§ 956.2 Authorized investments.

In addition to assets enumerated in parts 950 and 955 of this chapter and subject to the applicable limitations set forth in this part, in the Financial Management Policy and in part 980 of this chapter, each Bank may invest in:

(a) Obligations of the United States;

(b) Deposits in banks or trust companies;

(c) Obligations, participations or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

(d) Mortgages, obligations, or other securities that are, or ever have been, sold by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. 1454 or 1455;

(e) Stock, obligations, or other securities of any small business investment company formed pursuant to 15 U.S.C. 681(d), to the extent such investment is made for purposes of aiding members of the Bank; and

(f) Instruments that the Bank has determined are permissible investments for fiduciary or trust funds under the laws of the state in which the Bank is located.

§ 956.3 Prohibited investments and prudential rules.

(a) *Prohibited investments.* A Bank may not invest in:

(1) Instruments that provide an ownership interest in an entity, except for investments described in § § 940.3(e) and (f) of this chapter;

(2) Instruments issued by non-United States entities, except United States branches and agency offices of foreign commercial banks;

(3) Debt instruments that are not rated as investment grade, except:

(i) Investments described in § 940.3(e) of this chapter;

(ii) Debt instruments that were downgraded to a below investment grade rating after acquisition by the Bank; or

(4) Whole mortgages or other whole loans, or interests in mortgages or loans, except:

(i) Acquired member assets;

(ii) Investments described in § 940.3(e) of this chapter;

(iii) Marketable direct obligations of state, local, or tribal government units or agencies, having at least the second highest credit rating from a NRSRO, where the purchase of such obligations by the Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community lending;

(iv) Mortgage-backed securities, or asset-backed securities collateralized by manufactured housing loans or home equity loans, that meet the definition of the term ''securities'' under 15 U.S.C. 77b(a)(1); and

(v) Loans held or acquired pursuant to section 12(b) of the Act (12 U.S.C. 1432(b)).

(b) *Foreign currency or commodity positions prohibited.* A Bank may not take a position in any commodity or foreign currency. If a Bank participates in consolidated obligations denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, the currency, commodity and equity risks must be hedged.

§ 956.4 Risk-based capital requirement for investments.

Each Bank shall hold retained earnings plus general allowance for losses as support for the credit risk of all investments that are not rated by a NRSRO, or are rated or have a putative rating below the second highest credit rating, in an amount equal to or greater than the outstanding balance of the investments multiplied by:

(a) A factor associated with the credit rating of the investments as determined by the Finance Board on a case-by-case basis for rated assets to be sufficient to raise the credit quality of the asset to the second highest credit rating category; and

(b) 0.08 for assets having neither a putative nor actual rating.

PART 966—CONSOLIDATED OBLIGATIONS

11. The authority citation of part 966 continue to read as follows:

Authority: 12 U.S.C. 1442a, 1422b, and 1431.

12. Amend section 966.1 by removing the definition of the term ''NRSRO''.

Dated: June 29, 2000.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 00–17663 Filed 7–14–00; 8:45 am]

BILLING CODE 6725–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–100–7390a; FRL–6735–3]

Approval and Promulgation of Implementation Plans; Texas; Permitting of New and Modified Sources in Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Texas State Implementation Plan (SIP) for the permitting of new major sources and major modifications in areas which do not meet the national ambient air quality standards (NAAQS) promulgated by EPA (nonattainment areas). The EPA is approving these revisions to satisfy the provisions of the Clean Air Act (Act) which relate to the permitting of new and modified sources which are located in nonattainment areas. Today's action approves the recodification of and revisions to the nonattainment permitting regulations. Today's action also approves revisions relating to when nonattainment area permitting requirements apply to emissions of nitrogen oxides (NO_X) as a precursor to ozone in an ozone nonattainment area.

EFFECTIVE DATE: This rule is effective on August 16, 2000.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of EPA Region 6 Air Permits Section at (214) 665–7212 at the address above, or at spruiell.stanley@epa.gov.

