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This section is proposed to provide a rate of assessment sufficient to meet the expenses of performing the department's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under §25.717, the department levies a rate of assessment to cover fiscal year 1993's general administrative expense and collects from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1992 calendar year.

Michael Davis, the director of accounting, has determined that for the first five-year period the proposed section is in effect, there will be a fiscal impact equivalent on small businesses as on large businesses per \$1.00 of loan volume, or a \$250 minimum payment, for companies required to comply with this section. The fiscal impact on state government will be income estimated at \$208,310 to the department's fund 036. However, there is no fiscal implication for local government as a result of enforcing or administering the section, and there will be no effect on local employment or the local economy.

Mr. Davis also has determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section will be the facilitation in the collection of an assessment to cover the general administrative expense connected to the regulation of insurance premium finance companies. There is no anticipated economic cost to persons as the assessment is imposed on business entities.

Comments on the proposal to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the Texas Register to Linda K. von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC# 113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Michael Davis, Director of Accounting, Mail Code #108-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk Office.

The section is proposed under the Insurance Code, Articles 24.06(c), 24.09 and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 24.06(c), provides that each insurance premium finance company licensed by the department shall pay an amount assessed by the department to cover the direct and indirect cost of examinations and investigations and a proportionate share of general administrative expense attributable to regulation of insurance premium finance companies. Article 24.09 authorizes the department to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies. Article 1.04(b) authorizes the State Board of Insurance to determine rules and regulations in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and pre-

scribe the procedures for adoption of rules by a state administrative agency. The proposed new section affects regulation relating to premium finance insurance company examination expenses and assessments for 1993, under the Insurance Code, Article 24.06.

§25.717. *General Administrative Expense Assessment, Fiscal Year 1993.* On or before April 1, 1993, each insurance premium finance company holding a license issued by the Texas Department of Insurance under the Insurance Code, Chapter 24, shall pay to the department an assessment made by the department to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. Payment shall be made to the Texas Department of Insurance, 333 Guadalupe Street, Mail Code #105-2A, Austin, Texas 78701-3938. The assessment to cover general administrative expenses shall be computed and paid as follows.

(1) The amount of the assessment shall be computed as 0.01012 of 1.0% of the total loan dollar volume of the company for the calendar year 1992.

(2) If the amount of assessment computed under paragraph (1) of this section is less than \$250, a minimum assessment of \$250 shall be levied and collected.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 16, 1992.

TRD-9215401 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: December 21, 1992

For further information, please call: (512) 463-6327

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 117. Control of Air Pollution From Nitrogen Compounds

• 31 TAC §§117.1, 117.2, 117.3, 117.4

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Air Control Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Air Control Board (TACB) proposes to repeal §§117.1, 117.2, 117.3, and 117.4, concerning Nitrogen Compounds. All sections within this chapter are proposed for repeal as follows: §117.1, concerning Gas-Fired Steam Generating Rules; §117.2, concerning Nitric Acid Manufacturing; §117.3, concerning Modification Dates; and §117.4, concerning Effective Dates. The requirements of §117.1 and §117.2 will remain in effect and are identified in the proposed new §117.601 and §117.455, respectively. The modification and effective dates of §117.3 and §117.4 have all passed and have been eliminated from the proposed rules.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117. This action is being proposed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the proposed repeals are in effect there would be no fiscal implications for state and local governments.

Mr. Hartssock also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of implementing the sections will be satisfaction of FCAA Amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for persons or small businesses affected by the proposed repeals.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposals 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of

the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The repeals are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.1. Gas-Fired Steam Generating Rules.

§117.2. Nitric Acid Manufacturing.

§117.3. Modification Dates.

§117.4. Effective Dates.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215327

Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457



Subchapter A. Definitions

• 31 TAC §117.10

The Texas Air Control Board (TACB) proposes new §117.10, concerning Definitions. This new section will be included in a proposed new Subchapter A, concerning Definitions, and will contain 39 new definitions to terms found in Regulation VII, concerning Control of Air Pollution From Nitrogen Compounds. The proposed changes have been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Ni-

trogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose, concurrently, the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the proposed section is in effect there would be no fiscal implications for state and local governments.

Mr. Hartssock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of implementing the section will be satisfaction of FCAA Amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for persons or small businesses affected by the revisions.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposals 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new section is proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.10. Definitions. Unless specifically defined in the Texas Clean Air Act or the General Rules of this title, the terms in this chapter shall have the meanings commonly used in the field of air pollution control. Additionally, the following meanings apply,

unless the context clearly indicates otherwise.

Annual capacity factor—The total annual fuel consumed by a unit divided by the fuel which could be consumed by the unit if operated at its maximum rated capacity for 8,760 hours per year.

Applicable ozone nonattainment area—The following areas, as designated pursuant to the 1990 Federal Clean Air Act amendments:

(A) **Beaumont/Port Arthur ozone nonattainment area**—An area consisting of Jefferson, Hardin, and Orange Counties.

(B) **Houston/Galveston ozone nonattainment area**—An area consisting of Harris, Liberty, Waller, Chambers, Fort Bend, Galveston, Brazoria, and Montgomery Counties.

Auxiliary steam boiler—Any combustion equipment within an electric power generating system, as defined in this section, that is used to produce steam for purposes other than generating electricity.

Block one-hour average—An hourly average of data, collected starting at the beginning of each clock hour of the day and continuing until the start of the next clock hour.

Boiler or steam generator—Any combustion equipment fired with solid, liquid, and/or gaseous fuel used to produce steam.

Btu—British thermal unit.

Chemical processing gas turbine—A gas turbine that vents its exhaust gases into the operating stream of a chemical process.

Cold start-up—The time period during which a unit is heated to its normal operating temperature range from cold or ambient temperature and a condition of zero fuel flow, not including fuel usage for pilot lights.

Daily—A calendar day starting at 12 midnight and continuing until 12 midnight the following day.

Electric power generating system—All boilers, steam generators, auxiliary steam boilers, and gas turbines owned or operated by any one of the following: Houston Lighting & Power Company (HL&P), Gulf States Utilities Company (GSU), or any of their successors, that are located within the designated counties of the Houston/Galveston or Beaumont/Port Arthur ozone nonattainment areas.

Emergency standby gas turbine or engine—A gas turbine or engine operated only as a mechanical or electrical power source for a facility when the primary power source has been rendered inoperable, except due to power interruption pursuant to an interruptible power supply agreement.

Heat input—The chemical heat released due to fuel combustion in a unit, using the higher heating value of the fuel.

This does not include the sensible heat of the incoming combustion air.

High heat release rate—A ratio of boiler design heat input to firebox volume (as bounded by the front firebox wall where the burner is located, the firebox side waterwall, and extending to the level just below or in front of the first row of convection pass tubes) greater than or equal to 70,000 Btu per hour per cubic foot.

Horsepower rating—The engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed. The maximum continuous load rating shall be based on uniform performance standards as published by the Diesel Equipment Manufacturer's Association.

Industrial boiler or steam generator—Any combustion equipment, not including utility or auxiliary steam boilers as defined in this section, fired with liquid, solid, or gaseous fuel, that is used to produce steam.

International Standards Organization (ISO)—ISO standard conditions of 59 degree Fahrenheit, 1.0 atmosphere, and 60% relative humidity.

Lean-burn engine—A spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is operated with an exhaust stream oxygen concentration of 4.0% by volume, or greater. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

Low annual capacity factor boiler or process heater—An industrial boiler or process heater with maximum rated capacity:

(A) greater than or equal to 40 million Btu per hour (MMBtu/hr), but less than 100 MMBtu/hr and an annual heat input less than or equal to $2.8(10_{11})$ Btu per year (Btu/yr); or

(B) greater than or equal to 100 MMBtu/hr and an annual heat input less than or equal to $1.4(10_{11})$ Btu/yr.

Low heat release rate—A ratio of boiler design heat input to firebox volume less than 70,000 British thermal unit per hour per cubic foot.

Major Source—Any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit:

(A) at least 25 tons per year (tpy) of nitrogen oxides (NO_x) and is located in the Houston/Galveston ozone nonattainment area;

(B) at least 50 tpy of NO_x and is located in the Beaumont/Port Arthur ozone nonattainment area.

Maximum rated capacity—The maximum design heat input, expressed in million Btu per hour, unless:

(A) the unit is a boiler or process heater operated above the maximum design heat input (as averaged over any one-hour period), in which case the maximum operated hourly rate shall be used as the maximum rated capacity; or

(B) the unit is limited by operating restriction or permit condition to a lesser heat input, in which case the limiting condition shall be used as the maximum rated capacity; or

(C) the unit is a stationary gas turbine, in which case the manufacturer's rated heat consumption at the International Standards Organization conditions shall be used as the maximum rated capacity, unless limited by permit condition to a lesser heat input, in which case the limiting condition shall be used as the maximum rated capacity; or

(D) the unit is a stationary, internal combustion engine, in which case the manufacturer's rated heat consumption at Diesel Equipment Manufacturer's Association conditions shall be used as the maximum rated capacity, unless limited by permit condition to a lesser heat input, in which case the limiting condition shall be used as the maximum rated capacity.

Megawatt (MW) rating—The continuous MW rating or mechanical equivalent by a gas turbine manufacturer at Industrial Standards Organization conditions, without consideration to the increase in gas turbine shaft output and/or the decrease in gas turbine fuel consumption by the addition of energy recovered from exhaust heat.

Nitric acid—Nitric acid which is 30% to 100% in strength.

Nitric acid production unit—Any facility producing nitric acid by either the pressure or atmospheric pressure process.

Nitrogen oxides (NO_x)—The sum of the nitric oxide and nitrogen dioxide in the flue gas or emission point, collectively expressed as nitrogen dioxide.

Parts per million by volume (ppmv)—All ppmv emission limits specified in this rule are referenced on a dry basis.

Peaking gas turbine or engine—A stationary gas turbine or engine used intermittently to produce energy on a demand basis.

Plant-wide emission limit—The ratio of the total allowable nitrogen oxides mass emissions rate dischargeable into the atmosphere from affected units at a major source when firing at their maximum rated capacity to the total maximum rated capacities for those units.

Plant-wide emission rate—The ratio of the total actual nitrogen oxides mass emissions rate discharged into the atmosphere from affected units at a major source when firing at their maximum rated capacity to the total maximum rated capacities for those units.

Process heater—Any combustion equipment, not including boilers or steam generators as defined in this section, fired with liquid and/or gaseous fuel used to transfer heat from combustion gases to a process fluid, superheated steam, or water. The term "process heater" does not apply to any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment.

Rich-burn engine—A spark-ignited, Otto cycle, four-stroke, naturally aspirated or turbocharged engine that is operated with an exhaust stream oxygen concentration of less than 4.0% by volume. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

Shutdown—The time period during which a boiler or process heater is allowed to cool from its normal operating temperature range to a cold or ambient temperature.

Stationary gas turbine—Any gas turbine system that is gas and/or liquid fuel fired with or without power augmentation. This unit is either attached to a foundation at a facility or is portable equipment operated at a specific facility for more than 90 days in any 12-month period. Two or more gas turbines powering one shaft shall be treated as one unit.

Stationary internal combustion engine—A reciprocating engine either attached to a foundation or if not so attached is operated or is intended to be operated at a single facility for more than six months, including any replacement engine for a specific application which lasts or is intended to last for more than six months.

System-wide emission limit—The ratio of the total allowable nitrogen oxides mass emissions rate dischargeable into the atmosphere from affected units in an electric power generating system when firing at their maximum rated capacity to the total maximum rated capacities for those units.

System-wide emission rate—The ratio of the total actual nitrogen oxides mass emissions rate discharged into the atmosphere from affected units in an electric power generating system when firing at their maximum rated capacity to the total maximum rated capacities for those units.

Unit—Any boiler, steam generator, process heater, stationary gas turbine, or stationary internal combustion engine, as defined in this section, which is placed into service prior to November 15, 1992.

Utility boiler or steam generator—Any combustion equipment owned or operated by a municipality or Public Utilities Commission of Texas regulated utility, fired with solid, liquid, and/or gaseous fuel.

used to produce steam, for the purpose of generating electricity.

Wood-Wood, wood residue, bark, or any derivative fuel or residue thereof in any form, including, but not limited to, sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215328 Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

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**Subchapter B. Combustion at
Existing Major Sources
Electric Utility Generation**

- 31 TAC §§117.101, 117.103,
117.105, 117.107, 117.109, 117.
111, 117.113, 117.115, 117.117,
117.119, 117.121

The Texas Air Control Board (TACB) proposes new §§117.101, 117.103, 117.105, 117.107, 117.109, 117.111, 117.113, 117.115, 117.117, 117.119, and 117.121, concerning Utility Electric Generation. This new undesignated head will be included in a proposed new Subchapter B, concerning Combustion at Existing Major Sources. The proposed changes have been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.101, concerning Applicability, specifies that the NO_x RACT requirements apply in the applicable ozone nonattainment counties to utility-owned or municipality-owned utility boilers, steam generators, auxiliary steam boilers, and gas turbines used in electric power generation. The proposed §117.103, concerning Exemptions, specifies the types of equipment and opera-

tions which are exempt from the emission specifications, establishes recordkeeping requirements for exempted equipment, and mandates the permanent loss of exemptions if the heat input or operating schedule exemption thresholds are exceeded. The proposed §117.105, concerning Emission Specifications, establishes NO_x, carbon monoxide (CO), and ammonia emission limits for utility boilers, steam generators, auxiliary steam boilers, and gas turbines, and specifies the averaging period for the NO_x emission limits. The proposed §117.107, concerning Alternate System-Wide Emission Specifications, establishes the availability of a system-wide emission limitation as an alternate control requirement.

