

(c) *Conditions of use in dogs*—(1) *Amount.* Rub into affected areas two to four times daily for 4 to 10 days.

(2) *Indications for use.* As an anti-inflammatory, antipruritic, and antiallergic agent for topical treatment of allergic dermatitis and summer eczema.

(3) *Limitations.* Federal law restricts this drug to use only by or on the order of a licensed veterinarian.

## PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 22. The authority citation for 21 CFR part 529 continues to read as follows:

*Authority:* 21 U.S.C. 360b.

### § 529.1044b [Amended]

■ 23. In paragraph (b) of § 529.1044b, remove “*Sponsor.* See Nos. 000061 and 051259” and add in its place “*Sponsors.* See Nos. 000061 and 054925”.

Dated: March 7, 2006.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 06–2554 Filed 3–15–06; 8:45 am]

BILLING CODE 4160–01–S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL–8022–1]

#### Approval and Promulgation of Air Quality Implementation Plans; Arkansas Update to Materials Incorporated by Reference

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

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by the State of Arkansas that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by Arkansas and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

**DATES:** This rule is effective on March 16, 2006.

**ADDRESSES:** SIP materials incorporated by reference into 40 CFR part 52 are available for inspection at the following

locations: Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Carl Young, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–6645; fax number 214–665–7263, e-mail address [young.carl@epa.gov](mailto:young.carl@epa.gov).

**SUPPLEMENTARY INFORMATION:** Each State has an extensive SIP containing the control measures and strategies—such as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms—used to attain and maintain the national ambient air quality standards (NAAQS).

Each State must formally adopt the control measures and strategies after the public has had an opportunity to comment on them and then must submit them to EPA for approval. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, “Approval and Promulgation of Implementation Plans”, Title 40 of the Code of Federal Regulations (40 CFR part 52). The full texts of a State’s control measures and strategies approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are “incorporated by reference.” This means that EPA has approved the identified State control measures and strategies, each with a specific effective date. The public is referred to the locations of the full text versions should they want to know which measures are contained in a given SIP. The information provided in 40 CFR part 52 allows EPA and the public to monitor a State’s progress in implementing its SIP (and thus in attaining and maintaining the NAAQS) and to take enforcement action if necessary.

The SIP is a living document that the State can revise as necessary to address the unique air pollution problems in the State. Therefore, to incorporate the State’s revisions into the federally

approved SIP, EPA from time to time must take action on SIP revisions containing new and/or revised measures. On May 22, 1997. (62 FR 27968), EPA revised the procedures for incorporating by reference federally approved SIPs into the Code of Federal Regulations. These procedural revisions changed the format for the identification of a SIP in 40 CFR part 52, revised the mechanisms for announcing EPA approval of revisions to an applicable SIP, and revised the mechanisms for EPA’s updating of both the IBR document (or SIP compilation) and the CFR. The SIP compilations contain the full text of the federally approved materials (including regulations, source-specific permits, and nonregulatory provisions and quasi-regulatory measures) submitted by each State agency, whereas the “Identification of plan” sections in 40 CFR part 52 merely identify the submitted materials incorporated by reference into the applicable SIP. Under the revised IBR procedures, EPA periodically publishes an informational document in the rules section of the **Federal Register** when updates are made to a State’s SIP compilation. EPA’s 1997 revised IBR procedures were formally applied to Arkansas on October 23, 1998 (63 FR 56824).

This action notifies the public of an update to the Arkansas SIP compilation, available for public inspection at the locations listed in the **ADDRESSES** section of this **Federal Register** notice, and updates the Arkansas “Identification of plan” section, appearing in 40 CFR part 52 (subpart E). The Arkansas SIP compilation, which consists of submitted materials incorporated by reference into the Arkansas SIP, is being updated to include EPA-approved revisions to Arkansas’ SIP that have occurred since EPA’s revised IBR procedures were applied to Arkansas on October 23, 1998 (63 FR 56824); specifically, the SIP compilation update includes revisions to Arkansas Regulation 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, which we approved on October 16, 2000 (65 FR 61103), and revisions to Arkansas Regulation 26, Regulations of the Arkansas Operating Permit Program, which we approved on October 9, 2001 (66 FR 51312). These revisions have previously undergone notice and comment rulemaking and are, therefore, already in effect as a matter of law; thus this SIP compilation update does not affect the substance of those rulemaking actions nor does it change the rights or obligations of any party.