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

Table of Contents

I. What Action Are We Taking?

We are finalizing our approval of the recodification of and revisions to Title 30, Texas Administrative Code (TAC) Chapter 116, ''Control of Air Pollution by Permits for New Construction or Modification,'' as indicated in Table 1 below:

TABLE 1.—REGULATIONS THAT EPA IS APPROVING

Recodified section of 30 TAC chapter 116	Submittal dates of recodified section	Title or description	Former section of 30 TAC chapter 116
Section 116.12	August 31, 1993 July 18, 1996 April 13, 1998 March 16, 1999	Nonattainment Review Definitions	Section 101.1.
Section 116.150	August 31, 1993 November 1, 1995 April 13, 1998 March 16, 1999	New Major Source or Major Modification in Ozone Nonattainment Areas.	Section 116.3(a)(7) and (8).
Section 116.151	August 31, 1993 April 13, 1998	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	Section 116.3(a)(10).
Section 116.170	August 31, 1993	Applicability for Reduction Credits	Section 116.3(c).

This proposal includes portions of revisions submitted by the Governor of Texas to EPA on the following dates:

- August 31, 1993.
- November 1, 1995.
- July 18, 1996.
- April 13, 1998.
- March 16, 1999.

We are taking this rulemaking action under sections 110, 301 and part D of the Act. We are acting only on those parts of these submittals which relate to permitting sources in nonattainment areas.

II. What Is the Background for This Action?

On January 18, 2000, we published a notice of proposed rulemaking (NPR) proposing full approval of the recodification of and revisions to Texas' regulations for the permitting of new major sources and major modifications in nonattainment areas. The Governor submitted revisions to these nonattainment area permitting requirements as described above.

As explained in the NPR, we have determined that Texas' recodification of and revisions to its nonattainment permitting requirements continue to meet the requirements of part D of the Act and 40 CFR 51.165 (Permit Requirements). The NPR provided opportunity for the public to comment on the proposed action. The public comment period for our action ended February 17, 2000. We received no comments on the NPR. As a result, we are finalizing our proposed approval without changes. For more details on these submittals, please refer to the proposed rulemaking.

III. What Did Texas Submit?

Table 2 below summarizes each individual SIP submittal that we are approving in today's action.

TABLE 2.—SUMMARY OF EACH INDIVIDUAL SIP SUBMITTAL

Date adopted by state	Date submitted to EPA	Description of SIP submittal
August 16, 1993	August 31, 1993	Recodification and revisions to SIP relating to permitting under part D of the Act. This includes submittal of the following recodified Sections of Chapter 116: —Section 116.12, —Section 116.150, and —116.151, and —Section 116.170(1) and (3).
October 26, 1995	November 1, 1995	Revisions to Section 116.150 to address nonattainment permitting requirements for NO_X (as an ozone precursor) in the Dallas-Fort Worth, El Paso, Houston-Galveston, and Beaumont-Port Arthur ozone nonattainment areas consistent with waivers approved by EPA pursuant to section 182(f) of the Act.
May 15, 1996	July 18, 1996	Revisions to Table I of Section 116.12 to conform to NO_X waivers approved by EPA pursuant to section 182(f) of the Act.
March 18, 1998	April 13, 1998	Revisions to Sections 116.12, Table I of Section 116.12, and 116.150, and 116.151. Texas revised the SIP to reinstate NO_X as an ozone precursor in the Houston-Galveston and Beaumont-Port Arthur ozone nonattainment areas.
February 24, 1999	March 16, 1999	Revisions to Chapter 116, which reinstate the requirement to review NO_X as an ozone precursor in the Dallas-Fort Worth ozone nonattainment area.

IV. What Are the Federal Requirements for Permitting Major Sources and Major Modifications in Nonattainment Areas?

A. What Are the Statutory Requirements for Permitting Major Sources and Major Modifications in Nonattainment Areas?

The statutory requirements governing permitting in nonattainment areas are in part D of the Act. Specifically, the Act requires that a major source or major modification meet the criteria in Table 3 below.

