

authorized State official certifying that, if VA were to approve payments under this part, the non-VA share of the funds for the program would be by a date or dates specified in the certification, available for the employee incentive program without further State action to make such funds available. If the certification is based on a State law authorizing funds for the employee incentive program, a copy of the State law must be submitted with the certification.

(c) If an application does not contain sufficient information for a determination under this part, the State representative will be notified in writing (electronically and by mail) of any additional submission required and that the State has 30 calendar days from the date of the notice to submit such additional information or no further action will be taken. If the State representative does not submit all of the required information or demonstrate that he or she has good cause for failing to provide the information within 30 calendar days of the notice (which may extend beyond the last quarter of the preceding Federal fiscal year), then the State applicant will be notified in writing that the application for VA assistance will be deemed withdrawn and no further action will be taken.

(Authority: 38 U.S.C. 101, 501, 1744)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0709.)

#### **§ 53.30 Payments.**

(a) The amount of payments awarded under this part during a Federal fiscal year will be the amount requested by the State and approved by VA in accordance with this part. Payments may not exceed 50 percent of the cost of the employee incentive program for that fiscal year and may not exceed 2 percent of the amount of the total per diem payments estimated by VA to be made under 38 U.S.C. 1741 to the State for that SVH during that fiscal year for adult day health care, domiciliary care, hospital care, and nursing home care.

(b) Payments will be made by lump sum or installment as deemed appropriate by the Chief Consultant, Geriatrics and Extended Care.

(c) Payments will be made to the State or, if designated by the State representative, the SVH conducting the employee incentive program.

(d) Payments made under this part for a specific employee incentive program shall be used solely for that purpose.

(Authority: 38 U.S.C. 101, 501, 1744)

#### **§ 53.31 Annual report.**

(a) A State receiving payment under this part shall provide to VA a report setting forth in detail the use of the funds, including a descriptive analysis of how effective the employee incentive program has been in improving nurse staffing in the SVH. The report shall be provided to VA within 60 days of the close of the Federal fiscal year (September 30) in which payment was made and shall be subject to audit by VA.

(b) A State receiving payment under this part shall also prepare audit reports as required by the Single Audit Act of 1984 (see 38 CFR part 41) and submit them to VA.

(Authority: 38 U.S.C. 101, 501, 1744)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0709.)

#### **§ 53.32 Recapture provisions.**

If a State fails to use the funds provided under this part for the purpose for which payment was made or receives more than is allowed under this part, the United States shall be entitled to recover from the State the amount not used for such purpose or the excess amount received.

(Authority: 38 U.S.C. 101, 501, 1744)

#### **§ 53.40 Submissions of information and documents.**

All submissions of information and documents required to be presented to VA must be made to the Chief Consultant, Geriatrics and Extended Care (114), VHA Headquarters, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 101, 501, 1744)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0709.)

#### **§ 53.41 Notification of funding decision.**

If the Chief Consultant, Geriatrics and Extended Care, determines that a submission from a State fails to meet the requirements of this part for funding, the Chief Consultant shall provide written notice of the decision and the reasons for the decision.

(Authority: 38 U.S.C. 101, 501, 1744)

[FR Doc. E8-28542 Filed 12-2-08; 8:45 am]

**BILLING CODE 8320-01-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R06-OAR-2007-0523; FRL-8747-6]

#### **Approval and Promulgation of Implementation Plans; Texas; Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>) From Stationary Sources**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is finalizing approval of rules for the control of NO<sub>x</sub> emissions into the Texas State Implementation Plan (SIP). Texas submitted this SIP revision to us on May 30, 2007 (May 30, 2007 SIP revision), and we proposed approval of the May 30, 2007 SIP revision on July 11, 2008. The May 30, 2007 SIP revision to the Texas SIP is a substantive and non-substantive recodification and reformatting of the NO<sub>x</sub> rules currently approved in the Texas SIP, and also includes a part of the Nitrogen Oxides (NO<sub>x</sub>) reductions needed for the Dallas/Forth Worth (D/FW) area to attain the Federal 8-hour ozone National Ambient Air Quality Standard (NAAQS). Today's final rulemaking covers four separate actions. First, we are approving the repeal, from the Texas SIP, of the current Chapter 117 rules that correspond to the re-codified new rules and the revised and reformatted rules because the reformatted revision will better accommodate future additions/revisions to the rules. Second, we are approving revisions to the Texas SIP that add new controls for the D/FW major NO<sub>x</sub> point sources. We are not, however, taking action on the Texas rules for cement plants in this document. We proposed approval of the rules for cement plants in a separate **Federal Register** document. Third, we are approving revisions to the Texas SIP that add new controls for D/FW minor NO<sub>x</sub> sources. Fourth, we are approving revisions to the Texas SIP that add new controls for combustion sources in East Texas. These NO<sub>x</sub> reductions will assist the D/FW area to attain the 8-hour ozone NAAQS. We are approving all of these actions as meeting the requirements of section 110 and part D of the Federal Clean Air Act (the Act).

**DATES:** This rule will be effective on January 2, 2009.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2007-0523. All documents in the docket are listed on the [www.regulations.gov](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

[www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), 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 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.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6691, fax (214) 665-7263, e-mail address [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” refer to EPA.

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II. Final Action

III. Statutory and Executive Order Reviews

**I. Background**

*A. What actions are we approving?*

On May 30, 2007, TCEQ submitted rule revisions to 30 TAC, Chapter 117, “Control of Air Pollution from Nitrogen Compounds,” as a revision to the Texas SIP for point sources of NO<sub>x</sub> (May 30, 2007 SIP revision). The State of Texas submitted the May 30, 2007 SIP revision to us, to, among other things, provide a portion of the NO<sub>x</sub> reductions needed for the D/FW area to attain the Federal 8-hour ozone NAAQS.

On July 11, 2008 (73 FR 39900) we proposed approval of the May 30, 2007 SIP revision. The public comment period for our proposal expired on August 11, 2008.

We received relevant comments from TCEQ on our July 11, 2008 (73 FR 39900) publication, correcting or clarifying some of the citations used in our proposed approval document. We appreciate the State’s input, and have accordingly corrected those citations in today’s final document. See our Technical Support Document (TSD) prepared in conjunction with today’s final action for more information.

We received no other comments on our proposed approval of the May 30, 2007 SIP revision. Therefore, we are finalizing our July 11, 2008 proposal (73 FR 39900), except section 117.9810, rulemaking action, today. We will act on section 117.9810 in a separate rulemaking action in future<sup>1</sup>. We are taking four separate actions in today’s final action.

First, we are approving revisions which involve repealing the current Chapter 117 rules from Texas SIP, and simultaneously approving into the

<sup>1</sup> It came to our attention after publication of the proposal that we never took action on 30 TAC 117.571 that TCEQ repealed, and replaced with a new 30 TAC 117.9810. Therefore, there is no previously approved rule in the Texas SIP. We will need to evaluate the new rule 30 TAC 117.9810 for substance, and determine if it is approvable as a SIP revision. Our action will be taken in a separate **Federal Register** rulemaking.

Texas SIP, a new reformatted Chapter 117. We are approving the repeal of the current Chapter 117, and the recodification and reformatting of Chapter 117 because the reformatted revision will better accommodate future additions/revisions to the rules and will maintain consistency between the State rules and Federal SIP. We are approving all of the non-substantive reformatted, restructured, renumbered, reorganized, and administrative revisions to the wording of Chapter 117 into Texas SIP. In our proposal, we clarified that the specifically identified rules do not make any changes to the substance of the rules that we previously approved into the Texas SIP, Chapter 117. By approving the repeal of the current Chapter 117 from the Texas SIP, and approving the new Chapter 117’s rules into the Texas SIP, we are making it clear that the new rules replace the previous rules in their entirety. We are approving these non-substantive reformatted, restructured, renumbered, reorganized, and administrative revisions to the wording of Chapter 117 under section 110 and part D of the Act. For a full list of affected sections see section C of this document.

Second, we are approving revisions to the D/FW NO<sub>x</sub> major point source rules. Sections 117.410(a), 117.410(b) and 117.310(b) contain substantive changes in the reformatted Chapter 117 rules that result in additional NO<sub>x</sub> reductions. These reductions were not previously a part of EPA-approved Texas SIP, Chapter 117.

Third, we are approving revisions to the D/FW minor source rules for the control of NO<sub>x</sub>. Section 117.2110(a) contains substantive changes in the reformatted Chapter 117 rules that result in additional NO<sub>x</sub> reductions which will help the D/FW area to attain the 1997 8-hour ozone standard. These reductions were not previously a part of EPA-approved Texas SIP, Chapter 117.

Fourth, we are proposing to approve revisions to the rules for the control of NO<sub>x</sub> emissions from combustion sources in East Texas. Section 117.3310(a) contains substantive changes in the reformatted Chapter 117 rules that result in significant NO<sub>x</sub> emissions reductions. These reductions were not previously a part of EPA-approved Texas SIP, Chapter 117.

Sections F through P of this document contain more information concerning each of these four actions.

*B. What is the relationship between the May 30, 2007 SIP revision and the ozone attainment demonstration plan for the D/FW area?*

The resulting emissions reductions of NO<sub>x</sub>, an ozone precursor, from this SIP revision will assist in bringing the D/FW area into attainment with the 1997 8-hour ozone NAAQS, and help with the maintenance of the 1997 ozone NAAQS in the East and Central parts of the State. The D/FW 8-hour ozone nonattainment area (Collin, Dallas,

Denton, Tarrant, Ellis, Johnson, Kaufman, Parker, and Rockwall Counties) is designated nonattainment, and classified as a moderate 8-hour non-attainment area for ozone. See 69 FR 23857 published on April 30, 2004. We proposed approval of the D/FW 8-hour ozone attainment demonstration plan in a separate rulemaking action, and will consider relevant written comments received on the D/FW 8-hour ozone attainment demonstration plan in a separate **Federal Register** publication.

*C. What sections of the May 30, 2007, SIP revision will become part of Texas SIP?*

Table 1 below contains a summary list of the sections of 30 TAC, Chapter 117 that we proposed for approval, in our July 11, 2008 (73 FR 39900) rulemaking action, for point sources of NO<sub>x</sub> to become part of the Texas SIP. Table 1 below includes both the sections with substantive changes and the nonsubstantive changes.

TABLE 1—SECTION NUMBERS AND SECTION DESCRIPTIONS OF 30 TAC, CHAPTER 117 BEING APPROVED INTO TEXAS SIP

Section No.	Description
Section 117.10	Definitions.
Section 117.100	Applicability.
Section 117.103	Exemptions.
Section 117.105	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.110	Emission Specifications for Attainment Demonstration.
Section 117.115	Alternative Plant-Wide Emission Specifications.
Section 117.123	Source Cap.
Section 117.130	Operating Requirements.
Section 117.135	Initial Demonstration of Compliance.
Section 117.140	Continuous Demonstration of Compliance.
Section 117.145	Notification, Recordkeeping, and Reporting Requirements.
Section 117.150	Initial Control Plan Procedures.
Section 117.152	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.154	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.156	Revision of Final Control Plan.
Section 117.200	Applicability.
Section 117.203	Exemptions.
Section 117.205	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.210	Emission Specifications for Attainment Demonstration.
Section 117.215	Alternative Plant-Wide Emission Specifications.
Section 117.223	Source Cap.
Section 117.230	Operating Requirements.
Section 117.235	Initial Demonstration of Compliance.
Section 117.240	Continuous Demonstration of Compliance.
Section 117.245	Notification, Recordkeeping, and Reporting Requirements.
Section 117.252	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.254	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.256	Revision of Final Control Plan.
Section 117.300	Applicability.
Section 117.303	Exemptions.
Section 117.305	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.310	Emission Specifications for Attainment Demonstration.
Section 117.315	Alternative Plant-Wide Emission Specifications.
Section 117.320	System Cap.
Section 117.323	Source Cap.
Section 117.330	Operating Requirements.
Section 117.335	Initial Demonstration of Compliance.
Section 117.340	Continuous Demonstration of Compliance.
Section 117.345	Notification, Recordkeeping, and Reporting Requirements.
Section 117.350	Initial Control Plan Procedures.
Section 117.352	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.354	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.356	Revision of Final Control Plan.
Section 117.400	Applicability.
Section 117.403	Exemptions.
Section 117.410	Emission Specifications for Eight-Hour Attainment Demonstration.
Section 117.423	Source Cap.
Section 117.430	Operating Requirements.
Section 117.435	Initial Demonstration of Compliance.
Section 117.440	Continuous Demonstration of Compliance.
Section 117.445	Notification, Recordkeeping, and Reporting Requirements.
Section 117.450	Initial Control Plan Procedures.
Section 117.454	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.456	Revision of Final Control Plan.
Section 117.1000	Applicability.