The proposed §117.109, concerning Initial Control Plan Procedures, requires the submission of a compliance plan by April 1, 1994. The proposed §117.111, concerning Initial Demonstration of Compliance, requires stack sampling to establish the NO_x emission rate. The proposed §117.113, concerning Continuous Demonstration of Compliance, requires the installation of in-stack continuous emission monitoring systems (CEMS) or operating parameter monitoring systems to measure (or predict) and record the oxygen or carbon dioxide concentrations, the flow rate, and the NO_x and CO emission rates. The proposed §117.115, concerning Final Control Plan Procedures, requires submission of a final control plan. The proposed §117.117, concerning Revision of Control Plans, establishes requirements for revisions to control plans. The proposed §117.119, concerning Notification, Recordkeeping, and Reporting Requirements, specifies the types of records to be reported and kept to document satisfaction of exemption criteria, emission limitations, stack sampling requirements, and CEMS requirements. The proposed §117.121, concerning Alternative Case Specific Specifications, establishes the availability of a case-by-case determination of alternate RACT requirements.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the sections are in effect the estimated annual cost to state and local governments associated with additional enforcement requirements would be \$1,000 in 1993, \$2,000 in 1994, \$12,000 in 1995, \$13,000 in 1996, and \$13,000 in 1997.

All estimates are stated in 1992 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1997.

Mr. Hartssock also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of implementing the sections will be satisfaction of FCAA amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for small businesses. Economic costs to persons required to implement the proposed measures are associated with the abatement, monitoring, sampling, and recordkeeping requirements. Annualized costs for control equipment are estimated to be \$13.5 million

for Gulf States Utilities, and \$16.1 million for Houston Lighting and Power. Any costs continuing beyond 1997 would be continuing capital amortization, operating, maintenance, and recordkeeping requirements.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provide the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.101. Applicability.

(a) The provisions of this undesignated head (relating to Utility Electric Generation) shall apply to utility boilers, steam generators, auxiliary steam boilers, and gas turbines used in an electric power generating system owned or operated by a municipality or a Public Utilities Commission of Texas regulated utility located within the Houston/Galveston and Beaumont/Port Arthur ozone nonattainment areas. This includes units placed into service prior to November 15, 1992, which are owned or operated by Houston Lighting & Power Company, Gulf States Utilities Company, or any of their successors.

(b) The provisions of this undesignated head are applicable for the life of each affected unit within an electric power generating system or until this undesignated head or sections of this title

which are applicable to an affected unit are rescinded.

§117.103. Exemptions.

(a) The provisions of §117.105 of this title (relating to Emission Specifications) shall not apply during the cold start-up or shutdown of a particular unit. The duration of each start-up procedure shall not exceed 12 hours.

(b) Units exempted from the provisions of this undesignated head (relating to Utility Electric Generation) include the following:

(1) any new units placed into service after November 15, 1992;

(2) any utility boiler, steam generator, or auxiliary steam boiler with an annual heat input less than or equal to 1.5(10₁₁) Btu per year; or

(3) stationary gas turbines or engines, which are:

(A) used solely to power other engines or gas turbines during start-ups;

(B) used as emergency standby gas turbines or engines and demonstrated to operate less than 200 hours per calendar year; or

(C) used in peaking service and operated less than 200 hours per year.

(c) The owner or operator of any utility boiler, steam generator, or auxiliary steam boiler using the exemption of subsection (b)(2) of this section shall install and maintain totalizing fuel meters for each individual unit, as approved by the executive director, and record the fuel input for each unit on a calendar year basis. The owner or operator of any engine or turbine using the exemption of subsection (b)(3) of this section shall record the operating time with instrumentation approved by the executive director. The owner or operator of any utility boiler, steam generator, auxiliary steam boiler, or stationary gas turbine or engine exempt under the exemptions of subsection (b)(2) and (3) of this section must notify the executive director within seven days if the applicable Btu-per-year or hour-per-year limit is exceeded. If the Btu-per-year or hour-per-year limit is exceeded, the exemption shall be permanently withdrawn. Within 30 days after loss of the exemption, the owner or operator must submit a revised compliance plan detailing a plan to meet the applicable compliance limit as soon as possible but no later than 24 months after exceeding the hour-per-year limit. Included with this revised compliance plan, the owner or operator must submit a schedule

of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the executive director.

§117.105. Emission Specifications.

(a) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler, emissions of nitrogen oxides (NO_x) in excess of 0.20 pound per million (MM) Btu heat input on a rolling 24-hour averaging period while firing natural gas or a combination of natural gas and waste oil.

(b) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler, NO_x emissions in excess of 0.38 pound per MMBtu heat input on a rolling 24-hour averaging period while firing coal only.

(c) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler, NO_x emissions in excess of 0.30 pound per MMBtu heat input on a rolling 24-hour averaging period while firing fuel oil only.

(d) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler, NO_x emissions in excess of the heat input weighted average of the applicable emission limits specified in subsections (a) - (c) of this section on a rolling 24-hour averaging period while firing a mixture of natural gas, coal, or fuel oil, as follows:

$$\text{Emission Limit} = [a(0.20) + b(0.30) + c(0.38)] / (a + b + c) \text{ Where:}$$

a = is the percentage of total heat input from natural gas

b = is the percentage of total heat input from fuel oil

c = is the percentage of total heat input from coal.

(e) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler NO_x emissions in pounds per hour greater than the product of the applicable emission standard, in accordance with subsections (a)-(d) of this section, and the unit's maximum rated capacity. This emission limit shall be based on a block one-hour average.

(f) No person shall allow the discharge into the atmosphere from any stationary gas turbine with a megawatt (MW) rating greater than or equal to 30 MW and an annual electric output in MW-hours of greater than or equal to the product of 2,500 hours and the MW rating of the unit, NO_x emissions in excess of a block one-hour

average of 25 parts per million by volume (ppmv) at 15% oxygen (O₂), dry basis, while firing natural gas.

(g) No person shall allow the discharge into the atmosphere from any stationary gas turbine with a MW rating greater than or equal to 30 MW and an annual electric output in MW-hours of greater than or equal to the product of 2,500 hours and the MW rating of the unit, NO_x emissions in excess of a block one-hour average of 65 ppmv at 15% O₂, dry basis, while firing fuel oil.

(h) No person shall allow the discharge into the atmosphere from any stationary gas turbine used for peaking service with an annual electric output in MW-hours of less than the product of 2,500 hours and the MW rating of the unit, NO_x emissions in excess of a block one-hour average of 0.20 pound per MMBtu heat input while firing natural gas.

(i) No person shall allow the discharge into the atmosphere from any stationary gas turbine used for peaking service with an annual electric output in MW-hours of less than the product of 2,500 hours and the MW rating of the unit, NO_x emissions in excess of a block one-hour average of 0.30 pound per MMBtu heat input while firing fuel oil.

(j) No person shall allow the discharge into the atmosphere from any unit subject to this undesignated head (relating to Utility Electric Generation), carbon monoxide emissions in excess of 400 ppmv based on a rolling 24-hour averaging period.

(k) No person shall allow the discharge into the atmosphere from any unit subject to this undesignated head, ammonia emissions in excess of 10 ppmv based on a rolling 24-hour averaging period.

(l) The NO_x emission limits specified in subsections

(a)-(i) of this section shall apply at all times, except as specified in §117.103 of this title (relating to Exemptions) and §117.107 of this title (relating to Alternative System-Wide Emission Specifications). The emission limits specified in subsections (j) and (k) of this section shall apply at all times, except as specified in §117.103 of this title.

§117.107. Alternative System-Wide Emission Specifications.

(a) An owner or operator may achieve compliance with the nitrogen oxides (NO_x) emission limits of §117.105 of this title (relating to Emission Specifications) by achieving compliance with a system-wide emission limitation. Any owner or operator who elects to comply

with system-wide emission limits shall reduce emissions of NO_x from affected units so that, if all such units were operated at their maximum rated capacity, the system-wide emission rate from all units in the system would not exceed the system-wide emission limit as defined in §117.10 of this title (relating to Definitions), and shall establish an enforceable emission limit for each affected unit in the system. A pound per million Btu emission limit based on a rolling 24-hour averaging period and a pounds per hour emission limit based on a block one-hour averaging period shall apply to alternative system-wide emission limitations.

(b) An owner or operator of any gas and liquid fuel-fired utility boiler, steam generator, auxiliary steam boiler, or gas turbine which derives more than 50% of its annual heat input from gas fuel shall use only the appropriate gas fuel emission limit of §117.105 of this title at maximum rated capacity in calculating the plant-wide emission limit and shall assign to the unit the maximum allowable NO_x emission rate while firing gas, calculated in accordance with subsection (a) of this section. The owner or operator shall also:

(1) comply with the assigned maximum allowable emission rate while firing gas only;

(2) comply with the liquid fuel emission limit of §117.105 of this title while firing liquid fuel only; and

(3) comply with a limit calculated as the actual heat input weighted sum of the assigned gas-firing allowable emission rate and the liquid fuel emission limit of §117.105 of this title while operating on liquid and gas fuel concurrently.

(c) Peaking gas turbines subject to the emission limits of §117.105(h) or (i) of this title and auxiliary steam boilers subject to the emission limits of §117.105(a)-(c) shall comply with those individual emission specifications under this section and shall not be included in the system-wide emission specification.

(d) Solely for purposes of calculating the system-wide emission limit, the allowable mass emission rate for each affected unit shall be calculated from the emission specifications of §117.105 of this title, as follows.

(1) The NO_x emissions rate (in pounds per hour) for each affected utility boiler, steam generator, or auxiliary steam boiler is the product of its maximum rated capacity and its NO_x emission specification of §117.105 of this title.

(2) The NO_x emissions rate (in pounds per hour) for each affected stationary gas turbine is the product of the in-stack NO_x, the turbine manufacturer's rated ex-

haust flow rate (expressed in pounds per hour at megawatt (MW) rating and International Standards Organization (ISO) flow conditions), and (46/28)(10-6); where:

$$\text{In-stack NO}_x = \text{NO}_x (\text{allowable}) \times (1 - \%H_2O/100) \times [20.9 - \%O_2(1 - \%H_2O/100)]/5.9$$

Where:

NO_x (allowable) = the applicable NO_x emission specification of §117.105(f) of this title (expressed in ppmv NO_x at 15% oxygen, dry basis)

%H₂O = the volume percent water in the stack gases, as calculated at MW rating and ISO flow conditions

%O₂ = the volume percent oxygen in the stack gases on a wet basis, as calculated at the MW rating and ISO flow conditions.

§117.109. Initial Control Plan Procedures.

(a) The owner or operator of an affected unit shall submit to the Texas Air Control Board (TACB) in accordance with the schedule specified in §117.510 of this title (relating to Compliance Schedule for Electric Utility Generation), a plan for compliance with the provisions of §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System-Wide Emission Specifications).

(b) The applicant shall demonstrate that the implementation of the plan will result in timely compliance with all provisions of this undesignated head (relating to Utility Electric Generation) and obtain approval of the plan from TACB.

(c) The plan provisions shall include:

(1) a list of all units subject to this undesignated head, including the manufacturer, model number, rated and anticipated annual heat input for each unit, and maximum gross generating capacity for each unit;

(2) identification of all boilers, process heaters, stationary gas turbines, or engines with a claimed exemption from the emission specifications of §117.105 of this title or §117.107 of this title, and the rule basis for the claimed exemption;

(3) identification of the election to use individual emission limits as specified in §117.105 of this title or the system-wide emission limit specified in §117.107 of this title to achieve compliance with this rule;

(4) a description of the nitrogen oxides (NO_x) control system proposed for each unit, including type; a description of any ancillary equipment related to the control of emissions; and data on the expected performance of the NO_x control system, in-

cluding the mass emission rate and percentage reduction as a function of boiler load;

(5) a list of any equipment retired or decommissioned as a result of compliance with this regulation;

(6) a detailed compliance schedule for each unit, including, but not limited to, specific dates for the following events: final engineering, contract award, begin construction, complete construction, planned operation phases, and final compliance;

(7) a detailed list of all assumptions and calculations used to predict compliance with the emission limits of §117.105 of this title or §117.107 of this title.

§117.111. Initial Demonstration of Compliance.

(a) All units subject to this undesignated head (relating to Utility Electric Generation) shall be tested for nitrogen oxides (NO_x) carbon monoxide and oxygen emissions at a minimum of four points over the normal operating load including the maximum rated capacity, or as near thereto as practicable. Units which inject urea or ammonia into the exhaust stream for NO_x control shall be tested for ammonia emissions. Such tests shall be performed in accordance with the schedule specified in §117.510 of this title (relating to Compliance Schedule For Electric Utility Generation).

(b) The tests required by subsection (a) of this section shall be used for determination of initial compliance with either the emission limits of §117.105 of this title or the assigned emission limits of §117.107 of this title, as applicable. If compliance with §117.107 of this title is selected, initial compliance shall also be determined by total NO_x emissions (expressed in pounds per hour) and total heat input rates (expressed in million Btu per hour (MMBtu/hr)) obtained during the tests required by subsection (a) of this section for units subject to the emission specifications of §117.107 of this title.

(c) Continuous emissions monitoring systems required by §117.113 of this title (relating to Continuous Demonstration of Compliance) shall be installed and operational prior to conducting performance testing under subsection (a) of this section. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

§117.113. Continuous Demonstration of Compliance.

(a) The owner or operator of each affected unit, except for peaking units subject to the requirements of Appendix E of 40 Code of Federal Regulations (CFR) Part 75 and auxiliary boilers as defined in §117.10 of this title (relating to Definitions), shall install, calibrate, maintain, and operate an in-stack continuous emissions monitoring system (CEMS) to measure nitrogen oxides (NO_x) on an individual basis. Each CEMS shall be capable of measuring the following:

- (1) NO_x;
- (2) carbon monoxide;
- (3) oxygen or carbon dioxide as a diluent; and
- (4) exhaust or fuel flow rate.

(b) Any CEMS required by subsection (a) of this section shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 75.

(c) The owner or operator of each peaking unit as defined in 40 CFR Part 75, Appendix E shall monitor operating parameters for each unit in accordance with Appendix E and calculate hourly NO_x emission rates based on those procedures.

(d) The owner or operator of each auxiliary boiler as defined in §117.10 of this title shall install, calibrate, maintain, and operate a CEMS in accordance with subsection (a) of this section or comply with the appropriate (considering boiler maximum rated capacity and annual heat input) industrial boiler monitoring requirements of §117.213 of this title (relating to Continuous Demonstration of Compliance).

(e) After the initial demonstration of compliance required by §117.111 of this title (relating to Initial Demonstration of Compliance), compliance with either §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System-Wide Emission Specifications), as applicable, shall be determined by the methods required in this section. Compliance with the emission limitations may also be determined at the discretion of the executive director using any TACB compliance method. If compliance with §117.105 of this title is selected, no unit subject to §117.105 of this title shall be operated at an emission rate higher than that allowed by the emission specifications of §117.105 of this title. If compliance with §117.107 of this title is selected, no unit subject to §117.107 of this title shall be operated at an emission rate higher than that approved by the executive director pursuant to §117.115(b)(2) of this title (relating to Final Control Plan Procedures).

§117.115. Final Control Plan Procedures.

(a) For sources complying with §117.105 of this title (relating to Emission

Specifications), the owner or operator of an affected source shall submit a final control report to show compliance with the requirements of §117.105 of this title by the final compliance date specified in §117.510 of this title (relating to Compliance Schedule For Electric Utility Generation). The report shall include a list of all affected units showing the method of control of nitrogen oxides (NO_x) emissions for each unit and the results of testing required in §117.111 of this title (relating to Initial Demonstration of Compliance).

(b) For sources complying with §117.107 of this title (relating to Alternative System-Wide Emission Specifications), the owner or operator of an affected source shall submit a final control plan to show attainment of the requirements of §117.107 of this title by the final compliance date specified in §117.510 of this title. The owner or operator shall:

(1) assign to each affected unit the maximum NO_x emission rate, expressed in units of pounds per hour (block one-hour average) and pounds per million Btu heat input (rolling 24-hour average), while firing gaseous or liquid fuel, which are allowable for that unit under the requirements of §117.107 of this title;

(2) submit a list to the executive director for approval of the maximum allowable NO_x emission rates identified in paragraph (1) of this subsection and maintain a copy of the approved list for verification of continued compliance with the requirements of §117.107 of this title; and

(3) submit a list summarizing the results of testing each unit in accordance with the requirements of §117.111 of this title.

§117.117. Revision of Control Plan. A revised control plan may be submitted by the owner or operator, along with any required permit applications. Such a plan shall adhere to the emission limits and the final compliance dates of this undesignated head (relating to Utility Electric Generation). New units, including functionally identical replacement units, shall not be incorporated into the plan.

§117.119. Notification, Recordkeeping, and Reporting Requirements.

(a) For units subject to the exemptions allowed under §117.103

(a) of this title (relating to Exemptions), hourly records shall be made of cold start-up and/or shutdown procedures and maintained for a period of at least four years. Records shall be available for inspection by the Texas Air Control Board (TACB) upon request. These records shall include, but are not limited to: type of fuel

burned; quantity of fuel burned; gross and net energy production in megawatt hours (MW-hr); and the date, time, and duration of the procedure.

(b) The owner or operator of an affected unit shall submit to the executive director written notification, as follows:

(1) notification of the date of any performance testing conducted under §117.111 of this title (relating to Initial Demonstration of Compliance) at least 30 days prior to such date; and

(2) notification of the date of any continuous emissions monitoring system (CEMS) performance evaluation conducted under §117.113 of this title (relating to Continuous Demonstration of Compliance) at least 30 days prior to such date.

(c) The owner or operator of an affected unit shall furnish the executive director a copy of any performance testing conducted under §117.111 of this title or any CEMS performance evaluation conducted under §117.113 of this title within 60 days of completion of such testing or evaluation. For purposes of demonstrating compliance with §117.510 of this title (relating to Compliance Schedule For Electric Utility Generation), such results shall be submitted no later than 30 days before the final compliance date specified in §117.510 of this title.

(d) The owner or operator of a unit required to install a CEMS, continuous operating parameter monitoring system, or steam-to-fuel or water-to-fuel ratio monitoring system under §117.113 of this title shall report in writing to the executive director on a quarterly basis any exceedance of the applicable emission limitations in §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System-Wide Emission Specifications) and the monitoring system performance. All reports shall be postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations Part 60, §60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period;

(2) specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected unit. The nature and cause of any malfunction (if known) and the corrective action taken or preventative measures adopted;

(3) the date and time identifying each period during which the continuous

monitoring system was inoperative, except for zero and span checks and the nature of the system repairs or adjustments;

(4) when no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report;

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total operating time for the reporting period and the CEMS or operating parameter monitoring system downtime for the reporting period is less than 5.0% of the total operating time for the reporting period, only a summary report form (as outlined in the latest edition of the TACB "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless requested by the executive director of the TACB. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total operating time for the reporting period or the CEMS or operating parameter monitoring system downtime for the reporting period is greater than or equal to 5.0% of the total operating time for the reporting period, a summary report and an excess emission report shall both be submitted.

(e) For units subject to the provisions of §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System-Wide Emission Specifications), hourly records shall be made and maintained for a period of at least four years. Records shall be available for inspection by TACB upon request. The records for each unit and hour shall include, but are not limited to:

(1) the nitrogen oxides (NO_x) emission rate in pounds per hour (block one-hour average) and pound per million Btu heat input (rolling 24-hour average);

(2) gross energy production in MW-hr (not applicable to auxiliary boilers);

(3) quantity and type of fuel burned;

(4) the injection rate of reactant chemicals (if applicable) in pounds per hour; and

(5) CEMS, continuous operating parameter monitoring system, or steam-to-fuel or water-to-fuel ratio monitoring system data, as applicable, pursuant to §117.113 of this title (relating to Continuous Demonstration of Compliance). The records shall include:

(A) the date, time, and duration of any malfunction in the operation of the monitoring system, except for zero and span checks, if applicable, and a description

of system repairs and adjustments undertaken during each period;

(B) the results of performance testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS, continuous operating parameter monitoring systems, or steam-to-fuel or water-to-fuel ratio monitoring systems; and

(C) actual emissions or operating parameter measurements, as applicable.

(6) records of data in a form and manner as specified by TACB documenting hourly heat input for each unit using a totalizing fuel meter or other reliable means approved by the executive director of TACB.

§117.121. Alternative Case Specific Specifications. Where a person can demonstrate that an affected unit cannot attain the requirements of §117.105 of this title (relating to Emission Specifications), as applicable, the executive director, on a case-by-case basis after considering the technological and economic circumstances of the individual unit, may approve emission specifications different from §117.105 of this title for that unit based on the determination that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of reasonably available control technology. In determining whether to approve alternative emission specifications, the executive director may take into consideration the ability of the plant at which the unit is located to meet emission specifications through system-wide averaging at maximum capacity. Executive director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the United States Environmental Protection Agency in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this undesignated head (relating to Utility Electric Generation).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215329 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

Commercial, Institutional, and Industrial Sources

- 31 TAC §§117.201, 117.203, 117.205-117.209, 117.211, 117.213, 117.215, 117.217, 117.219-117.221

The Texas Air Control Board (TACB) proposes new §§117.201, 117.203, 117.205-117.209, 117.211, 117.213, 117.215, 117.217, and 117.219-117.221, concerning Commercial, Institutional, and Industrial Sources. This new undesignated head will be included in a proposed new Subchapter B, concerning Combustion at Existing Major Sources. The proposed changes have been developed in response to requirements by the U.S. Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) Amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.201, concerning Applicability, specifies that the NO_x RACT requirements apply in the applicable ozone nonattainment counties to boilers and process heaters with heat input rating greater than 40 million British thermal units per hour; 1.0 megawatt and larger stationary gas turbines; and 150 horsepower and larger stationary, internal combustion engines. The proposed §117.203, concerning Exemptions, specifies the types of equipment and operations which are exempt from the emission specifications and testing requirements, establishes recordkeeping requirements for exempted equipment, and mandates the permanent loss of exemptions if the operating schedule exemption threshold for stationary gas turbines and engines in peaking service is exceeded. The proposed §117.205, concerning Emission Specifications, establishes NO_x emission limits for stationary gas turbines; stationary internal combustion engines; process heaters; and commercial, institutional, and industrial boilers. The proposed §117.206, concerning Emission Specification for New Rich-Burn Engines, establishes NO_x and carbon monoxide (CO) emission limits for new stationary, gas-fired, rich-burn, reciprocating internal combustion engines. The proposed §117.207, concerning Alternative Plant-Wide Emission Specifications, establishes the availability of a plant-wide emission limitation as an alternate control requirement.

The proposed §117.208, concerning Operating Requirements, requires that facilities operate such that NO_x emissions are minimized during normal operations. The proposed

§117.209, concerning Initial Control Plan Procedures, requires the submission of an initial compliance plan by April 1, 1994. The proposed §117.211, concerning Initial Demonstration of Compliance, requires stack sampling to establish the oxygen concentration and emission rates of NO_x and CO. The proposed §117.213, concerning Continuous Demonstration of Compliance, specifies the installation of a fuel flow meter and an in-stack continuous emission monitoring system (CEMS) or operating parameter monitoring system to measure the NO_x and CO emission rates and the oxygen or carbon dioxide concentration, or a flue gas recirculation flow meter and oxygen monitor. The proposed §117.215, concerning Final Control Plan Procedures, requires the submission of a final compliance plan. The proposed §117.217, concerning Revision of Control Plan, provides for the revision of previously submitted compliance plans. The proposed §117.219, concerning Notification, Recordkeeping, and Reporting Requirements, specifies the types of records to be reported and kept to document satisfaction of exemption criteria, emission limitations, stack sampling requirements, and CEMS requirements. The proposed §117.220, concerning Alternate Means of Control, provides for Executive Director approval for the use of alternate control methods which will result in substantially equivalent NO_x emission reductions. The proposed §117.221, concerning Alternative Case Specific Specifications, establishes the availability of a case-by-case determination of alternate RACT requirements.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the sections are in effect the estimated annual cost to state and local governments associated with additional enforcement requirements would be \$57,000 in 1993, \$180,000 in 1994, \$1.3 million in 1995, \$1.4 million in 1996, and \$1.4 million in 1997.

All estimates are stated in 1992 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1997.

Mr. Hartsock also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be satisfaction of FCAA Amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas, which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for small businesses. Economic costs to persons required to implement the proposed measures are associated with the abatement, monitoring, sampling, and recordkeeping requirements. Annualized costs for control equipment for internal combustion engines are estimated to be \$2,900 per rich-burn engine. Annualized costs for control equipment for commercial, institutional, and industrial boilers and process heaters are estimated to be \$9,700 per heater, \$29,000 per refinery heater, and \$138,000 per commercial, institutional, and industrial boiler. Annualized costs for control equipment for industrial gas turbines are estimated to be \$174,000 per unit. Annualized costs for continuous emission monitoring units are estimated to be \$98,000

per unit. Costs for stack testing are estimated to be \$2,000 per occurrence. Any costs continuing beyond 1997 would be continuing capital amortization, operating, maintenance, and recordkeeping requirements.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston Pollution Control Building Auditorium, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382. 017, Texas Health and Safety Code (Vernon 1990), which provide TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.201. Applicability. The provisions of this undesignated head (relating to Commercial, Institutional, and Industrial Sources) shall apply to the following units located at any major stationary source of nitrogen oxides (NO_x) located within the Houston/Galveston or Beaumont/Port Arthur ozone nonattainment areas:

- (1) commercial, institutional, or industrial boilers and process heaters with a maximum rated capacity of 40 million Btu per hour or greater;
- (2) stationary gas turbines with a megawatt (MW) rating of 1.0 MW or greater; and
- (3) stationary internal combustion engines with a horsepower (hp) rating of 150 hp or greater.

§117.203. Exemptions.

(a) The provisions of §117.205 of this title (relating to Emission Specifica-

tions) shall not apply during the cold start-up or shutdown of a particular unit.

(b) Units exempted from the provisions of this undesignated head (relating to Commercial, Institutional, and Industrial Sources) include the following:

(1) any new units placed into service after November 15, 1992;

(2) any commercial, institutional, or industrial boiler or process heater with a maximum rated capacity of less than 40 million (MM) Btu per hour;

(3) any electric utility power generating boiler;

(4) flares, incinerators, fume abaters, sulfur recovery units, and sulfur plant reaction boilers;

(5) dryers, kilns, or ovens used for drying, baking, cooking, calcining, and vitrifying;

(6) stationary gas turbines and engines, which are:

(A) used in research and testing, or used for purposes of performance verification and testing, or used solely to power other engines or gas turbines during start-ups, or operated exclusively for firefighting and/or flood control, or used in response to and during the existence of any officially declared disaster or state of emergency, or used directly and exclusively by the owner or operator for agricultural operations necessary for the growing of crops or raising of fowl or animals, or used as chemical processing gas turbines;

(B) used as emergency standby gas turbines which are demonstrated to operate less than 200 hours per calendar year or engines which are demonstrated to operate less than 200 hours per calendar year. The owner or operator of any engine or turbine using this exemption shall record the operating time with an elapsed run time meter; or

(C) used in peaking service and operated less than 200 hours per year. The owner or operator of any engine or turbine using this exemption shall record the operating time with instrumentation approved by the Executive Director. The owner or operator of any stationary gas turbine or engine exempt under this exemption must notify the Executive Director within seven days if the hour-per-year limit is exceeded. If the hour-per-year limit is exceeded, the exemption shall be permanently withdrawn. Within 30 days after loss of the exemption, the owner or operator must submit a revised compliance plan detailing a plan to meet the applicable compliance limit as soon as possible but not later

than 24 months after exceeding the hour-per-year limit. Included with this revised compliance plan, the owner or operator must submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the Executive Director;

(7) stationary gas turbines with a megawatt (MW) rating of less than 1.0 MW; and

(8) stationary internal combustion engines with a horsepower (hp) rating of less than 150 hp.

§117.205. Emission Specifications.

(a) No person shall allow the discharge of nitrogen oxides (NO_x) into the atmosphere to exceed a block one-hour average emission rate (expressed in pounds per hour) calculated as the product of the unit's maximum rated capacity and its applicable limit (in pounds NO_x per million Btu), as follows.

(1) Each commercial, institutional, or industrial boiler which is an affected facility as defined by New Source Performance Standards (NSPS) 40 Code of Federal Regulations (CFR), Part 60, Subparts D or Db, shall be limited to the applicable NSPS NO_x emission limit, unless the boiler is also subject to a more stringent permit emission limit as identified in paragraph (2) of this subsection, in which case the more stringent emission limit applies.

(2) Each commercial, institutional, or industrial boiler or process heater operating under a permit issued after March 3, 1982, pursuant to Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and subject to a detailed NO_x best available control technology review shall be subject to the permitted NO_x limitation, as follows:

(A) the limit explicitly stated in pounds NO_x per million (MM) Btu of heat input by permit provision (converted from low heating value to high heating value, as necessary); or

(B) the NO_x emission limit is the limit calculated as the permit Maximum Allowable Emission Rate Table emission limit in pounds per hour, divided by the maximum heat input to the unit in MMBtu per hour (MMBtu/hr), as represented in the permit application. In the event the maximum heat input to the unit is not explicitly stated in the permit application, the rate shall be calculated from Table 6 of the permit application, using the design maximum fuel flow rate and higher heating value of the fuel, or, if neither of these are available, the unit's nameplate heat input.

(3) Each commercial, institutional, or industrial boiler and process heater with a maximum rated capacity greater than or equal to 100.0 MMBtu/hr of heat input, not subject to paragraphs (1) or (2) of this subsection, shall meet the applicable emission limit, as follows:

(A) gas-fired boilers, as follows:

(i) low heat release boilers with no preheated air or preheated air less than 200 degree Fahrenheit of air preheat, 0.10 pound (lb) NO_x/MMBtu of heat input;

(ii) low heat release boilers with preheated air greater than or equal to 200 degree Fahrenheit and less than 400 degree Fahrenheit of air preheat, 0.15 lb NO_x/MMBtu of heat input;

(iii) low heat release boilers with preheated air greater than or equal to 400 degree Fahrenheit of air preheat, 0.20 lb NO_x/MMBtu of heat input;

(iv) high heat release boilers with no preheated air or preheated air less than 250 degree Fahrenheit of air preheat, 0.20 lb NO_x/MMBtu of heat input;

(v) high heat release boilers with preheated air greater than or equal to 250 degree Fahrenheit and less than 500 degree Fahrenheit of air preheat, 0.24 lb NO_x/MMBtu of heat input; or

(vi) high heat release boilers with preheated air greater than or equal to 500 degree Fahrenheit of air preheat, 0.28 lb NO_x/MMBtu of heat input;

(B) mechanical draft, gas-fired process heaters, as follows:

(i) process heaters with no preheated air or preheated air less than 200 degree Fahrenheit of air preheat, 0.10 lb NO_x/MMBtu of heat input;

(ii) process heaters with preheated air greater than or equal to 200 degree Fahrenheit and less than 400 degree Fahrenheit of air preheat, 0.13 lb NO_x/MMBtu of heat input; or

(iii) process heaters with preheated air greater than or equal to 400 degree Fahrenheit of air preheat, 0.18 lb NO_x/MMBtu of heat input;

(C) natural draft, gas-fired process heaters with firebox temperatures, as follows:

(i) process heaters with a firebox temperature less than 1,400 degree Fahrenheit, 0.10 lb NO_x/MMBtu of heat input;

(ii) process heaters with a firebox temperature greater than or equal to 1,400 degree Fahrenheit and less than 1,800 degree Fahrenheit, 0.125 lb NO_x/MMBtu of heat input; or

(iii) process heaters with a firebox temperature greater than or equal to 1,800 degree Fahrenheit, 0.15 lb NO_x/MMBtu of heat input.

(D) liquid fuel-fired boilers and process heaters, 0.30 lb NO_x/MMBtu of heat input;

(E) wood fuel-fired boilers and process heaters, 0.30 lb NO_x/MMBtu of heat input;

(F) any unit operated with a combination of gas, liquid, or wood fuel, a variable emission limit calculated as the heat-input weighted average of the applicable emission limits of this paragraph.

(4) Any gas-fired boiler or process heater firing gaseous fuel which contains more than 50% hydrogen by volume, over an eight-hour period, in which the fuel gas composition is sampled and analyzed every three hours, a multiplier of 1.25 times the appropriate emission limit in this subsection, for that eight-hour period.

(b) No person shall allow the discharge into the atmosphere from any stationary gas turbine with a megawatt (MW) rating greater than or equal to 10.0 MW, emissions in excess of a block one-hour average concentration of 42 parts per million by volume (ppmv) NO_x and 50 ppmv carbon monoxide (CO) at 15% oxygen, dry basis.

(c) No person shall allow the discharge into the atmosphere from any gas-fired, rich-burn, stationary, reciprocating internal combustion engine rated 150 horsepower (hp) or greater, emissions in excess of a block one-hour average of 2.0 grams NO_x per horsepower hour (g NO_x/hp-hr) and 3.0 g CO/hp-hr.

(d) No person shall allow the discharge into the atmosphere from any boiler or process heater subject to NO_x emission specifications in subsection (a) of this section, CO in excess of 400 ppmv based on a block one-hour average.

(e) No person shall allow the discharge into the atmosphere from any unit subject to a NO_x emission limit in this undesignated head (relating to Commercial, Institutional, and Industrial Sources), ammonia emissions in excess of 10 ppmv based on a rolling 24-hour averaging period.

(f) Units exempted from the emissions specifications of this section include the following:

(1) any commercial, institutional, or industrial boiler or process heater with a maximum rated capacity less than 100 MMBtu/hr;

(2) any low annual capacity factor boiler or process heater as defined in §117.10 of this title (relating to Definitions);

(3) boilers and industrial furnaces which are regulated as existing facilities by the U.S. Environmental Protection Agency at 40 CFR, Part 266, Subpart H;

(4) fluid catalytic cracking units (including CO boilers);

(5) supplemental waste heat recovery units used in turbine exhaust ducts;

(6) any lean-burn, stationary, reciprocating internal combustion engine; and

(7) any stationary gas turbine with a MW rating less than 10.0 MW.

(g) the NO_x emission limits specified in subsections (a) through (c) of this section shall apply at all times except as specified in §117.203 of this title (relating to Exemptions) and §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications). The CO emission limits specified in subsections (b), (c), and (d) of this section and the ammonia emission limits specified in subsection (e) of this section shall apply at all times, except as specified in §117.203 of this title.

§117.206. Emission Specification for New, Rich-Burn Engines.

(a) No person shall allow the discharge into the atmosphere from any gas-fired, rich-burn, stationary, reciprocating internal combustion engine rated 150 horsepower (hp) and greater, located in the Houston/Galveston or Beaumont/Port Arthur ozone nonattainment areas and placed into service after November 15, 1992, emissions in excess of a block one-hour average of 2.0 grams nitrogen oxides per horsepower-hour (g NO_x/hp-hr) and 3.0 g carbon monoxide/hp-hr.

(b) Stationary internal combustion engines described in §117.203(6) and (8) of this title (relating to Exemptions) shall be exempt from the emission specifications of subsection (a) of this section.

(c) Each engine subject to the emission specifications of subsection (a) of this section shall be operated, monitored, and tested in accordance with §117.208(c)(6) and (7) of this title (relating to Operating Requirements) and §117.213(d) of this title (relating to Continuous Demonstration of Compliance). Compliance with the emission specifications of this section shall be determined by the methods required in §117.211(f) of this title (relating to Initial

Demonstration of Compliance) or, at the discretion of the Executive Director, by any Texas Air Control Board compliance method.

(d) Compliance with the emission specifications of this section does not constitute compliance with the nonattainment area permit requirements of Chapter 116 this title (relating to Control of Air Pollution by Permits for New Construction or Modification) applicable on or after November 15, 1992.

§117.207. Alternative Plant-Wide Emission Specifications.

(a) An owner or operator may achieve compliance with the emission limits of §117.205 of this title (relating to Emission Specifications) by achieving equivalent nitrogen oxides (NO_x) emission reductions obtained by compliance with a plant-wide emission limitation. Any owner or operator who elects to comply with a plant-wide emission limit shall reduce emissions of NO_x from affected units so that if all such units were operated at their maximum rated capacity, the plant-wide emission rate of NO_x from these units would not exceed the plant-wide emission limit as defined in §117.10 of this title (relating to Definitions) and shall establish an enforceable emission limit for each affected unit at the source.

(b) Units exempted from emission specifications in accordance with §117.205(f) of this title are also exempt under this section and shall not be included in the plant-wide emission limit, except as provided in subsection (f) of this section.

(c) An owner or operator of any gas and liquid fuel-fired unit which derives more than 50% of its annual heat input from gas fuel shall use only the appropriate gas fuel emission limit of §117.205 of this title at maximum rated capacity in calculating the plant-wide emission limit and shall assign to the unit the maximum allowable NO_x emission rate while firing gas, calculated in accordance with subsection (a) of this section. The owner or operator shall also:

(1) comply with the assigned maximum allowable emission rate while firing gas only;

(2) comply with the liquid fuel emission limit of §117.205 of this title while firing liquid fuel only; and

(3) comply with a limit calculated as the actual heat input weighted sum of the assigned gas-firing allowable emission rate and the liquid fuel emission limit of §117.205 of this title while operating on liquid and gas fuel concurrently.

(d) An owner or operator of any gas and liquid fuel-fired unit which derives

more than 50% of its annual heat input from liquid fuel shall use a heat input weighted average of the appropriate gas and liquid fuel emission specifications of §117.205 of this title in calculating the plant-wide emission limit and shall assign to the unit the maximum allowable NO_x emission rate, calculated in accordance with subsection (a) of this section.

(e) An owner or operator of any unit operated with a combination of gas (or liquid) and solid fuels shall use a heat input weighted average of the appropriate emission specifications of §117.205 of this title in calculating the plant-wide emission limit and shall assign to the unit the maximum allowable NO_x emission rate, calculated in accordance with subsection (a) of this section.

(f) The owner or operator of exempted units as defined in §117.205(f) of this title may elect to include one or more of an entire equipment class of exempted units into the alternative plant-wide emission specifications as defined in this section. The equipment classes which may be included in the alternative plant-wide emission specifications as an entire population of units at the major source include the following: fluid catalytic cracking unit carbon monoxide (CO) boilers; lean-burn, gas-fired, stationary, reciprocating internal combustion engines rated 150 horsepower (hp) or greater; boilers, steam generators, or process heaters with a maximum rated capacity of greater than or equal to 40 million Btu per hour (MMBtu/hr) and less than 100 MMBtu/hr; and stationary gas turbines with a megawatt (MW) rating of greater than or equal to 1.0 MW and less than 10.0 MW. Low capacity factor units as defined in §117.10 of this title and §117.203(6) of this title (relating to Exemptions) are not to be considered as part of that class of equipment. The individual emission limits that are to be used in calculating the alternative plant-wide emission specifications are, as follows:

(1) fluid catalytic cracking unit CO boilers, 0.10 pound (lb) NO_x/MMBtu of heat input;

(2) lean-burn, gas-fired, stationary, reciprocating internal combustion engines rated 150 hp or greater, 5.0 grams NO_x/horsepower-hour (g NO_x/hp-hr) under all operating conditions;

(3) boilers, steam generators, or process heaters with a maximum rated capacity of greater than or equal to 40 MMBtu/hr and less than 100 MMBtu/hr, the emission specifications in §117.205(a) of this title; and

(4) stationary gas turbines with a MW rating of greater than or equal to 1.0 MW and less than 10.0 MW, 42 parts per million by volume (ppmv) NO_x at 15% oxygen (O₂), dry basis.

(g) Solely for the purposes of calculating the plant-wide emission limit, the allowable mass emission rate for each affected unit shall be calculated from the emission specifications of §117.205 of this title, as follows:

(1) the NO_x emission rate (in lbs per hour) for each affected boiler and process heater is the product of its maximum rated capacity and its NO_x emission specification of §117.205 of this title:

(2) the NO_x emission rate (in lbs per hour) for each affected stationary internal combustion engine is the product of the applicable NO_x emission specification of §117.205 of this title (expressed in g/hp-hr) and the engine manufacturer's rated heat input (expressed in MMBtu/hr) at the engine's hp rating; divided by the product of the engine manufacturer's rated heat rate (expressed in Btu/hp-hr) at the engine's hp rating and 454(10).

