State Citation	Title/subject	State adopted and effective date	EPA approval date and citation[1]	Explanations
*	*	*	*	*
Chapter 6				
*	*	*	*	*
Section 4	Prevention of Significant Deterioration.	7/8/10 and 9/7/10	6/30/11, 7/25/11 [Insert page number where the document begins].	
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision that is listed in this table, consult the Federal Register cited in this column for that particular provision.

* * * * * (e) * * *

Name of nonregulatory SP provision	Applicable geographic or non-attainment area	State submittal date/adopted date	EPA approval date and citation[3]	Explanation
*	*	*	*	*
XIX. Section 110(a)(2) Infrastructure Requirements for the 1997 8-hour Ozone NAAQS.	Statewide	12/7/2007 and 12/10/2007	6/30/11, 7/25/11 [Insert page number where the document begins].	

[3] In order to determine the EPA effective date for a specific provision that is listed in this table, consult the FEDERAL REGISTER cited in this column for that particular provision.

[FR Doc. 2011–18423 Filed 7–22–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0426; FRL–9442–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve portions of three revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas on August 31, 1993, July 22, 1998, and October 5, 2010. These revisions amend existing sections and create new sections in Title 30 of the Texas Administrative Code (TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification. The August 31, 1993, revision creates two new sections at 116.174 and 116.175 for the use of emission reductions as offsets in new source review permitting. The July 22, 1998, revision creates new section 116.116(f) allowing for the use of Discrete Emission Reduction Credits (DERC) to exceed emission limits in permits (permit allowables) and amends section 116.174 to update internal citations to other Texas regulations. The October 5, 2010, revision amends section 116.116(f) to update internal citations to other Texas regulations. EPA has determined that these SIP revisions comply with the Clean Air Act and EPA regulations and are consistent with EPA policies. This action is being taken under section 110 and parts C and D of the Federal Clean Air Act (the Act or CAA).

DATES: This direct final rule is effective on September 23, 2011 without further notice, unless EPA receives relevant adverse comment by August 24, 2011. 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 Docket ID No. EPA–R06–OAR–2011–0426, by one of the following methods:

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

(2) *E-mail:* Ms. Erica Le Doux at *ledoux.erica@epa.gov*.

(3) *Fax:* Ms. Erica Le Doux, Air Permits Section (6PD–R), at fax number 214–665–6762.

(4) *Mail:* Ms. Erica Le Doux, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(5) *Hand or Courier Delivery:* Ms. Erica Le Doux, 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 AM and 4:30 PM 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–2011–0426. 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 the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 the disclosure of which 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 FOIA Review Room between the hours of 8:30 AM and 4:30 PM weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, 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: If you have questions concerning today's direct final action, please contact Ms. Erica Le Doux (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–7265; fax number (214) 665–6762; e-mail address *ledoux.erica@epa.gov.*

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

Table of Contents

I. What action is EPA taking?

We are taking direct final action to approve severable portions of three revisions to the Texas SIP submitted on August 31, 1993, July 22, 1998, and October 5, 2010. The August 31, 1993, SIP submittal creates two new sections, 116.174 and 116.175, establishing the requirements for use and recordkeeping of emission reductions in New Source Review (NSR) permitting. The July 22, 1998 SIP submittal creates a new section at 116.116(f) that allows the use of Discrete Emission Reduction Credits (DERCs) to be used to exceed permit allowables and amends existing section 116.174 to correctly cross-reference other Texas permitting regulations. The October 5, 2010, SIP submittal amends section 116.116(f) to correctly cross-reference the SIP-approved DERC rules at Title 30 of the Texas Administrative Code (30 TAC) Chapter 101, Subchapter H, Division 4. We are approving new sections 116.174 and 116.175 submitted on August 31, 1993. We are approving new section 116.116(f) and amendments to section 116.174 submitted on July 22, 1998. Finally, we are approving the amendment to section 116.116(f) submitted on October 5, 2010.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. As explained in our technical support document (TSD), we are finding this action noncontroversial because the three rules that are the subject of our approval serve to cross-reference current SIP-approved sections. 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 relevant adverse comments are received. This rule will be effective on September 23, 2011 without further notice unless we receive relevant adverse comment by August 24, 2011. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse 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.