TABLE 1—SECTION NUMBERS AND SECTION DESCRIPTIONS OF 30 TAC, CHAPTER 117 BEING APPROVED INTO TEXAS SIP—Continued

Section No.	Description
Section 117.1003	Exemptions.
Section 117.1005	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.1010	Emission Specifications for Attainment Demonstration.
Section 117.1015	Alternative System-Wide Emission Specifications.
Section 117.1020	System Cap.
Section 117.1035	Initial Demonstration of Compliance.
Section 117.1040	Continuous Demonstration of Compliance.
Section 117.1045	Notification, Recordkeeping, and Reporting Requirements.
Section 117.1052	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.1054	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.1056	Revision of Final Control Plan.
Section 117.1100	Applicability.
Section 117.1103	Exemptions.
Section 117.1105	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.1110	Emission Specifications for Attainment Demonstration.
Section 117.1115	Alternative System-Wide Emission Specifications.
Section 117.1120	System Cap.
Section 117.1135	Initial Demonstration of Compliance.
Section 117.1140	Continuous Demonstration of Compliance.
Section 117.1145	Notification, Recordkeeping, and Reporting Requirements.
Section 117.1152	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.1154	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.1156	Revision of Final Control Plan.
Section 117.1200	Applicability.
Section 117.1203	Exemptions.
Section 117.1205	Emission Specifications for Reasonably Available Control Technology (RACT).
Section 117.1210	Emission Specifications for Attainment Demonstration.
Section 117.1215	Alternative System-Wide Emission Specifications.
Section 117.1220	System Cap.
Section 117.1235	Initial Demonstration of Compliance.
Section 117.1240	Continuous Demonstration of Compliance.
Section 117.1245	Notification, Recordkeeping, and Reporting Requirements.
Section 117.1252	Final Control Plan Procedures for Reasonably Available Control Technology.
Section 117.1254	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.1256	Revision of Final Control Plan.
Section 117.1300	Applicability.
Section 117.1303	Exemptions.
Section 117.1310	Emission Specifications for Eight-Hour Attainment Demonstration.
Section 117.1335	Initial Demonstration of Compliance.
Section 117.1340	Continuous Demonstration of Compliance.
Section 117.1345	Notification, Recordkeeping, and Reporting Requirements.
Section 117.1350	Initial Control Plan Procedures.
Section 117.1354	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
Section 117.1356	Revision of Final Control Plan.
Section 117.2000	Applicability.
Section 117.2003	Exemptions.
Section 117.2010	Emission Specifications.
Section 117.2030	Operating Requirements.
Section 117.2035	Monitoring and Testing Requirements.
Section 117.2045	Recordkeeping and Reporting Requirements.
Section 117.2100	Applicability.
Section 117.2103	Exemptions.
Section 117.2110	Emission Specifications for Eight-Hour Attainment Demonstration.
Section 117.2130	Operating Requirements.
Section 117.2135	Monitoring, Notification, and Testing Requirements.
Section 117.2145	Recordkeeping and Reporting Requirements.
Section 117.3000	Applicability.
Section 117.3003	Exemptions.
Section 117.3005	Gas-Fired Steam Generation.
Section 117.3010	Emission Specifications.
Section 117.3020	System Cap.
Section 117.3035	Initial Demonstration of Compliance.
Section 117.3040	Continuous Demonstration of Compliance.
Section 117.3045	Notification, Recordkeeping, and Reporting Requirements.
Section 117.3054	Final Control Plan Procedures.
Section 117.3056	Revision of Final Control Plan.
Section 117.3200	Applicability.
Section 117.3201	Definitions.
Section 117.3203	Exemptions.
Section 117.3205	Emission Specifications.
Section 117.3210	Certification Requirements.

TABLE 1—SECTION NUMBERS AND SECTION DESCRIPTIONS OF 30 TAC, CHAPTER 117 BEING APPROVED INTO TEXAS SIP—Continued

Section No.	Description
Section 117.3215	Notification and Labeling Requirements.
Section 117.3300	Applicability.
Section 117.3303	Exemptions.
Section 117.3310	Emission Specifications for Eight-Hour Attainment Demonstration.
Section 117.3330	Operating Requirements.
Section 117.3335	Monitoring, Notification, and Testing Requirements.
Section 117.3345	Recordkeeping and Reporting Requirements.
Section 117.4000	Applicability.
Section 117.4005	Emission Specifications.
Section 117.4025	Alternative Case Specific Specifications.
Section 117.4035	Initial Demonstration of Compliance.
Section 117.4040	Continuous Demonstration of Compliance.
Section 117.4045	Notification, Recordkeeping, and Reporting Requirements.
Section 117.4050	Control Plan Procedures.
Section 117.4100	Applicability.
Section 117.4105	Emission Specifications.
Section 117.4125	Alternative Case Specific Specifications.
Section 117.4135	Initial Demonstration of Compliance.
Section 117.4140	Continuous Demonstration of Compliance.
Section 117.4145	Notification, Recordkeeping, and Reporting Requirements.
Section 117.4150	Control Plan Procedures.
Section 117.4200	Applicability.
Section 117.4205	Emission Specifications.
Section 117.4210	Applicability of Federal New Source Performance Standards.
Section 117.8000	Stack Testing Requirements.
Section 117.8010	Compliance Stack Test Reports.
Section 117.8100	Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources.
Section 117.8110	Emission Monitoring System Requirements for Utility Electric Generation Sources.
Section 117.8120	Carbon Monoxide (CO) Monitoring.
Section 117.8130	Ammonia Monitoring.
Section 117.8140	Emission Monitoring for Engines.
Section 117.9000	Compliance Schedule for Beaumont-Port Arthur Ozone Nonattainment Area Major Sources.
Section 117.9010	Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources.
Section 117.9020	Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources.
Section 117.9030	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources.
Section 117.9100	Compliance Schedule for Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources.
Section 117.9110	Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources.
Section 117.9120	Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Utility Electric Generation Sources.
Section 117.9130	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources.
Section 117.9200	Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources.
Section 117.9210	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Minor Sources.
Section 117.9300	Compliance Schedule for Utility Electric Generation in East and Central Texas.
Section 117.9340	Compliance Schedule for East Texas Combustion.
Section 117.9500	Compliance Schedule for Nitric Acid and Adipic Acid Manufacturing Sources.
Section 117.9800	Use of Emission Credits for Compliance.

Although we proposed approval of the new section 117.9810 concerning Use of Emission Reductions Generated from the Texas Emissions Reduction Plan (TERP) in our July 11, 2008 publication, we are taking no action upon 117.9810 today. We will take rulemaking action on 117.9810 in a separate publication in future.

Please keep in mind that the tables in this document are not intended to be exhaustive, but rather to provide a guide

for readers to generally understand which affected sources are likely to be required to comply with the NO<sub>x</sub> control requirements in conjunction with today's rulemaking action. To determine whether or how your facility would be affected by this particular action, you should refer to the actual text of 30 TAC Chapter 117, and the June 8, 2007 issue of the Texas Register (32 TexReg 3206). You can find the entire TCEQ Chapter 117 rules at:

<http://www.tceq.state.tx.us/rules/indxpdf.html#117>.

Our TSD prepared for the July 11, 2008 (73 FR 39900) proposal contained detailed discussion of each of the above changes, and why EPA believed they should be approved into Texas SIP. We are approving the above sections of Table 1 into Texas SIP.

*D. What sections of the May 30, 2007, SIP revision will not become part of Texas SIP?*

Per TCEQ's request the following sections, listed in Table 2 below, of the

May 30, 2007, SIP revision will not become a part of the EPA-approved Texas SIP. As stated in our proposal these rules mainly pertain to the control of ammonia or carbon monoxide emissions which are not ozone

precursors and therefore, these rules are not necessary components of the Texas SIP. The rules listed in Table 2 are not already in the current Texas SIP and EPA continues to agree with Texas that these rules can remain outside the SIP.

TABLE 2—SECTIONS OF CHAPTER 117 NOT IN EPA-APPROVED TEXAS SIP

Section No.	Explanation
117.110(c), 117.125, 117.210(c), 117.225, 117.310(c), 117.325, 117.410(d), 117.425, 117.1010(b), 117.1025, 117.1110(b), 117.1125, 117.1210(b), 117.1225, 117.1310(b), 117.1325, 117.2010(i), 117.2025, 117.2110(h), 117.2125, 117.3010(2), 117.3025, 117.3123(f), 117.3125, 117.3310(e), and 117.3325.	Not a part of EPA-approved Texas SIP, and TCEQ continues to ask that these rules remain outside the SIP.

Although the above sections of 30 TAC Chapter 117 will not become a part of the Texas SIP, they will continue to remain enforceable at the State level. As stated elsewhere in this document, we are taking no action upon 117.9810 today. We will take rulemaking action

on 117.9810 in a separate publication in future.

*E. What sections of the May 30, 2007, SIP revision are we reviewing in another Federal Register action?*

Table 3 below contains a listing of sections of the May 30, 2007, SIP

revision that we are not finalizing in today's action. We will review and act upon the cement kiln related sections of the May 30, 2007 SIP revision in a separate rulemaking action.

TABLE 3—SECTIONS OF CHAPTER 117 NOT BEING EVALUATED IN THIS RULEMAKING

Section No.	Explanation
117.3100, 117.3101, 117.3103, 117.3110, 117.3120, 117.3123, 117.3125, 117.3140, 117.3142, and 117.3145.	Cement kiln related provisions, not finalized in this rulemaking action.

*F. What Counties in the D/FW area will the May 30, 2007, SIP revision affect?*

Table 4 below lists the Counties in the D/FW 8-hour Ozne nonattainment area that will be affected by today's action.

TABLE 4—TEXAS COUNTIES IN THE D/FW 8-HOUR OZONE NONATTAINMENT AREA

D/FW Counties	Explanation
Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant .....	See section 117.10(2)(C).

*G. What Counties in East and Central Texas will the May 30, 2007, SIP revision affect?*

Table 5 below lists the Counties in the East and Central Texas that will be affected by today's action.

TABLE 5—COUNTIES PART OF THE EAST AND CENTRAL TEXAS PROVISION OF CHAPTER 117

East and central Texas counties	Explanation
Anderson, Brazos, Bureson, Camp, Cass, Cherokee, Franklin, Freestone, Gregg, Grimes, Harrison, Henderson, Hill, Hopkins, Hunt, Lee, Leon, Limestone, Madison, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Robertson, Rusk, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood.	See section 117.3300.

*H. What are NO<sub>x</sub>?*

Nitrogen oxides belong to the group of criteria air pollutants. NO<sub>x</sub> are produced from burning fuels, including gasoline and coal. Nitrogen oxides react

with volatile organic compounds (VOC) to form ozone or smog, and are also major components of acid rain. For more information on NO<sub>x</sub> see <http://www.epa.gov/air/urbanair/nox/>.

*I. What is Ozone and why do we regulate it?*

Ozone is a gas composed of three oxygen atoms. Ground level ozone is generally not emitted directly from a

vehicle's exhaust or an industrial smokestack, but is created by a chemical reaction between NO<sub>x</sub> and VOCs in the presence of sunlight and high ambient temperatures. Thus, ozone is known primarily as a summertime air pollutant. NO<sub>x</sub> and VOCs are precursors of ozone. Motor vehicle exhaust and industrial emissions, gasoline vapors, chemical solvents and natural sources emit NO<sub>x</sub> and VOCs. Urban areas tend to have high concentrations of ground-level ozone, but areas without significant industrial activity and with relatively low vehicular traffic are also subject to increased ozone levels because wind carries ozone and its precursors hundreds of miles from their sources.

Repeated exposure to ozone pollution may cause lung damage. Even at very low concentrations, ground-level ozone triggers a variety of health problems

including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis. It can also have detrimental effects on plants and ecosystems.

*J. What is a SIP?*

The SIP is a set of air pollution regulations, control strategies, other means or techniques and technical analyses developed by the state, to ensure that the state meets the NAAQS. The SIP is required by section 110 and other provisions of the Act. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each state must submit these regulations and control strategies to EPA for approval and incorporation

into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin.

*K. What are the NO<sub>x</sub> emissions requirements for point sources in the D/FW area that we are approving?*

We approved NO<sub>x</sub> emissions specifications for stationary sources in 66 FR 15195 published March 16, 2001. In addition to requiring NO<sub>x</sub> emissions control requirements for those sources, we are approving the following NO<sub>x</sub> emissions requirements for the following affected sources with emissions greater than 50 Tons Per Year (TPY) in the D/FW 8-hour ozone nonattainment area. We have included the Chapter 117 citation for each source category in the Table 6 below for convenience purposes.

TABLE 6—NO<sub>x</sub> EMISSIONS SPECIFICATIONS FOR THE D/FW 8-HOUR OZONE NONATTAINMENT AREA

Source	NO <sub>x</sub> emission specification	Additional information	Citation
Reciprocating Internal Combustion Engines ...	2.0 g/hp-hr .....	Natural gas, rich burn, capacity ≥300 hp, before January 1, 2000, also a 3.0 g/hp-hr limit of CO.	117.410(a)(1)(B)(i).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Natural gas, rich burn, capacity ≥300 hp, on or after January 1, 2000, also a 3.0 g/hp-hr limit of CO.	117.410(a)(9)(B)(ii).
Reciprocating Internal Combustion Engines ...	0.60 g/hp-hr .....	Gas-fired, rich burn, landfill gas .....	117.410(b)(4)(A)(i).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Gas-fired, rich burn, not using landfill gas ....	117.410(b)(4)(A)(ii).
Reciprocating Internal Combustion Engines ...	0.70 g/hp-hr .....	Gas-fired, lean burn, before June 1, 2007, not modified afterwards.	117.410(b)(4)(B)(i).
Reciprocating Internal Combustion Engines ...	0.60 g/hp-hr .....	Gas-fired, lean burn, landfill gas, on or after June 1, 2007.	117.410(b)(4)(B)(ii)(I).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Gas-fired, lean burn, not using landfill gas, and on or after June 1, 2007.	117.410(b)(4)(B)(ii)(I).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Dual-fuel .....	117.410(b)(4)(B)(ii)(II).
Duct Burners .....	0.032 lb/MMBtu .....	Used in turbine exhausts, rated ≥10 MW ....	117.410(b)(6).
Duct Burners .....	0.15 lb/MMBtu .....	Used in turbine exhausts, 1.0 rated <10 MW ....	117.410(b)(6).
Duct Burners .....	0.26 lb/MMBtu .....	Used in turbine exhausts, rated ≥1.0 MW ....	117.410(b)(6).
Lime Kilns .....	3.7 lb/ton of CaO .....	Individual kiln basis .....	117.410(b)(7)(A)(i).
Lime Kilns .....	3.7 lb/ton of CaO .....	Site-wide basis .....	117.410(b)(7)(A)(ii).
Ceramic and Brick Kilns .....	40% NO <sub>x</sub> reduction ...	Using daily 2000 calendar year EI .....	117.410(b)(7)(B)(i).
Brick Kilns .....	0.175 lb/ton of product.	As option .....	117.410(b)(7)(B)(ii).
Ceramic Kilns .....	0.27 lb/ton of product	As option .....	117.410(b)(7)(B)(iii).
Metallurgical Furnaces .....	0.087 lb/MMBtu .....	Heat Furnace, March 1–October 31 any year.	117.410(b)(8)(A).
Metallurgical Furnaces .....	0.10 lb/MMBtu .....	Reheat Furnace, March 1–October 31 any year.	117.410(b)(8)(B).
Metallurgical Furnaces .....	0.45 lb/MMBtu .....	Lead smelting blast cupola and reverberatory.	117.410(b)(8)(C).
Incinerators .....	80% NO <sub>x</sub> reduction ...	Using real emissions of 2000 EI .....	117.410(b)(9)(A).
Incinerators .....	0.030 lb/MMBtu .....	As option .....	117.410(b)(9)(B).
Container Glass Furnaces .....	4.0 lb/ton of glass pulled.	Melting furnace, within 25% of permitted production capacity, or MAER of permit issued before June 1, 2007.	117.410(b)(10)(A)(i), or 117.410(b)(10)(A)(ii).
Fiberglass Furnaces .....	4.0 lb/ton product pulled.	Mineral wool, cold-top electric .....	117.410(b)(10)(B).
Fiberglass Furnaces .....	1.45 lb/ton product pulled.	Mineral wool, regenerative .....	117.410(b)(10)(C).
Fiberglass Furnaces .....	3.1 lb/ton product pulled.	Mineral wool, non-regenerative .....	117.410(b)(10)(D).
Curing Ovens .....	0.036 lb/MMBtu .....	Gas fired, used in mineral wool-type or textile-type fiberglass.	117.410(b)(11).
Ovens and Heaters .....	0.036 lb/MMBtu .....	Natural gas-fired .....	117.410(b)(12).

TABLE 6—NO<sub>x</sub> EMISSIONS SPECIFICATIONS FOR THE D/FW 8-HOUR OZONE NONATTAINMENT AREA—Continued

Source	NO <sub>x</sub> emission specification	Additional information	Citation
Dryers .....	0.036 lb/MMBtu .....	Natural gas-fired, used in organic solvent, printing ink, clay, brick, ceramic tile, calcining, and vitrifying processes.	117.410(b)(13)(A).
Spray Dryers .....	0.15 lb/MMBtu .....	Natural gas-fired, used in ceramic tile manufacturing processes.	117.410(b)(13)(B).

We are approving these NO<sub>x</sub> emissions specifications under Part D of the Act because their resulting emissions reductions will assist Texas in demonstrating attainment of the 1997 8-hour ozone standard in the D/FW 8-hour ozone nonattainment area.

Therefore, we are approving these requirements into the Texas SIP.

*L. What are the NO<sub>x</sub> emission requirements for stationary diesel engines in the D/FW area that we are approving?*

This SIP revision requires reductions of NO<sub>x</sub> emissions from stationary diesel

engines in the D/FW area. The following Table 7 contains a summary of the NO<sub>x</sub> emission specifications for stationary diesel engines in the D/FW area. We have included the Chapter 117 citation for each source category in the Table 7 below for convenience purposes.

TABLE 7—NO<sub>x</sub> EMISSION REQUIREMENTS STATIONARY DIESEL ENGINES FOR THE D/FW 8-HOUR OZONE NONATTAINMENT AREA

Source	NO <sub>x</sub> Emission Specification	Citation
Diesel engines in service before March 1, 2009: not modified, reconstructed, or relocated on or after March 1, 2009.	11.0 gram/hp-hr .....	117.410(b)(4)(D).
Rated less than 50 hp: modified, installed reconstructed, or relocated on or after March 1, 2009.	5.0 gram/hp-hr .....	117.410(b)(4)(E)(i).
Rated 50 hp or more, but less than 100 hp: modified, installed, reconstructed, or relocated on or after March 1, 2009.	3.3 gram/hp-hr .....	117.410(b)(4)(E)(ii).
Rated 100 hp or more, but less than 750 hp: installed, modified, reconstructed, or relocated on or after March 1, 2009.	2.8 gram/hp-hr .....	117.410(b)(4)(E)(iii).
Rated 750 hp or more: installed, modified, reconstructed, or relocated on or after March 1, 2009.	4.5 gram/hp-hr .....	117.410(b)(4)(E)(iv).

