Source, Section 203.208 Net Emission Determination, Section 203.209 Significant Emissions Determination. Effective April 30, 1993.

(C) Title 35: Environmental Protection, Subpart C: Requirements for Major Stationary Sources in Nonattainment Areas, Section 203.301 Lowest Achievable Emission Rate, Section 203.302 Maintenance of Reasonable Further Progress and Emission Offsets, Section 203.303 Baseline and Emission Offsets Determination, Section 203.306 Analysis of Alternatives. Effective April 30, 1993.

(D) Title 35: Environmental Protection, Subpart H: Offsets for Emission Increases From Rocket Engines and Motor Firing, Section 203.801 Offsetting by Alternative or Innovative Means. Effective April 30, 1993. Published in the Illinois Register, Volume 17, Issue 20, May 14, 1993.

[FR Doc. 95–23958 Filed 9–26–95; 8:45 am]

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40 CFR Part 52

[TX–9–1–5222a; FRL–5266–4]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Permit Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document approves revisions to Texas Air Control Board (TACB) General Rules (31 TAC Chapter 101) and Regulation VI (31 TAC Chapter 116), ''Control of Air Pollution by Permits for New Construction or Modification'' of the Texas State Implementation Plan (SIP). The revisions approved herein include New Source Review (NSR) definitions and provisions for permitting in nonattainment areas as required by the Clean Air Act (CAA), as amended in 1990. These 1990 CAA NSR provisions were submitted by the Governor on May 13, 1992, November 13, 1992, and August 31, 1993. This action also approves other provisions of the General Rules and Regulation VI which have been submitted and not yet acted upon by EPA. These revisions were submitted by the Governor of Texas to EPA on December 11, 1985, October 26, 1987, February 18, 1988, September 29, 1988, December 1, 1989, September 18, 1990, November 5, 1991, May 13, 1992, November 13, 1992, and August 31, 1993. With the exception of the 1990 CAA NSR provisions, none of the other revisions being acted upon in this document were required by EPA.

DATES: This final rule will become effective on November 27, 1995 unless adverse or critical comments are received by October 27, 1995. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, New Source Review Section, at the following address: U.S. Environmental Protection Agency, Air Programs Branch (6T–A), First Interstate Bank Building, 1445 Ross Avenue, suite 1200, Dallas, Texas 75202–2733.

Copies of documents relevant to this document may be examined at the above location or at any of the locations listed below.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460;

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

If you wish to review these documents, please contact the person named below at least two working days in advance to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell at (214) 665–7212.

SUPPLEMENTARY INFORMATION: On December 11, 1985, October 26, 1987, February 18, 1988, September 29, 1988, December 1, 1989, September 18, 1990, November 5, 1991, May 13, 1992, November 13, 1992, and August 31, 1993, the Governor of Texas, after adequate notice and public hearing, submitted revisions to the Texas SIP. Specifically, the State revised TACB Regulation VI (31 TAC Chapter 116), ''Control of Air Pollution by Permits for New Construction or Modification'' and its General Rules (31 TAC Chapter 101). EPA has previously approved portions of certain revisions that have been submitted. In this notice, EPA is acting to approve SIP revisions that have been submitted by the Governor of Texas to EPA between December 11, 1985, and November 13, 1992, that EPA has not previously approved. EPA is also acting to approve a portion of the revision submitted August 31, 1993, more specifically, Table I of Section 116.012 (Major Source/Major Modification Emission Thresholds).

EPA has prepared a ''Technical Support Document'' for EPA Actions on Revisions to TACB General Rules (31 TAC Chapter 101) and Regulation VI (31 TAC CHAPTER 116), ''Control of Air Pollution by Permits for New Construction or Modification'' for the revisions being acted upon in this notice. EPA has also prepared an ''Annotation of Texas Air Control Board General Rules and Regulation VI, Control of Air Pollution by Permits for New Construction or Modification'', as amended June 9, 1995. The annotation shows: the existing TACB Regulation VI, as amended by the TACB as of October 16, 1992; Table I in the Nonattainment Review Definitions of Regulation VI, as submitted by the Governor on August 31, 1993; revisions to the definitions in the General Rules in Section 101.1, as submitted by the Governor on May 13, 1992; sections of the General Rules and of Regulation VI that EPA believes to be in the Texas SIP; and sections of the Regulations that have been submitted to EPA by the Governor of Texas as SIP revisions but EPA has not acted upon.

Section 116.3(a)(11) of Regulation VI (previously Section 116.3(a)(13)), contains Texas' regulation for prevention of significant deterioration (PSD). This regulation was acted upon in a separate Federal Register action. The State adopted its PSD regulation on July 26, 1985, and submitted it to EPA on December 11, 1985. Additional revisions to section 116.3(a)(13) were submitted to EPA on October 26, 1987, September 29, 1988, and February 18, 1991. EPA published in the Federal Register on December 22, 1989 (54 FR 52823) a document proposing approval of the Texas PSD regulations. A document published in the Federal Register on November 4, 1986 (51 FR 40072), gave the status of the Texas visibility NSR program. EPA's approval of the PSD SIP was published in the Federal Register on June 24, 1992 (57 FR 28093). On February 18, 1991, the TACB submitted a revision to section 116.3(a)(13) to incorporate the nitrogen oxides (NO_x) increments into its PSD regulations. EPA published approval of this revision in the Federal Register on September 9, 1994 (59 FR 46556). On May 8, 1992, the TACB redesignated Section 116.3(a)(13) to section 116.3(a)(11) and made minor amendments. These changes will be approved in this action.

On September 3, 1993, the TACB merged with the Texas Water Commission (TWC). The combined agency was renamed the Texas Natural Resource Conservation Commission (TNRCC). The revisions to Regulation VI which are being acted upon herein were adopted prior to the merger of the TACB and TWC. All rules and regulations, orders, permits, and other final action taken by the TACB remain in full effect unless and until revised by the TNRCC.

In this Federal Register document, EPA is acting on the 1990 CAA NSR provisions, which were submitted by the Governor of Texas on May 13, 1992, and November 13, 1992, and Table I in the revisions submitted by the Governor on August 31, 1993. EPA is also acting on other SIP revisions which the Governor of Texas has submitted to EPA but which EPA has not yet acted upon. A brief description of each submittal and what is being acted upon from the submittal is given in this preamble. Each submittal and each section being acted upon is discussed in more detail in the technical support document. Sections of these State submittals which are not being acted upon in this action either have previously been acted upon, are being acted upon in a separate notice, or have been superseded by a later revision of the section being acted upon in this notice. Where more than one revision to a section of Regulation VI has been submitted to EPA, EPA is approving only the most recent revision of the section.

A. Summary of the 1990 CAA NSR Permitting Requirements Acted Upon in This Document

1. Background

On May 13, 1992, and November 13, 1992, the State of Texas submitted to EPA revisions to the Texas SIP to implement the 1990 CAA NSR for nonattainment areas. These rules were submitted as SIP revisions pursuant to title I, part D, of the CAA. Texas made the revisions to Regulation VI.

2. Review Criteria and Determination

The air quality planning requirements for nonattainment NSR are set out in part D of title I of the CAA. The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing 1990 CAA nonattainment area NSR SIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

In this rulemaking action, EPA is applying its interpretations taking into consideration the specific factual issues presented. The discussion herein focuses on how the proposed State regulations meet the requirements of 40 CFR 51.160–165 (1994) and the 1990 CAA. The 1990 CAA includes the following NSR provisions: (1) Lower source applicability thresholds; (2) increased emissions offset ratios; (3) new definitions for stationary source; and (4) (for ozone nonattainment areas) requirements for NO_x control and NO_x offsets.

On August 16, 1993, the TACB adopted a complete recodification of Regulation VI and made certain substantive changes as well. These regulations were submitted to EPA on August 31, 1993. In today's action, EPA is acting on only one minor piece of this submittal, i.e. Table I of Section 116.012, which corrects an earlier typographical error. Separate action will be taken on the rest of the August 1993 submittal in a subsequent rulemaking.

3. Summary of the Texas NSR SIP

a. General Nonattainment NSR Requirements

i. Baseline for determining emission offsets. The plan must include provisions to assure that calculation of emissions offsets, as required by Section 173(a)(1)(A), are based on the same emissions baseline used in the demonstration of reasonable further progress. Texas addressed this requirement in subparagraphs (7)(C) and (10)(D) of Section 116.3(a). These subparagraphs provide that the offset ratio is the ratio of the total actual reductions of pollutant emissions to the total allowable emissions increases of such pollutant from the new source. Subparagraphs (7)(C) and (10)(D) of Section 116.3(a) are being approved as adopted by the TACB on May 8, 1992.

ii. Application of lowest achievable emission rate (LAER). The plan must include provisions to assure that the emissions from a project represent the application of LAER in accordance with Section 173(a)(2) of the Act. Texas requires LAER in paragraphs 116.3(a)(7)(A), 116.3(a)(9)(A), and 116.3(a)(10)(A). Paragraph 116.3(a)(7)(A) was previously approved as paragraph 116.3(a)(8)(A) on March 25, 1980 (45 FR 19244). This paragraph was redesignated to 116.3(a)(7)(A) by the TACB on May 8, 1992. Paragraph 116.3(a)(9)(A) was previously approved as paragraph 116.3(a)(11)(A) on July 10, 1981 (46 FR 35643). This paragraph was redesignated to 116.3(a)(9)(A) by the TACB on May 8, 1992. Paragraph 116.3(a)(10)(A) was previously approved as paragraph 116.3(a)(12)(A) on August 13, 1982 (47 FR 35193). This paragraph was redesignated to 116.3(a)(10)(A) by the TACB on May 8, 1992. The revisions adopted by the TACB on May 8, 1992, were submitted to EPA on May 13, 1992. Section 116.3(a) subparagraphs (7)(A), (9)(A), and (10)(A), as redesignated by the May 8, 1992, revision, clarify the previously approved requirements to implement LAER. The revised subparagraphs specify that LAER will be applied on each new emissions unit and each existing emissions unit at which a new emissions increase will occur as a result of a physical change or change in the method of operation of the emissions unit. These revisions are clarifications of previously approved requirements, and are consistent with the CAA and the regulations promulgated under 40 CFR 51.165.

iii. Statewide compliance determination. The plan must provide, pursuant to Section 173(a)(3), that owners or operators of each proposed new or modified major stationary source demonstrate that all other major stationary sources under the same ownership in the State are in compliance with the Act. Texas requires such demonstration of statewide compliance in paragraphs 116.3(a)(7)(B), 116.3(a)(9)(B), and 116.3(a)(10)(B). Paragraph 116.3(a)(7)(B) was previously approved as paragraph 116.3(a)(8)(B) on March 25, 1980 (45 FR 19244). This paragraph was redesignated to 116.3(a)(7)(B) by the TACB on May 8, 1992, without changes to the approved language. Paragraph 116.3(a)(9)(B) was previously approved as paragraph 116.3(a)(11)(B) on July 10, 1981 (46 FR 35643). This paragraph was redesignated to 116.3(a)(9)(B) by the TACB on May 8, 1992, without changes to the approved language. Paragraph 116.3(a)(10)(B) was previously approved as paragraph 116.3(a)(12)(B) on August 13, 1982 (47 FR 35193). This paragraph was redesignated to 116.3(a)(10)(B) by the TACB on May 8, 1992, without changes to the approved language. The revisions adopted by the TACB on May 8, 1992, were submitted to EPA in May 13, 1992. Subparagraphs (7)(B), (9)(B), and (10(B) of Section 116.3(a) are being approved, as adopted by the TACB on May 8, 1992.

iv. Statewide implementation of the plan. The plan must provide, pursuant to section 173(a)(4), that the Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with this part. The Administrator has made no such determination for Texas nor does EPA have any indication that Texas is not adequately implementing its NSR plan. In the event that the Administrator makes such determination, the EPA will address this matter with Texas at that time.

v. Analysis of alternative sites, sizes, production processes, and environmental control techniques. Pursuant to section 173(a)(5), the plan

must require, as a prerequisite to issuing any part D permit, an analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. This Section expands the alternative site analysis to all Part D permits issued in nonattainment areas. Prior to the 1990 CAA, such analysis was only required for permitting in ozone nonattainment areas which received an extension of the attainment deadline to December 31, 1987 (see section 172(a)(2) and (b)(11)(A) of the CAA as amended in 1977). On March 25, 1980, the EPA promulgated 40 Code of Federal Regulations (CFR) 52.2272(b), which extended to December 31, 1987, the attainment date for ozone in Harris County. This extension was approved on the basis that the requirements of Section 172(b)(11)(A) and other requirements of the 1977 CAA were satisfied. On October 16, 1992, the TACB added Subparagraphs (7)(D) and (10)(E) to Section 116.3(a) to incorporate the additional provisions of the 1990 CAA to extend the analysis of alternative sites, sizes, production processes, and environmental control techniques to all Part D permits issued in nonattainment areas. EPA is approving subparagraphs (7)(D) and (10)(E) of Section 116.3(a), as adopted by the TACB on October 15, 1992.

vi. Location of offsets. The plan may contain provisions to allow offsets to be obtained in another nonattainment area if the area in which the offsets are obtained has an equal or higher nonattainment classification, and emissions from the nonattainment area in which the offsets are obtained contribute to a National Ambient Air Quality Standards (NAAQS) violation in the area in which the source would construct. See Section 173(c)(1) of the 1990 CAA. Texas Regulation VI in Sections 116.3(a)(7) and 116.3(a)(10) provides that at the time a new or modified source commences operation, the emissions increases from the new or modified facility shall be offset. Offsets shall be obtained at the offset ratio appropriate for the nonattainment area classification as defined in Section 101.1 and Table I [1] of that Section. Section 116.3(c)(1) further provides that ''[m]inimum offset ratios as specified in Table I of Section 101.1 * * * shall be used in the areas designated as nonattainment'' [emphasis added].

These provisions of Texas' Regulation VI limit a major source or modification to obtaining offsets which occur in the area in which the proposed increase occurs, and precludes the use of reductions which occur in an area other than the area in which the proposed increase occurs. Although Section 173(c)(1) of the CAA allows offsets to be obtained in an area other than the area in which the proposed increase occurs, Texas' decision not to allow such reductions to be creditable as offsets is consistent with the provisions of Section 173(c)(1) of the CAA.

vii. Emission increases must be offset by reductions in actual emissions. The plan must include provisions to assure that emissions increases from new or modified major stationary sources are offset by real reductions in actual emissions as required by Section 173(c)(1). Texas requires in Sections 116.3(a)(7)(C) and 116.3(a)(10)(D) that offsets be obtained at the offset ratio appropriate for the nonattainment area classification in which the source is located. These paragraphs define ''offset ratio'' as the ratio of total actual reductions of emissions to the total allowable emissions increases of such pollutant from the new source. The plan thus satisfies this provision of Section 173(c)(1) of the 1990 CAA.

viii. Emission reductions otherwise required by the Act. The plan must include provisions, pursuant to Section 173(c)(2), to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying the part D offset requirements. Texas addressed this requirement in Section 116.3(c)(1) which provides that for an offsetting reduction to be creditable, it must not be required by any provision of the Texas SIP approved by EPA nor by any other Federal regulation under the CAA, such as new source performance standards. This paragraph was adopted by the TACB on May 8, 1992.

ix. Sources that test rocket engines and rocket motors. The plan must, pursuant to Section 173(e), 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, if four conditions are met: (a) the proposed modification is for expansion of a facility already permitted for such purposes as of November 15, 1990; (b) the source has used all available offsets and all reasonable means to obtain offsets and sufficient offsets are not available; (c) the source has obtained a written finding by the appropriate, sponsoring Federal agency that the testing is essential to national security; and (d) the source will comply with an alternative measure designed to offset any emissions increases not directly offset by the source.

In lieu of imposing any alternative offset measures, the permitting authority may impose an emission offset amounting to no more than 1.5 times the average cost of stationary control measures adopted in that area during the previous three years.

On October 16, 1992, Texas addressed this provision by adding paragraph 116.3(c)(3), which includes provisions relating to offsetting emissions increases resulting from the firing and cleaning of rocket engines and motors. This paragraph allows for obtaining offsets by alternative means for increases resulting from rocket engine and motor firing. This paragraph addresses the provisions of section 173(e) of the CAA.

b. Ozone

The general nonattainment NSR requirements are found in Sections 172 and 173 of the Act and must be met by all nonattainment areas. Requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. Subpart 2 provides criteria for classifying ozone nonattainment areas as marginal, moderate, serious, severe, and extreme, based upon the area's design value. In addition to requirements for ozone nonattainment areas, subpart 2 includes Section 182(f), which states that requirements for major stationary sources of volatile organic compounds (VOC) shall apply to major stationary sources of NO_X unless the Administrator makes certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. States were required under Section 182(a)(2)(C) to adopt new NSR rules for ozone nonattainment areas by November 15, 1992.

On November 28, 1994, EPA conditionally approved two petitions from the State of Texas, each dated June 17, 1994, requesting that the Dallas-Fort Worth (DFW) and El Paso ozone nonattainment areas be exempted from NO_X control requirements of section 182(f) of the CAA, as amended in 1990. The State of Texas based its request for DFW upon a demonstration that the

[1] Table I was initially submitted May 13, 1992. Table I was revised to correct a typographical error and submitted August 31, 1993, in a recodification of Regulation VI. In the recodification, Table I was moved to Section 116.012 (Nonattainment Review Definitions) of Regulation VI. In this action, EPA is approving the revised definitions as submitted May 13, 1992, and the Revised Table I as submitted August 31, 1993. Unless otherwise stated, all references to Table I refer to the version that TACB adopted August 16, 1993, and submitted August 31, 1993.

DFW nonattainment area would attain the NAAQS for ozone by the CAA mandated deadline without the implementation of the additional NO_X controls required under section 182(f). Similarly, the State based its exemption request for El Paso on a demonstration that the El Paso nonattainment area would attain the ozone NAAQS by the CAA mandated deadline without implementing the additional NO_X controls required under section 182(f), but for emissions emanating from Mexico. These exemptions were requested under authority granted under section 182(f) of the CAA. EPA proposed to conditionally approve these petitions on August 29, 1994 (see 59 FR 44386). Following the consideration of comments submitted on the proposed action, EPA promulgated final action on November 28, 1994 (see 59 FR 60709).