(3) the NO_x emission rate (in lbs per hour) for each affected stationary gas turbine is the product of the in-stack NO_x, the turbine manufacturer's rated exhaust flow rate (expressed in lbs per hour at MW rating and International Standards Organization (ISO) flow conditions) and (46/28) (10-); where:

$$\text{In-stack NO}_x = \text{NO}_x(\text{allowable}) \times (1 - \% \text{H}_2\text{O}/100) \times [20.9 - \% \text{O}_2(1 - \% \text{H}_2\text{O}/100)]/5.9$$

Where:

NO_x (allowable) = the applicable NO_x emission specification of §117.205 of this title (expressed in ppmv NO_x at 15% O₂, dry basis)

%H₂O = the volume percent of water in the stack gases, as calculated at MW rating and ISO flow conditions

%O₂ = the volume percent of O₂ in the stack gases on a wet basis, as calculated at MW rating and ISO flow conditions.

(4) the NO_x emission rate (in lbs per hour) for each affected gas-fired boiler and process heater firing gaseous fuel which contains more than 50% hydrogen (H₂) by volume, over an annual basis, in which the fuel gas composition is sampled and analyzed every three hours, may use a multiplier of 1.25 times the product of its maximum rated capacity and its NO_x emission specification of §117.205 of this title. Double application of the H₂ content multiplier using this paragraph and §117.205(a)(4) of this title is not allowed.

(h) The owner or operator of any gas-fired boiler or process heater firing gaseous fuel which contains more than 50% H₂ by volume, over an eight-hour period, in which the fuel gas composition is sampled and analyzed every three hours, may use a

multiplier of 1.25 times the emission limit assigned to the unit in this section for that eight-hour period, not applicable to units under subsection (g)(4) of this section.

(i) A unit which operated in calendar year 1990 and has since been permanently retired or decommissioned and rendered inoperable, may be included in the plant-wide emission limitation under the following conditions:

(1) the unit must have operated at more than 40% annual capacity factor in 1990;

(2) for purposes of calculating the plant-wide emission limit, the applicable emission limit for retired units shall be in accordance with §117.205 of this title;

(3) the maximum rated capacity shall be documented with manufacturer's or

other information acceptable to the Executive Director of the Texas Air Control Board;

(4) the unit must be shut down and rendered permanently inoperable prior to the final compliance date of §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources);

(5) the owner or operator must certify the unit's 1990 operational level and maximum rated capacity.

§117.208. Operating Requirements.

(a) Except during cold start-up or shutdown, the owner or operator shall operate any unit subject to the emission limitations of §117.205 of this title (relating to Emission Specifications) in compliance with those limitations.

(b) The owner or operator shall operate any unit subject to the plant-wide emission limit such that the assigned maximum nitrogen oxides (NO_x) emission rate for each unit, expressed in pounds NO_x per hour, is in accordance with the list approved by the Executive Director pursuant to §117.215 of this title (relating to Final Control Plan Procedures).

(c) All units subject to the emission limitations of §117.205 of this title or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications) shall be operated so as to minimize NO_x emissions, consistent with the emission control techniques selected, over the unit's operating or load range during normal operations. Such operational requirements include, but are not limited to, the following.

(1) Each boiler shall be operated with oxygen (O₂) or carbon monoxide (CO) trim (or both).

(2) Each boiler and process heater controlled with forced flue gas recirculation (FGR) to reduce NO_x emissions shall be operated such that the proportional design rate of FGR is maintained, consistent with combustion stability, over the operating range.

(3) Each boiler and process heater controlled with induced draft FGR to reduce NO_x emissions shall be operated such that the operation of FGR over the operating range is not restricted by artificial means.

(4) Each unit controlled with steam or water injection shall be operated such that injection rates are maintained to limit NO_x concentrations to less than or equal to the NO_x concentrations achieved at maximum rated capacity (corrected to 15% O₂ on a dry basis for gas turbines).

(5) Each unit controlled with post combustion control techniques shall be operated such that the reducing agent injection rate is maintained to limit NO_x concentrations to less than or equal to the NO_x concentrations achieved at maximum rated capacity.

(6) Each stationary internal combustion engine controlled with nonselective catalytic reduction shall be equipped with an automatic air-fuel ratio (AFR) controller which operates on exhaust O₂ or CO control and maintains AFR in the range required to meet the engine's applicable NO_x emission limit.

(7) Each stationary internal combustion engine shall be checked for proper operation of the engine by recorded measurements of NO_x and CO emissions at least quarterly and as soon as practicable after each occurrence of engine maintenance which may reasonably be expected to

increase emissions, O₂ sensor replacement, or catalyst cleaning or catalyst replacement. Stain tube indicators specifically designed to measure NO_x concentrations shall be acceptable for this documentation, provided a hot air probe or equivalent device is used to prevent error due to high stack temperature, and three sets of concentration measurements are made and averaged. Portable NO_x analyzers shall also be acceptable for this documentation.

§117.209. Initial Control Plan Procedures. The owner or operator of any major source which has units subject to §117.205 of this title (relating to Emission Specifications) or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications) shall submit, for the approval of the Executive Director, an initial control plan for installation of nitrogen oxides (NO_x) emissions control equipment to meet the requirements of §117.205 of this title or §117.207 of this title. The initial control plan shall be submitted in accordance with the schedule specified in §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources) and shall contain the following:

(1) a list of all combustion units at the source with a maximum rated capacity greater than 5.0 million Btu per hour; all stationary, reciprocating internal combustion engines rated 150 horsepower or greater; all stationary gas turbines with a megawatt (MW) rating of greater than or equal to 1.0 MW; to include the maximum rated capacity, anticipated annual heat input, the facility identification numbers as submitted to the Emissions Inventory Division of the Texas Air Control Board (TACB), and the emission point numbers as listed on the Maximum Allowable Emissions Rate Table of any applicable TACB permit for each unit;

(2) identification of all units subject to the emission specifications of §117.205 of this title or §117.207 of this title;

(3) identification of all boilers, process heaters, stationary gas turbines, or engines with a claimed exemption from the emission specifications of §117.205 of this title or §117.207 of this title and the rule basis for the claimed exemption;

(4) identification of the election to use individual emission limits as specified in §117.205 of this title or the plant-wide emission limit specified in §117.207 of this title to achieve compliance with this rule;

(5) a list of units to be controlled and the type of control to be applied for all such units, including a construction schedule;

(6) a list of any units retired or decommissioned as a result of compliance with this regulation; and

(7) the basis for calculation of the mass rate of NO_x emissions for each unit to demonstrate that each unit will achieve the NO_x emission rates specified in §117.205 of this title or §117.207 of this title.

§117.211. Initial Demonstration of Compliance.

(a) All units which are identified in the control plan required by §117.209 of this title (relating to Initial Control Plan Procedures) and are subject to the emission limitations of §117.205 of this title (relating to Emission Specifications) or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), shall be tested for nitrogen oxides (NO_x), carbon monoxide (CO), and oxygen (O₂) emissions while firing gaseous fuel (and as applicable, hydrogen (H₂) fuel for units which may fire more than 50% H₂ by volume, and liquid fuel), at the maximum rated capacity, or as near thereto as practicable. Units which inject urea or ammonia into the exhaust stream for NO_x control shall be tested for ammonia emissions. Testing shall be performed in accordance with the schedule specified in §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources).

(b) The tests required by subsection (a) of this section shall be used for determination of initial compliance with either the emission limits of §117.205 of this title or the assigned emission limits of §117.207 of this title, as applicable. If compliance with §117.207 of this title is selected, initial compliance shall also be determined by total NO_x emissions (expressed in pounds per hour) and total heat input rates (expressed in million Btu per hour (MMBtu/hr)) obtained during the tests required by subsection (a) of this section for units subject to the emission specifications of §117.207 of this title.

(c) The following units shall be tested for NO_x, CO, and O₂ emissions while firing gaseous fuel (and as applicable, H₂ fuel for units which may fire more than 50% H₂ by volume, and liquid fuel) at the maximum rated capacity or as near thereto as practicable:

(1) process heaters and boilers with a maximum rated capacity greater than or equal to 40.0 MMBtu/hr and less than 100.0 MMBtu/hr, except for low annual capacity factor boilers and process heaters as defined in §117.10 of this title (relating to Definitions);

(2) boilers and industrial furnaces with a maximum rated capacity

greater than or equal to 40.0 MMBtu/hr which are regulated as existing facilities by the U.S. Environmental Protection Agency at 40 Code of Federal Regulations (CFR), Part 266, Subpart H, except for low annual capacity factor boilers and process heaters as defined in §117.10 of this title;

(3) fluid catalytic cracking units with a maximum rated capacity greater than or equal to 40 MMBtu/hr;

(4) gas turbine supplemental waste heat recovery units with a maximum rated fired capacity greater than or equal to 40 MMBtu/hr, except for low annual capacity factor units as defined in §117.10 of this title;

(5) stationary gas turbines with a megawatt (MW) rating of greater than or equal to 1.0 MW and less than 10.0 MW, except for low annual capacity factor units as defined in §117.203(6) of this title (relating to Exemptions); and

(6) lean-burn, gas-fired, stationary, reciprocating internal combustion engines rated 150 horsepower or greater, except for low annual capacity factor units as defined in §117.203(6) of this title.

(d) Any continuous emissions monitoring system (CEMS) required by §117.213 of this title (relating to Continuous Demonstration of Compliance) shall be installed and operational prior to conducting performance testing under subsection (a) of this section. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(e) Testing conducted prior to the effective date of this rule may be used to demonstrate compliance with the standards specified in §117.205 of this title or §117.207 of this title or to satisfy the additional testing requirements of subsection (c) of this section, if the owner or operator of an affected facility demonstrates to the Executive Director that the prior performance testing at least meets the requirements of subsections (a), (b), (c), (d), and (f) of this section. The Executive Director reserves the right to request performance testing or CEMS performance evaluation at any time.

(f) Compliance with the emission specifications of §117.205 of this title or §117.207 of this title shall be demonstrated by application of the following test methods:

(1) Test method 7E or 20 (40 CFR, Part 60, Appendix A) for NO_x;

(2) Test Method 10, 10A, or 10B (40 CFR 60, Appendix A) for CO;

(3) Test Method 3A or 20 (40 CFR 60, Appendix A) for O₂;

(4) Test Method 2 or 19 (40 CFR 60, Appendix A) for exhaust gas flow; and

(5) American Society of Testing and Materials (ASTM) Method D-1945-81, ASTM Method D-3588-81, or ASTM Method D-2650-83 for fuel composition; or

(6) minor modifications to these test methods as approved by the Executive Director.

(g) Initial compliance with the combustion unit labeling requirements of §117.219(g) of this title (relating to Notification, Recordkeeping, and Reporting Requirements) shall be demonstrated no later than the final compliance date specified in §117.520 of this title.

§117.213. Continuous Demonstration of Compliance.

(a) The owner or operator of units listed in this subsection and subject to the provisions of this undesignated head (relating to Commercial, Institutional, and Industrial Sources) shall install, calibrate, maintain, and operate an operating parameter monitoring system which predicts hourly nitrogen oxides (NO_x) emissions on an individual unit basis. As a minimum, each system shall include an oxygen (O₂) monitor to measure exhaust stack O₂ concentration, a totalizing fuel flow meter to measure the fuel usage, and a flue gas recirculation flow meter to measure the flue gas recirculation rate, if applicable. The operating parameter monitoring systems shall be subject to the approval of the Executive Director under any permit issued pursuant to Title V of the 1990 Federal Clean Air Act (FCAA) Amendments. The operating parameter monitoring systems shall be installed by the time of compliance with the emission limits specified in §117.205 of this title (relating to Emission Specifications) or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications) for the following units:

(1) each commercial, institutional, and industrial boiler with a rated heat input greater than or equal to 100 million Btu per hour (MMBtu/hr) and less than 250 MMBtu/hr and an annual heat input greater than 1.4(10₁₁) Btu per year (Btu/yr); and

(2) each process heater with a rated heat input greater than or equal to 100 MMBtu/hr and less than 200 MMBtu/hr and an annual heat input greater than 1.4(10₁₁) Btu/yr.

(b) The owner or operator of units listed in this subsection and subject to the provisions of this undesignated head shall install, calibrate, maintain, and operate a continuous in-stack NO_x monitor, a carbon monoxide (CO) monitor, an O₂ (or carbon dioxide) diluent monitor, and a totalizing

fuel flow meter. The required continuous emissions monitoring systems (CEMS) and fuel flow meter will be used to measure hourly NO_x emissions on an individual unit basis. Any CEMS shall meet all the requirements of 40 Code of Federal Regulations (CFR), Part 60, §60.13; 40 CFR 60, Appendix B, Performance Specification 2 and 3; and quality assurance procedures of 40 CFR 60, Appendix F. The CEMS shall be subject to the approval of the Executive Director under any permit issued pursuant to Title V of the 1990 FCAA Amendments. The CEMS shall be installed by the time of compliance with the emission limits specified in §117.205 of this title or §117.207 of this title for the following units:

(1) each commercial, institutional, and industrial boiler with a rated heat input greater than or equal to 250 MMBtu/hr and an annual heat input greater than 1.4(10₁₁) Btu/yr;

(2) each process heater with a rated heat input greater than or equal to 200 MMBtu/hr and an annual heat input greater than 1.4(10₁₁) Btu/yr;

(3) each stationary gas turbine with a megawatt (MW) rating greater than 30 MW operated more than 200 hours per year; and

(4) each unit which uses a chemical reagent for reduction of NO_x.