The update to the Arkansas "Identification of plan" section (40 CFR 52.170) is twofold: First, we are making changes in § 52.170(b) to update the description of materials incorporated by reference and the location where the full text of those materials may be viewed for public inspection; and, second, we are making six ministerial corrections to the tables in § 52.170(c) and (e). The corrections to the tables include the following: (1) All **Federal Register** citations in the tables in § 52.170 are revised to cite the first page of the **Federal Register** action rather than the page of that action on which the amendatory language begins because EPA has revised its **Federal Register** citation practice to make electronic document searches easier; (2) in the § 52.170(c) table, the **Federal Register** citation, which was inadvertently omitted in the original action, is added after the date in the EPA approval date entries for sections 26.501 and 26.602; (3) in the § 52.170(c) table, the EPA approval date entries under the heading "Arkansas Regulation No. 9: Permit Fees", which previously provided the incorrect approval date of the **Federal Register** action, are corrected from "11/26/86" to "11/12/86"; (4) in the § 52.170(c) table, the parts entitled "Prevention of Significant Deterioration Supplement to the Arkansas Plan of Implementation for Air Pollution Control" and "Regulations for the Control of Volatile Organic Compounds", which were made obsolete by EPA's approval of Arkansas SIP revisions on October 16, 2000 (65 FR 61103), but which we inadvertently retained in the October 16, 2000, action, are removed; (5) in the § 52.170(e) table, under the heading "EPA Approved Control Measures in the Arkansas SIP", the entries for "Air Quality Surveillance Network" and "Air Quality Surveillance Data Reporting", which we neglected to consolidate in our October 23, 1998, action revising the format of 40 CFR part 52 (subpart E) (65 FR 61103), are now consolidated into a single entry titled "Air Quality Surveillance" as the first entry under that heading; and (6) in the § 52.170(e) table, under the heading "EPA Approved Control Measures in the Arkansas SIP", the entry for "Stack Height Negative Declaration" is replaced with an entry for "Good Engineering Practice Stack Height Regulations" because we incorrectly identified the Negative Declaration as Arkansas' EPA-approved control measure concerning stack height when we applied the IBR revised procedures to Arkansas on October 23, 1998 (63 FR 56824). This CFR update, including all

six ministerial corrections to the tables in 40 CFR 52.170(c) and (e), merely reflects previous EPA rulemaking actions; therefore, this update does not affect the substance of those actions nor does it change the rights or obligations of any party.

EPA has determined that today's action falls under sections 553(b)(3)(B) (the "good cause" exemption) and 553(d)(3) of the Administrative Procedure Act (APA). The "good cause" exemption authorizes an agency to dispense with public participation upon finding "good cause" and section 553(d)(3) allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Under section 553(b)(3)(B) of the APA, an agency may find good cause where procedures are "impracticable, unnecessary, or contrary to the public interest." Public comment for today's administrative action, which updates a SIP compilation already in effect as a matter of law and updates CFR provisions already in effect as a matter of law, is "unnecessary" and "contrary to the public interest" because the updates merely reflect existing law. Thus we find this constitutes good cause for making the updates final without prior proposal and opportunity for comment. Further, pursuant to APA section 553(d)(3), making today's action immediately effective benefits the public by immediately updating both the SIP compilation and the CFR "Identification of plan" section (which includes updating the description of materials incorporated by reference, correcting **Federal Register** citations, adding inadvertently omitted table entries, consolidating table entries, correcting table entries, and removing outdated citations).

### Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the

**SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This administrative action also does 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), nor will it 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 administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant. This administrative action does not involve technical standards; 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 administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In this administrative action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of this administrative action in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these Statutes and Executive Orders for the underlying rules is discussed in previous actions taken on the State's rules.

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act (CRA) (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. Section 808(2) allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. Today's administrative action simply updates and corrects provisions that are already in effect as a matter of law in Federal and federally approved State programs. These announced actions were effective when EPA approved them through previous rulemaking actions. 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 this action in the **Federal Register**. Neither this update to Arkansas's SIP compilation nor this update to the Arkansas "Identification of plan" section in 40 CFR part 52 is a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this

action. This action is simply an announcement of prior rulemakings that have already undergone notice and comment rulemaking. Prior EPA rulemaking actions for each individual component of the Arkansas SIP compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action.

**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: December 27, 2005.

**Lawrence E. Starfield,**  
*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 E—Arkansas**

■ 2. Section 52.170 is amended as follows:

- a. By revising paragraph (b).
- b. By revising paragraph (c).
- c. By revising paragraph (e).

**52.170 Identification of plan.**

\* \* \* \* \*

(b) Incorporation by reference. (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 1, 2005, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 1, 2005, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 6 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations that have been approved as part of the State implementation plan as of December 1, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the Region 6 EPA Office at 1445 Ross Avenue, Suite 700, Dallas, Texas, 75202-2733; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M St., SW., Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) EPA approved regulations.

**EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP**

State citation	Title/subject	State submittal/ef-fective date	EPA approval date	Explanation
<b>Regulation 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control</b>				
<b>Chapter 1: Title, Intent and Purpose</b>				
Section 19.101 .....	Title .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.102 .....	Applicability .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.103 .....	Intent and Construction .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.104 .....	Severability .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 2: Definitions</b>				
Chapter 2 .....	Definitions .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 3: Protection of the NAAQS</b>				
Section 19.301 .....	Purpose .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.302 .....	Department Responsibilities ...	01/22/99	10/16/00 (65 FR 61103).	
Section 19.303 .....	Regulated Sources Respon-sibilities.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.304 .....	Delegated Federal Programs	01/22/99	10/16/00 (65 FR 61103).	

## EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/effective date	EPA approval date	Explanation
<b>Chapter 4: Minor Source Review</b>				
Section 19.401 .....	General Applicability .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.402 .....	Approval Criteria .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.403 .....	Owner/Operator's Responsibilities.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.404 .....	Required Information .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.405 .....	Action on Application .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.406 .....	Public Participation .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.407 .....	Permit Amendments .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.408 .....	Exemption from Permitting .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.409 .....	Transition .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.410 .....	Permit Revocation and Cancellation.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.411 .....	General Permits .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.412 .....	Dispersion Modeling .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.413 .....	Confidentiality .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 5: General Emission Limitations Applicable to Equipment</b>				
Section 19.501 .....	Purpose .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.502 .....	General Regulations .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.503 .....	Visible Emission Regulations	01/22/99	10/16/00 (65 FR 61103).	
Section 19.504 .....	Stack Height/Dispersion Regulations.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.505 .....	Revised Emission Limitation ..	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 6: Upset and Emergency Conditions</b>				
Section 19.601 .....	Upset Conditions .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.602 .....	Emergency Conditions .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 7: Sampling, Monitoring, and Reporting Requirements</b>				
Section 19.701 .....	Purpose .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.702 .....	Air Emission Sampling .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.703 .....	Continuous Emission Monitoring.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.704 .....	Notice of Completion .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.705 .....	Recordkeeping and Reporting Requirements.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.706 .....	Public Availability of Emissions Data.	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 9: PSD</b>				
Section 19.901 .....	Title .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.902 .....	Purposes .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.903 .....	Definitions .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.904 .....	Adoption of Regulations .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 10: Regulations for the Control of Volatile Organic Compounds</b>				
Section 19.1001 .....	Title .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1002 .....	Purpose .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1003 .....	Definitions .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1004 .....	General Provisions .....	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1005 .....	Provisions for Specific Processes.	01/22/99	10/16/00 (65 FR 61103).	
Section 19.1006 .....	Severability .....	01/22/99	10/16/00 (65 FR 61103).	
<b>Chapter 11: Major Source Permitting Procedures</b>				
Chapter 11 .....	Major Source Permitting Procedures.	01/22/99	10/16/00 (65 FR 61103).	
<b>Appendix A: Insignificant Activities List</b>				
Appendix A .....	Insignificant Activities List .....	01/22/99	10/16/00 (65 FR 61103).	