II. What did Texas submit?

We are approving severable provisions of three SIP revisions that the Texas Commission on Environmental Quality (TCEQ) adopted on August 16, 1993; June 17, 1998; and September 15, 2010 and submitted to EPA on August 31, 1993; July 22, 1998; and October 5, 2010, respectively. Copies of the revised rules as well as the Technical Support Document (TSD) can be obtained from the Docket, as discussed in the ''Docket'' section above. A discussion of the specific Texas rule changes that we are approving is included in the TSD and summarized below. The TSD also contains a discussion as to why EPA is not taking action on certain provisions of each Texas SIP submittal and documents why these provisions are severable from the provisions that we are approving.

- We are taking no action in this direct final rule upon revisions to 30 TAC Section 116.410 for emergency orders, submitted on August 31, 1993, because this provision is severable from the emission reduction provisions and subsequent emergency order provisions are still pending EPA review. EPA will address this rule in a separate action. EPA is currently under a Settlement Agreement to take action on the emergency order provisions on or before December 31, 2012.
- We are also taking no action in this direct final rule upon revisions to 30 TAC Section 116.620 for Installation and/or Modification of Oil and Gas Facilities submitted on July 22, 1998. The provisions are severable from the emission reduction provisions that are the subject of today's action. EPA will address this rule in a separate action. Additionally, EPA is currently under a Consent Decree to take action on the Installation and/or Modification of Oil

and Gas Facilities provisions on or before October 31, 2011.

• We are taking no action upon revisions to 30 TAC Section 116.311(a) pertaining to qualified facilities for permit renewals submitted on July 22, 1998, because the qualified facility program provisions are severable from the emission reduction provisions for permitting and will be addressed by EPA at a later date in a separate action.

• We are taking no action upon revisions to 30 TAC Section 116.312 submitted on July 22, 1998, which relates to public participation for permit renewals. These public participation provisions are severable from the emission reduction provisions for permitting and will be addressed by EPA at a later date in a separate action.

• We are taking no action upon the remainder of the revisions to 30 TAC Chapter 116 submitted on October 5, 2010. The remainder of this SIP submittal package concerns the qualified facilities program, which is severable from the emission reductions provisions for permitting and will be addressed by EPA at a later date in a separate action.

A. August 31, 1993 Submittal

1. Section 116.174—Determination by Executive Director To Authorize Reductions

The TCEQ adopted section 116.174 on August 16, 1993, to provide the criteria by which the TCEQ Executive Director (ED) will determine whether emission reductions can be used for purposes of NSR permitting. Section 116.174 requires that the ED approve reductions for use pursuant with requirements set forth in SIP-approved section 116.170. Additionally, any emission reductions approved for use as offsets by the ED must be made as enforceable permit conditions.

2. Section 116.175—Recordkeeping

The TCEQ adopted new section 116.175 on August 16, 1993, to establish that the recordkeeping burden for the generation and use of emission reductions in NSR permitting is on the applicant. The TCEQ will only maintain records associated with the permit application and files. The permit applicant is responsible for making all records related to the emission reductions available upon request by the ED.

B. July 22, 1998 Submittal

1. Section 116.116(f)—Use of Credits

The TCEQ adopted new section 116.116(f) on June 17, 1998, to provide that DERCs generated under the TCEQ's banking and trading provisions at 30 TAC Section 101.29 can be used to exceed permit allowables, if all applicable requirements of section 101.29 are satisfied. Since the adoption of section 116.116(f), the TCEQ has recodified the SIP-approved DERC provisions from 30 TAC Section 101.29 to 30 TAC Section 101.376. The use of DERCs cannot be used to authorize any physical changes to a facility.

