



This document is scheduled to be published in the Federal Register on 10/06/2015 and available online at <http://federalregister.gov/a/2015-25343>, and on [FDsys.gov](http://FDsys.gov)

**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2010-0283; FRL-9935-04-Region 6]**

**Approval and Promulgation of Implementation Plans; Texas; Revisions to the Minor New Source Review (NSR) State Implementation Plan (SIP) for Portable Facilities**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on March 19, 2010 and July 2, 2010. These revisions to the Texas SIP revise the minor New Source Review (NSR) program to provide for the relocation and change of location of permitted portable facilities, establish definitions related to portable facilities, and establish public participation for changes of location to portable facilities. The EPA finds that these revisions to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and are consistent with our regulations and policy for minor NSR. The EPA is finalizing this approval under section 110 of the Act.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2010-0283. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Ms. Aimee Wilson, (214) 665-7596, [wilson.aimee@epa.gov](mailto:wilson.aimee@epa.gov).

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

## **I. Background**

The background for today’s action is discussed in detail in our July 17, 2015 proposal (80 FR 42443). In that notice, we proposed to approve severable portions of SIP submittals for the State of Texas submitted on March 19, 2010, and July 2, 2010 that revised the Texas SIP minor NSR program for portable facilities. The TCEQ issues the underlying minor NSR portable facility permits under the existing minor NSR SIP provisions in Chapter 116. 30 TAC Sections

116.20 and 116.178 provide that once a permit has been issued to a portable facility, the facility can be moved either through a change of location or a relocation. A change of location occurs when a portable facility is moved to a new location and is required to go through the SIP-approved minor NSR public notice requirements of Chapter 39. A relocation of a portable facility is movement of the portable facility without public notice under Chapter 39. Relocations occur in one of two scenarios. First, portable facilities can be relocated to a location in support of a public works project in which the new site is located in or contiguous to the right-of way of the public works project. The second possibility, is that a portable facility relocates to a site in which a portable facility has previously been located at any time during the previous two years and the site was subject Chapter 39 public notice requirements. Public notice requirements for the change of location or relocation of a portable facility are established at 30 TAC Section 39.402(a)(12). We received one comment letter in support of our proposal. Therefore, we are taking this final action under section 110 of the Act.

## **II. Final Action**

We are approving severable portions of SIP submittals for the State of Texas submitted on March 19, 2010, and July 2, 2010, that revised the Texas SIP minor NSR program for portable facilities. The EPA has determined that the submitted rules were adopted and submitted in accordance with the CAA and are consistent with our regulations and policies regarding minor NSR permitting. Therefore, the EPA approves the following as revisions to the Texas SIP:

- 30 TAC Section 116.20 as adopted on February 10, 2010, submitted on March 19, 2010;
- 30 TAC Section 116.178 as adopted on February 10, 2010, submitted on March 19, 2010;
- and
- 30 TAC Section 39.402(a)(12) adopted on June 2, 2010, submitted on July 2, 2010.

This action is being taken under section 110 of the Act.

### **III. Incorporation by Reference**

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR part 52**

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

Dated: September 23, 2015.

**Ron Curry,**  
*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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 table titled “EPA Approved Regulations in the Texas SIP” is amended by revising the entry for Section 39.402 and adding a new entry for Section 116.20, and by adding a new heading for “Division 8” and a new entry for Section 116.178 in numerical order, to read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/Subject	State approval/ Submittal date	EPA approval date	Explanation
* * * * *				
<b>Chapter 39 – Public Notice</b>				
<b>Subchapter H – Applicability and General Provisions</b>				
Section 39.402	Applicability to Air Quality Permits and Permit Amendments	6/2/2010	<b>[Insert Date of Publication in the Federal Register] [Insert Federal Register citation]</b>	SIP includes 39.402 (a)(1)-(a)(6), (a)(8), (a)(11), and (a)(12).
* * * * *				

<b>Chapter 116 (Reg 6) – Control of Air Pollution by Permits for New Construction or Modification</b>				
<b>Subchapter A – Definitions</b>				
* * * * *				
Section 116.20	Portable Facilities Definitions	2/10/2010	[Insert Date of Publication in the Federal Register] [Insert Federal Register citation]	
<b>Subchapter B – New Source Review Permits</b>				
* * * * *				
<b>Division 8 – Portable Facilities</b>				
Section 116.178	Relocations and Changes of Location of Portable Facilities	2/10/2010	[Insert Date of Publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				

[FR Doc. 2015-25343 Filed: 10/5/2015 08:45 am; Publication Date: 10/6/2015]