Also see section 117.2110(a)(3) concerning stationary diesel engines at minor sources within the D/FW 8-Hour Ozone Nonattainment Area.

As stated in our July 11, 2008 (73 FR 39900) proposal, we are approving the above-listed NO<sub>x</sub> emission requirements for diesel engines because they are in agreement with those found in 40 CFR 89.112, and EPA's Document Number 420-R-98-016 dated August 1998, titled "Final Regulatory Impact Analysis: Control of Emissions from Nonroad

Diesel Engines." In addition, the above-listed NO<sub>x</sub> emission requirements for diesel engines are consistent with those we approved for similar units at Table VI of 66 FR 57230 published on November 14, 2001. We are therefore approving these NO<sub>x</sub> emission requirements into the Texas SIP under Part D of the Act because their resulting emissions reductions will assist Texas in demonstrating attainment of the 8-hour ozone standard within the D/FW 8-hour ozone nonattainment area.

*M. What are the NO<sub>x</sub> emissions specifications for minor sources of NO<sub>x</sub> in the D/FW area that we are approving?*

These minor sources include stationary reciprocating internal combustion engines that are not a major source of NO<sub>x</sub> (emit, when uncontrolled, less than 50 Tons Per Year (TPY) of NO<sub>x</sub>). See sections 117.2100 and 117.2103 for more information.

TABLE 8—NO<sub>x</sub> EMISSIONS REQUIREMENTS FOR MINOR SOURCES IN THE D/FW AREA

Source	NO <sub>x</sub> emission specification	Additional information	Citation
Reciprocating Internal Combustion Engines ...	0.60 g/hp-hr .....	Stationary, rich-burn, using landfill gas-fired	117.2110(a)(1)(A)(i).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Stationary, rich-burn, not landfill gas-fired ....	117.2110(a)(1)(A)(ii).
Reciprocating Internal Combustion Engines ...	0.70 g/hp-hr .....	Stationary, lean-burn, in service before June 1, 2007.	117.2010(a)(1)(B)(i).
Reciprocating Internal Combustion Engines ...	0.60 g/hp-hr .....	Stationary, lean-burn, in service on or after June 1, 2007, using landfill gas.	117.2010(a)(1)(B)(i)(I).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Stationary, lean-burn, in service on or after June 1, 2007, not using landfill gas.	117.2010(a)(1)(B)(i)(II).
Reciprocating Internal Combustion Engines ...	5.83 g/hp-hr .....	Stationary, dual-fuel .....	117.2010(a)(2).
Reciprocating Internal Combustion Engines ...	The lower of 11.0 g/hp-hr or an established emission rate.	Stationary, diesel, in service before March 1, 2009; and not modified, reconstructed, or relocated on or after March 1, 2009.	117.2110(a)(3)(A).

TABLE 8—NO<sub>x</sub> EMISSIONS REQUIREMENTS FOR MINOR SOURCES IN THE D/FW AREA—Continued

Source	NO <sub>x</sub> emission specification	Additional information	Citation
Reciprocating Internal Combustion Engines ...	3.3 g/hp-hr .....	Stationary, diesel, rated 50 hp or more but less than 100 hp; and installed, modified, reconstructed, or relocated on or after March 1, 2009.	117.2110(a)(3)(B)(i).
Reciprocating Internal Combustion Engines ...	2.8 g/hp-hr .....	Stationary, diesel, rated 100 hp or more but less than 750 hp; and installed, modified, reconstructed, or relocated on or after March 1, 2009.	117.2110(a)(3)(B)(ii).
Reciprocating Internal Combustion Engines ...	4.5 g/hp-hr .....	Stationary, diesel, rated 750 or more; and installed, modified, reconstructed, or relocated on or after March 1, 2009.	117.2110(a)(3)(B)(iii).

As an alternative, a minor source from the Table 8 above located within the D/FW area and having an annual capacity factor of 0.0383 or less may choose emissions specification of 0.060 lb/MMBtu, instead. See 117.2110(a)(4).

The NO<sub>x</sub> emissions requirements for the above-listed minor sources of NO<sub>x</sub> and their resulting emissions reductions will assist in demonstrating attainment of the 8-hour ozone NAAQS within the D/FW 8-hour ozone nonattainment area. Therefore, we are approving these requirements into the Texas SIP.

*N. What are the NO<sub>x</sub> emissions requirements for stationary reciprocating internal combustion engines (RICE) in East Texas that we are approving?*

The gas-fired stationary reciprocating internal combustion engines located in Anderson, Brazos, Burleson, Camp, Cass, Cherokee, Franklin, Freestone, Gregg, Grimes, Harrison, Henderson, Hill, Hopkins, Hunt, Lee, Leon, Limestone, Madison, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Robertson, Rusk, Shelby, Smith, Upshur, Van Zandt, or Wood Texas Counties are subject to these requirements. See section 117.3300 for more information. The following Table

9 contains NO<sub>x</sub> emissions requirements and related information for these affected units.

On July 19, 2007 TCEQ announced implementation of Texas Senate Bill 2000, passed in 2007 by the 80th Texas Legislative Session. The Bill directs the TCEQ to develop an incentive grant program for the partial reimbursement of capital costs for installing nonselective catalytic reduction (NSCR) systems to reduce emissions of NO<sub>x</sub> from existing stationary gas-fired rich-burn compressor engines. For more information see <http://www.tceq.state.tx.us/implementation/air/rules/sb2003.html> (URL dating July 20, 2007).

TABLE 9—NO<sub>x</sub> EMISSIONS REQUIREMENTS FOR STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES IN EAST TEXAS

Source	NO <sub>x</sub> emission specification	Additional information	Citation
Reciprocating Internal Combustion Engines ...	1.00 g/hp-hr .....	Rich burn, gas-fired, capacity < 500 hp .....	117.3310(a)(1).
Reciprocating Internal Combustion Engines ...	0.60 g/hp-hr .....	Rich burn, landfill gas-fired, capacity ≥ 500 hp.	117.3310(a)(2)(A).
Reciprocating Internal Combustion Engines ...	0.50 g/hp-hr .....	Rich burn, not landfill gas-fired, capacity ≥ 500 hp.	117.3310(a)(2)(B).