EPA reviewed and conditionally approved the DERC program on September 6, 2006 (see 71 FR 52703). This conditional approval was converted to a full approval on May 18, 2010 (see 75 FR 27644). The full approval action resulted after we found TCEQ to have satisfied all elements that were outlined in a commitment letter submitted by TCEQ, dated September 8, 2005. This commitment letter can be found in the docket for our approval of the DERC program at EPA–R06–OAR–2005–TX–0029. The DERC rules establish a type of Economic Incentive Program (EIP), in particular an open market emission trading (OMT) program as described in EPA's EIP Guidance document, ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001, January 2001). In an OMT program, a source generates short-term emission credits (called discrete emission reduction credits, or DERCs, in the Texas program) by reducing its emissions. The source can then use these DERCs at a later time, or trade them to another source to use at a later time. The trading program assumes that many sources will participate and continuously generate new DERCs to balance with other sources using previously generated discrete credits. DERCs are quantified, banked and traded in terms of mass (tons) and may be generated and used statewide. Reductions of all criteria pollutants, with the exception of lead, may be certified as DERCs.

2. Section 116.174—Determination by Executive Director To Authorize Reductions

The TCEQ adopted amendments to section 116.174 on June 17, 1998, to remove outdated references to the Texas Air Control Board, and to update references to other sections of the Texas NSR permitting regulations where emission reductions can be used in permits.

C. October 5, 2010 Submittal

Section 116.116(f)—Use of Credits

The TCEQ adopted amendments to section 116.116(f) on September 15, 2010, to change references to outdated section 101.29 to the current SIP-approved section 101.376.

III. What is EPA's evaluation of these SIP revisions?

A. August 31, 1993 Submittal

1. Section 116.174—Determination by Executive Director To Authorize Reductions

The August 31, 1993 submittal (adopted by TCEQ on August 16, 1993) of new section 116.174 is approvable. New section 116.174 requires that the ED approve the use of emission reductions pursuant to the requirements in section 116.170. We approved section 116.170 on March 20, 2009, as consistent with the requirements of section 173 of the CAA and 40 CFR Part 51, Subpart I (see 74 FR 11851).

2. Section 116.175—Recordkeeping

The August 31, 1993 submittal (adopted by TCEQ on August 16, 1993) of new section 116.175 is approvable. New section 116.175 was adopted to place the recordkeeping burden on the use of emission reductions in NSR permitting in accordance with section 116.170 on the permit applicant rather than the TCEQ. The TCEQ will maintain records contained in the permit application and permit files, but all other information necessary to verify the emission reductions used in the permit are the responsibility of the permit holder and must be made available at the request of the TCEQ ED. Placing the burden of proof on the permit holder is consistent with the requirements in NSR and Prevention of Significant Deterioration (PSD) permitting at 40 CFR Part 51, Subpart I, that the permit holder maintain all necessary records to substantiate emission reductions and verify emission limitations. Further, the SIP-approved Emissions Banking and Trading Provisions at 30 TAC Chapter 101, Subchapter H, Divisions 1 and 4 for the Emission Reduction Credit and Discrete Emission Reduction Credit programs, makes clear that the generator and user of the emission reductions—not the TCEQ—is responsible for maintaining all necessary records to substantiate the reduction (see 30 TAC Sections 101.302(g) and 101.372(h)).

B. July 22, 1998 Submittal

1. Section 116.116(f)—Use of Credits

The July 22, 1998 submittal (adopted by TCEQ on June 17, 1998), which created new section 116.116(f) is approvable. New section 116.116(f) is necessary to adequately implement the Chapter 116 permitting program for new construction and modification. The new

section 116.116(f) provides that DERCs can be used as offsets in NSR permitting, consistent with the TCEQ's banking and trading provisions at former 30 TAC Section 101.29. EPA approved the use of DERCs in NSR permitting as consistent with the requirements of section 173 of the CAA on September 6, 2006 (see 71 FR 52703). Since the adoption of section 116.116(f), the TCEQ has recodified the SIP-approved DERC provisions from 30 TAC Section 101.29 to 30 TAC Section 101.376. EPA is approving the July 22, 1998 adoption of section 116.116(f) and a subsequent revision that updates the cross-reference.