(c) In addition to the totalizing fuel flow meters specified in subsections (a) and (b) of this section, the owner or operator shall install and maintain totalizing fuel flow meters on an individual unit basis on the following units:

(1) process heaters and commercial, institutional, and industrial boilers with a rated heat input greater than or equal to 40.0 MMBtu/hr and less than 100.0 MMBtu/hr;

(2) low annual capacity factor boilers and process heaters as defined in §117.10 of this title (relating to Definitions);

(3) lean-burn, stationary, reciprocating internal combustion engines rated 150 horsepower or greater; and

(4) stationary gas turbines with a MW rating greater than or equal to 1.0 MW or less than 10.0 MW.

(d) The owner or operator of any stationary gas engine subject to the emission specifications of §117.205 of this title, §117.206 of this title (relating to Emission Specification for New, Rich-Burn Engines), or §117.207 of this title shall install and maintain a totalizing fuel flow meter and perform biennial stack testing of engine emissions of NO_x and CO, measured in accordance with the methods specified in §117.211(f) of this title (relating to Initial

Demonstration of Compliance). In lieu of performing stack sampling on a biennial calendar basis, an owner or operator may elect to install and operate an elapsed operating time meter and shall test the engine within 15,000 hours of engine operation after the previous emission test. The owner or operator who elects to test on an operating hour schedule shall submit, in writing, to the appropriate air pollution agency having jurisdiction, biennially after the initial demonstration of compliance, documentation of the actual recorded hours of engine operation since the previous emission test, and an estimate of the date of the next required sampling.

(e) The owner or operator of any stationary gas turbine rated less than 30 MW using steam or water injection to comply with the emission specifications of §117.205 of this title or §117.207 of this title shall either:

(1) install, calibrate, maintain, and operate a CEMS in compliance with subsection (a) of this section; or

(2) install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the average hourly fuel and steam or water consumption. The system shall be accurate to within + 5.0%. The steam-to-fuel or water-to-fuel ratio monitoring data shall constitute the method for demonstrating continuous compliance with the applicable emission specification of §117.205 of this title or §117.207 of this title.

(f) The owner or operator of any gas-fired boiler or process heater firing gaseous fuel which contains more than 50% hydrogen by volume, shall sample, analyze, and record every three hours the fuel gas composition to comply with the emission specifications of §117.205 of this title or §117.207 of this title. Fuel gas analysis shall be tested according to American Society of Testing and Materials (ASTM) Method D-1945-81 or ASTM Method D-2650-83.

(g) After the initial demonstration of compliance required by §117.211 of this title, compliance with either §117.205 of this title or §117.207 of this title, as applicable, shall be determined by the methods required in this section. Compliance with the emission limitations may also be determined at the discretion of the Executive Director using any Texas Air Control Board compliance method.

(h) If compliance with §117.205 of this title is selected, no unit subject to §117.205 of this title shall be operated at an hourly mass emission rate higher than that allowed by the emission specifications of §117.205 of this title. If compliance with §117.207 of this title is selected, no unit subject to §117.207 of this title shall be

operated at an hourly mass emission rate higher than that approved by the Executive Director pursuant to §117.215(b) (2) of this title (relating to Final Control Plan Procedures).

(i) The owner or operator of any low annual capacity factor boiler or process heater as defined in §117.10 of this title must notify the Executive Director within seven days if the Btu-per-year limit is exceeded. If the Btu-per-year limit is exceeded, the exemption from the emission specifications of §117.205(a)(3) of this title shall be permanently withdrawn. Within 30 days after loss of the exemption, the owner or operator must submit a permit application detailing a plan to meet the applicable emission specification within 12 months. Included with this permit application, the owner or operator must submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the Executive Director.

(j) After the initial determination of compliance, compliance with the combustion unit labeling requirements of §117.219(g) of this title (relating to Notification, Recordkeeping, and Reporting Requirements) shall be demonstrated no more frequently than upon issuance of any permit issued pursuant to Title V of the 1990 FCAA Amendments and subsequently upon renewal of any such permit.

§117.215. Final Control Plan Procedures.

(a) For sources complying with §117.205 of this title (relating to Emission Specifications), the owner or operator of an affected source shall submit a final control report to show compliance with the requirements of §117.205 of this title by the final compliance date specified in §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources). The report shall include a list of all affected units showing the method of control of nitrogen oxides (NO_x) emissions for each unit and the results of testing required in §117.211 of this title (relating to Initial Demonstration of Compliance).

(b) For sources complying with §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), the owner or operator of an affected source shall submit a final control plan to show attainment of the requirements of §117.207 of this title by the final compliance date specified in §117.520 of this title. The owner or operator shall:

(1) assign to each affected unit the maximum NO_x emission rate in pounds per hour while firing gaseous or liquid fuel, which are allowable for that unit under the requirements of §117.207 of this title;

(2) submit a list to the Executive Director for approval of the maximum allowable NO_x emission rates identified in paragraph (1) of this subsection and maintain a copy of the approved list for verification of continued compliance with the requirements of §117.207 of this title; and

(3) Submit a list summarizing the results of testing of each unit at maximum rated capacity, in accordance with the requirements of §117.211 of this title.

§117.217. *Revision of Control Plan.* A revised control plan may be submitted by the owner or operator, along with any required permit applications. Such a plan shall adhere to the emission limits and the final compliance dates of this undesignated head (relating to Commercial, Institutional, and Industrial Sources). New units, including functionally identical replacement units, shall not be incorporated into the plan.

§117.219. Notification, Recordkeeping, and Reporting Requirements.

(a) For units subject to the exemptions allowed under §117.203(a) of this title (relating to Exemptions), hourly records shall be made of cold start-up and/or shutdown procedures and maintained for a period of at least four years. Records shall be available for inspection by the Texas Air Control Board (TACB) upon request. These records shall include, but are not limited to: type of fuel burned; quantity of fuel burned; and the date, time, and duration of the procedure.

(b) The owner or operator of an affected source shall submit to the Executive Director written notification, as follows:

(1) notification of the date of any performance testing conducted under §117.211 of this title (relating to Initial Demonstration of Compliance) at least 30 days prior to such date; and

(2) notification of the date of any continuous emissions monitoring system (CEMS) performance evaluation conducted under §117.213 of this title (relating to Continuous Demonstration of Compliance) at least 30 days prior to such date.

(c) The owner or operator of an affected unit shall furnish the Executive Director a copy of any performance testing conducted under §117.211 of this title or any CEMS performance evaluation conducted under §117.213 of this title, within 60 days of completion of such testing or evaluation. For purposes of demonstrating compliance with §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources), such results shall be submitted no later than 30 days before the

final compliance date specified in §117.520 of this title.

(d) The owner or operator of a unit required to install a CEMS, continuous operating parameter monitoring system, or steam-to-fuel or water-to-fuel ratio monitoring system under §117.213 of this title shall report in writing to the Executive Director on a quarterly basis any exceedance of the applicable emission limitations in §117.205 of this title (relating to Emission Specifications) or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications) and the monitoring system performance. All reports shall be postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations, Part 60, §60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period;

(2) specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected unit. The nature and cause of any malfunction (if known) and, the corrective action taken or preventative measures adopted;

(3) the date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks and the nature of the system repairs or adjustments;

(4) when no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report;

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total operating time for the reporting period and the CEMS or operating parameter monitoring system downtime for the reporting period is less than 5.0% of the total operating time for the reporting period, only a summary report form (as outlined in the latest edition of the TACB "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless requested by the Executive Director of TACB. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total operating time for the reporting period or the CEMS or operating parameter monitoring system downtime for the reporting period is greater than or equal to 5.0% of the total operating time for the reporting period, a summary report and an excess emission report shall both be submitted.

(e) The owner or operator of any rich-burn engine subject to the emission limitations in §117.205 of this title or §117.207 of this title shall report in writing to the Executive Director on a quarterly basis any excess emissions and the air-fuel ratio monitoring system performance. All reports shall be postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1) the magnitude of excess emissions (based on the quarterly emission checks of §117.208(c)(7) of this title (relating to Operating Requirements) and the biennial emission testing required for demonstration of emissions compliance in accordance with §117.213(d) of this title), computed in pounds per hour and grams per horsepower-hour, any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period;

(2) specific identification, to the extent feasible, of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the engine, catalytic converter, or air-fuel ratio controller. The nature and cause of any malfunction (if known) and, the corrective action taken or preventative measures adopted.

(f) The owner or operator of an affected unit shall maintain written records of all continuous emissions monitoring and performance test results, hours of operation, and hourly fuel usage rates. Such records shall be kept for a period of at least four years and shall be made available upon request by authorized representatives of TACB, U.S. Environmental Protection Agency, or local air pollution control agencies.

(g) The owner or operator of a source subject to the provisions of this undesignated head (relating to Commercial, Institutional, and Industrial Sources) shall identify by means of placing a sign, tag, stencil, engraving, or label in a conspicuous location on all combustion units at the source with a maximum rated capacity greater than 5.0 million Btu per hour. The identifying sign, tag, stencil, engraving, or label shall include the following information:

(1) the facility identification numbers as submitted to the Emissions Inventory Division of TACB; and

(2) the emission point numbers as listed on the Maximum Allowable Emissions Rate Table of any applicable TACB permit.

§117.220. Alternate Methods of Control.

(a) Any person affected by the control requirements of §117.205 of this title (relating to Emission Specifications) may

request the Executive Director to approve alternate methods of control. Such requests shall:

(1) contain, as a minimum, all data, records, and other information necessary to determine eligibility for alternate methods of control, including, but not limited to:

(A) a list of equipment subject to alternate methods of control;

(B) daily hours of utilization for applicable equipment;

(C) estimated emission of nitrogen oxides for each operation;

(D) rated capacity; and

(E) historical and projected fuel quantity and type used;

(2) present the methodology for estimation of equivalency of emission reductions under the proposed alternate methods of control as compared to the emission reductions otherwise required by the rule;

(3) demonstrate that the units subject to the specified rule emission limitations are in compliance with or on an approved schedule for compliance with all applicable TACB rules.

(b) The Executive Director shall approve such alternate methods of control if it can be demonstrated that such control will result in substantially equivalent emission reductions as those specified in this regulation. Executive Director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the U.S. Environmental Protection Agency of any alternate method.

§117.221. *Alternative Case Specific Specifications.* Where a person can demonstrate that an affected unit cannot attain the requirements of §117.205 of this title (relating to Emission Specifications), as applicable, the Executive Director, on a case-by-case basis after considering the technological and economic circumstances of the individual unit, may approve emission specifications different from §117.205 of this title for that unit based on the determination that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of reasonably available control technology. In determining whether to approve alternative emission specifications, the Executive Director may take into consideration the ability of the plant at which the unit is located to meet emission specifications through plant-wide averaging at maximum capacity. Executive

Director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the U.S. Environmental Protection Agency in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this undesignated head (relating to Commercial, Institutional, and Industrial Sources).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215330 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

◆ ◆ ◆ Subchapter C. Acid Manufacturing

Adipic Acid Manufacturing

- 31 TAC §§117.301, 117.305, 117.309, 117.311, 117.313, 117.319, 117.321

The Texas Air Control Board (TACB) proposes new §§117.301, 117.305, 117.309, 117.311, 117.313, 117.319, and 117.321, concerning Adipic Acid Manufacturing. This new undesignated head will be included in a proposed new Subchapter C, concerning Acid Manufacturing. The proposed changes have been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.301, concerning Applicability, specifies that the NO_x RACT requirements apply in the applicable ozone nonattainment counties to each adipic acid production unit. The proposed §117.305, concerning Emission Specifications, establishes NO_x emission limits for adipic acid production units. The proposed §117.309, concerning Control Plan Procedures, requires the submittal of a control plan by April 1, 1994.

The proposed §117.311, concerning Initial Demonstration of Compliance, requires stack sampling to establish the NO_x emission rate. The proposed §117.313, concerning Continuous Demonstration of Compliance, requires the installation of an in-stack continuous emission monitoring system (CEMS) to measure the NO_x emission rate. The proposed §117.319, concerning Notification, Recordkeeping, and Reporting Requirements, specifies the types of records to be reported and kept to document satisfaction of emission limitations, stack sampling requirements, and CEMS requirements. The proposed §117.321, concerning Alternative Case Specific Specifications, establishes the availability of a case-by-case determination of alternate RACT requirements.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the proposed sections are in effect the estimated annual cost to state and local governments associated with additional enforcement requirements would be \$0 in 1993, \$0 in 1994, \$1,000 in 1995, \$1,000 in 1996, and \$1,000 in 1997.

Mr. Hartsock also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of implementing the sections will be satisfaction of FCAA amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for small businesses. Economic costs to persons required to implement the proposed measures are associated with the abatement, monitoring, sampling, and recordkeeping requirements. Costs for process modifications are estimated to be \$20,000 per year. Annualized costs for continuous emission monitoring units are estimated to be \$98,000 per unit. Costs for stack testing are estimated to be \$10,000 per occurrence.

Any costs continuing beyond 1997 would be continuing operating, maintenance, and recordkeeping requirements. All estimates are stated in 1992 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final

action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.301. Applicability. The provisions of this undesignated head (relating to Adipic Acid Manufacturing) shall apply only in the following areas designated nonattainment for ozone: Beaumont/Port Arthur and Houston/Galveston. These provisions shall apply to each adipic acid production unit which is the affected facility.

§117.305. Emission Specifications. No person may allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from the absorber of any adipic acid production unit to exceed 2.0 pounds per ton of adipic acid produced.

§117.309. Control Plan Procedures. Any person affected by this undesignated head (relating to Adipic Acid Manufacturing) shall submit a control plan to the executive director on the compliance status of all required emission controls and monitoring systems by April 1, 1994. The control plan shall provide a detailed description of the method to be followed to achieve compliance, specifying the exact dates by which the following steps will be taken:

(1) dates by which contracts for emission control and monitoring systems will be awarded or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) date of initiation of on-site construction or installation of emission control equipment or process modification;

(3) date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(4) date by which final compliance is to be achieved.

§117.311. Initial Demonstration of Compliance.

(a) Compliance with the nitrogen oxides emission limits specified in §117.305 of this title (relating to Emission Specifications) shall be determined by the performance testing procedures specified in 40 Code of Federal Regulations (CFR) 60, Appendix A, Method 7, or an equivalent method approved by the executive director. Method 7A, 7B, 7C, or 7D may be used in place of Method 7. If Method 7C or 7D is used, the sampling time shall be at least one hour.

(b) Performance testing shall be conducted in accordance with the procedures specified in 40 CFR 60, §60.8.

(c) Any continuous emissions monitoring systems (CEMS) required by §117.313 of this title (relating to Continuous Demonstration of Compliance) shall be installed and operational prior to conducting performance testing under subsections (a) and (b) of this section. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(d) Testing conducted prior to the effective date of this rule may be used to demonstrate compliance with the standard specified in §117.305 of this title if the owner or operator of an affected facility demonstrates to the executive director that the prior performance testing at least meets the requirements of subsections (a)-(c) of this section. The executive director reserves the right to request performance testing or CEMS performance evaluation at any time.

§117.313. Continuous Demonstration of Compliance.

(a) The owner or operator of any facility subject to the provisions of this undesignated head (relating to Adipic Acid Manufacturing) shall install, calibrate, maintain, and operate a continuous emissions monitoring system (CEMS) for measuring nitrogen oxides (NO_x) from the absorber.

(b) Any CEMS installed subject to subsection (a) of this section shall meet all requirements of 40 Code of Federal Regulations (CFR) Part 60, §60.13; 40 CFR 60, Appendix B, Performance Specification 2; and quality assurance procedures of 40 CFR 60, Appendix F.

(c) The owner or operator of an affected facility shall establish a conversion factor for the purpose of converting monitoring data into units of the emission standard (in pounds NO_x per ton of acid produced) as specified in 40 CFR 60, Subpart G, §60.73(b). NO_x emissions data

recorded by the CEMS shall be represented in terms of both parts per million by volume and pounds NO_x per ton of acid produced.

§117.319. Notification, Recordkeeping, and Reporting Requirements.

(a) The owner or operator of an affected facility shall submit to the executive director written notification, as follows:

(1) notification of the date of any continuous emissions monitoring systems (CEMS) performance evaluation conducted under §117.313(b) of this title (relating to Continuous Demonstration of Compliance) at least 30 days prior to such date; and

(2) notification of the date of any performance testing conducted under §117.311 of this title (relating to Initial Demonstration of Compliance) at least 30 days prior to such date.

(b) The owner or operator of an affected facility shall furnish the executive director a copy of any CEMS performance evaluation conducted under §117.313 of this title, or any performance testing conducted under §117.311 of this title, within 60 days of completion of such evaluation or testing. For purposes of demonstrating compliance with §117.530 of this title (relating to Compliance Schedules For Nitric Acid and Adipic Acid Manufacturing Sources), such results shall be submitted no later than 30 days before the final compliance date specified in §117.530 of this title.

(c) The owner or operator of an affected facility shall report in writing to the executive director on a quarterly basis all periods of excess emissions, defined as any three-hour period during which the average nitrogen oxides (NO_x) emissions (arithmetic average of three contiguous one-hour periods) exceed the emission limitation in §117.305 of this title (relating to Emission Specifications) and the monitoring system performance. All reports shall be post-marked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations Part 60, §60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period;

(2) specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected unit. The nature and cause of any malfunction (if known) and the corrective action taken or preventative measures adopted;

(3) the date and time identifying each period during which the CEMS was inoperative, except for zero and span checks and the nature of the system repairs or adjustments;

(4) when no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report;

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total operating time for the reporting period and the CEMS downtime for the reporting period is less than 5.0% of the total operating time for the reporting period, only a summary report form (as outlined in the latest edition of the Texas Air Control Board (TACB) "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless requested by the executive director of TACB. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total operating time for the reporting period or the CEMS downtime for the reporting period is greater than or equal to 5.0% of the total operating time for the reporting period, a summary report and an excess emission report shall both be submitted.

(d) The owner or operator of an affected facility shall maintain written records of all continuous emissions monitoring and performance test results, hours of operation, and daily production rates. Such records shall be kept for a period of at least four years and shall be made available upon request by authorized representatives of TACB, United States Environmental Protection Agency, or local air pollution control agencies.

§117.321. Alternative Case Specific Specifications. Where a person can demonstrate that an affected unit cannot attain the requirements of §117.305 of this title (relating to Emission Specifications), as applicable, the executive director, on a case-by-case basis after considering the technological and economic circumstances of the individual unit, may approve emission specifications different from §117.305 of this title for that unit based on the determination that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of reasonably available control technology. In determining whether to approve alternative emission specifications, the executive director may take into consideration the ability of the plant at which the unit is located to meet emission specifications through plant-wide averaging at maximum capacity. Executive director approval does not necessarily constitute satisfaction of all federal require-

ments nor eliminate the need for approval by the United States Environmental Protection Agency in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this undesignated head (relating to Adipic Acid Manufacturing).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215331 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

Nitric Acid Manufacturing

- 31 TAC §§117.401, 117.405, 117.409, 117.411, 117.413, 117.419, 117.421

The Texas Air Control Board (TACB) proposes new §§117.401, 117.405, 117.409, 117.411, 117.413, 117.419, and 117.421, concerning Nitric Acid Manufacturing. This new undesignated head will be included in a proposed new Subchapter C, concerning Acid Manufacturing. The proposed changes have been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.401, concerning Applicability, specifies that the NO_x RACT requirements apply in the applicable ozone nonattainment counties to each nitric acid production unit. The proposed §117.405, concerning Emission Specifications, establishes NO_x emission limits for nitric acid production units. The proposed §117.409, concerning Control Plan Procedures, requires the submittal of a control plan by April 1, 1994. The proposed §117.411, concerning Initial Demonstration of Compliance, requires stack sampling to establish the NO_x emission rate. The proposed §117.413, concerning Continuous Demonstration of Compliance, requires the installation of an in-stack continuous emission monitoring system (CEMS) to measure the NO_x emission rate. The proposed

§117.419, concerning Notification, Recordkeeping, and Reporting Requirements, specifies the types of records to be reported and kept to document satisfaction of emission limitations, stack sampling requirements, and CEMS requirements. The proposed §117.421, concerning Alternative Case Specific Specifications, establishes the availability of a case-by-case determination of alternate RACT requirements.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the sections are in effect the estimated annual cost to state and local government as a result of enforcing or administering the sections associated with additional enforcement requirements would be \$0 in 1993, \$0 in 1994, \$2,000 in 1995, \$2,000 in 1996, and \$2,000 in 1997.

Mr. Hartsock also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be satisfaction of FCAA amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas, which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for small businesses. Economic costs to persons required to implement the proposed measures are associated with the abatement, monitoring, sampling, and recordkeeping requirements. Costs for process modifications are estimated to range from \$17,000 to \$20,000 per year. There are no additional costs associated with continuous emission monitoring unit requirements. Costs for stack testing are estimated to be \$10,000 per occurrence.

Any costs continuing beyond 1997 would be continuing operating, maintenance, and recordkeeping requirements. All estimates are stated in 1992 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposals 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at

all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.401. Applicability. The provisions of this undesignated head (relating to Nitric Acid Manufacturing) shall apply only in the following areas designated nonattainment for ozone: Beaumont/Port Arthur and Houston/Galveston. These provisions shall apply to each nitric acid production unit which is the affected facility.

§117.405. Emission Specifications. No person may allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from the absorber of any nitric acid production unit to exceed 1.0 pound per ton of nitric acid produced, the production being expressed as 100% nitric acid.

§117.409. Control Plan Procedures. Any person affected by this undesignated head (relating to Nitric Acid Manufacturing) shall submit a control plan to the executive director on the compliance status of all required emission controls and monitoring systems by April 1, 1994. The control plan shall provide a detailed description of the method to be followed to achieve compliance, specifying the exact dates by which the following steps will be taken:

(1) dates by which contracts for emission control and monitoring systems will be awarded or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) date of initiation of on-site construction or installation of emission control equipment or process modification;

(3) date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(4) date by which final compliance is to be achieved.

§117.411. Initial Demonstration of Compliance.

(a) Compliance with the nitrogen oxides emission limits specified in §117.405 of this title (relating to Emission Speci-

fications) shall be determined by the performance testing procedures specified in 40 Code of Federal Regulations (CFR) Part 60, Appendix A, Method 7, or an equivalent method approved by the executive director. Method 7A, 7B, 7C, or 7D may be used in place of Method 7. If Method 7C or 7D is used, the sampling time shall be at least one hour.

(b) Performance testing shall be conducted in accordance with the procedures specified in 40 CFR Part 60, §60.8.

(c) Any continuous emissions monitoring systems (CEMS) required by §117.413 of this title (relating to Continuous Demonstration of Compliance) shall be installed and operational prior to conducting performance testing under subsections (a) and (b) of this section. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(d) Testing conducted prior to the effective date of this rule may be used to demonstrate compliance with the standard specified in §117.405 of this title if the owner or operator of an affected facility demonstrates to the executive director that the prior performance testing at least meets the requirements of subsections (a)-(c) of this section. The executive director reserves the right to request performance testing or CEMS performance evaluation at any time.

§117.413. Continuous Demonstration of Compliance.

(a) The owner or operator of any facility subject to the provisions of this undesignated head (relating to Nitric Acid Manufacturing) shall install, calibrate, maintain, and operate a continuous emissions monitoring system (CEMS) for measuring nitrogen oxides (NO_x) from the absorber.

(b) Any CEMS installed subject to subsection (a) of this section shall meet all requirements of 40 Code of Federal Regulations (CFR) Part 60, §60.13; 40 CFR 60, Appendix B, Performance Specification 2; and quality assurance procedures of 40 CFR 60, Appendix F.

(c) The owner or operator of an affected facility shall establish a conversion factor for the purpose of converting monitoring data into units of the emission standard (in pounds NO_x per ton of acid produced, expressed as 100% nitric acid) as specified in 40 CFR 60, Subpart G, §60.73(b). NO_x emissions data recorded by the CEMS shall be represented in terms of both parts per million by volume and pounds NO_x per ton of acid produced, expressed as 100% nitric acid.

§117.419. Notification, Recordkeeping, and Reporting Requirements.

(a) The owner or operator of an affected facility shall submit to the executive director written notification, as follows:

(1) notification of the date of any continuous emissions monitoring system (CEMS) performance evaluation conducted under §117.413(b) of this title (relating to Continuous Demonstration of Compliance) at least 30 days prior to such date; and

(2) notification of the date of any performance testing conducted under §117.411 of this title (relating to Initial Demonstration of Compliance) at least 30 days prior to such date.

(b) The owner or operator of an affected facility shall furnish the executive director a copy of any CEMS performance evaluation conducted under §117.413 of this title, or any performance testing conducted under §117.411 of this title, within 60 days of completion of such evaluation or testing. For purposes of demonstrating compliance with §117.530 of this title (relating to Compliance Schedules for Nitric Acid and Adipic Acid Manufacturing Sources), such results shall be submitted no later than 30 days before the final compliance date specified in §117.530 of this title.

(c) The owner or operator of an affected facility shall report in writing to the executive director on a quarterly basis all periods of excess emissions, defined as any three-hour period during which the average nitrogen oxides emissions (arithmetic average of three contiguous one-hour periods) as measured by a CEMS exceed the emission limitation in §117.405 of this title (relating to Emission Specifications) and the monitoring system performance. All reports shall be postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations Part 60, §60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period;

(2) specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected unit. The nature and cause of any malfunction (if known) and the corrective action taken or preventative measures adopted;

(3) the date and time identifying each period during which the CEMS was inoperative, except for zero and span checks

and the nature of the system repairs or adjustments;

(4) when no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report;

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total operating time for the reporting period and the CEMS downtime for the reporting period is less than 5.0% of the total operating time for the reporting period, only a summary report form (as outlined in the latest edition of the Texas Air Control Board (TACB) "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless requested by the executive director of TACB. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total operating time for the reporting period or the CEMS downtime for the reporting period is greater than or equal to 5.0% of the total operating time for the reporting period, a summary report and an excess emission report shall both be submitted.

(d) The owner or operator of an affected facility shall maintain written records of all continuous emissions monitoring and performance test results, hours of operation, and daily production rates. Such records shall be kept for a period of at least four years and shall be made available upon request by authorized representatives of TACB, United States Environmental Protection Agency, or local air pollution control agencies.

