(B) [Reserved]. For further guidance, see § 301.7701–2(c)(2)(iv)(B).

(C) *Exceptions.* For exceptions to the rule in § 301.7701–2(c)(2)(iv)(B), see sections 31.3121(b)(3)–1(d), 31.3127–1(c), and 31.3306(c)(5)–1(d).

(D) through (e)(4) [Reserved]. For further guidance, see § 301.7701–2(c)(2)(iv)(D) through (e)(4).

(5) Paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section apply to wages paid on or after November 17, 2011. For rules that apply to paragraph (c)(2)(iv)(A) of this section before November 17, 2011, see 26 CFR part 301 revised as of April 1, 2009. However, taxpayers may apply paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section to wages paid on or after January 1, 2009.

(e)(6) through (e)(7) [Reserved]. For further guidance, see § 301.7701–2(e)(6) through (e)(7).

(8) *Expiration Date.* The applicability of paragraphs (c)(2)(iv)(A) and (c)(2)(iv)(C) of this section expires on or before November 14, 2014.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2011–29560 Filed 11–16–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–1042]

Drawbridge Operation Regulation; China Basin, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Third Street Drawbridge across China Basin, mile 0.0, at San Francisco, CA. The deviation is necessary to allow the City of San Francisco to inspect the bridge structure as required by the U.S. Department of Transportation. This deviation allows the bridge to be secured in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 10 a.m. to 2 p.m. on November 16, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of the docket USCG–2011–1042 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1042 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone (510) 437–3516, email *David.H.Sulouff@uscg.mil* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The City of San Francisco requested a temporary change to the operation of the Third Street Drawbridge, mile 0.0, over China Basin, at San Francisco, CA. The drawbridge navigation span provides a vertical clearance of 3 feet above Mean High Water in the closed-to-navigation position. As required by 33 CFR 117.149, the draw shall open on signal if at least one hour notice is given to the San Francisco Department of Public Works. Navigation on the waterway is commercial and recreational.

The Third Street Drawbridge will be secured in the closed-to-navigation position from 10 a.m. to 2 p.m. on November 16, 2011, to allow the City of San Francisco to inspect the bridge structure as required by the U.S. Department of Transportation. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were received.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time. In the event of an emergency, the drawbridge can open upon one hour notice.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 3, 2011.

D.H. Sulouff,

Bridge Section Chief, Eleventh Coast Guard District.

[FR Doc. 2011–29652 Filed 11–16–11; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0025; FRL–9489–8]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); General Definitions; Definition of Modification of Existing Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, as proposed July 18, 2011, several revisions to the State Implementation Plan (SIP) for the State of Texas that relate to severable portions of the definition of ''modification of existing facility'' in the general definitions for the Texas NSR Program. EPA finds that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, and are consistent with EPA policies. EPA is also disapproving a severable portion of the definition that was proposed for disapproval on September 23, 2009. EPA is taking these actions under section 110 of the Act.

DATES: This final rule is effective December 19, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2005–TX–0025. 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 Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7253 to make an appointment. If possible, please make the appointment at least two working

days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, *telephone* (214) 665–7212; *fax number* (214) 665–6762; *email address spruiell.stanley@epa.gov.*

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

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I. The State's Submittals

On March 13, 1996; July 22, 1998; and September 4, 2002; the State of Texas submitted revisions to the Texas State Implementation Plan (SIP) concerning the definition of ''modification of existing facility'' for minor source permitting under Title 30 of the Texas Administrative Code (30 TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Subchapter A—Definitions. The definition of ''modification of existing facility'' for minor NSR permitting is located at 30 TAC 116.10(11) in the September 4, 2002, submittal. The March 13, 1996, revisions to this definition were repealed and readopted, and new versions were submitted to EPA on July 22, 1998. This definition was later recodified from 30 TAC 116.10(9) to 116.10(11) in a SIP submittal dated September 4, 2002.

Section 30 TAC 116.10—General Definitions—is currently approved as adopted by Texas on August 21, 2002, and as approved April 14, 2010 (75 FR 19468). As approved, the current SIP does not include all the definitions under Section 116.10, including the definition of ''modification of existing facility'' found in Section 116.10(11). On July 18, 2011 (76 FR 42078), EPA proposed to approve severable portions of this definition first adopted by Texas on February 14, 1996 (submitted March 13, 1996). The next submittal reflects the Texas repeal and readoption of this definition as Section 116.10(9) on June 17, 1998 (submitted July 22, 1998). The regulatory history of the March 13, 1996 submittal was used to evaluate the later submittals. On July 18, 2011 (76 FR 42078), we proposed to approve severable portions of the definition ''modification of existing facility'' as submitted on July 22, 1998, and the redesignation of this definition to Section 116.10(11) adopted August 21, 2002 (submitted September 4, 2002). We also proposed to approve Subparagraphs (C) and (D) of this definition as submitted July 22, 1998, and September 4, 2002. In response to this proposal, we received comments from the Texas Industry Project (TIP) and the BCCA Appeal Group (BCCAAG).

On September 23, 2009 (74 FR 48450), EPA proposed to disapprove severable portions of the definition of ''modification of existing facility'' under Subparagraph (G). In response to this proposal, we received comments from the University of Texas at Austin, Environmental Clinic (UT Environmental Clinic).[1] Today, we finalize our disapproval of Subparagraph (G) as not meeting the requirements of the CAA.

EPA is taking these actions under section 110 of the Act.

Finally, please note that Texas submitted further revisions to 30 TAC 116.10 on October 5, 2010. This includes the removal of two definitions, the renumbering of other definitions, and revisions to certain definitions. In this October 2010 submittal, TCEQ renumbered the definition of ''modification of existing facility'' to Section 116.10(9) and relettered Subparagraphs (C) and (D) to Subparagraphs (B) and (C), respectively, with no other changes. We are not acting on the October 5, 2010, SIP submittal here. We will address the October 2010 SIP revisions in a separate action.

Additional information related to these SIP submittals is contained in the Technical Support Documents (TSD) for the September 23, 2009,[2] and July 18, 2011,[3] proposals, which are in the docket for this action.

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

[1] The UT Environmental Clinic forwarded its comments on behalf of: Environmental Integrity Project: Environmental Defense Fund; Galveston-Houston Association for Smog Prevention; Public Citizen; Citizens for Environmental Justice; Sierra Club Lone Star Chapter; Community-In-Power and Development Association; KIDS for Clean Air; Clean Air Institute of Texas; Sustainable Energy and Economic Development Coalition; Robertson County: Our Land, Our Lives; Texas Protecting Our Land, Water, and Environment; Citizens for a Clean Environment; Multi-County Coalition; and Citizens Opposing Power Plants for Clean Air.

[2] The TSD for the September 23, 2009, proposal is in the docket as document EPA–R06–OAR–2005–TX–0025–0007. You can access this TSD on line at: *http://www.regulations.gov/#!documentDetail;D=EPA-R06-OAR-2005-TX-0025-0007.*

[3] The TSD for the July 18, 2011, proposal is in the docket as document EPA–R06–OAR–2005–TX–0025–0378. You can access this TSD on line at: *http://www.regulations.gov/#!documentDetail;D=EPA-R06-OAR-2005-TX-0025-0378.*

Section	Title	Date submitted	Date adopted by TCEQ	Description of change	Date of EPA proposed action	Final EPA action
30 TAC 116.10(11)	Definition of modification of existing facility—Introductory paragraph.	3/13/1996 7/22/1998 9/4/2002	2/14/1996 6/17/1998 8/21/2002	Initial adoption ..... Repeal and readoption as Section 116.10(9). Recodification to Section 116.10(11).	7/18/2011—proposed approval.	Approval.
30 TAC 116.10(11)(C)	Exclusion of maintenance and replacement of equipment.	3/13/1996 7/22/1998 9/4/2002	2/14/1996 6/17/1998 8/21/2002	Initial adoption ..... Repeal and readoption as Section 116.10(9)(C). Recodification to Section 116.10(11)(C).	7/18/2011—proposed approval.	Approval.
30 TAC 116.10(11)(D)	Exclusion of increase in annual hours of operation.	3/13/1996 7/22/1998 9/4/2002	2/14/1996 6/17/1998 8/21/2002	Initial adoption ..... Repeal and readoption as Section 116.10(9)(D). Recodification to Section 116.10(11)(D).	7/18/2011—proposed approval.	Approval.
30 TAC 116.10(11)(G)	Exclusion of certain changes natural gas processing, treating, or compression facilities.	3/13/1996 7/22/1998 9/4/2002	2/14/1996 6/17/1998 8/21/2002	Initial adoption ..... Repeal and readoption as Section 116.10(9)(G). Recodification to Section 116.10(11)(G).	9/23/2009—proposed disapproval.	Disapproval.

In a separate proposal published on September 23, 2009, 74 FR 48450, EPA proposed to disapprove severable provisions in Subparagraphs (A), (B), and (G) of the definition of ''modification of existing facility'' at 30 TAC 116.10(11). In light of revisions that were submitted on October 5, 2010, revising the language of Subparagraph (A) and eliminating Subparagraph (B), EPA will withdraw its proposed actions on Subparagraphs (A) and (B) in a separate action. Subparagraph (A) as it appears in the October 5, 2010, submittal will be evaluated and will be addressed in a separate future action. Based upon our proposed disapproval of 30 TAC 116.10(11)(G) and our evaluation of the comments received on that proposal, EPA is taking final action to disapprove 30 TAC 116.10(11)(G) submitted March 13, 1996; July 22, 1998; and September 4, 2002.

II. What action is EPA taking?

We have evaluated severable portions of the SIP submissions of 30 TAC 116.10(11), which include the introductory paragraph of the definition of ''modification of existing facility,'' and Subparagraphs (C) and (D) of that definition for consistency with the CAA, and NSR regulations for new and modified sources in 40 CFR part 51. We have also reviewed the rules for enforceability and legal sufficiency.

This action addresses severable portions of the definition of modification of existing facility under 30 TAC 116.10(11), including the introductory paragraph and Subparagraphs (C) and (D) of the definition submitted March 13, 1996; July 22, 1998; and September 4, 2002. A technical analysis of the submittals for this definition has found that these changes meet the CAA and 40 CFR part 51. EPA received two comments in support of this proposal and did not receive any adverse comments. Therefore, EPA approves as proposed the severable portions of the definition of ''modification of existing facility'' under 30 TAC 116.10(11), including the introductory paragraph of Section 116.10(11) and Subparagraphs (C) and (D) of this definition, submitted on March 13, 1996; July 22, 1998; and September 4, 2002. As discussed earlier, in a separate SIP submittal dated October 5, 2010, 30 TAC 116.10(11) Subparagraphs (C) and (D) were renamed as 30 TAC 116.10(9) and Subparagraphs (B) and (C), respectively. EPA is not acting on the changes submitted October 2010, and will address these revisions in a separate action.

In a separate proposal published on September 23, 2009 (74 FR 48450), EPA proposed to disapprove 30 TAC 116.10(11)(G). Based upon our proposed disapproval of this rule and our evaluation of the comments received on our proposed disapproval of Subsection (G), EPA is taking final action to disapprove 30 TAC 116.10(11)(G) submitted March 13, 1996; July 22, 1998; and September 4, 2002.

On September 23, 2009, 74 FR 48450, EPA also proposed to disapprove severable provisions in Subparagraphs (A) and (B) of the definition of ''modification of existing facility.'' In light of revisions that were submitted on October 5, 2010, revising the language of Subparagraph (A) and eliminating Subparagraph (B), EPA will withdraw its proposed actions on Subparagraphs (A) and (B) in a separate action. Subparagraph (A) as it appears in the October 5, 2010, submittal will be evaluated and will be addressed in a separate future action.

III. EPA's Evaluation of Severable Portions of the Definition of ''Modification of Existing Facility''

A. Approval of 30 TAC 116.10(11)—Introductory Paragraph of the Definition of ''Modification of Existing Facility''

1. What is the background of the introductory paragraph of 30 TAC 116.10(11)—introductory paragraph?

The TCEQ initially submitted the introductory paragraph of the general definition of ''modification of existing facility'' on March 13, 1996. On July 22, 1998, TCEQ repealed and resubmitted this definition as readopted at 30 TAC 116.10(9). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11). The submitted regulatory definition of the introductory paragraph that we are addressing here provides that a modification of an existing facility is ''any physical change in, or change in

the method of operation of, a facility in a manner that increases the amount of air contaminants emitted by the facility into the atmosphere or which results in the emission of any air contaminant not previously emitted.''

2. What is EPA's evaluation of the submitted revisions to the introductory paragraph of 30 TAC 116.10(11)?

EPA approved the definition of ''facility'' in Subchapter A: Definitions on September 6, 2006 (71 FR 52698) as part of the Texas SIP. ''Facility'' is defined as ''[a] discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not a facility.'' See approved SIP at 30 TAC 116.10(6). The submitted regulatory definition for ''modification of existing facility'' also is in Subchapter A, Section 116.10. Therefore, ''existing facility'' is limited by the terms of the SIP definition of ''facility.'' In our evaluation of this introductory paragraph in the submitted regulatory definition of modification of existing facility, we compared it to how ''modification'' is defined in the CAA and in our regulations.

The CAA defines modification in Section 111(a)(4) as ''any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any pollutant not previously emitted.'' In 40 CFR 52.01(d), the phrases ''modification'' and ''modified source'' are defined as any physical change in, or change in the method of operation of, a stationary source which increases the emission rate of any air pollutant for which a national standard has been promulgated under part 50 of this chapter or which results in the emission of any such pollutant not previously emitted.

The introductory paragraph of 30 TAC 116.10(11) is substantially the same as the definitions in section 111(a)(4) of the Act and 40 CFR 52.01(d).

The existence of a different definition for ''major modification,'' in Section 116.12—Nonattainment and Prevention of Significant Review Definitions—that is applicable for Major NSR [4] serves to distinguish the provisions in the introductory paragraph of section 116.10(11) from the Major NSR Program and limit its application to Minor NSR.

In response to our proposed approval, we received comments from TIP and BCCAAG. The commenters agree that the regulatory language in 30 TAC 116.10(11) is consistent with the CAA and EPA regulations and that SIP approval is warranted.

Based upon the proposal and consideration of the comments we received, we are approving the introductory paragraph of 30 TAC 116.10(11), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

B. Approval of 30 TAC 116.10(11)(C)—Exclusion for Maintenance and Replacement of Equipment

1. What is the background of 30 TAC 116.10(11)(C)?

On March 13, 1996, this provision was submitted as Subparagraph (C) under the definition of ''modification of existing facility.'' In the July 22, 1998, submittal, the provision was repealed and resubmitted as 30 TAC 116.10(9)(C). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11)(C). As submitted, Subparagraph (C) provides that maintenance or replacement of equipment components that do not increase or tend to increase the amount or change the characteristics of the air contaminants emitted into the atmosphere is not a modification to an existing facility.

2. What is EPA's evaluation of the submitted revisions to 30 TAC 116.10(11)(C)?

The submitted Subparagraph (C) mirrors the definition in the Texas Clean Air Act (TCCA). Under Subparagraph (C), any maintenance and repair of equipment components that increases emissions, or tends to increase emissions, will be considered a modification consistent with the introductory paragraph of 30 TAC 116.10(11). Accordingly, the limitation in Subparagraph (C) protects against increases in emissions and thereby does not interfere with attainment or reasonable further progress. The definition of ''major modification'' in Section 116.12 has a different exclusion for routine maintenance, repair, and replacement. The existence of a different exclusion in the Section 116.12 that is applicable for Major NSR serves to distinguish the provisions in paragraph (C) from the Major NSR Program and limit its application to Minor NSR.

In response to our proposed approval, we received comments from TIP and BCCAAG. The commenters agree that the regulatory language in 30 TAC 116.10(11)(C) is consistent with the CAA and EPA regulations and that SIP approval is warranted.

Based upon the proposal and consideration of the comments we received, we are finalizing our approval of 30 TAC 116.10(11)(C), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

C. Approval of 30 TAC 116.10(11)(D)—Exclusion for an Increase in Annual Hours of Operation

1. What is the background of 30 TAC 116.10(11)(D)?

On March 13, 1996, this provision was submitted as Subparagraph (D) under the definition of ''modification of existing facility.'' In the July 22, 1998, submittal, the provision was repealed and resubmitted as 30 TAC 116.10(9)(D). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11)(D). As submitted, Subparagraph (D) provides that an increase in the annual hours of operation is not a modification to an existing facility, unless the existing facility has received a preconstruction permit or has been exempted, under TCAA, § 382.057, from preconstruction permit requirements.