TABLE 3.—SUMMARY OF REQUIREMENT FOR PERMITTING MAJOR SOURCES AND MAJOR MODIFICATIONS IN NONATTAINMENT AREAS

Requirement of Act	Where specified in the Act	Citation in state regulations
Base emissions offsets on the same emissions baseline used in the demonstration of reasonable further progress..	Section 173(a)(1)(A)	Section 116.150(a)(4), Section 116.151(3).
Apply Lowest Achievable Emission Rate (LAER)	Section 173(a)(2)	Section 116.150(a)(1), Section 116.151(1).
Demonstrate that all other major stationary sources under the same ownership or operation in the State are complying with the Act.	Section 173(a)(3)	Section 116.150(a)(2), Section 116.151(2).
State cannot issue a permit if the EPA Administrator finds that the State is not adequately enforcing the provisions of the applicable implementation plan for the nonattainment area in which the source proposes to construct or modify.	Section 173(a)(4)	The EPA has made no such determination for Texas. If EPA makes this determination in the future, EPA will address this matter with Texas at that time.
• Analyze alternative sites, sizes, production processes, and environmental control techniques for proposed sources. • Demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs associated with its location, construction, or modification.	Section 173(a)(5)	Section 116.150(a)(4). Section 116.151(4).
Prohibits use of growth allowance included in a SIP prior to the Act Amendments of 1990 in an area which receives notice that such plan is substantially inadequate.	Section 173(b)	Not Applicable.
A sources may obtain offsets in another nonattainment area under the following conditions. • The area in which the offsetting reductions originate has an equal or higher nonattainment classification, and. • The emissions from the nonattainment area where the offsetting reductions originate will contribute to a NAAQS violation in the area in which the source would construct.	Section 173(c)(1)	Section 116.150(a)(3). Section 116.151(3).
A new or modified major stationary source must offset a proposed emissions increase with real reductions in actual emissions.	Section 173(c)(1)	Section 116.150(a)(3). Section 116.151(3). Section 116.12(14)—Definition of ''Offset ratio''.
Must not use emission reductions otherwise required by the Act	Section 173(c)(2)	Section 116.170(1).
A State may allow any existing or modified source that tests rocket engines or motors to use alternative or innovative means to offset emissions increases from firing and related cleaning.	Section 173(e)	Section 116.170(3).

B. Who Is Affected by This Action?

The requirements described in Table 3 above apply to each owner and/or operator who constructs or modifies a stationary source in a nonattainment area in Texas if the stationary source is major for the air pollutant for which the area is nonattainment. A stationary source is major if it emits, or has the potential to emit, the nonattaining pollutant, or precursor thereto, in amounts greater than the major source threshold for the nonattaining pollutant.

C. What Are the Major Source Thresholds for Nonattainment Pollutants?

The major source threshold varies, depending on the pollutant and the classification of the nonattainment area. Any owner or operator who proposes to construct a major stationary source must obtain a permit which complies with the regulations that we are approving herein. Table 4 below lists the major source threshold for each pollutant.

TABLE 4.—MAJOR SOURCE THRESHOLDS

Pollutant: classification	Major source threshold in tons per year (TPY)	Where specified in the Act
Ozone:		
Marginal	100 of volatile organic compounds (VOC) or NO_X	Section 302(j).
Moderate	100 of VOC or NO_X	Section 302(j).
Serious	50 of VOC or NO_X	Section 182(c).
Severe	25 of VOC or NO_X	Section 182(d).

TABLE 4.—MAJOR SOURCE THRESHOLDS—Continued

Pollutant: classification	Major source threshold in tons per year (TPY)	Where specified in the Act
Carbon monoxide (CO):		
Moderate	100	Section 302(j).
Serious	50	Section 187(c)(1).
Particulate matter less than 10 micrometers (PM–10):		
Moderate	100	Section 302(j).
Serious	70	Section 189(b)(3).
Sulfur dioxide (SO_2)	100	Section 302(j).
NO_X	100	Section 302(j).
Lead	100	Section 302(j).

Table 4 above refers to classifications for areas designated nonattainment for ozone, CO, and PM–10. These nonattainment classifications are defined in the Act as follows:

• Section 181(a) defines five area classifications for ozone. These five classifications are marginal, moderate, serious, severe, and extreme. Texas has no extreme ozone nonattainment areas and does not address such areas in its regulations.

• Section 186(a) defines two area classifications for CO. These two classifications are moderate and serious.

• Section 188 defines two area classifications for PM–10. These two classifications are moderate and serious.

A detailed description of the individual area classifications for ozone, CO, and PM–10 nonattainment areas is contained in EPA's General Preamble for the Implementation of Title I of the 1990 Amendments, 57 FR 13498 (April 16, 1992).

D. What Is a Major Modification?

A major modification is any physical change, or change in the method of operating, a major stationary source which significantly increases net emissions of the air pollutant, or precursor, for which the area is nonattainment and for which the source is a major source before the modification.

Any owner or operator who proposes a major modification must obtain a permit that complies with the regulations that we are approving herein. Table 5 below lists the significance level for each pollutant which is used in determining whether a net emissions increase is a major modification.

