

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 2010. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 25, 2010.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

■ 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 Y—Minnesota

■ 2. In § 52.1220 the table in paragraph (d) is amended by removing the entry for "J.L. Shiely Company" and adding an entry, in alphabetical order, for "Aggregate Industries" to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
Aggregate Industries	12300007-002	04/03/09	03/11/10, [Insert page number where the document begins].	Only conditions cited as "Title I condition: SIP for PM ₁₀ NAAQS."
*	*	*	*	*

* * * * *
[FR Doc. 2010-5122 Filed 3-10-10; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2008-0192; FRL-9125-9]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Chapter 116 Which Relate to the Permit Renewal Application and Permit Renewal Submittal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve revisions to the applicable State Implementation Plan (SIP) for the State of Texas which relate to the Permit Renewal Application and Permit Renewal Submittal regulations. These portions of the SIP revisions approved today would address requirements related to the timeline for the submittal of an application for permit renewal. EPA finds that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will

improve air quality. This action is being proposed under section 110 and parts C and D of the Act.

DATES: This direct final rule is effective on *May 10, 2010* without further notice, unless EPA receives relevant adverse comment by April 12, 2010. 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-2008-0192 by one of the following methods:

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

(2) *E-mail:* Mr. Jeff Robinson at robinson.jeffrey@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

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

(4) *Fax:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), at fax number 214-665-6762.

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

(6) *Hand or Courier Delivery:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2008-0192. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be

automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 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 submittals, which are part of the EPA docket, are also available for public inspection at the State Air

Agency during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie Magee, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7161; fax number (214) 665-6762; e-mail address magee.melanie@epa.gov.

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

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I. The State’s Submittals

On December 15, 1995, July 22, 1998, and September 4, 2002, the Texas Commission on Environmental Quality (TCEQ) submitted proposed revisions to the Texas State Implementation Plan (SIP) concerning the Permit Renewal Application, 30 TAC Chapter 116, Subchapter D, Section 116.311—Permit Renewal Application. The December 15, 1995 and July 22, 1998 revisions were superseded and rendered moot by revisions submitted to EPA on September 4, 2002 because they repealed the earlier versions of the same provisions addressed in that submittal. The September 4, 2002 SIP revision recodified the existing provision of section 116.311(c) into a new section

116.315—Permit Renewal Submittal. The SIP submittals of 30 TAC 116.311 dated July 22, 1998 and September 4, 2002 have other provisions that have not been evaluated in any prior action and are severable from the provisions that we are approving in this action because the revisions being addressed here are ministerial and non-controversial in nature. Additional information related to these SIP submittals are contained in the Technical Support Document (TSD).

Revisions to the Permit Renewal Submittal section were submitted by TCEQ to EPA on September 25, 2003 and May 30, 2008. The September 25, 2003 SIP submittal revisions state that an application for permit renewal must be submitted at least six months, but no earlier than 18 months prior to the permit expiration date. Also included within the revision is a provision for the Executive Director to approve applications before or after this specified time period. Following the passage of the Texas Senate Bill 1673 (SB 1673), 80th Legislature, 2007, TCEQ submitted to EPA revisions to section 116.315 on May 30, 2008 to allow the Commission to process a renewal application at the same time as an amendment for a preconstruction permit, provided the amendment application is filed not more than three years before the date the permit is scheduled to expire and is subject to public notice requirements. The revisions were adopted by the state on May 7, 2008. With this action, we are approving these revisions and recodifications of the Permit Renewal Section.

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

Section	Title	Date submitted	Date adopted by the state	Comments
30 TAC 116.311	Permit Renewal Application.	12/15/95*	11/16/95*	Renamed previously SIP approved Subsection (c) to subsections (d) and (e).
		7/22/98* 9/4/02	6/17/98* 8/21/02	Removed pre-existing non-SIP approved subsections (d) and (e) and recodified to a new 30 TAC 116.315 (a) and (b).
30 TAC 116.315	Permit Review Submittal	9/4/02 9/25/03	8/21/02 8/20/03	Initial adoption. Revised previously recodified subsection (a); New subsection (b); Redesignated former recodified subsection (b) to subsection (c).

