

authorized hazardous fuel reduction project by exhausting the administrative review process set out in this subpart. Further, judicial review of hazardous fuel reduction projects that are subject to these procedures is strictly limited to those issues raised by the plaintiff's submission during the objection process, except in exceptional circumstances such as where significant new information bearing on a specific claim only becomes available after conclusion of the administrative review.

#### **§ 218.15 Information collection requirements.**

The rules of this subpart specify the information that objectors must provide in an objection to a proposed authorized hazardous fuel reduction project as defined in the HFRA (§ 218.8). As such, these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596-0172.

#### **§ 218.16 Applicability and effective date.**

The provisions of this subpart are effective as of October 17, 2008 and apply to all proposed authorized hazardous fuel reduction projects conducted under the provisions of the HFRA for which scoping begins on or after October 17, 2008.

Dated: September 10, 2008.

**Mark Rey,**

*Under Secretary, NRE.*

[FR Doc. E8-21751 Filed 9-16-08; 8:45 am]

BILLING CODE 3410-11-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 12**

[EPA-R06-OAR-2006-0867; FRL-8715-7]

#### **Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution by Permits for New Construction or Modification**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the Texas State Implementation Plan (SIP), submitted by the Texas Commission on Environmental Quality (TCEQ) on October 9, 2006. The SIP revision EPA is approving would require decreased newspaper notice for proposed air quality Standard Permits with statewide applicability to the following metropolitan areas: Austin, Dallas, Houston, and any other regional newspapers the TCEQ Executive

Director designates on a case-by-case basis. TCEQ will publish notice of a proposed air quality Standard Permit in the *Texas Register* and will issue a press release. In addition, TCEQ may also use electronic means to inform state and local officials of a proposed air quality Standard Permit. EPA is approving this revision pursuant to section 110 of the Federal Clean Air Act (Act).

**DATES:** This rule is effective on *October 17, 2008*.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-R06-OAR-2006-0867. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](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 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:** Mr. 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 Is EPA Taking?
- II. Final Action
- III. Statutory and Executive Order Reviews

### **I. What Action Is EPA Taking?**

EPA is approving a revision to 30 Texas Administrative Code (TAC), Chapter 116 (Control of Air Pollution by Permits for New Construction or Modification), Subchapter F (Standard Permits), section 116.603 (Public Participation in Issuance of Standard Permits). TCEQ adopted a revision to this section on September 20, 2006, and submitted the proposed SIP revision to EPA on October 9, 2006 for approval.

The SIP revision requires that any proposed air quality Standard Permit with statewide applicability be published in the daily newspaper of largest general circulation within each of the following metropolitan areas: Austin, Dallas, Houston, and any other regional newspaper designated by the Executive Director on a case-by-case basis. The proposed revision also requires TCEQ to publish notice of a proposed Standard Permit in the *Texas Register* and issue a press release. However, the proposed revision changes the current EPA SIP-approved rule as it no longer requires TCEQ to issue newspaper notices for proposed Standard Permits with statewide applicability in the following metropolitan areas: Amarillo, Corpus Christi, El Paso, the Lower Rio Grande Valley, Lubbock, the Permian Basin, or Tyler. EPA approves the revision as meeting the federal requirements of the Act, Public Availability of Information, which requires "... [n]otice by prominent advertisement in the area affected \* \* \*."

On May 15, 2008 (73 FR 28071), we published our proposed approval of this SIP revision. The proposal provided detailed information about the Texas SIP revision that we are approving today. The proposal also provided a detailed analysis of our rationale for approving the Texas SIP revision. In the proposal, we provided opportunity for public comment on the proposed action. The comment period for this proposed rulemaking ended June 16, 2008. We received no comments, adverse or otherwise, on the proposed rulemaking. We are therefore finalizing our proposed approval without changes. For more details on this submittal, please refer to the proposed rulemaking and to the Technical Support Document, which is in the docket for this action.

For the reasons discussed in the proposed rulemaking and in the Technical Support Document, EPA believes that the revision to Section

116.603 continues to ensure that the entire State of Texas is provided with adequate public notice of any proposed Standard Permit with statewide applicability and ensures that citizens in Texas are afforded the opportunity to comment on the proposed Standard Permit.

Section 110(l) of the CAA states that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. Our review of the Texas SIP submittal discussed in this notice and the Technical Support Document demonstrated that although public notice for Standard Permits with Statewide applicability will be published in fewer newspapers, EPA believes that this SIP revision continues to meet the Federal requirements relating to public notice for new and modified sources. For these reasons we believe that the revision will not interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act.

## II. Final Action

For the reasons discussed above, EPA is approving the changes to 30 TAC 116.603 (Public Participation in Issuance of Standard Permits) submitted October 9, 2006, as a revision to the Texas SIP.

## III. 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 final 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. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *November 17, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

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

Dated: September 2, 2008.

**Richard E. Greene,**  
Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled "EPA-Approved Regulations in the Texas SIP" is amended by revising the entry for Section 116.603 to read as follows:

### § 52.2270 Identification of plan.

*	*	*	*	*
(c)	*	*	*	

## EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification</b>				
*	*	*	*	*
<b>Subchapter F—Standard Permits</b>				
*	*	*	*	*
Section 116.603 .....	Public Participation in Issuance of Standard Permits.	09/20/06	9/17/08 [Insert FR page number where document begins].	
*	*	*	*	*

[FR Doc. E8–21490 Filed 9–16–08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 55****[EPA–R01–OAR–2008–0112; A–1–FRL–8709–4]****Outer Continental Shelf Air Regulations Consistency Update for Massachusetts****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the updates of the Outer Continental Shelf (OCS) Air Regulations proposed in the **Federal Register** on February 27, 2008. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act Amendments of 1990 (the Act). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the Commonwealth of Massachusetts. The intended effect of approving the OCS requirements for the Commonwealth of Massachusetts is to regulate emissions from OCS sources in accordance with the requirements onshore.

**DATES:** *Effective Date:* This rule is effective on October 17, 2008. The incorporation by reference of certain publications listed in this rule is

approved by the Director of the Federal Register as of October 17, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2008–0112. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail [mcdonnell.ida@epa.gov](mailto:mcdonnell.ida@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document: The following outline is provided to aid in locating information in this preamble.

- I. Background
- II. Public Comment
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Background**

Section 328(a) of the Clean Air Act (the Act) requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable rules of the corresponding onshore area (COA) into 40 CFR part 55.

On February 27, 2008 (73 FR 10406), EPA proposed to incorporate various Massachusetts air pollution control requirements into 40 CFR part 55. These requirements are being promulgated in response to the submittal of a Notice of Intent (NOI) on December 7, 2007 by Cape Wind Associates, LLC of Boston, Massachusetts. EPA has evaluated the proposed requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

Section 328(a) of the Act and 40 CFR part 55 limit EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevent