

residence, school, or place of worship. This restriction strengthens the existing SIP by providing additional assurance that occupants in such buildings will not be adversely affected by exposure to the air contaminants emitted from concrete crushing facilities. This provision, together with the existing SIP-approved provisions of Section 116.111(2)(A)(i), will ensure better protection of public health and welfare. This meets the requirement in 40 CFR 51.160(a) that each plan include legally enforceable procedures to determine whether the construction or modification of a facility, building, structure, or installation, or combination of these will result in (1) a violation of applicable portions of the control strategy; or (2) interference with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a neighboring state. Compliance with this distance requirement to locate a concrete crushing plant at least 440 yards from any building used as a single or multi-family residence, school, or place of worship, will help ensure that the requirements of 40 CFR 51.160 are met.

The revision also meets 40 CFR 51.160(e) by identifying a type of facility that will be subject to review under 40 CFR 51.160(a). In this case, Texas has identified concrete crushing facilities and specified a distance requirement for such facilities.

This distance limitation does not apply to an existing concrete crushing facility which was authorized and actually located or operating at a site as of September 1, 2001. This provision allows an existing concrete crushing facility to continue operating at the site and to change its existing permit at such a site without being required to meet the distance limitation that otherwise applies to new and relocated facilities. If an existing facility were to relocate to another location after September 1, 2001, then the facility must comply with the distance limitation in Section 116.112(3).

As proposed by TCEQ on September 27, 2002, the distance limitations in Section 116.112(3) would have applied to all equipment and stockpiles associated with a concrete crushing facility. In response to public comments on the proposed rule, the TCEQ changed the rule to remove the references to stockpiles. This change was based upon TCEQ's determination that a stockpile associated with a concrete crushing facility is not subject to House Bill (HB) 2912, Section 5.07, the legislation that required TCEQ to adopt this distance limitation.

The exclusion from the distance limitation in Section 116.112(3) to an existing concrete crushing facility authorized and actually located or operating at a site as of September 1, 2001, and to stockpiles associated with a concrete crushing facility does not affect our ability to approve the distance limitations in Section 116.112(3). Such facilities must continue to meet the existing SIP-approved requirements in Section 116.111(2)(A)(i), which require sources subject to new source permitting in Texas to protect public health and welfare. This meets the requirements of 40 CFR 51.160(a) by ensuring that emissions from such facilities will not interfere with the attainment or maintenance of a national standard. Such facilities are also subject to the current SIP-approved requirements of Section 116.111(2)(A)(ii) which provides that when TCEQ issues a permit for construction or modification of any facility within 3,000 feet of an elementary, junior high/middle, or senior high school, the TCEQ shall consider any adverse short-term or long-term side effects that an air contaminant or nuisance odor from the facility may have on the individuals attending the schools. This ensures protection of individuals in such schools from adverse effects of emissions of air contaminants from such facilities.

The Technical Support Document, which is part of the record for this action, contains more detailed information on how the revision meets the requirements of the Act, including Section 110 and implementing regulations.

### III. What Final Action Is EPA Taking?

We are approving as a revision to the Texas SIP revisions of 30 TAC Section 116.112—Distance Limitations, which Texas submitted on January 3, 2003. We are processing this action as a direct final action because it adds noncontroversial regulations to the SIP. We do not anticipate any relevant adverse comments. However, we are today publishing in the "Proposed Rules" section of today's **Federal Register** a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will become effective on December 1, 2003 without further notice unless we receive adverse comment by October 30, 2003. If we receive such comments, we will publish a document withdrawing the direct final rule in the **Federal Register** and informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the

proposed rule. We will not institute a second comment period on this action. Parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 1, 2003. Please note that if we receive adverse comment on a part of this rule and if the part can be severed from the remainder of the rule, we may adopt as final those parts of the rule that are not subject to an adverse comment.

### IV. General Information

#### A. What Is the Public Rulemaking File?

The EPA is committed to ensuring public access to the information used to inform the public of the Agency's decisions regarding the environment and human health and to ensuring that the public has an opportunity to participate in the Agency's decision-making process. The official public rulemaking file consists of the documents specifically referenced in a particular agency action, any public comments received, and other information related to the action. The public rulemaking file does not include Confidential Business Information (CBI) or other information for which disclosure is restricted by statute, although such information is a part of the Agency's official administrative record for the action.

#### B. How Can I Get Copies of This Document and Other Related Information?

1. *An official public rulemaking file is available for inspection at the Regional Office.* The Regional Office has established an official public rulemaking file for this action under Identification Number (ID No.) TX-155-1-7591. The public rulemaking file is available for viewing at the Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Contact the person listed in the "For Further Information Contact" section to schedule your inspection. If possible, schedule the appointment two working days in advance of your visit. Official hours of business for the Regional Office are Monday through Friday, 8:30 a.m. to 4 p.m. excluding federal holidays. Copies of any State submittals and EPA's technical support document are also available for public inspection at the State Air Agency during official business by appointment.

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

2. *You may access this Federal Register document electronically*