 1995 (as revised by the Texas Natural Resource Conservation Commission (TNRCC) on March 1, 1995) containing revisions to chapter 116—Control of Air Pollution for New Construction or Modification, sections 116.10, 116.141 and 116.160–116.163.
  - (viii) July 22, 1998 (as revised by TNRCC on June 17, 1998) containing revisions to chapter 116—Control of Air Pollution for New Construction or Modification, sections 116.160 and 116.161.
  - (ix) September 16, 2002 (as revised by TNRCC on October 10, 2001) containing revisions to chapter 116—Control of Air Pollution for New Construction or

Modification, sections 116.160 and 116.162.  
 (2) The Prevention of Significant Deterioration (PSD) Supplement document, submitted October 26, 1987 (as adopted by TACB on July 17, 1987).  
 (3) Revision to General Rules, Rule 101.20(3), submitted December 11, 1985 (as adopted by TACB on July 26, 1985).

[FR Doc. 04–16202 Filed 7–21–04; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 300**  
**[FRL–7790–6]**  
**National Priorities List for Uncontrolled Hazardous Waste Sites**

**AGENCY:** Environmental Protection Agency.  
**ACTION:** Final rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“EPA” or “the Agency”) in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health

and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds nine new sites to the NPL; all to the General Superfund Section of the NPL.

**DATES:** *Effective Date:* The effective date for this amendment to the NCP is August 23, 2004.

**ADDRESSES:** For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, “Availability of Information to the Public” in the **SUPPLEMENTARY INFORMATION** portion of this preamble.  
**FOR FURTHER INFORMATION CONTACT:** Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (mail code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

- SUPPLEMENTARY INFORMATION:**
- Table of Contents**
- I. Background
    - A. What are CERCLA and SARA?
    - B. What is the NCP?
    - C. What is the National Priorities List (NPL)?
    - D. How are Sites Listed on the NPL?
    - E. What Happens to Sites on the NPL?
    - F. How are Site Boundaries Defined?
    - G. How are Sites Removed from the NPL?
    - H. May EPA Delete Portions of Sites from the NPL as They Are Cleaned Up?
    - I. What is the Construction Completion List (CCL)?
  - II. Availability of Information to the Public
    - A. May I Review the Documents Relevant to this Final Rule?