the companies, except Mobil, was to use a continuous emission monitor (CEM) to measure the concentration of hydrogen sulfide in the fuel gas that is fed to the combustion units listed in Attachment A of the respective Orders. In addition, it was also proposed by all companies, except Mobil, to use the maximum fuel capacity of the combustion units listed in Attachment A of the respective Orders as part of the calculations to demonstrate compliance with the maximum allowable emission rates in the event there is no fuel feed meter on a combustion unit or in the event the fuel feed meter is out of operation or malfunctioning. Mobil requested approval of an alternative CEM quality assurance program, and an alternative monitoring method for a small emission point. For further details on the Agreed Orders, please reference the TSD and the State submittal located at the EPA Region 6 office listed above.

Final Action

The EPA is approving a revision to the Texas SIP submitted by the Governor of Texas by cover letter dated August 3, 1994, in order to make federally enforceable Agreed Orders to limit SO₂ allowable emissions at 13 nonpermitted facilities in Harris County. By approving these Agreed Orders into the Texas SIP, along with approving the modeling demonstration showing attainment for the SO₂ NAAQS in Harris County, and acknowledging that Harris County has more than 2 years of quality assured SO₂ data showing no violations, EPA will not undertake the process to designate Harris County, Texas as nonattainment for the SO₂ NAAQS at this time.

The EPA has reviewed this revision to the Texas SIP and is approving the revision as submitted. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this action will be effective May 5, 1995 unless, by April 5, 1995, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 5, 1995.

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

Miscellaneous

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

SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids the EPA to base its actions concerning SIPs on such grounds (Union Electric Co. vs. U.S. E.P.A., 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Executive Order

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: February 14, 1995.

William B. Hathaway,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows: **Authority:** 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(93) to read as follows:

§ 52.2270 Identification of plan.

* * (c) * * *

(93) A revision to the Texas State Implementation Plan (SIP) to include agreed orders limiting sulfur dioxide (SO₂) allowable emissions at certain nonpermitted facilities in Harris County, and to include a modeling demonstration showing attainment of the SO₂ National Ambient Air Quality Standards, was submitted by the Governor by cover letter dated August 3, 1994.

(i) Incorporation by reference. (A) Texas Natural Resource Conservation Commission (TNRCC) Order No. 94–09, as adopted by the TNRCC on June 29, 1994.

(B) TNRCC Order No. 94–10 for Anchor Glass Container, as adopted by the TNRCC on June 29, 1994.

(C) TNRCC Order No. 94–11 for Crown Central Petroleum Corporation, as adopted by the TNRCC on June 29, 1994.

(D) TNRCC Order No. 94–12 for Elf Atochem North America, Inc., as adopted by the TNRCC on June 29, 1994.

(E) TNRCC Order No. 94–13 for Exxon Company USA, as adopted by the TNRCC on June 29, 1994.

(F) TNRCC Order No. 94–14 for ISK Biosciences Corporation, as adopted by the TNRCC on June 29, 1994.

(G) TNRCC Order No. 94–15 for Lyondell Citgo Refining Company, LTD., as adopted by the TNRCC on June 29, 1994.

(H) TNRCC Order No. 94–16 for Lyondell Petrochemical Company, as adopted by the TNRCC on June 29, 1994.