2. What is EPA's evaluation of the submitted revisions to 30 TAC 116.10(11)(D)?

The submitted Subparagraph (D) mirrors the definition in the Texas Clean Air Act (TCCA). Subparagraph (D) is similar to 40 CFR 52.01(d)(2)(ii), which provides that an increase in the hours of operation shall not be considered a change in the method of operation. The operative language in the submitted Subparagraph (D) is substantially the same as 40 CFR 52.01(d)(2)(ii). Furthermore, Subparagraph (D) includes additional language that clarifies that an increase in hours of operation may be a modification for existing minor facilities having preconstruction permits or exemptions, under TCAA § 382.057 [5] for preconstruction permit requirements. This language limits the reach of the

[4] Section 116.12 as currently approved in the Texas SIP applies only to the Major NSR Program for Nonattainment Review. SIP revisions submitted February 1, 2006, and March 11, 2011, revised the definition to apply to both Nonattainment Review and Prevention of Significant Deterioration. EPA is currently reviewing these revisions and plans to act upon them shortly. The definitions in Section 116.12 are effective as State rules and the TCEQ implements them as part of its Major NSR Program.

[5] The term ''exemptions'' is a misnomer. Exemptions in Texas now are called Permits by Rule. An ''exemption'' since 1972 in Texas and in the Texas SIP, is an authorization to construct and/or modify if certain conditions are met.

exclusion in scenarios where an existing facility is subject to limitations on hours of operation under the terms of a preconstruction permit or an exemption. This is consistent with Federal requirements in 40 CFR 52.01(d)(2)(ii). Subparagraph (D) meets the Federal requirements as described above. Again, the definition of ''major modification'' in Section 116.12 has a different exclusion for an increase in the annual hours of operation. The existence of a different exclusion in the Section 116.12 that is applicable for Major NSR serves to distinguish the provisions in paragraph (D) from the Major NSR Program and limit its application to Minor NSR.

In response to our proposed approval, we received comments from TIP and BCCAAG. The commenters agree that the regulatory language in 30 TAC 116.10(11)(D) is consistent with the CAA and EPA regulations and that SIP approval is warranted.

Based upon the proposal and consideration of the comments we received, we are finalizing our approval of 30 TAC 116.10(11)(D), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

D. Disapproval of 30 TAC 116.10(11)(G)—Exclusions for Changes at Certain Natural Gas Processing, Treating, or Compression Facilities

1. What is the background of 30 TAC 116.10(11)(G)?

On March 13, 1996, this provision was submitted as Subparagraph (G) under the definition of ''modification of existing facility.'' In the July 22, 1998, submittal, the provision was repealed and resubmitted as 30 TAC 116.10(9)(D). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11)(D). On September 23, 2009, EPA proposed to disapprove the submitted revisions relating to 30 TAC 116.10(11)(G).

2. What is EPA's evaluation of the submitted revisions to 30 TAC 116.10(11)(G)?

The submittals provide that changes at certain natural gas processing, treating, or compression facilities are not modifications if the change does not result in an annual emissions rate of any air contaminant in excess of the volume for grandfathered facilities. The ''annual emissions rate'' is the same as the ''volume emitted at maximum design capacity;'' therefore, this would provide an exemption for those sources from permit review for any emission increases at these facilities. The requirements of 40 CFR 51.160(e) allow a State to identify facilities which will be subject to review under its minor NSR program and require its minor NSR SIP to discuss the basis for determining which facilities will be subject to review. The submittals, however, do not contain an applicability statement or regulatory provision limiting this type of change to minor NSR. There is no explanation of the reason for exempting this type of change from the permitting SIP requirements. Without the submittal by the State of an analysis describing how this exemption does not negate the major NSR SIP requirements and meets the minor NSR SIP requirements in 40 CFR 51.160 and the Act's antibacksliding requirements in section 110(l), EPA proposed to disapprove this submitted definition.

In response to our proposed disapproval, we received comments from the UT Environmental Clinic (Clinic) and TCEQ. The Clinic supported the disapproval of this exemption from the definition of modification of existing facility because the exemption could apply to major modifications and because TCEQ did not demonstrate that the exemption will not interfere with attainment or cause a violation of a control strategy. EPA acknowledges that these comments support its basis for proposing disapproval of this exemption because it could allow major modifications without undergoing review that satisfies the applicable permitting requirements for Major NSR under 40 CFR 51.165 and/or 51.166, as applicable. The exemption may also allow a source to increase emissions without a demonstration that such change will not interfere with attainment or maintenance of a National Ambient Air Quality Standard (NAAQS) or cause a violation of a control strategy. The TCEQ commented that it will consider EPA's comments regarding its proposed disapproval of 30 TAC 116.10(11)(G), but provided no information which demonstrates that this provision meets the requirements for SIP approval.[6]