TABLE 5.—SIGNIFICANCE LEVELS FOR MAJOR MODIFICATIONS

Pollutant: Classification	Significance level in TPY	Where specified in the Act or regulations
Ozone:		
Marginal	40 of VOC or NO_X	40 CFR 51.165(a)(x).
Moderate	40 of VOC or NO_X	40 CFR 51.165(a)(x).
Serious	25 of VOC or NO_X	Section 182(c)(6) of the Act.
Severe	25 of VOC or NO_X	Section 182(c)(6) of the Act.
CO:		
Moderate	100	40 CFR 51.165(a)(x).
Serious	50	a.
PM–10:		
Moderate	15	a.
Serious	15	a.
SO_2	40	40 CFR 51.165(a)(x).
NO_X	40	40 CFR 51.165(a)(x).
Lead	0.6	40 CFR 51.165(a)(x).

a—No significance level is specified in the Act nor in the regulations. The significance levels specified in Table 5 are the significance levels that we approved for Texas on September 27, 1995 (60 FR 49781).

The major source thresholds and significance thresholds in Tables 4 and 5 above are required by Texas in section 116.12—Definition of ''major modification,'' Table I.

E. What Are the Offset Requirements in Ozone Nonattainment Areas?

Section 182 of the Act also specifies the offset ratios that are required for marginal, moderate, serious, severe and extreme ozone nonattainment areas. Table 6 below lists the applicable offset ratio for each type of ozone nonattainment area.

TABLE 6.—OFFSET RATIOS FOR EACH TYPE OF OZONE NONATTAINMENT AREA

Ozone nonattainment classification	Offset ratio	Clean Air Act citation for offset ratio
Marginal	1.10 to 1	Section 182(a)(4).
Moderate	1.15 to 1	Section 182(b)(5).
Serious	1.20 to 1	Section 182(c)(10).
Severe	1.30 to 1	Section 182(d)(2).

The offset ratios in Table 6 above are required by Texas in section 116.12—Definition of ''major modification,'' Table I.

F. Does the Act Have Other Provisions That Apply in Serious and Severe Ozone Nonattainment Areas?

Sections 182(c)(6), (7), and (8) of the Act contain provisions which apply to modifications at major sources located in serious and severe ozone nonattainment areas.

Tables 7 and 8 below summarize the requirements of sections 182(c)(6), (7), and (8) and describe how Texas addresses these requirements in Chapter 116. The reader should refer to the NPR which contains detailed discussions of the Act's requirements and our analysis of how Chapter 116 meets these requirements of the Act.

TABLE 7.—REQUIREMENTS OF THE ACT FOR OZONE NONATTAINMENT AREAS

Section of Act	Summary of Act's requirement	Section of chapter 116 which addresses Act's requirement	Summary of requirement of chapter 116
Section 182(c)(6)—*De minimis rule*.	*Netting Trigger.* The source determines the ''increase in net emissions'' from the proposed modification. The net emissions from the proposed modification (the ''project net'') is the sum of all proposed creditable emissions increases and decreases proposed at the source between: (A) the date of application for the modification and (B) the date the modification begins emitting. An increase or decrease is creditable if it meets the criteria described in 40 CFR 51.165(a)(1)(vi).	Section 116.150	*Netting Trigger.* Proposed project triggers contemporaneous netting unless the proposed project meets at least one of the following conditions: —The proposed increase is less than five TPY without consideration of other decreases at the source, or —The ''project net'' is zero or less. Texas definition of ''project net'' in Section 116.12 is consistent with that term as described in the second column of this Table.
Section 182(c)(6)—*De minimis* rule.	*Contemporaneous Period.* If the project net is an emissions increase, then the source aggregates the project net emissions increase with all other ''net increases in emissions from the source'' over a period of five consecutive calendar years which includes the year in which the source increase occurs (the ''contemporaneous net''). If the contemporaneous net increase is greater than 25 TPY, then the proposed modification is subject to nonattainment new source review (NNSR).	Section 116.12. Definition of ''contemporaneous period''.	*Contemporaneous Period.* As described in Table 8 below.
Section 182(c)(7)—Special rule for modifications of sources emitting less than 100 tons per year.	Project is not a modification subject to NNSR if source elects to internally offset the same pollutant at an offset ratio of at least 1.3 to 1 the proposed increase of VOC or NO_X[a].	Section 116.150(a)(3)(A).	NNSR is not required if the project increases are offset with internal offsets of the same pollutant at a ratio of at least 1.3 to 1.
	Best available control technology (BACT) is substituted for LAER, if a source elects not to use internal offsets.	Section 116.150(a)(1)	If source elects not to use internal offsets, it can substitute BACT for LAER.
Section 182(c)(8)—Special rule for modifications of sources emitting 100 tons per year or more.	The requirements of LAER otherwise required by section 173(a)(2) of the Act do not apply, if the source elects to internally offset the same pollutant at 1.3 to 1 such proposed increase of VOC or NO_X[a].	Section 116.150(a)(3)(B).	Source can substitute BACT for LAER, if the project increases are offset with internal offsets of the same pollutant at a ratio of at least 1.3 to 1.
	A source which elects to avoid LAER by satisfying the provisions of section 182(c)(8) may use the 1.3 to 1 internal offset ratio in lieu of the general offset ratio.	Section 116.150(a)(3)(B).	Internal offsets used as described above can also be applied to satisfy the offset requirement.