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
<b>Regulation 26: Regulations of the Arkansas Operating Permit Program</b>				
<b>Chapter 3: Requirements for Permit Applicability</b>				
Section 26.301 .....	Requirement for a permit .....	08/10/00	10/9/01 (66 FR 51312).	
Section 26.302 .....	Sources subject to permitting	08/10/00	10/9/01 (66 FR 51312).	
<b>Chapter 4: Applications for Permits</b>				
Section 26.401 .....	Duty to apply .....	08/10/00	10/9/01 (66 FR 51312).	
Section 26.402 .....	Standard application form and required information.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.407 .....	Complete application .....	08/10/00	10/9/01 (66 FR 51312).	
Section 26.409 .....	Applicants duty to supplement correct application.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.410 .....	Certification by responsible official.	08/10/00	10/9/01 (66 FR 51312).	
<b>Chapter 5: Action on Application</b>				
Section 26.501 .....	Action on part 70 permit applications.	08/10/00	10/9/01 (66 FR 51312) .....	Subsection B Not in SIP.
Section 26.502 .....	Final action on permit application.	08/10/00	10/9/01 (66 FR 51312).	
<b>Chapter 6: Permit Review by the Public, Affected States, and EPA</b>				
Section 26.601 .....	Untitled introduction to Chapter 6.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.602 .....	Public participation .....	08/10/00	10/9/01 (66 FR 51312) .....	Only Subsection A(1), A(2), A(5) and D in SIP.
Section 26.603 .....	Transmission of permit information to the Administrator.	08/10/00	10/9/01 (66 FR 51312).	
Section 26.604 .....	Review of draft permit by affected States.	08/10/00	10/9/01 (66 FR 51312).	
<b>Arkansas Regulation No. 9: Permit Fees</b>				
Section 1 .....	Purpose .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 2 .....	Short Title .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 3 .....	Definitions .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 4 .....	Applicability .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 5 .....	Maximum Fees .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 6 .....	Retroactivity .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 7 .....	Permit Fee Payment .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 8 .....	Refunds .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 9 .....	Solid Waste Fee .....			NOT IN SIP.
Section 10 .....	Fee Schedule .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 11 .....	Review of Fees .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 12 .....	Severability .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 13 .....	Appeals .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
Section 14 .....	Effective Date .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).

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(e) EPA-approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED STATUTES IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
<b>Arkansas Water and Air Pollution Control Act—Part I</b>				
82.1901 .....	Title of Act .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1902 .....	Definitions .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).

EPA-APPROVED STATUTES IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
82.1903 .....	Pollution Control Commission .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1904 .....	Powers and Duties of Commission .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1905 .....	Persons Operating Disposal System— Furnishing Information and Permitting Examinations and Surveys.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1906 .....	Hearing Before Commission or Mem- ber—Appeal Procedure.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1907 .....	Co-operation with Agency of Another State or United States.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1908 .....	Actions Declared Public Nuisance—Per- mit to Construct, Make Changes in or Operate Disposal System—Submis- sion of Plans.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82.1909 .....	Violation of Act a Misdemeanor—Pollu- tion a Nuisance—Abatement.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).

Arkansas Environmental Permit Fees Act (Act 817 of 1983)

82—1916 thru 82—1921.	Permit Fees Act .....	12/16/85	11/12/86 (51 FR 40975) .....	Ref 52.200(c)(24).
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Arkansas Water and Air Pollution Control Act—Part II

82—1931 .....	Air Pollution-State Policy .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1932 .....	Purpose of Act .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1933 .....	Definitions .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1934 .....	Exemptions .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1935 .....	Powers of Commission .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1936 .....	Factors in Exercise of Commission Powers.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1937 .....	Industrial Secrets Confidential—Reveal- ing a Misdemeanor.	11/25/85	08/04/86 (51 FR 27840) .....	Ref 52.200(c)(23).
82—1938 .....	Unlawful Acts .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1939 .....	Variance from Regulations .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1940 .....	Application of Water Pollution Provi- sions.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1941 .....	Political Subdivision Forbidden to Legis- late on Air Pollution.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1942 .....	Radiation Control Law Not Amended or Repealed—No Authority to Commis- sion Over Employer-Employee Rela- tionships.	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).
82—1943 .....	Private Rights Unchanged .....	01/28/72	05/31/72 (37 FR 10841) .....	Ref 52.200(a) & (b).