3. What are the grounds for disapproval of 30 TAC 116.10(11)(G)?

Based upon the September 23, 2009, proposal and the consideration of comments provided, EPA is disapproving the exemption in 30 TAC 116.10(11)(G) on the following grounds:

- This definition exempts changes at certain natural gas processing, treating, or compression facilities as non-modifications if the change does not result in an annual emissions rate of any air contaminant in excess of the volume for grandfathered facilities from the definition of modification of existing facility. However, TCEQ did not provide any discussion of the basis for this exemption as required by 40 CFR 51.160(e).
- The submitted definition includes no applicability statement or regulatory provision limiting this type of change to minor NSR.
- The submitted rule includes no demonstration that the exempted change at a natural gas processing, treating, or compression facility does not result in an annual emissions rate of any air contaminant in excess of the volume for grandfathered facilities, and does not interfere with attainment or maintenance of a NAAQS or cause a violation of a control strategy as required under 40 CFR 51.161(a).

Based upon the September 23, 2009, proposal, and consideration of the comments received, we are finalizing our disapproval of 30 TAC 116.10(11)(G) as submitted March 11, 1996; July 22, 1998; and September 4, 2002.

E. Response to Other Comments on the July 18, 2011, Proposal

TIP and BCCAAG commented that EPA should take into account the dramatic improvements in Texas's air quality in acting on the definition of ''modification of existing facility'' and other SIP revisions. The commenters assert that Texas's integrated air permitting program, including the definition which EPA now proposes to approve, has played a key role in Texas's air quality success. TIP and BCCAAG urge EPA to approve the entire ''modification of existing facility'' as part of this integrated program. The commenters cite to substantial reductions in several air pollutants and reductions in ambient concentrations in monitored levels of ozone, nitrogen dioxide, sulfur dioxide, and carbon monoxide from 1990 to 2009.

Our actions on the severable parts of the definition of ''modification of existing facility'' are based upon whether the definition meets the applicable requirements of the CAA, as discussed herein. EPA is required to review a SIP revision submission for compliance with the CAA and EPA regulations. CAA 110(k)(3). See also *BCCA Appeal Group* v. *EPA,* 355 F 3d. 817, 822 (5th Cir. 2003), *Natural Resource Defense Council* v. *Browner,* 57 F.3d 1122, 1123 (DC Cir. 1995).

[6] On October 5, 2010, TCEQ submitted a revision that renumbered 30 TAC 116.10(11)(G) to 30 TAC 116.10(9)(F), but made no changes to the substance of this provision.

The submitted data, even if accepted, does not show that gains are attributable to the definition of ''modification of existing facility,'' and the commenter's claim regarding the data does not take account of SIP-approved control strategies (both State and Federal programs) and other Federal and State programs. The approvals of revisions which we finalize today are based on our review of the Texas submittals following the analysis furnished in the proposal in accordance with the CAA.

IV. Final Action

Today, EPA is approving the following revisions to the Texas SIP to include severable provisions of the definition of ''modification of existing facility'' under 30 TAC 116.10(11), submitted March 13, 1996; July 22, 1998; and September 4, 2002. This includes the following:

- 30 TAC 116.10(11)—the introductory paragraph of the definition of ''modification of existing facility;''
- 30 TAC 116.10(11)(C)—Exclusion for maintenance and replacement of equipment; and
- 30 TAC 116.10(11)(D)—Exclusion for an increase in annual hours of operation.

Today, EPA is also disapproving the severable portion of definition of ''modification of existing facility'' under 30 TAC 116.10(11)(G), submitted March 13, 1996; July 22, 1998; and September 4, 2002.

Final action on these revisions on or before October 31, 2011, will meet EPA's obligation on the NSR Rules Revisions; 112(g) Revisions component of the May 21, 2009, Settlement Agreement between EPA and the Business Coalition for Clean Air Appeal Group, Texas Association of Business, and Texas Oil and Gas Association.

EPA is not taking further action on the following severable provisions of 30 TAC 116.10(11):

- 30 TAC 116.10(11)(E). EPA disapproved Subparagraph (E) in a separate action on April 14, 2010, 75 FR 19468. EPA will address any subsequent submittals containing Subparagraph (E) as newly revised in a separate action.
- 30 TAC 116.10(11)(F). EPA disapproved Subparagraph (F) in a separate action on July 15, 2010, 75 FR 41312. EPA will address any subsequent submittals containing Subparagraph (F) as newly revised in a separate action.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this SIP approval and disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new information collection burdens but simply approves and disapproves certain State severable requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b). Because this final action does not impose an information collection burden, the Paperwork Reduction Act does not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. This rule will not have a significant impact on a substantial number of small entities because SIP approvals and disapprovals under section 110 of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the States are already imposing.