On April 19, 1995, EPA approved a petition dated August 17, 1994, from the State of Texas requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from NO_X control requirements of section 182(f) of the CAA, as amended in 1990. The State of Texas based its request upon preliminary photochemical grid modeling which shows that reductions in NO_X would be detrimental to attaining the NAAQS for ozone in these areas. This temporary exemption was requested under section 182(f) of the CAA. The EPA proposed to approve these petitions on December 14, 1994 (see 59 FR 64640). Following the consideration of comments submitted on the proposed action, EPA promulgated final action on April 19, 1995 (see 60 FR 19515).

i. Definition of the term ''major stationary source''. The term ''major stationary source'' is defined in Section 302(j) of the CAA as 100 Tons Per Year (TPY) VOC and, presumptively, 100 TPY of NO_X as the threshold for determination of whether a source is subject to part D NSR requirements as a major source in marginal and moderate ozone nonattainment areas. In serious ozone nonattainment areas, the ''major stationary source'' threshold is 50 TPY of VOC and, presumptively, 50 TPY of NO_X pursuant to Section 182(c). In severe ozone nonattainment areas, the ''major stationary source'' threshold is 25 TPY of VOC and, presumptively, 25 TPY of NO_X pursuant to Section 182(d). Texas has no extreme ozone nonattainment areas.

Texas initially adopted these requirements in Table I of Section 101.1. A typographical error was corrected and Table I was resubmitted on August 31, 1993, as Table I of Section 116.012. In Table I, the major source thresholds are as follows:

marginal 100 TPY of VOC and 100 TPY of NO_X
moderate 100 TPY of VOC and 100 TPY of NO_X
serious 50 TPY of VOC and 50 TPY of NO_X
severe 25 TPY of VOC and 25 TPY of NO_X

ii. Offsets. The plan must include provisions to ensure that new or modified major stationary sources obtain offsets at the ratio specified for the area classification in order to obtain an NSR permit. The offset ratio in each area is as follows: 1.1 to 1 in marginal areas under Section 182(a)(4), 1.15 to 1 in moderate areas under Section 182(b)(5), 1.2 to 1 in serious areas under Section 182(c)(10), and 1.3 to 1 in severe areas under Section 182(d)(2).

Texas adopted these requirements in Table I of Section 116.012. In Table I, the applicable offset ratio of VOC or NO_X is the same as required by the above stated sections of the CAA.

iii. Special requirements for serious and severe ozone nonattainment areas. For serious and severe ozone nonattainment areas, States must submit provisions to implement Section 182(c)(6) of the Act such that any proposed emissions increase is subject to the 25-ton de minimis test. Texas addresses these requirements in Table I of Section 116.012 and in Sections 116.3(a)(7). Section 182(c)(6) provides that a particular physical change or change in the method of operation shall not be considered de minimis unless the increase in net emissions resulting from such project does not exceed 25 TPY when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years which includes the calendar year in which such increase occurred.

Texas addresses this requirement in its new definition of ''de minimis threshold'' in Section 101.1 of the General Rules (submitted May 13, 1992), Table I of Section 116.012 of the Nonattainment Review Definitions (submitted August 31, 1993), and in Section 116.3(a)(7) of Regulation VI (submitted May 13, 1992).

The term ''de minimis threshold'' is defined in Section 101.1 as an emission level determined by aggregating the proposed increase with all other creditable increases and decreases during the previous five calendar years, including the calendar year of the proposed change, which equals the major modification level (in TPY) for the specific nonattainment area. Table I of Section 116.012 specifies the various classifications of nonattainment along with the associated emission levels which designate a major modification for those areas. Table I specifies the de minimis thresholds as 40 TPY of VOC in marginal and moderate ozone nonattainment areas and 25 TPY of VOC in serious and severe ozone nonattainment areas. Section 116.3(a)(7) provides that a source must apply the de minimis test to any proposed increase of VOC or NO_X in moderate, serious, and severe ozone nonattainment areas. The de minimis test thresholds are the same as the major modification levels stated in Table I, but aggregated over the previous five year period, including the calendar year of the proposed change. The past net increases must be evaluated even when the proposed increase is below the major modification level. The section applies to permit applications which are filed after November 15, 1992. On the basis of EPA's evaluation, the definition of de minimis threshold in Section 101.1, Table I of Section 116.012, and Section 116.3(a)(7) are approved as satisfying the requirements of section 182(c)(6) of the Act.

c. Carbon Monoxide (CO)

The general part D NSR permit requirements apply in CO nonattainment areas, and are supplemented by the CO requirements in subpart 3 of part D. Such programs must contain a definition of the term ''major stationary source'' that reflects the Section 302(j) 100 TPY CO threshold for determination of whether a source is subject to part D requirements as a major source in moderate CO nonattainment areas, and the Section 187(c)(1) 50 TPY CO threshold for determination of whether a source is subject to part D requirements as a major source in serious CO nonattainment areas. Texas adopted these requirements in Table I of Section 116.012. Table I specifies major source thresholds to be 100 TPY in moderate CO nonattainment areas and 50 TPY in serious CO nonattainment areas.

d. Particulate Matter With an Aerodynamic Diameter of a Nominal 10 Microns or Less (PM–10)

PM–10 NSR programs must contain a definition of the term ''major stationary source'' that reflects thresholds in Section 302(j) of 100 TPY for PM–10 in moderate PM–10 nonattainment areas and reflects the Section 189(b)(3) threshold of 70 TPY for PM–10 in serious PM–10 nonattainment areas. Texas adopted this requirement in Table I of Section 116.012. Table I specifies

the major source thresholds to be 100 TPY in moderate PM–10 nonattainment areas and 70 TPY in serious PM–10 nonattainment areas. The only current PM–10 nonattainment area in Texas is the El Paso area. EPA has previously determined under Section 189(e) of the Act that NSR provisions are not required in the El Paso area for PM–10 precursors (59 FR 2532, 2533, (January 18, 1994)).

e. Sulfur Dioxide (SO_2)

States with SO_2 nonattainment areas were required to submit NSR implementation plans by May 15, 1992. Presently, Texas has no designated SO_2 nonattainment areas. NSR implementation plans must contain a definition of the term ''major stationary source'' that reflects the Section 302(j) 100 TPY SO_2 threshold for determination of whether a source is subject to part D requirements as a major source. Texas adopted this requirement in Table I of Section 116.012. In Table I, the major source threshold in SO_2 nonattainment areas is 100 TPY of SO_2.

f. Lead

States with lead nonattainment areas are required to submit NSR implementation plans which must contain a definition of the term ''major stationary source'' that reflects the Section 302(j) 100 TPY lead threshold for determination of whether a source is subject to part D requirements as a major source. Texas adopted this requirement in Table I of Section 116.012. In Table I, the major source threshold in lead nonattainment areas is 100 TPY of lead.

