Applicability

As discussed above, these special conditions are applicable to the Cessna 441. Should Premier Avionics apply at a later date for a supplemental type certificate to modify any other model on the same type certificate data sheet to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cessna 441 airplane modified by Premier Avionics Design Ltd. to add two Thommen AD32E Air Data Display Units.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on September 13, 2005.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–19289 Filed 9–27–05; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0016; FRL–7975–9]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Permits by Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision for the State of Texas. This action removes a provision from the Texas SIP which provided public notice for concrete batch plants which were constructed under a permit by rule (PBR). On September 1, 2000, Texas replaced the PBR for concrete batch plants with a standard permit for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plants subject to the standard permit. Texas maintained the public notice requirements of its PBR to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR prior to the effective date of the standard permit. All authorization requests for concrete batch plants which were constructed under the PBR have now been resolved and the public notice and comment provisions under the PBR are no longer needed.

DATES: This rule is effective on November 28, 2005 without further notice, unless EPA receives adverse comment by October 28, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in DOCKET (RME) ID No. R06–OAR–2005–TX–0016, by one of the following methods:

- Federal rulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://docket.epa.gov/rmepub/.* Regional Material in DOCKET (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. David Neleigh at *neleigh.david@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), at fax number 214–665–7263.
- Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in DOCKET (RME) ID No. R06–OAR–2005–TX–0016. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at *http://docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in DOCKET (RME), Regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the federal regulations.gov are ''anonymous access'' systems, which means EPA will not

know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in DOCKET (RME) index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in RME or in the official file which is available 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 FOIA 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) 665–7523 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, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: 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 214–665–7263; e-mail address *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Outline:

I. What Action Are We Taking?

This action removes 30 TAC, section 106.5 from the Texas SIP. This section provided public notice for concrete batch plants which were constructed under a PBR.[1] On September 1, 2000, Texas replaced the PBR for concrete batch plants with a standard permit [2] for concrete batch plants. The standard permit for concrete batch plants also requires public notice for concrete batch plants which are subject to the standard permit. Texas maintained the public notice requirements of section 106.5 to assure that proper procedures were followed for concrete batch plants that were permitted under the PBR prior to the effective date of the standard permit. All authorization requests for concrete batch plants which were constructed under the PBR have now been resolved and section 106.5 is no longer needed. Texas submitted a SIP revision to remove section 106.5.

II. What Is a State Implementation Plan?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that the state air quality meets the National Ambient Air Quality Standards (NAAQS) that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each state has a SIP designed to protect air quality. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

III. What Does Federal Approval of a SIP Mean to Me?

A state may enforce state regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

IV. What Did the State Submit?

This action addresses Texas' SIP submittal to EPA by letter dated June 28, 2004. In the submittal, Texas submitted its repeal of section106.5—Public Notice, which it adopted June 9, 2004. Section 106.5 required public notice for concrete batch plants permitted under Chapter 106—Permits by Rule. With the creation of the concrete batch plant standard permit on September 1, 2000, and the repeal of the concrete batch plant PBR, section 106.5 is no longer needed. Texas maintained the public notice requirements of section 106.5 to assure that proper procedures were followed for the concrete batch plant PBR registrations received prior to the effective date of the standard permit for concrete batch plants. At this time, Texas has resolved all of the outstanding authorization requests for concrete batch plants permitted under Chapter 106. Consequently, the maintenance of section 106.5 is no longer needed.

V. Why Are We Approving the Removal of Section 106.5?

We approved section 106.5 on November 14, 2003 (68 FR 64543–50) when we approved Chapter 106—Permits by Rule into the Texas SIP. Section 106.5—Public Notice applies to the construction of permanent or temporary concrete batch plants that are constructed under Chapter 106. Under

[1] A PBR is a permit which is adopted under Chapter 106, which provides an alternative process for approving the construction of new and modified facilities which Texas has determined will not make a significant contribution of air contaminants to the atmosphere. These provisions provide a streamlined mechanism for approving the construction of certain small sources which would otherwise be required to apply for and receive a permit before commencing construction or modification. For further description of Texas regulations concerning PBRs see the discussion in our November 14, 2003 approval (68 FR 64544–45).

[2] A standard permit is a permit which is adopted under Chapter 116,Subchapter F, which provides an alternative process for approving the construction of certain categories of new and modified sources for which the TCEQ has adopted a standard permit. These provisions provide a streamlined mechanism for approving the construction of certain sources within categories which contain numerous similar sources. For further description of Texas regulations concerning standard permits, see the discussion in our November 14, 2003 approval (68 FR 64546–47).

section 106.5, each concrete batch plant constructed under Chapter 106 must conduct public notice of the proposed construction. On September 1, 2000, Texas issued a standard permit for concrete batch plants. This standard permit replaced the requirements for PBRs applicable to concrete batch plants. Texas maintained its requirements for concrete batch plants (including the requirements for public notice) to assure that proper procedures were followed for the concrete batch plant PBR registrations received prior to the effective date of the standard permit for concrete batch plants. Because all of the outstanding authorization requests for concrete batch plants permitted under Chapter 106 have been resolved, the maintenance of the requirements for concrete batch plants under Chapter 106 is no longer needed.