Furthermore, as explained in this action, a severable portion of the submissions does not meet the requirements of the Act and EPA cannot approve the severable portion of the submissions. The final disapproval will not affect any existing State requirements applicable to small entities in the State of Texas. Federal disapproval of a severable portion of a State submittal does not affect its State enforceability. After considering the economic impacts of today's rulemaking on small entities, and because the Federal SIP disapproval does not create any new requirements or impact a substantial number of small entities, 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 ''for State, local, or tribal governments or the private sector.'' EPA has determined that the approval and disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action determines that pre-existing requirements under State or local law should not be approved as part of the Federally-approved SIP. It imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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.''

This action does not have Federalism implications. It 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 and disapproves severable portions of certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP approval and disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, (February 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it 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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

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 January 17, 2012. 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, Incorporation by reference, Intergovernmental relations.

Dated: October 31, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7402 *et seq.*

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under Chapter 116, Subchapter A, by revising the entry for Section 116.10 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
*	*	*	*	*
Chapter 116—Control of Air Pollution by Permits for New Construction or Modification Subchapter A—Definitions				
Section 116.10	General Definitions	8/21/2002	November 17, 2011, [Insert FR page number where document begins].	The SIP does not include paragraphs (1), (2), (3), (7)(F), (11)(A), (11)(B), (11)(E), (11)(F), (11)(G), and (16).
*	*	*	*	*

■ 3. Section 52.2273 is revised by adding a new paragraph (g) to read as follows:

§ 52.2273 Approval status.

* * * * *

(g) EPA has disapproved the Texas SIP revision submittals under 30 TAC Chapter 116—Control of Air Pollution by Permits for New Construction or Modification—Subchapter A—Definitions—Section 116.10(11)(G), adopted February 14, 1996, and submitted March 13, 1996; repealed and re-adopted June 17, 1998, and submitted July 22, 1998; and adopted August 21, 2002, and submitted September 4, 2002.

[FR Doc. 2011–29641 Filed 11–16–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 00–168, 00–44; FCC 11–162]

Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts an Order on Reconsideration that vacates Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement For Children's Television Programming Report (FCC Form 398), MB Docket No. 00–168, 00–44, FCC 07–205, *Report & Order,* (''*Order*''). The *Order* created a standardized form for the quarterly reporting of programming aired in response to issues facing a television station's community and a requirement that portions of each television station's public inspection file be placed on the Internet. The *Order* was never implemented.

DATES: Effective November 17, 2011.

FOR FURTHER INFORMATION CONTACT: *Holly Saurer, Holly.Saurer@fcc.gov* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Order on Reconsideration in MB Docket No. 00–168, 00–44, FCC 11–162, adopted October 27, 2011, and released October 27, 2011. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Final Rule

I. Introduction

1. In this *Order on Reconsideration* we take steps to modernize the way television broadcasters inform the public about how they are serving their communities. We vacate the prior *Report and Order,*[1] thereby resolving pending petitions for reconsideration of that order, re-codify the public file rules in existence prior to adoption of the *Report and Order,* and seek comment on the proposals set forth in a Further Notice of Proposed Rulemaking.

II. Background

2. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. Broadcasters are afforded considerable flexibility in how they meet that obligation, but they must maintain a public inspection file, which gives the public access to information about the station's operations and enables members of the public to engage in an active dialogue with broadcast licensees regarding broadcast service. Among other things, the public inspection file must contain an issues/programs list, which describes the ''programs that have provided the station's most significant treatment of community issues during the preceding three month period.'' The original *Notice of Proposed Rulemaking* in this proceeding grew out of a prior *Notice of Inquiry,* which explored the public interest obligations of broadcast television stations as they transitioned to digital.[2] In the 2000 *NPRM,* the

[1] *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations,* Report and Order, 73 FR 13452 (2007) (''*Report and Order*''); *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations,* Erratum, 73 FR 30316 (2007).

[2] *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations,* Notice of Proposed Rulemaking, 65 FR 62683 (2000) (''*NPRM*''); *In the Matter of Public Interest Obligations of TV*

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