B. Individual SIP Submittals Acted Upon in This Notice

1. Adopted by TACB on July 26, 1985; Governor Submitted to EPA on December 11, 1985; EPA Received December 18, 1985

The State submitted revisions to Sections 116.1, 116.2, 116.10(a)(4), and 116.10(d) and the addition of Section 116.3(a)(13) for Prevention of Significant Deterioration (PSD). This revision to section 116.1 has been replaced by a more recent submittal being acted upon in this Federal Register action. Section 116.3(a)(13) for PSD has been acted upon in a separate Federal Register action as discussed elsewhere in this Federal Register action. Section 116.3(a)(13) was redesignated to Section 116.3(a)(11) in the May 13, 1992, submittal. EPA is approving the revisions to Sections 116.2 and section 116.10(a)(4). Section 116.10(d) provides that when a permit to construct or operate, or a special permit, will incorporate new best available control technology (BACT), the Executive Director of the TACB will notify the public of that new BACT determination by publication in the *Texas Register* within 60 days after issuance of such permit. The TACB revised Section 116.10(d) on August 11, 1989, to delete reference to special permits, and submitted the revision to EPA on December 1, 1989. EPA is approving Section 116.10(d) as revised on August 11, 1989, and submitted to EPA on December 1, 1989 (see section B.6 in this preamble for discussion of the December 6, 1989, submittal).

The revision to section 116.2 clarifies that the owner of a facility or the operator of the facility authorized to act for the owner is responsible for complying with Section 116.1, Permit Requirements, of Regulation VI. The revision to section 116.10(a)(4) adds to the requirements for publishing public notices in newspapers.

2. Adopted by TACB on July 17, 1987; Governor Submitted to EPA on October 26, 1987; EPA Received November 10, 1987

The State submitted revisions to Sections 116.3(a)(13) [PSD], 116.3(a)(14) [Stack Heights], 116.10(a)(1), 116.10(a)(3), and 116.10(b)(1). A revision to 116.7 [Special Permits] adopted by the State was not submitted to EPA as a SIP revision. The revision to Section 116.3(a)(13) for PSD has been acted upon in a separate Federal Register action as discussed elsewhere in this Federal Register action. Section 116.3(a)(13) was redesignated to Section 116.3(a)(11) in the May 13, 1992, submittal. The revision to Section 116.3(a)(14) for Stack Heights was approved in a Federal Register document notice published November 22, 1988 (53 FR 47191), at 40 CFR 52.2270(c)(62). The revisions to 116.10(a)(1) and 116.10(b)(1) have been replaced by more recent revisions being acted upon in this Federal Register document.

EPA is approving this revision of section 116.10(a)(3) which requires the publication of a public notice in a newspaper of an applicant's intent to construct to include the preliminary determination of the Executive Director of TACB to issue or not issue the permit only if the permit is subject to the Federal Clean Air Act (FCAA), Part C [for PSD] or Part D [Non-Attainment Areas] or to 40 CFR 51.165(b). The revision adds the requirements that the public notice must state that any person who may be affected by the emission of air contaminants from the facility is entitled to request a hearing in accordance with TACB rules and that the notice must include the name, address, and phone number of the regional TACB office to be contacted for further information.

3. Adopted by TACB on December 18, 1987; Governor Submitted to EPA on February 18, 1988; EPA Received February 29, 1988

The State submitted revisions to Sections 116.5 and 116.10(a)(1) and the addition of Sections 116.10(c)(1)(A), 116.10(c)(1)(B), 116.10(c)(1)(C) and 116.10(f). The State adopted, but did not submit to EPA, revisions to Rule 116.7, Special Permits, and the addition of Rule 116.13, Emergency Orders for Damaged Facilities. Basically, these changes respond to new statutory requirements enacted by the Texas Legislature in 1987 to require the TACB to establish time frames and an applicant appeals process for staff review of permit applications and the issuance of permits. This revision to section 116.5 has been replaced by a more recent revision being acted upon in this Federal Register action.

EPA is approving this revision to sections 116.10(a)(1) and 116.10(c)(1) introductory paragraph; the addition of section 116.10(c)(1)(A), (B), and (C); and the addition of 116.10(f) [permit processing time limit]. Section 116.10(f) was redesignated 116.10(e) in the December 1, 1989, submittal.

The revision to Section 116.10(a)(1), General Requirements of the TACB Public Notification Procedures, requires the Executive Director of TACB to inform a permit applicant within 90 days of receipt of an application if the application is determined incomplete and additional information needed. If the application is determined to be complete, the Executive Director shall state his preliminary determination to issue or deny the permit. If the application is complete, for any permit subject to the Federal Clean Air Act (FCAA), Part C or D or to 40 CFR 51.165(b), the Executive Director shall state his preliminary determination to issue or deny the permit and require the applicant to conduct public notice of the proposed construction. If an application is received for a permit not subject to the FCAA, Part C or D or to 40 CFR 51.165(b), the Executive Director shall require the applicant to conduct public notice of the proposed construction.

The revision to Section 116.10(c)(1) and the addition of 116.10(c)(1)(A), (B), and (C) modifies the requirements for the notification of an applicant of the

final action on a permit application. The revised section requires the Executive Director of TACB to notify the applicant, within 180 days of receipt of a completed application, of his final decision to grant or deny the permit provided that: (A) No request for public hearing or public meeting on the proposed facility have been received; (B) The applicant has satisfied all public notification requirements of this section; and (C) The Federal regulations for PSD of Air Quality do not apply.

The addition of 116.10(f) sets a permit processing time limit. This section gives an applicant for a permit the right to appeal in writing to the Executive Director of TACB if a permit is not acted upon within the time limits provided in Section 116.10. Section 116.10(f) was redesignated 116.10(e) in the December 1, 1989, submittal.