Small Business Assistance Program Act (Act 251 of 1993)

Act 251 .....	SBAP Act .....	02/26/93	03/08/95 (60 FR 12691) .....	Ref 52.200(c)(31).
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EPA-APPROVED CONTROL MEASURES IN THE ARKANSAS SIP

Control measures	Applicable geo- graphic or non- attainment area	State submittal/ effective date	EPA approval date	Explanation
Air Quality Surveillance .....	Statewide .....	04/24/80	08/06/81 (46 FR 40005) .....	Ref 52.200(c)(6) & (20).
Lead SIP .....	Statewide .....	12/10/79	04/16/82 (47 FR 16328) .....	Ref 52.200(c)(17).
Protection of Visibility in Mandatory Class I Federal Areas.	Statewide .....	06/12/85	02/10/86 (51 FR 4910) .....	Ref 52.200(c)(22).
Part II of the Visibility Protection Plan	Statewide .....	10/09/87	07/21/88 (53 FR 27514) .....	Ref 52.200(c)(25).
Good Engineering Practice Stack Height Regulations.	Statewide .....	06/1/87	02/23/89 (54 FR 7764) .....	Ref 52.200(c)(26).
Small Business Stationary Source Technical and Environmental Com- pliance Assistance Program.	Statewide .....	11/06/92	03/08/95 (60 FR 12691) .....	Ref 52.200(c)(31).

[FR Doc. 06-2481 Filed 3-15-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0016; FRL-8045-5]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Permits by Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision for the State of Texas. This action removes a provision from the Texas SIP which provided public notice for concrete batch plants which were constructed under a permit by rule (PBR). On September 1, 2000, Texas replaced the PBR for concrete batch plants with a standard permit for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plant subject to the standard permit. Texas maintained the public notice requirements of its PBR to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR prior to the effective date of the standard permit. All authorization requests for concrete batch plants which were constructed under the PBR have now been resolved and the public notice and comment provisions under the PBR are no longer needed.

**DATES:** This rule is effective on April 17, 2006.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R06-OAR-2005-TX-0016. All documents in the docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>, once in the system, select "quick search," then key in the appropriate RME Docket identification number. 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 hard copy at the Air Permit Sections (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 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](mailto:spruiell.stanley@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA. Outline:

- I. What Action Are We Taking?
- II. What Is a State Implementation Plan?
- III. What Does Federal Approval of a SIP Mean to Me?
- IV. What Is the Background for This Action?
- V. Why Are We Approving the Removal of Section 106.5?
- VI. What Comment Did We Receive and What Is Our Response to the Comment?
- VII. Final Action
- VIII. Statutory and Executive Order Reviews

#### I. What Action Are We Taking?

This action removes 30 Texas Administrative Code (TAC), section 106.5 from the Texas SIP. This section provided public notice for concrete batch plants that were constructed under a PBR.<sup>1</sup> On September 1, 2000, Texas replaced the PBR for concrete

<sup>1</sup> A PBR is a permit which is adopted under 30 TAC Chapter 106, which provides an alternative process for approving the construction of new and modified facilities which Texas Commission on Environmental Quality has determined will not make a significant contribution of air contaminants to the atmosphere. These provisions provide a streamlined mechanism for approving the construction of certain small sources that would otherwise be required to apply for and receive a permit before commencing construction or modification. For further description of Texas regulations concerning PBRs, see the discussion in our November 14, 2003 approval (68 FR 64544-64545).

batch plants with a standard permit<sup>2</sup> for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plants which are subject to the standard permit. Texas had maintained the public notice requirements of section 106.5 to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR process prior to the effective date of the standard permit. All authorization requests for concrete batch plants that were constructed under the PBR have now been resolved and section 106.5 is no longer needed. Texas submitted a SIP revision to remove section 106.5.

#### II. What Is a State Implementation Plan?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that the state air quality meets the National Ambient Air Quality Standards (NAAQS) that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each state has a SIP designed to protect air quality. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### III. What Does Federal Approval of a SIP Mean to Me?

A state may enforce state regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

<sup>2</sup> A standard permit is a permit which is adopted under 30 TAC Chapter 116, Subchapter F, which provides an alternative process for approving the construction of certain categories of new and modified sources for which the TCEQ has adopted a standard permit. These provisions provide a streamlined mechanism for approving the construction of certain sources within categories that contain numerous similar sources. For further description of Texas regulations concerning standard permits, see the discussion in our November 14, 2003 approval (68 FR 64546-64547).