[a] Applies to a proposed increase of VOC or NO_X from any discrete operation, unit, or other pollutant emitting activity at the source.

TABLE 8.—DESCRIPTION OF TEXAS' CONTEMPORANEOUS PERIODS

Pollutant	Contemporaneous period begins	Contemporaneous period ends
If source has potential to emit (PTE) less than 250 TPY		
VOC	Five years before commencement of construction	Date that new or modified source begins operation.
NO_X	Latter of ..... —November 15, 1992, or ..... —Five years before commencement of construction	Date that new or modified source begins operation.

TABLE 8.—DESCRIPTION OF TEXAS' CONTEMPORANEOUS PERIODS—Continued

Pollutant	Contemporaneous period begins	Contemporaneous period ends
If source has PTE equal to or greater than 250 TPY		
VOC	The earlier of —Five years before commencement of construction, or —November 15, 1992	Date that new or modified source begins operation.
NO_X	November 15, 1992	Date that new or modified source begins operation.

V. Summary of Texas' 182(f) NO_X Waivers

A. What Does Section 182(f) of the Act Require?

Section 182(f) sets forth the presumption that NO_X is an ozone precursor unless the Administrator makes a finding of nonapplicability or grants a waiver pursuant to criteria contained therein. Specifically, section 182(f) provides that requirements applicable for major stationary sources of VOC shall apply to major stationary sources of NO_X, unless otherwise determined by the Administrator, based upon certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality.

B. Did We Approve NO_X Waivers in Texas?

We approved petitions submitted by Texas under section 182(f) to waive NO_X provisions in Texas, as follows:

- On November 28, 1994, we conditionally approved two petitions from Texas, each dated June 17, 1994. This action exempted Dallas-Fort Worth (DFW) [1] and El Paso (ELP) [2] ozone nonattainment areas from NO_X control requirements of section 182(f) of the Act. *See* 59 FR 60709.
- On April 19, 1995, we approved a petition from Texas dated August 17, 1994. This action temporarily exempted the Houston-Galveston (HGA) [3] and Beaumont-Port Arthur (BPA) [4] ozone nonattainment areas from the NO_X control requirements of section 182(f) of the Act. These temporary exemptions expired December 31, 1996. *See* 60 FR 19515.
- On May 23, 1997, we approved a petition from Texas dated March 8, 1996, to extend the NO_X waiver in HGA and BPA until December 31, 1997. *See* 62 FR 28344.
- On April 20, 1999, we approved a petition from Texas dated November 13, 1998, to rescind the conditional NO_X exemption for the DFW ozone nonattainment area. Texas petitioned for rescission of the exemption after EPA reclassified DFW from a moderate ozone nonattainment area to a serious ozone nonattainment area. The modeling for this serious ozone nonattainment area SIP shows that control of NO_X sources will help the area to attain the air quality standard for ozone. See 64 FR 19283.

C. What Is the Current Status of Texas NO_X Waivers?

On December 31, 1997, the NO_X waiver in HGA and BPA expired. On February 12, 1998, we published a document in the **Federal Register** concerning Texas' decision not to petition for further extension of the NO_X exemption in the HGA and BPA areas. *See* 63 FR 7071. Since the extension of the temporary exemption expired on December 31, 1997, the State must implement the numerous requirements relating to NO_X in the HGA and BPA areas. Accordingly, any new source review (NSR) permits that Texas had not deemed to be administratively complete prior to January 1, 1998, must comply with the NO_X NSR requirements, consistent with the policy set forth in the EPA's NSR Supplemental Guidance memorandum dated September 3, 1992, from John Seitz, Director, EPA's Office of Air Quality Planning and Standards.