4. Adopted by TACB on July 15, 1988; Governor Submitted to EPA on September 29, 1988; EPA Received October 12, 1988

The State submitted revisions which redesignated Rule 116.1 to Section 116.1(a), added a new Section 116.1(b), revised section 116.3(a)(13) [for PSD], and revised section 116.10(a)(7). Revisions to Rules 116.6 and 116.7 were also adopted, but were not submitted to EPA as a SIP revision.

Section 116.3(a)(13) for PSD has been acted upon in a separate Federal Register action as discussed elsewhere in this Federal Register action. Section 116.3(a)(13) was redesignated to Section 116.3(a)(11) in the May 13, 1992, submittal. The revision to Section 116.10(a)(7) has been replaced by a more recent revision of the section. EPA is approving the redesignation of section 116.1 to Section 116.1(a) and the addition of a new section 116.1(b). The addition of section 116.1(b) helps streamline the administrative procedures associated with changes in ownership of previously permitted facilities.

5. Adopted by TACB on August 11, 1989; Governor Submitted to EPA on December 1, 1989; EPA Received December 21, 1989

The State submitted revisions of sections 116.1(a), 116.3(f), 116.5, 116.10(a)(6) [Exemptions of previously permitted facilities, currently designated 116.10(a)(7) in State regulation], 116.10(b)(1), 116.10(d), 116.11(b)(3) introductory paragraph, 116.11(e), 116.11(f), the deletion/repeal of section 116.10(e) [Effective Date], and the redesignation of 116.10(f) [processing time limit] to 116.10(e). The State also deleted/repealed Section 116.7, Special Permits, but did not submit this to EPA because Section 116.7, Special Permits, has never been approved as part of the Texas SIP.

Basically, this revision to Regulation VI repeals section 116.7, Special Permits, and removes all references to new special permits in Regulation VI. References to existing special permits are retained in the regulation.

EPA is approving this revision of section 116.1(a); the addition of Section 116.3(f); the revisions of 116.5, 116.10(a)(7) [Exemptions of previously permitted facilities], 116.10(b)(1), 116.10(d); the deletion/repeal of section 116.10(e) [Effective Date]; and the redesignation of 116.10(f) [processing time limit] to 116.10(e); and the revisions of 116.11(b)(3), 116.11(e), and 116.11(f).

The new section 116.3(f) provides for voidance of a grossly deficient permit application. The revision to section 116.5 provides for a warning to applicants that a grossly deficient application may be voided. This revision to section 116.10(a)(7) [Exemptions of previously permitted facilities], adds a reference to special permits and makes editorial changes to section 116.10(a)(7)(A) and deletes section 116.10(a)(7)(B). Section 116.10(a)(7)(B) had given conditions under which a new owner could be exempted from the requirements of Regulation VI. Section 116.10(d) was revised to remove references to special permits (see discussion in Section B.1 of this preamble concerning an earlier revision to Section 116.10(d), adopted by TACB on July 26, 1985, and submitted to EPA on December 11, 1985). The deletion/repeal of section 116.10(e) [Effective Date], removes obsolete language regarding effective dates. Section 116.10(f), processing time limit, is redesignated section 116.10(e). The revisions of Sections 116.11(b)(3), 116.11(e), 116.11(f) clarify that the agency does not require fees for amendments to Special Permits and that a permit fee is not refunded if a permit application is voided.

6. Adopted by TACB on May 18, 1990; Governor Submitted to EPA on September 18, 1990; EPA Received September 28, 1990

EPA is acting on this entire submittal. This revision adds sections 116.1(c), 116.3(a)(1)(A), and 116.3(a)(1)(B) to Regulation VI.

Section 116.1(c) specifies that any application for a permit or permit amendment with an estimated capital cost of the project over $2 million be submitted under seal of a registered professional engineer. Section 116.3(a)(1)(A) requires TACB to consider short-term and long-term side effects proposed sources will have on individuals attending schools located within 3,000 feet of the school. Section 116.3(a)(1)(B) states that a new lead smelting plant cannot be located within 3,000 feet of an individual residence.

7. Adopted by TACB on September 20, 1991; Governor Submitted to EPA on November 5, 1991; EPA Received November 15, 1991

This revision adds section 116.3(a)(15) which establishes distance requirements between new hazardous waste management facilities and areas of public access. This amendment is to satisfy the statutory requirements of Texas Senate Bill 1099. This rule does not conflict with the Federal Resource Conservation and Recovery Act and current implementing regulations. EPA is approving this revision as submitted. Section 116.3(a)(15) was redesignated to Section 116.3(a)(13) in the May 13, 1992, submittal.

8. Adopted by TACB on May 8, 1992; Governor Submitted to EPA on May 13, 1992; EPA Received May 21, 1992

This revision modifies section 116.3(a) paragraphs (1), (3), (4), and (5); deletes paragraphs (7) and (10); redesignates paragraphs (8), (9), (11), (12), (13), (14), and (15) respectively to paragraphs (7), (8), (9), (10), (11), (12), and (13); revises the redesignated paragraphs (7), (8), (9), (10), (11), (12), and (13); modifies section 116.3(c) and paragraph 116.3(c)(1); and modifies section 116.11(b)(4).

This revision includes provisions to satisfy provisions of the 1990 CAA. Those provisions are addressed in section A.3 of this Federal Register action. Other modifications are described below.

Section 116.11(b)(4) is modified to increase the previously approved permit fee from $50,000 to $75,000 when no estimate of capital cost is included with a permit application.

This submittal includes new and revised definitions in Section 101.1 which pertain to nonattainment permitting. These definitions are consistent with the definitions in 40 CFR 51.165(a)(1) and the terms in the 1990 CAA. Thus, EPA is approving the definitions in § 101.1 as adopted by the TACB and submitted by the Governor on May 13, 1992.

The revisions submitted on May 13, 1992, contain other minor revisions and clarifications, as described in the Technical Support Document. EPA has reviewed these changes and determines that they are approvable. Thus, EPA is

approving the provisions of Regulation VI as adopted by the TACB and submitted by the Governor on May 13, 1992.

9. Adopted by TACB on October 16, 1992; Governor Submitted to EPA on November 13, 1992; EPA Received November 16, 1992

This revision includes provisions to satisfy provisions of the 1990 CAA. Those provisions are addressed in section A.3 of this Federal Register action. Other modifications are described below.