On June 9, 2004, Texas repealed its PBRs for concrete batch plants and section 106.5. Section 106.5 is no longer necessary due to the issuance of the standard permit for concrete batch plant standard which was in accordance with section 116.602—Issuance of Standard Permits and because Texas has resolved all outstanding authorization requests for concrete batch plants permitted under Chapter 106 received prior to the effective date of the standard permit.

Under Texas Health and Safety Code, section 382.058, concrete batch plant PBRs are subject to notice and opportunity for hearing provisions. The concrete batch plant PBR was the only PBR in Chapter 106 that required public notice. With the creation of the concrete batch plant standard permit, concrete batch plants are no longer authorized by a PBR under Chapter 106. The public notice requirements for concrete batch plants are now contained in the standard permit; therefore section 106.5 is no longer needed.

The removal of section 106.5 will not affect the obligation for Texas to provide for public notice when it issues new or revised PBR. The process for issuing, revising, and removing PBR is through rulemaking under which new and revised PBR must undergo public notice and a 30-day comment period which meets the requirements of 40 CFR 51.161, which provides for public notice prior to approval of any new or modified source which is subject to the PBR. The basis for how Texas program for PBR meets these requirements is discussed in our November 14, 2003 approval of Chapter 106. See 68 FR 64545.

The standard permit for concrete batch plants was originally issued in 2000 (effective September 1, 2000) and was later revised in 2003 (effective July 10, 2003). The standard permits for batch concrete plants were issued after notice an opportunity for public comment and public hearing as required under section 116.605. The process for public participation meets our requirements under 40 CFR 51.161, which provides for public notice prior to approval of any new or modified source which is subject to the PBR. The basis for how the Texas program for standard permits meets these requirements is discussed in our November 14, 2003, approval of Texas provisions for standard permits. See 68 FR 64547. The standard permit for batch concrete plants also contain a provision pertaining to public notice which requires public notice for concrete batch plants which are subject to the standard permit.

The public notice requirements under section 106.5 and under the standard permit for concrete batch plants is an additional notice to the public notice required under 40 CFR 51.161. As discussed above and in greater detail in our November 14, 2003, approval of the PBR and standard permits, each new and modified PBR and standard permit (including the PBR and standard permit for concrete batch plants) must be subject public notice and comment. We found that public notice provisions for PBR and standard permits meet the requirement of 40 CFR 51.161. See 68 FR 64545. Accordingly, the adoption of the PBR and later the standard permit for concrete batch plants were subject to public notice which meet these public notice requirements at the time of adoption. The public participation requirement and the standard permit for concrete batch plants is an additional public notice that Texas requires under Texas Health and Safety Code, section 382.058. Our approval of this additional requirement for the public notice provisions for concrete batch plants serves to strengthen the SIP.

Furthermore, the maintenance of section 106.5 in the SIP serves no useful purpose because Texas has repealed the PBR for concrete batch plants. The process for removing these PBR was in accordance with the program that we approved for Texas PBR. Since section 106.5 is limited only to PBR for concrete batch plants, and since Texas has repealed these PBR from Chapter 106, section 106.5 is no longer needed.

VI. Final Action

On the basis of the above analysis and evaluation we conclude that we can remove the provisions of section 106.5 from the SIP on the basis that Texas replaced the PBR for concrete batch plants, which required public notice, with a standard permit for concrete batch plants that also requires public notice for concrete batch plants that are subject to the standard permit.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on November 28, 2005 without further notice unless we receive adverse comment by October 28, 2005. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** 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. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

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 November 28, 2005. 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, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: September 19, 2005.

Lawrence E. Starfield,

Acting 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. 7401 *et seq.*

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under chapter 106, subchapter A, by removing the entry for section 106.5, ''Public Notice.''

[FR Doc. 05–19358 Filed 9–27–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0244; FRL–773-5]

Muscodor albus QST 20799 and the Volatiles Produced on Rehydration; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the *Muscodor albus* (*M. albus*) QST 20799 and the volatiles produced on its rehydration on all food commodities when applied or used for all agricultural applications, including seed, propagule and post harvest treatments. This action is in response to a pesticide petition submitted to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *M. albus* QST 20799 and the volatiles produced on its rehydration.

DATES: This regulation is effective September 28, 2005. Objections and requests for hearings must be received on or before November 28, 2005.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0244. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI 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 in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–8097; e-mail address: *bacchus.shanaz@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111);