The NO<sub>x</sub> emissions requirements for the stationary reciprocating internal combustion engines in East and Central Texas and their resulting emissions reductions will assist in demonstrating attainment of the 8-hour ozone NAAQS within the Houston-Galveston-Brazoria, D/FW, and Beaumont/Port Arthur areas. Furthermore, these reductions will contribute to the continued maintenance of the standard in the eastern half of the State of Texas, and they enhance the Texas SIP. Therefore, we are approving these requirements

into the Texas SIP under part D, and sections 110 and 116 of the Act, respectively.

*O. What are the NO<sub>x</sub> emissions requirements for state-wide water heaters, small boilers, and process heaters that we are approving?*

The water heaters, small boilers, and process heaters that use natural gas and have a rated capacity of 2 million Btu per hour or less are subject to these requirements. See 117.3200 and 117.3203 for more information. The

following Tables 10 and 11 contain type and size categories, and NO<sub>x</sub> emissions requirements for these affected units.

TABLE 10—WATER HEATER SIZE CLASSIFICATIONS

Maximum rated capacity (Btu/Hr)	Type
Capacity [ 75,000 .....	0
400,000 [ Capacity > 75,000 .....	1
2,000,000 < Capacity > 400,000 .....	2

TABLE 11—CHAPTER 117 STATE-WIDE NO<sub>x</sub> REQUIREMENTS FOR WATER HEATERS, SMALL BOILERS, AND PROCESS HEATERS

Type	Date	NO <sub>x</sub> emission specification	Citation
0 .....	Manufactured on or after July 1, 2002, but no later than December 31, 2004.	40 ng/joule of heat output .....	117.3205(a)(1)(A).
0 .....	Manufactured on or after July 1, 2002, but no later than December 31, 2004.	55 ppmv at 3% oxygen dry basis	117.3205(a)(1)(B).
0 .....	Manufactured on or after January 1, 2005 .....	10 ng/joule of heat output .....	117.3205(a)(2)(A).
0 .....	Manufactured on or after January 1, 2005 .....	15 ppmv at 3% oxygen dry basis	117.3205(a)(2)(B).
1 .....	Manufactured on or after July 1, 2002 .....	40 ng/joule of heat output .....	117.3205(a)(3)(A).
1 .....	Manufactured on or after July 1, 2002 .....	55 ppmv at 3% oxygen dry basis	117.3205(a)(3)(B).
2 .....	Manufactured on or after July 1, 2002 .....	30 ppmv at 3% oxygen dry basis	117.3205(a)(4)(A).
2 .....	Manufactured on or after July 1, 2002 .....	0.037 lb/MMBtu/hr of heat input ..	117.3205(a)(4)(B).
0 .....	Manufactured on or after July 1, 2002 .....	40 ng/joule of heat output .....	117.3205(b)(1)(A).
0 .....	Manufactured on or after July 1, 2002 .....	55 ppmv at 3% oxygen dry basis	117.3205(b)(1)(B).
1 .....	Manufactured on or after July 1, 2002 .....	40 ng/joule of heat output .....	117.3205(b)(2)(A).
1 .....	Manufactured on or after July 1, 2002 .....	55 ppmv at 3% oxygen dry basis	117.3205(b)(2)(B).
2 .....	Manufactured on or after July 1, 2002 .....	30 ppmv at 3% oxygen dry basis	117.3205(b)(3)(A).
2 .....	Manufactured on or after July 1, 2002 .....	0.037 lb/MMBtu/hr of heat input ..	117.3205(b)(3)(B).

The size categories and NO<sub>x</sub> emissions requirements for these affected units are similar to those in place in other parts of the country. In our proposal and the corresponding TSD we explained how the revised state-wide residential water heater NO<sub>x</sub> emission requirements meet the requirements of section 110(l) of the Act. Therefore, we are finding that the

revised state-wide residential water heater NO<sub>x</sub> emission requirements meet section 110(l) of the Act. Thus, we are approving the state-wide NO<sub>x</sub> emission requirements for water heaters, small boilers, and process heaters into the Texas SIP.

*P. What are the compliance schedules for NO<sub>x</sub> emissions sources that we are approving?*

The following Table 12 contains a summary of the NO<sub>x</sub>-related compliance schedules for major sources, utility generating units, and minor sources affected by the May 30, 2007 SIP revision. See sections 117.9000 through 117.9500 for more information.

TABLE 12—NO<sub>x</sub> COMPLIANCE SCHEDULES FOR POINT SOURCES UNDER CHAPTER 117

Source	Compliance date	Additional information	Citation
Major, D/FW ...	Install all NO <sub>x</sub> abatement equipment by no later than May 30, 2007.	Increment of Progress (IOP) requirement .....	117.9030(a)(1).
Major, D/FW ...	Submit initial control plan per 117.450 by no later than June 1, 2008. Comply with emissions requirements by no later than March 1, 2009 when source subject to 117.410(b)(1), (2), (4), (5), (6), (7)(A), (10), and (14).. Diesel and dual-fuel engines comply with testing and hours of operation for testing and maintenance by no later than March 1, 2009. Gas turbines or IC engines claiming run time exemption comply with the run time requirements by no later than March 1, 2009.	8-hour attainment demonstration requirement	117.9030(b).
D/FW .....	Submit initial control plan per 117.1350 by no later than June 1, 2008. Comply with all other requirements by no later than March 1, 2009.	Utility electric generation sources .....	117.9130(a)(1) and (2).
Minor, D/FW ...	Rich-burn, gas-fired stationary RICE comply with NO <sub>x</sub> requirements by no later than March 1, 2009. Lean-burn, gas-fired stationary RICE comply with NO <sub>x</sub> requirements by no later than March 1, 2010. Diesel-fired and dual-fuel stationary RICE comply with NO <sub>x</sub> requirements by no later than March 1, 2009.	RICE fired with different fuel types .....	117.9210
East Texas .....	Stationary RICE comply with NO <sub>x</sub> requirements by no later than March 1, 2010.	East Texas combustion sources .....	117.9340(a).

Including these compliance dates, summarized in Table 12 above, in the rule provides for enforceability and practicability of the NO<sub>x</sub> rule, and enhances the Texas SIP; therefore, we are approving them into the Texas SIP.