This revision modified Section 116.12, ''Review and Renewal of Permits'', Paragraphs (a), (b)(1)(B), (b)(2), (c), (d), (f), (g), and (h); and added Section 116.14, ''Compliance History Requirements.''

Revisions to Section 116.12, ''Review and Renewal of Permits'' were submitted November 13, 1992. In this submittal, only revisions to paragraphs (a), (b)(1)(B), (b)(2), (c), (d), (f), and (g), and (h) of Section 116.12 were submitted. There is no record in EPA files of any other provision of this section ever being submitted. Section 116.12 was originally adopted by TACB on August 22, 1986, under the title ''Review and Continuance of Operating Permits''. A revision was adopted March 25, 1988. This section provides that a permit is subject to renewal 15 years from date of issuance if the permit was issued before December 1, 1991. Permits issued on or after December 1, 1991, are subject to renewal every five years after date of issuance. Section 116.12 specifies the procedures for applying for and receiving a permit renewal.

Because TACB only submitted the portions of Section 116.12 that were revised on October 16, 1992, only portions of this section were available for EPA to act on. On August 31, 1993, TACB submitted a Recodification of Regulation VI which included the provisions of Section 116.12 in a new Subchapter D: ''Permit Renewals,'' which includes Sections 116.310, 116.311, 116.312, 116.313, and 116.314. EPA will act on this Recodification of Regulation VI in a separate Federal Register action. Because the November 13, 1992, submittal does not include the entire Section 116.12, EPA is not acting on the portions of Section 116.12 submitted November 13, 1992.

On October 16, 1992, the TACB adopted Section 116.14, ''Compliance History Requirements.'' This Section requires that a review of an application for a construction permit, review of an amendment, or renewal of an existing permit include a review of the source's compliance history. In this action, EPA is approving Section 116.14, as submitted by the Governor on November 13, 1992.

With the exception of the revisions to Section 116.12, EPA is approving the revisions to Regulation VI as adopted by TACB and submitted by the Governor on November 13, 1992. The revisions to Section 116.12 are not being acted on in this Federal Register for the reasons stated above.

10. Adopted by TACB on August 16, 1993; Governor Submitted to EPA on August 31, 1993; EPA Received October 4, 1993

The TACB completely recodified and reorganized Regulation VI on August 16, 1993. TACB also revised the permitting requirements in nonattainment areas to include several NSR provisions.

As discussed above in footnote 1, the only provision of this submittal that is being approved in this action is Table I which is found at Section 116.012 ''Nonattainment Review Definitions.'' The Table was originally submitted on May 13, 1992, as part of Section 101.1 ''General Rules: Definitions''. However, the Table contained typographical errors which needed to be corrected in order to be approved. The TACB corrected the errors when it recodified Regulation VI. This corrected table is needed for approval of the nonattainment permitting requirements being addressed in this action. Therefore, in this action, EPA is approving the corrected Table I as submitted August 31, 1993, in lieu of Table I as submitted May 13, 1992.

The remaining provisions of the recodification are currently being reviewed by EPA and will be acted upon in a separate Federal Register action.

Final Action

By this action, EPA is approving the following revisions to TACB Regulation 101 (31 TAC Chapter 101), ''General Rules'' of the Texas SIP as adopted by TACB on May 8, 1992, and submitted to EPA by the Governor on May 13, 1992. EPA is approving revisions to the definitions in Rule 101.1, except for Table I. By this action, EPA is also approving the following revisions to TACB Regulation VI (31 TAC Chapter 116), ''Control of Air Pollution by Permits for New Construction or Modification'' of the Texas SIP.

A. Adopted by TACB on July 26, 1985, and submitted to EPA on December 11, 1985: EPA is approving revisions to sections 116.2 and 116.10(a)(4) as submitted.

B. Adopted by TACB on July 17, 1987, and submitted to EPA on October 26, 1987: EPA is approving a revision to section 116.10(a)(3) as submitted.

C. Adopted by TACB on December 18, 1987, and submitted to EPA on February 18, 1988: EPA is approving revisions to sections 116.10(a)(1) and 116.10(c)(1) introductory paragraph; the addition of section 116.10(c)(1)(A), (B), and (C); and the addition of 116.10(f) [permit processing time limit].

D. Adopted by TACB on July 15, 1988, and submitted to EPA on September 29, 1988: EPA is approving the redesignation of existing Rule 116.1 to section 116.1(a), the addition of a new section 116.1(b), and the redesignation of 116.10(a)(6) [Exemptions of previously permitted facilities] to 116.10(a)(7), as submitted.

E. Adopted by TACB on August 11, 1989, and submitted to EPA on December 1, 1989: EPA is approving revisions of sections 116.1(a), 116.3(f), 116.5; 116.10(a)(7) [Exemptions of previously permitted facilities]; revisions of 116.10(b)(1), 116.10(d), 116.11(b)(3) introductory paragraph, 116.11(e), 116.11(f); the deletion of section 116.10(e) [Effective Date]; and the redesignation of section 116.10(f) [Processing time limit] to section 116.10(e).

F. Adopted by TACB on May 18, 1990, and submitted to EPA on September 18, 1990: EPA is approving the addition of sections 116.1(c), 116.3(a)(1)(A), and 116.3(a)(1)(B), as submitted.

G. Adopted by TACB on September 20, 1991, and submitted to EPA on November 5, 1991: EPA is approving the addition of sections 116.3(a)(15), as submitted.

H. Adopted by TACB on May 8, 1992, and submitted to EPA on May 13, 1992: EPA is approving revisions to sections 116.3(a)(1), (3), (4), (5), (7), (8), (9), (10), (11), (12), and (13); and 116.3(c)(1) and (b)(4), as submitted.

I. Adopted by TACB on October 16, 1992, and submitted to EPA on November 13, 1992: EPA is approving revisions to sections 116.3(a); 116.3(a)(7) and (10); and 116.14, as submitted. No action is being taken on the revisions to section 116.12 for the reasons stated in this preamble.

J. Adopted by TACB on August 16, 1993, and submitted to EPA on August 31, 1993: EPA is approving the adoption of Table I in section 116.012. No action is being taken on other provisions of this submittal for the reasons stated in this preamble.

Regulatory Process

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial

amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, today's direct final action will be effective November 27, 1995 unless, by October 27, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 27, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action has been classified as a table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory 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. *Union Carbide Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S. Ct 1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Sections 110, 172, 173, 182, 187, 189, and 191 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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 November 27, 1995. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 10, 1995.