Section	Title	Date submitted	Date adopted by the state	Comments
		5/30/08	5/7/08	Revised subsection (a); New subsection (c); Re-designated former subsection (c) to subsection (d).

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

II. What Action Is EPA Taking?

We have evaluated the SIP submissions for consistency with the CAA, NSR regulations for major and minor sources in 40 CFR Part 51, and the approved Texas SIP. We have also reviewed the rules for enforceability and legal sufficiency. In this review, we have identified that on March 10, 2006, EPA approved revisions to Title 30 of the Texas Administrative Code (30 TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Section 311—Permit Renewal Application into the Texas SIP. Since EPA's approval, Texas has submitted three SIP revisions to section 116.311(c) on December 15, 1995, July 22, 1998 and September 4, 2002. The December 15, 1995 and July 22, 1998 rule revisions to 116.311(c) are superseded by the September 4, 2002 SIP submittal. Included in the September 4, 2002 revision to section 116.311, is the recodification of existing severable provisions from section 116.311(c) to a new section 116.315—Permit Renewal Submittal.

On September 25, 2003, TCEQ submitted to EPA changes to the new section 116.315. As a result of the passage of the Texas Senate Bill 1673 (SB 1673), 80th Legislature, 2007, TCEQ submitted additional revisions to section 116.315 on May 30, 2008. The revisions include provisions allowing the Commission to process a renewal application at the same time as an amendment for a preconstruction permit, provided the amendment application is filed not more than three years before the date the permit is scheduled to expire and are subject to public notice requirements.

A technical analysis of the submittals for the Permit Renewal Application and Permit Renewal Submittal sections has found that these changes are consistent with the CAA, 40 CFR Part 51 and EPA policies. Therefore, EPA is taking a direct final action to approve the revision and recodification of section 116.311(c) to the new section 116.315 rules submitted on December 15, 1995, July 22, 1998, September 4, 2002, September 25, 2003 and May 30, 2008.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and

anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on *May 10, 2010* without further notice unless we receive relevant adverse comment by *April 12, 2010*. 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.

III. EPA's Evaluation

A. What Did Texas Submit for the Permit Renewal Application Section?

The provisions for 30 TAC 116.311—Permit Renewal Application were submitted to EPA on August 31, 1993 and April 29, 1994. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285) and became effective on May 9, 2006. Since EPA's last approval for this section, TCEQ has submitted three SIP revisions to EPA for the Permit Renewal Application section on December 15, 1995, July 22, 1998 and September 4, 2002. The SIP revisions submitted to EPA on December 15, 1995 and July 22, 1998 are superseded by the SIP revision submitted September 4, 2002. The September 4, 2002 SIP submittal also includes several revisions that remain under review and will not be addressed in this action. However, with this action, we are approving the recodification and revision of the existing provisions of section 116.311(c) to a new section 116.315—Permit Renewal Submittal.

B. What Is EPA's Evaluation of the Permit Renewal Application Revisions?

The SIP revisions for section 116.311—Permit Renewal Application revise and recodify the existing provisions. The revisions approved with this action are described below:

- *Subsections (d) and (e)*: The provisions in subsections (d) and (e) are currently approved as subsection (c). The 1995 and 1998 SIP revisions reorganized these provisions as subparagraphs (d) and (e) and made non-substantive changes. In the September 4, 2002, SIP submittal; these provisions were recodified into a new 30 TAC 116.315(a) and (b).

C. What Did Texas Submit for the Permit Renewal Submittal?

Revisions to the Permit Renewal Submittal were submitted to EPA on September 25, 2003 and included several non-substantive changes. However, as a result of the passage of the Texas Senate Bill 1673 (SB 1673), 80th Legislature, 2007 on May 30, 2008, TCEQ submitted to EPA changes to the Permit Renewal Section to revise and recodify this section's provisions.