## II. Final Action

Today, we are finalizing approval of revisions to the 30 TAC Chapter 117 into the Texas SIP. This rulemaking covers four separate actions. First, we are approving the repeal of all non-substantive changes to the SIP's Chapter 117 rules and the reformatting of current Chapter 117 because the reformatted revision will better accommodate future additions/revisions to the rules. Second, we are approving substantive revisions to the current NO<sub>x</sub> SIP's Chapter 117 rules for D/FW NO<sub>x</sub> major point sources. Third, we are approving substantive revisions to the current Texas SIP's Chapter 117 rules for D/FW minor sources of NO<sub>x</sub>. Fourth, we are approving substantive revisions to the current Texas SIP's Chapter 117 rules for combustion sources in East Texas. These NO<sub>x</sub> reductions will assist the D/FW area in attaining the 1997 8-hour ozone NAAQS. Today, we are not taking action on the cement kiln related provisions of Chapter 117, see sections E and D of this document. We are also not taking action on new section 117.9810, see section C of this document.

## III. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
  - Does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.
- The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 2, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 25, 2008.

**Richard E. Greene,**  
Regional Administrator, Region 6.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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. In § 52.2270 the entry for Chapter 117 (Reg 7)—Control of Air Pollution from Nitrogen Compounds in the table in paragraph (c) is revised to read as follows:

#### § 52.2270 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 117—Control of Air Pollution From Nitrogen Compounds</b>				
<b>Subchapter A—Definitions</b>				
Section 117.10	Definitions	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
<b>Subchapter B—Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas</b>				
<b>Division 1—Beaumont-Port Arthur Ozone Nonattainment Area Major Sources</b>				
Section 117.100	Applicability	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.103	Exemptions	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.105	Emission Specifications for Reasonably Available Control Technology (RACT).	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.110	Emission Specifications for Attainment Demonstration.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins]. 117.110(c) not in SIP.
Section 117.115	Alternative Plant-Wide Emission Specifications.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.123	Source Cap	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.130	Operating Requirements	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.135	Initial Demonstration of Compliance	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.140	Continuous Demonstration of Compliance.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.145	Notification, Recordkeeping, and Reporting Requirements.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.150	Initial Control Plan Procedures	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.152	Final Control Plan Procedures for Reasonably Available Control Technology.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.154	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.156	Revision of Final Control Plan	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
<b>Division 2—Dallas-Fort Worth Ozone Nonattainment Area Major Sources</b>				
Section 117.200	Applicability	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
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Section 117.205	Emission Specifications for Reasonably Available Control Technology (RACT).	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.210	Emission Specifications for Attainment Demonstration.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins]. 117.210(c) not in SIP.
Section 117.215	Alternative Plant-Wide Emission Specifications.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
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Section 117.230	Operating Requirements	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
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Section 117.252 .....	Final Control Plan Procedures for Reasonably Available Control Technology.	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
Section 117.254 .....	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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Section 117.310 .....	Emission Specifications for Attainment Demonstration.	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	117.310(c) not in SIP.
Section 117.315 .....	Alternative Plant-Wide Emission Specifications.	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
Section 117.320 .....	System Cap .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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Section 117.456 ....	Revision of Final Control Plan .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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<b>Division 3—Houston-Galveston-Brazoria Ozone Nonattainment Area Utility Electric Generation Sources</b>				
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Section 117.1300 ...	Applicability .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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Section 117.1335 ...	Initial Demonstration of Compliance ....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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<b>Division 1—Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources</b>				
Section 117.2000 ...	Applicability .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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Section 117.2030 ...	Operating Requirements .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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**Subchapter E—Multi-Region Combustion Control**

**Division 1—Utility Electric Generation in East and Central Texas**

Section 117.3000 ...	Applicability .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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**Division 2—Cement Kilns**

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Section 117.261 .....	Applicability .....	04/19/00	03/26/04, 69 FR 15686.	
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**Division 3—Water Heaters, Small Boilers, and Process Heaters**

Section 117.3200 ...	Applicability .....	5/30/2007	12/3/2008 [Insert <i>FR</i> page number where document begins].	
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**Division 4—East Texas Combustion**

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**Subchapter F—Acid Manufacturing**

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**Division 2—Nitric Acid Manufacturing—Ozone Nonattainment Areas**

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**Subchapter G—General Monitoring and Testing Requirements**

**Division 1—Compliance Stack Testing and Report Requirements**

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**Division 2—Emission Monitoring**

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**Subchapter H—Administrative Provisions**

**Division 1—Compliance Schedules**

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Section 117.9100 ...	Compliance Schedule for Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
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Section 117.9130 ...	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.9200 ...	Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.9210 ...	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Minor Sources.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.9300 ...	Compliance Schedule for Utility Electric Generation in East and Central Texas.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.9340 ...	Compliance Schedule for East Texas Combustion.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
Section 117.9500 ...	Compliance Schedule for Nitric Acid and Adipic Acid Manufacturing Sources.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].

**Subchapter H—Administrative Provisions**

**Division 2—Compliance Flexibility**

Section 117.9800 ...	Use of Emission Credits for Compliance.	5/30/2007	12/3/2008	[Insert <i>FR</i> page number where document begins].
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[FR Doc. E8-28681 Filed 12-2-08; 8:45 am]  
BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-1106; FRL-8387-9]

### Chlorothalonil; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for combined residues of chlorothalonil and its 4-hydroxy metabolite in or on *Brassica*, head and stem, subgroup 5A; ginseng; horseradish; lentil; okra; rhubarb; vegetable, cucurbit, group 9; vegetable, fruiting, group 8, except tomato; and yam, true. It also establishes a tolerance with regional registration for combined residues of chlorothalonil and its metabolite on persimmon and removes existing tolerances for combined residues of chlorothalonil and its metabolite on broccoli, brussels sprouts, cabbage, cauliflower, cucumber, melon, non-bell pepper, pumpkin, summer squash, and winter squash; as well as the time-limited tolerance on ginseng. These tolerances are no longer needed, since they are superseded by the new tolerances on *Brassica*, cucurbit and fruiting vegetables and the permanent tolerance on ginseng. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 3, 2008. Objections and requests for hearings must be received on or before February 2, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-1106. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5218; e-mail address: [stanton.susan@epa.gov](mailto:stanton.susan@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 those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-1106 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before February 2, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2007-1106, by one of the following methods:

• **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

• **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

##### II. Petition for Tolerance

In the **Federal Register** of January 23, 2008 (73 FR 3964) (FRL-8345-7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7270) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.275 be amended by establishing tolerances for combined residues of the fungicide chlorothalonil, tetrachloroisophthalonitrile, and its