A. Stanley Meiburg,

Deputy Regional Administrator.

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. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(97) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(97) Revisions to the Texas SIP addressing revisions to the Texas Air Control Board (TACB) General Rules, 31 Texas Administrative Code (TAC) Chapter 101, ''General Rules'', section 101.1, ''Definitions'', and revisions to TACB Regulation VI, 31 TAC Chapter 116, ''Control of Air Pollution by Permits for New Construction or Modification,'' were submitted by the Governor of Texas by letters dated December 11, 1985, October 26, 1987, February 18, 1988, September 29, 1988, December 1, 1989, September 18, 1990, November 5, 1991, May 13, 1992, November 13, 1992, and August 31, 1993.

(i) Incorporation by reference.

(A) Revisions to TACB Regulation VI, 31 TAC Chapter 116, sections 116.2 and 116.10(a)(4), as adopted by the TACB on July 26, 1985.

(B) TACB Board Order No. 85–07, as adopted by the TACB on July 26, 1985.

(C) Amended TACB Regulation VI, 31 TAC Chapter 116, section 116.10(a)(3) as adopted by the TACB on July 17, 1987.

(D) TACB Board Order No. 87–09, as adopted by the TACB on July 17, 1987.

(E) Amended TACB Regulation VI, 31 TAC Chapter 116, sections 116.10(a)(1), 116.10(c)(1), 116.10(c)(1)(A), 116.10(c)(1)(B), 116.10(c)(1)(C) and 116.10(f), as adopted by the TACB on December 18, 1987.

(F) TACB Board Order No. 87–17, as adopted by the TACB on December 18, 1987.

(G) Amended TACB Regulation VI, 31 TAC Chapter 116, redesignation of section 116.1 to 116.1(a), revision to section 116.1(b), and redesignation of

116.10(a)(6) to 116.10(a)(7), as adopted by the TACB on July 15, 1988.

(H) TACB Board Order No. 88–08, as adopted by the TACB on July 15, 1988.

(I) Amended TACB Regulation VI, 31 TAC Chapter 116, sections 116.1(a), 116.3(f), 116.5, 116.10(a)(7), 116.10(b)(1), 116.10(d), 116.10(e), 116.11(b)(3), 116.11(e), and 116.11(f), as adopted by the TACB on August 11, 1989.

(J) TACB Board Order No. 89–06, as adopted by the TACB on August 11, 1989.

(K) Amended TACB Regulation VI, 31 TAC Chapter 116, sections 116.1(c), 116.3(a)(1), 116.3(a)(1)(A), and 116.3(a)(1)(B), as adopted by the TACB on May 18, 1990.

(L) TACB Board Order No. 90–05, as adopted by the TACB on May 18, 1990.

(M) Amended TACB Regulation VI, 31 TAC Chapter 116, section 116.1(a)(15), as adopted by the TACB on September 20, 1991.

(N) TACB Board Order No. 91–10, as adopted by the TACB on September 20, 1991.

(O) Revisions to TACB General Rules, 31 TAC Chapter 101 to add definitions of ''actual emissions''; ''allowable emissions''; ''begin actual construction''; ''building, structure, facility, or installation''; ''commence''; ''construction''; ''de minimis threshold''; ''emissions unit''; ''federally enforceable''; ''necessary preconstruction approvals or permits''; ''net emissions increase''; ''nonattainment area''; ''reconstruction''; ''secondary emissions''; and ''synthetic organic chemical manufacturing process'' and to modify definitions of ''fugitive emission''; ''major facility/stationary source''; and ''major modification'' (except for Table I), as adopted by the TACB on May 8, 1992.

(P) Amended TACB Regulation VI, 31 TAC Chapter 116, sections 116.3(a)(1), (3), (4), (5), (7), (8), (9), (10), (11), (12), and (13); 116.3(c)(1); and 116.11(b)(4), as adopted by the TACB on May 8, 1992.

(Q) TACB Board Order No. 92–06, as adopted by the TACB on May 8, 1992.

(R) Amended TACB Regulation VI, 31 TAC Chapter 116, sections 116.3(a); 116.3(a)(7) and (10); 116.3(c); and 116.14 as, adopted by the TACB on October 16, 1992.

(S) TACB Board Order No. 92–18, adopted by the TACB on October 16, 1992.

(T) Amended TACB Regulation VI, 31 TAC Chapter 116, Table I, as adopted in section 116.012 by the TACB on August 16, 1993, is approved and incorporated into section 101.1 in lieu of Table I adopted May 8, 1992.

(U) TACB Board Order No. 93–17, as adopted by the TACB on August 16, 1993

(ii) Additional materials—None.

[FR Doc. 95–23962 Filed 9–26–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 0F3834/R2173; FRL–4978–2]

RIN 2070–AB78

Quizalofop-P Ethyl Ester; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of the herbicide quizalofop-p ethyl ester [ethyl(*R*)-2(-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoate], and its acid metabolite quizalofop-p, and the *S* enantiomers of both the ester and the acid, all expressed as quizalofop-p-ethyl ester, in or on the raw agricultural commodity lentils at 0.05 part per million (ppm). The regulation was requested by the E.I. du Pont de Nemours & Co., Inc., under the Federal Food, Drug and Cosmetic Act (FFDCA) and establishes the maximum permissible level for residues of the herbicide in or on lentils.

EFFECTIVE DATE: This regulation becomes effective September 27, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 0F3834/R2173], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 0F3834/R2173]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM-25), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6027; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 18, 1995 (60 FR 36768), EPA issued a proposed rule that gave notice that the E.I. du Pont de Nemours & Co., Inc., Walkers Mill Bldg., Barley Mill Plaza, Wilmington, DE 19880, had submitted pesticide petition (PP) 0F3834 to EPA proposing that under the FFDCA (21 U.S.C. 346a), 40 CFR 180.441 be amended by establishing a regulation to permit the combined residues of the herbicide quizalofop ethyl [ethyl-(*R*)-(2-[4-((6-chloroquinoxalin-2yl)-oxy)phenoxy])-propanoate)), and its acid metabolite, and the *S* enantiomers of both the acid and the ester, all expressed as quizalofop-p ethyl ester, in or on lentils.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the