On February 18, 1998, we published our finding that the DFW nonattainment area has not attained the 1-hour ozone NAAQS by the applicable attainment date in the Act for moderate ozone nonattainment areas, November 15, 1996. As a result of this finding, the DFW ozone nonattainment area was reclassified by operation of law as a serious ozone nonattainment area, effective March 20, 1998. Texas was required to submit a new SIP, no later that March 20, 1999, addressing attainment of that standard by November 15, 1999. Texas submitted a revised plan on March 16, 1999, in satisfaction of this requirement.

In its revised plan, Texas again recognizes NO_X as an ozone precursor in the DFW nonattainment area. Texas also forwarded a petition to us on November 13, 1998, requesting that we withdraw the waiver for NO_X that we had approved on November 28, 1994, for the DFW nonattainment area. On April 20, 1999, we approved this petition and reinstated NO_X as an ozone precursor in the DFW nonattainment area.

D. What Rule Changes Did Texas Submit to Accommodate the Section 182(f) NO_X Waivers?

Texas submitted the following SIP revisions indicated in Table 9 below to incorporate the section 182(f) NO_X waivers and subsequent reinstatement for NO_X as an ozone precursor:

TABLE 9.—SUMMARY OF TEXAS SIP SUBMITTALS WHICH INCORPORATE THE SECTION 182(f) NO_X WAIVERS

Date of SIP submittal	Description
November 1, 1995	Texas submitted revisions to Section 116.150 to implement the NO_X waivers approved for the DAL, ELP, HGA, and BPA ozone nonattainment areas.
July 18, 1996	Texas submitted revisions to Table I in Section 116.12 [5] to remove NO_X as an ozone precursor, consistent with EPA's approval of the NO_X waivers.
April 13, 1998	Texas submitted revisions to Sections 116.12 (Table I) and 116.150(c), to reinstate NO_X as an ozone precursor in the HGA and BPA areas following the expiration of the temporary waivers for those areas on December 31, 1997.

[1] Includes the following Texas counties: Collin, Dallas, Denton, and Tarrant Counties in Texas

[2] Includes El Paso County in Texas

[3] Includes the following Texas counties: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

[4] Includes the following Texas counties: Hardin, Jefferson, and Orange Counties.

TABLE 9.—SUMMARY OF TEXAS SIP SUBMITTALS WHICH INCORPORATE THE SECTION 182(f) NO_X WAIVERS—Continued

Date of SIP submittal	Description
March 16, 1999	Texas submitted revisions to Sections 116.12 (definition of ''major modification'' and Table I) and 116.150(b), to again require NO_X to be treated as an ozone precursor in the DFW area.

[5] Table I of section 116.12 specifies the various classifications of nonattainment along with the associated emission levels which designate a major modification for those areas. A detailed discussion of the changes to Table I is included in section of the preamble describing the submitted definition of ''major modification.''

The above described revisions to section 116.150 are discussed in the following paragraphs.

E. What Are Texas' Provisions for Addressing NO_X Waivers in DFW and ELP?

Texas addresses the NO_X waivers for DFW and ELP in section 116.150(b) submitted November 1, 1995. section 116.150(b) is consistent with the NO_X waiver approved by EPA on November 28, 1994. Following the redesignation of DFW to a serious ozone nonattainment area, Texas revised section 116.150(b) to revoke applicability of the NO_X waiver in DFW. As revised, section 116.150(b) now identifies ELP as the only area in Texas where a section 182(f) waiver continues to apply. Texas submitted these revisions to section 116.150(b) on March 16, 1999.

F. What Are Texas' Provisions for Addressing NO_X Waivers in HGA and BPA?

Texas addresses the NO_X waivers for HGA and BPA in section 116.150(c) submitted November 1, 1995. This section temporarily removed the requirements relating to NO_X emissions (as an ozone precursor) in these areas.

Section 116.150(c) exempted NO_X from otherwise applicable nonattainment area permitting requirements [6] (except for NO_X offsets). The requirements for obtaining NO_X offsets continue to apply, and will be included in the source's permit. However, the requirement to obtain such offsets was held in abeyance until January 1, 1998.