D. What Is EPA's Evaluation of the Permit Renewal Submittal Revisions?

Section 116.315—Permit Renewal Submittal allows the Commission to process a renewal application at the same time as an amendment for a preconstruction permit, provided the amendment application is filed not more than three years before the date the permit is scheduled to expire and is subject to public notice requirements. The revisions approved with this action are described below:

- *Subsection (a)*: This subsection is currently approved as 30 TAC 116.311(c). Subsection (c) was recodified and reorganized as 30 TAC 116.311(d) and (e), submitted December 15, 1995 and July 22, 1998, with revisions, which EPA has not yet approved. On September 4, 2002, Texas recodified 30 TAC 116.311(d) and (e) as 30 TAC 116.315(a) and (b) with non-substantive changes. In the September 25, 2003 submittal, Texas changed the date for submitting a renewal application from 90 days prior to the permit expiration date to no earlier than 18 months prior

to the expiration of the permit expiration date. In the May 30, 2008 submittal, Texas revised the first sentence of subsection (a) to provide that the provisions apply, except as provided in subsection (b) and (c). EPA's technical review has found that this change is an improvement of the existing requirements. Therefore, we are approving the revisions to subsection (a).

- *Subsection (b)*: In the September 4, 2002, submittal, the last sentence of subsection (a) was replaced with a new subsection (b) which provides that with approval of the Executive Director, an application for renewal may be submitted after the time period in subsection (a). This revised provision is broader than the current SIP provisions and is beyond the current CAA requirements and EPA NSR requirements. Therefore, by approving this revision into the SIP, the existing rule language will be clarified and enhanced.

- *Subsection (c)*: This new subsection, submitted May 30, 2008, provides that a renewal application with appropriate fee may be submitted at the same time as an amendment application to modify an existing facility as long as it is submitted not more than three years before the permit's expiration date and the amendment is subject to public notice requirements under Texas Health Code, section 382.056, Notice of Intent to Obtain Permit or Permit Review; Hearing. The Texas public participation and air permit rules may be found in 30 TAC Chapter 39 and 30 TAC 101, respectively, and are severable from the section 116.315 provisions. Because the revisions to this section affect the timing of permit renewals and do not change the requirements for public notice and permit fees, EPA is approving this change.

- *Subsection (d)*: This was initially submitted as subsection (b) on September 4, 2002. This subsection was recodified as subsection (c) in the September 25, 2003, submittal, then recodified to subsection (d) in the May 8, 2008 submittal. Other than the two recodifications, no changes were made. The recodification of subsection (d) is a non-substantial change; therefore, EPA is approving this revision.

IV. Final Action

EPA is taking direct final action to approve severable portions of revisions to the SIP Texas submitted on December 15, 1995, July 22, 1998, September 4, 2002, September 25, 2003, and May 30, 2008. We have determined that the revised rules clarify and enhance the existing SIP.

Within the TSD, several sections of these SIP submittals are identified as being included in this action. Sections 116.115, 116.120 and 116.315 are currently under review and EPA will act on these revisions separately. The remaining sections have been addressed by EPA in prior 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 May 10, 2010. 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: March 2, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled “EPA Approved Regulations in the Texas SIP” is amended under Chapter 116, Subchapter D, as follows:

- a. By revising the entry for Section 116.311, Permit Renewal Application; and
- b. Immediately following the entry for Section 116.314, Review Schedule, by adding a new entry for Section 116.315, Permit Renewal Submittal.

The revision and addition 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—Control of Air Pollution by Permits for New Construction or Modification				
*	*	*	*	*
Subchapter D—Permit Renewals				
*	*	*	*	*
Section 116.311	Permit Renewal Application.	4/6/1994	3/10/2006, 71 FR 12285	The SIP does not include subsection (c). The requirements of subsection (c) were added to Section 116.315 and approved by EPA on March 11, 2010 [Insert FR page number where document begins].
*	*	*	*	*
Section 116.315	Permit Renewal Submittal.	5/7/2008	March 11, 2010 [Insert FR page number where document begins].	
*	*	*	*	*

[FR Doc. 2010–5240 Filed 3–10–10; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being

already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final 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: Kevin C. Long, Acting Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2820.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at