2. Section 116.174—Determination by Executive Director To Authorize Reductions

The July 22, 1998 submittal which amends section 116.174 is approvable. The amendments remove outdated references to the Texas Air Control Board and update internal cross references to other sections (in Chapter 116) where emission reductions can be used in NSR permitting. The TCEQ has a responsibility under the CAA to routinely update the permitting regulations to include accurate information.

C. October 5, 2010 Submittal

Section 116.116(f)—Use of Credits

The October 5, 2010 submittal (adopted by the TCEQ on September 15, 2010) of the amendments to section 116.116(f) are approvable. These amendments update the outdated references to obsolete section 101.29 with the current citation to section 101.376, and are necessary to adequately implement the Chapter 116 permitting program for new construction and modifications. EPA approved the use of DERCs as NSR offsets consistent with section 173 of the CAA on September 6, 2006 (see 71 FR 52703).

D. Does approval of Texas's rule revisions interfere with attainment, reasonable further progress, or any other applicable requirement of the act?

Section 110(l) of the Clean Air Act states:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

Thus, under section 110(l), sections 116.116(f), 116.174, and 116.175 must not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. The three sections are necessary components of the Texas NSR permitting program. Without these provisions, permit applicants will not have the necessary flexibility provided to them in the Texas SIP and the CAA.

Section 116.116(f) will not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. Section 116.116(f) refers to a SIP-approved usage of DERCs to exceed permit allowables. This use of DERCs to exceed permit allowables was previously conditionally approved into the SIP on September 6, 2006, and fully approved by EPA on May 18, 2010, to be consistent with section 110(l) of the CAA, see 70 FR 58165 and 75 FR 27644, respectively. In our proposed approval notice of the DERC program we stated that:

> We have also considered whether the potential use of DECs [1] to exceed allowable emission levels under 30 TAC § 101.376(b)(1) is contrary to section 110(l) in that it could allow sources to exceed limits in their CAA Title V permits, which are ''applicable requirements'' under the Act. We conclude that this aspect of the rule does not violate section 110(l), for the following reasons. First, EPA has addressed the interface of Title V permits and trading programs in the EIP guidance, which provides:
>
> If a facility that has a title V operating permit wishes to participate in your approved EIP, you must modify the facility's operating permit to include the detailed compliance provisions necessary to assure compliance with the EIP. Thus, the permit becomes a valuable tool to ensure the source meets the requirements of the EIP.
>
> Once the permit includes terms and conditions necessary to implement the EIP (as described below), the source may typically make individual trades under the EIP without the need for future formal permit revisions. This is true because most trading activity under such a permit would already be addressed and allowed by the specific terms and conditions of the permit and such trading would not normally conflict with the permit. This is the principle expressed by section 70.6(a)(8) of the CFR, which states that permit revisions are not required for trading program changes that are ''provided for'' in the permit.
>
> (EIP Guidance, Appendix 16.8.) Texas has modified its Title V permit template so as to address the permissible use of DECs to meet Title V permit requirements. As further explained in this TSD, we find that the Texas permit language satisfies the concerns identified in Appendix 16.8.
>
> In reaching this conclusion, we also considered that a Title V permit is not itself a source of substantive limits. Rather, it incorporates applicable requirements under other permits and programs. In Texas, as elsewhere, many of the allowable emission levels in Title V permits are determined through New Source Performance Standards (NSPS), Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), or National Emission Standards for Hazardous Air Pollutants (NESHAPs). Under the Texas rules, DECs may not be used for compliance with any of these programs. The rule does allow DECs to be used for compliance with Reasonably Available Control Technology (RACT) standards, in accordance with EPA's guidance. Specifically, the guidance provides that ''[i]f your EIP allows sources to avoid direct application of RACT technology, your EIP must ensure that the level of emission reductions resulting from implementation of the EIP will be equal to those reductions expected from the direct application of RACT.'' (EIP Guidance, Appendix 16.7) The Texas program ensures consistency with that element of the EIP Guidance through the requirement that a user of DECs must retire 10 percent more credits than are needed. Accordingly, any use of DECs for RACT compliance will have been preceded by a ten percent greater reduction.
>
> The above discussion concerns criteria pollutants for which an area is classified as nonattainment. As for pollutants for which an area is in attainment, EPA believes that the DERC rule is consistent with section 110(l). Discrete credit use in attainment areas could potentially result in temporary local increases in such attainment pollutants, but only in the sense of authorizing limited exceedances of state-only permit requirements. That is, in attainment areas in Texas, the federally enforceable permit limits are all based on programs, such as BACT and NSPS, for which DEC use is not authorized under the Texas rule. DEC use for attainment pollutants can therefore only affect non-SIP requirements. Irrespective of the DERC rule, such non-SIP requirements are subject to change without undergoing a 110(l) analysis. Accordingly, the DERC SIP revision is not itself causing any increases in attainment pollutants that might be contrary to section 110(l).
>
> [See 70 FR 58165–58166, October 5, 2005]

Section 116.174 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. Section 116.174 states that the TCEQ ED will approve the use of emission reductions for NSR permitting consistent with the requirements of section 116.170. EPA

[1] In the OMT program, a source generates emission credits by reducing its emissions during a discrete period of time. These credits, called discrete emission credits or DECs in the Texas program, are quantified in units of mass. DEC is a generic term that encompasses reductions from stationary sources (discrete emission reduction credits, or DERCs), and reductions from mobile sources (mobile discrete emission reduction credits, or MDERCs). This footnote is to provide an explanation of the term DEC and is not a part of the above quote from a previous notice.

approved section 116.170 into the SIP and found that it is consistent with section 110(l) of the CAA on March 20, 2009 (74 FR 11851).

Section 116.175 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. Section 116.175 states that the recordkeeping burden for emission reduction usage will be on the permit holder, but all other information necessary to verify the emission reductions used in the permit are the responsibility of the permit holder and must be made available at the request of the TCEQ ED. These recordkeeping requirements will not violate section 110(l).

IV. Final Action

EPA is taking direct final action to approve revisions to the Texas SIP submitted on August 31, 1993, July 22, 1998, and October 5, 2010. Specifically, EPA is approving new sections 116.174 and 116.175, submitted on August 31, 1993, establishing the approval criteria and recordkeeping requirements for emission reductions used in NSR permitting. We are also approving new section 116.116(f) that provides for the use of DERCs in NSR permitting and amendments to section 116.174 submitted on July 22, 1998. We are also approving amendments to section 116.116(f), submitted on October 5, 2010 to correctly update internal citations to the TCEQ DERC program.

As explained previously, EPA is not acting on other severable portions of the August 31, 1993; July 22, 1998; and October 5, 2010 SIP submittals. Specifically, EPA is not taking action on the revisions to section 116.410 submitted on August 31, 1993. EPA is not taking action on the revisions to sections 116.311(a), 116.312, or 116.610 submitted on July 22, 1998. Additionally, EPA is not taking action on the remainder of the October 5, 2010, submittal. These revisions remain under review by EPA and will be addressed in separate actions.

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 12, 2011.

Al Armendariz,

Regional Administrator, EPA 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 as follows:

■ a. By revising the entry for Section 116.116;

■ b. By adding new entries for Sections 116.174 and 116.175.

The additions and revisions 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 116.116	Changes to Facilities	9/15/2010	7/25/2011, [Insert *FR* page number where document begins].	The SIP does not include paragraphs (b)(3) and (b)(4) and subsection (e).
*	*	*	*	*
Division 7—Emission Reductions: Offsets				
*	*	*	*	*
Section 116.174	Determination by Executive Director to Authorize Reductions.	6/17/1998	7/25/2011, [Insert *FR* page number where document begins].	
Section 116.175	Recordkeeping	8/16/1993	7/25/2011, [Insert *FR* page number where document begins].	
*	*	*	*	*

[FR Doc. 2011–18578 Filed 7–22–11; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1201]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

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

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other