Section 116.150(c) further required a source to document any proposed increase of NO_X equal to or greater than 40 TPY and submit documentation of netting calculations associated with the proposed increase, and the source must otherwise comply with the requirements of sections 116.150(a).

Texas submitted further revisions to section 116.150(c) on April 13, 1998. This submittal reinstates the NSR requirements for NO_X in HGA and BPA, effective January 1, 1998. The submittal further provides that sources with NO_X offsets in the HGA and BPA areas held in abeyance should have obtained the required NO_X offsets no later than January 1, 2000.

VI. Why Can We Approve the Requested SIP Revisions?

Consistent with the above discussion and with the NPR we find that the NNSR regulations submitted by Texas meet the requirements of the Act. We therefore approve these regulations as revisions to the Texas SIP.

VII. Final Action

We are approving the revisions to 30 TAC Chapter 116 which relate to the permitting of major sources and major modifications in nonattainment areas. Specifically, for the reasons stated herein, we are approving sections 116.12, 116.150, 116.151, 116.170, and 116.170(1) and (3).

VIII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612, ''Federalism,'' and Executive Order 12875, ''Enhancing the Intergovernmental Partnership.'' Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of

[6] Section 116.150(c) exempts NO_X from the application of lowest achievable emission rate, statewide compliance by all sources under common control with the applicant, and alternate site analysis, which are otherwise required by section 116.150(a)(1), (2), and (4), respectively.

the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. The 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 can not 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). This rule will be effective August 16, 2000.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: July 5, 2000.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

2. In § 52.2270(c) the first table is amended by deleting the entry for Section 101.1 Table I (Definitions—Major Source/Major Modification Emission Thresholds), revising the entries for Section 101.1 (Definitions) and for Section 116.03 (Consideration for Granting a Permit to Construct and Operate), and by adding new entries in numeric order to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval date	EPA approval date	Explanation
Chapter 101—General Rules				
Section 101.1	Definitions	08/16/93	[07/17/00 and page number]	Ref 52.2299(c)(102) Note: Nonattainment review definitions repealed from 101.1 and added to 116.12.
*	*	*	*	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
	* *	*	*	*
Section 116.03	Consideration for Granting a Permit to Construct and Operate.	08/16/93	[07/17/00 and page number]	Ref 52.2299(c)(102) Note:(a)(7), (8), (9), (10), (11), and (12); (c); (d); and (e) NOT in SIP.
*	*	*	*	*
Subchapter A—Definitions				
*	*	*	*	*
Section 116.12	Nonattainment Review Definitions	02/24/99	[07/17/00 and page number]	Includes Table I, Major Source/Major Modification Emission Thresholds.
*	*	*	*	*
Subchapter B—New Source Review Permits Nonattainment Review				
Section 116.150	New Major Source or Major Modification in Ozone Nonattainment Area.	02/24/99	[07/17/00 and page number]	
Section 116.151	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	03/18/98	[07/17/00 and page number]	
*	*	*	*	*
Subchapter B—New Source Review Permits Emission Reductions: Offsets				
Section 116.170	Applicability for Reduction Credits	08/16/93	[07/17/00 and page number]	Note: 116.170(2) Not in SIP.

[FR Doc. 00–17876 Filed 7–14–00; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL53–200019(a); FRL–6735–6]

Approval and Promulgation of State Plans—Alabama: Approval of Revisions to the Alabama State Implementation Plan: Transportation Conformity Interagency Memorandum of Agreement; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: The United States Environmental Protection Agency (EPA) published in the Federal Register on May 11, 2000, a document approving the transportation conformity rule submitted by the Alabama Department of Environmental Management for the State of Alabama. The rule is being clarified and corrected to remove a sentence that was inadvertently included in the **Federal Register** document.

DATES: This correction is effective on July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler at (404) 562–9042, sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: The May 11, 2000, (65 FR 30358–30362) rulemaking included a statement in the first full paragraph in the first column on page 30360 that reads ''The MOA is enforceable against the parties by their consent in the MOA to allow the Attorney General for the State of Alabama to sue any or all of the agencies for specific performance of other relief on behalf of the citizens of Alabama in parren patrial.'' The Federal requirements for conformity do not require that the Attorney General for a state have this legal authority. Since the State of Alabama's submittal does not contain any such provisions for the Alabama Attorney General, the preamble language is amended to delete this sentence in its entirety.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final