§117.421. Alternative Case Specific Specifications. Where a person can demonstrate that an affected unit cannot attain the requirements of §117.405 of this title (relating to Emission Specifications), as applicable, the executive director, on a case-by-case basis after considering the technological and economic circumstances of the individual unit, may approve emission specifications different from §117.405 of this title for that unit based on the determination that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of reasonably available control technology. In determining whether to approve alternative emission specifications, the executive director may take into consideration the ability of the plant at which the unit is located to meet emission specifications through plant-wide averaging at maximum capacity. Executive director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the United States Environmental Protection Agency in cases where specified crite-

ria for determining equivalency have not been clearly identified in applicable sections of this undesignated head (relating to Nitric Acid Manufacturing).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215332 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

Nitric Acid Manufacturing-General

- 31 TAC §§117.451, 117.455, 117.458

The Texas Air Control Board (TACB) proposes new §§117.451, 117.455, and 117.458, concerning Nitric Acid Manufacturing-General. This new undesignated head will be included in a proposed new Subchapter C, concerning Acid Manufacturing. The proposed new §117.451 identifies applicability. The proposed new §117.455 incorporates the provisions of existing §117.2, concerning Nitric Acid Manufacturing. The proposed new §117.458 involves a new requirement, concerning applicability of New Source Performance Standards. Language from existing §117.3, concerning Modification Dates, and §117.4, concerning Effective Dates, has been eliminated since these dates have all passed.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.451, concerning Applicability, specifies that the existing regulations apply to nitric acid facilities only in areas not designated nonattainment for ozone. The proposed §117.455, concerning Emission Specifications, identifies nitrogen oxides (NO_x) emission limits for nitric acid production units. These limits are identical to the existing limits in §117.2 which is concurrently proposed for repeal. The proposed §117.458, concerning Applicability of Federal New Source Performance Standards, specifies that in addition to the requirements of §117.455, federal new source performance standards may also be applicable.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the sections are in effect there would be no fiscal implications for state and local governments.

Mr. Hartsock also has determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a

result of implementing the sections will be more effective and consistent enforcement associated with the control of NO_x emissions. There would be no fiscal implications for persons or small businesses affected by the revisions.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposals 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382. 017, Texas Health and Safety Code, (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.451. Applicability. The emission limitations specified in §117.455 of this undesignated head (relating to Emission Specifications) shall apply to all nitric acid production units in the state, with the exception that for nitric acid production units located in applicable ozone nonattainment areas, only the emission limitations of §117.405 (relating to Emission Specifications) shall apply after May 31, 1995.

§117.455. Emission Specifications. No person shall allow emissions of nitrogen oxides, calculated as nitrogen dioxide, from any nitric acid production unit to exceed 600 parts per million by volume.

§117.458. Applicability of Federal New Source Performance Standards. None of the provisions of this subchapter (relating to Acid Manufacturing) shall be construed to

limit or preclude applicability of any provision of 40 Code of Federal Regulations Part 60, Subpart G (Standards of Performance for Nitric Acid Plants).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215333 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457

Subchapter D. Administrative Provisions

- 31 TAC §§117.510, 117.520, 117.530, 117.540, 117.550, 117.560, 117.570

The Texas Air Control Board (TACB) proposes new §§117.510, 117.520, 117.530, 117.540, 117.550, 117.560, and 117.570, which will be included in a proposed new Subchapter D, concerning administrative provisions. The proposed changes have been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) Amendments to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO_x) in the following ozone nonattainment counties: Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.510, concerning Compliance Schedule For Electric Utility Generation, establishes the compliance schedules for affected utility-owned or municipality-owned utility boilers, steam generators, auxiliary steam boilers, and gas turbines used in electric power generation. The proposed §117.520, concerning Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources, establishes the compliance schedules for affected 1.0 megawatt and larger stationary gas turbines, 150 horsepower and larger rich-burn stationary internal combustion engines, and 40 million Btu per hour and larger boilers and process heaters. The proposed §117.530, concerning Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources, establishes the compliance schedules for affected nitric acid

and adipic acid manufacturing facilities. The proposed §117.540, concerning Compliance Schedule Deviation, specifies the availability of and approval process for revisions to control plans. The proposed §117.550, concerning Permit Requirements, details the conditions under which a permit is not required to install control equipment.

The proposed §117.560, concerning Rescission, provides for suspension of NO_x RACT requirements upon EPA approval of a finding by the TACB that additional reductions of NO_x emissions will not contribute to attainment. The proposed §117.570, concerning Alternate Means of Compliance- Trading, has been inserted as a "placeholder" to reflect the Board's interest in developing a program of emission credits trading of NO_x emissions to allow compliance with the proposed rules.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the proposed sections are in effect, the estimated annual cost to state and local governments associated with additional review of compliance plans is expected to be minimal.

Mr. Hartssock also has determined that for the first five-year period the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be satisfaction of FCAA Amendments and EPA requirements, and NO_x emission reductions in ozone nonattainment areas, which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for small businesses. Economic costs to persons required to implement the proposed measures are associated with the submission of control plans and are expected to be minimal. There are no costs anticipated beyond 1997.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; and December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

Staff members will be available to discuss the proposals 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation

needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed under the Texas Clean Air Act (TCAA), §382.17, Texas Health and Safety Code, (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.510. Compliance Schedule For Electric Utility Generation. All persons affected by the provisions of the undesignated head (relating to Utility Electric Generation) in Subchapter B of this chapter shall be in compliance as soon as practicable, but no later than May 31, 1995 (final compliance date). Additionally, all affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) no later than April 1, 1994, submit a plan for compliance in accordance with §117.109 of this title (relating to Initial Control Plan Procedures);

(2) submit progress reports every 90 days after submittal of the initial control plan specified in §117.109 of this title, up to the final compliance date of this section. The executive director shall also be notified of the completion of each separate step in the control plan within five days after completion, and shall be notified within 30 days after making any changes to the plan;

(3) conduct applicable continuous emissions monitoring system (CEMS) evaluations and quality assurance procedures as specified in §117.113 of this title (relating to Continuous Demonstration of Compliance) no later than January 1, 1995. The results of the CEMS performance evaluations and quality assurance procedures shall be submitted to the Texas Air Control Board (TACB) no later than March 31, 1995;

(4) conduct applicable performance testing as specified in §117.111 of this title (relating to Initial Demonstration of Compliance) by:

(A) no later than 180 days after completion of modifications and no later than 60 days before the compliance date for units which are to be modified with NO_x control equipment;

(B) no later than January 1, 1995, for units which do not require modification; and

(C) the results of the performance testing shall be submitted to the TACB no later than 90 days after the appli-

cable date specified in subparagraphs (A) or (B) of this paragraph.

§117.520. Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources. All persons affected by the provisions of the undesignated head (relating to Commercial, Institutional, and Industrial Sources) in Subchapter B of this chapter shall be in compliance as soon as practicable, but no later than May 31, 1995 (final compliance date). Additionally, all affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) no later than April 1, 1994, submit a plan for compliance in accordance with §117.209 of this title (relating to Initial Control Plan Procedures);

(2) submit progress reports every six months after submittal of the initial control plan specified in §117.209 of this title up to the final compliance date of May 31, 1995;

(3) conduct applicable performance testing as specified in §117.211 of this title (relating to Initial Demonstration of Compliance); provide previous testing documentation for any claimed test waiver as allowed by §117.211(e) of this title; and conduct applicable continuous emissions monitoring system performance evaluation and quality assurance procedures as specified in §117.213 of this title (relating to Continuous Demonstration of Compliance), by:

(A) no later than 180 days after completion of modifications and no later than 60 days before any applicable compliance date for units which are to be modified with NO_x control equipment; and

(B) no later than April 1, 1994, for units which do not require modification.

(C) the results of the performance testing shall be submitted to the TACB no later than 90 days after the applicable date specified in subparagraphs (A) or (B) of this paragraph.

§117.530. Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources. All persons affected by the provisions of the undesignated head (relating to Adipic Acid Manufacturing) in Subchapter C of this chapter or the provisions of the undesignated head (relating to Nitric Acid Manufacturing) in Subchapter C of this chapter shall be in compliance as soon as practicable, but no later than May 31, 1995 (final compliance date). Additionally, all affected persons shall meet the following

compliance schedules and submit written notification to the executive director:

(1) no later than April 1, 1994, develop and submit a control plan for compliance as specified in §117.309 of this title (relating to Control Plan Procedures) and §117.409 of this title (relating to Control Plan Procedures);

(2) submit progress reports every 60 days after submittal of the control plan specified in §117.309 of this title and §117.409 of this title up to the final compliance date specified in this section. The executive director shall also be notified of the completion of each separate step in the control plan within five days after completion;

(3) conduct applicable continuous emissions monitoring system (CEMS) performance evaluation and quality assurance procedures as specified in §117.313 of this title (relating to Continuous Demonstration of Compliance) and §117.413 of this title (relating to Continuous Demonstration of Compliance); provide previous testing documentation for any claimed test waiver as allowed by subsection §117.311(d) of this title (relating to Initial Demonstration of Compliance) or subsection §117.411(d) of this title (relating to Initial Demonstration of Compliance); and conduct applicable performance testing as specified in §117.311 of this title and §117.411 of this title, by:

(A) no later than January 1, 1994, for affected facilities not performing process modification or installation of a CEMS device as part of the control plan specified in §117.309 of this title and §117.409 of this title; and

(B) no later than May 31, 1995, for affected facilities performing process modification or installation of a CEMS device as part of the control plan specified in §117.309 of this title and §117.409 of this title;

(4) within 60 days after the applicable date specified in subparagraphs (3) (A) or (3) (B) of this section, submit the results of CEMS performance evaluation and quality assurance procedures and the results of performance testing specified in paragraph (3) of this section.

§117.540. Compliance Schedule Deviation.

(a) No person affected by §117.309 of this title (relating to Control Plan Procedures), §117.409 of this title (relating to Control Plan Procedures), §117.510 of this title (relating to Compliance Schedule For Electric Utility Generation), §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources), or §117.530 of

this title (relating to Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources) shall deviate from the terms of the control plans, including the date for final compliance and the dates for accomplishing the required steps in such plans. The executive director may, upon application of any person affected, change the date for accomplishing the required steps in a plan. Any control plan that specifies a final compliance date subsequent to any date specified by §117.510 of this title, §117.520 of this title, or §117.530 of this title must be approved by the Texas Air Control Board (TACB). Approval of a delayed compliance order by the TACB does not waive any applicable federal requirements or preclude administrative or enforcement action by the United States Environmental Protection Agency.

(b) The executive director shall initiate a re-evaluation of the final compliance dates specified in this undesignated head (relating to Administrative Provisions) one year after the adoption of this chapter. In making this evaluation, the executive director shall take into consideration the control plans required by §117.109 of this title (relating to Initial Control Plan Procedures), §117.209 of this title (relating to Initial Control Plan Procedures), §117.309 of this title, and §117.409 of this title, the availability of nitrogen oxides abatement equipment, engineering services, and construction labor, and the dates of planned and actual outages of units subject to §117.105 of this title (relating to Emission Specifications), §117.107 of this title (relating to Alternative System-Wide Emission Specifications), §117.205 of this title (relating to Emission Specifications), §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), §117.305 of this title (relating to Emission Specifications), and §117.405 of this title (relating to Emission Specifications). Within 15 months after adoption of this title, the executive director shall publish notice in the *Texas Register* the intent to either retain or extend by rulemaking the final compliance dates of this undesignated head.

§117.550. Permit Requirements.

(a) Any person who installs nitrogen oxides (NO_x) abatement equipment or implements a NO_x control technique in order to comply with the requirements of this chapter (relating to Control of Air Pollution from Nitrogen Compounds), on units located at a facility which is a permitted facility pursuant to Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification), shall be exempt from the requirement to make application and obtain Texas Air Control Board (TACB) approval for a permit amendment in accordance with §116.5 of this title under the following conditions.

(1) The change must not result in an increase of the unit's or the facility's production capacity, as documented in accordance with §117.119 of this title (relating to Notification, Recordkeeping, and Reporting Requirements), §117.219 of this title (relating to Notification, Recordkeeping, and Reporting Requirements), §117.319 of this title (relating to Notification, Recordkeeping, and Reporting Requirements), and §117.419 of this title (relating to Notification, Recordkeeping, and Reporting Requirements).

(2) Any emission increase of an air contaminant other than nitrogen oxides must be a result of installing a NO_x control device or implementing a NO_x control technique and shall:

(A) not cause an increase of any air contaminants at a facility in excess of:

(i) carbon monoxide, 250 tons per year; or

(ii) volatile organic compounds or inhalable particulate matter, 25 tons per year or 25 tons per year of any other air contaminant, except water, nitrogen, methane, ethane, hydrogen, and oxygen;

(B) not trigger any federal PSD (Part C) or Nonattainment (Part D) Permit requirement;

(C) be quantified in the initial compliance plan to the extent feasible;

(D) be tested as required by §117.111 of this title (relating to Initial Demonstration of Compliance), §117.211 of this title (relating to Initial Demonstration of Compliance), §117.311 of this title (relating to Initial Demonstration of Compliance), and §117.411 of this title (relating to Initial Demonstration of Compliance); and

(E) be subject to permitting requirements pursuant to Title V of the 1990 Federal Clean Air Act Amendments.

(3) The installation of NO_x abatement equipment must not constitute construction of a new facility, unless authorized by a standard exemption in accordance with §116.6 of this title.

(b) Any person who installs NO_x abatement equipment or implements a NO_x control technique to a unit, in order to comply with the requirements of this chapter (relating to Control of Air Pollution from Nitrogen Compounds), located at a facility which is grandfathered from the permit requirements pursuant to Chapter 116 of this

title, shall not be required to obtain a permit for the increase of an air contaminant in accordance with §116.1 of this title, subject to the conditions of subsection (a), (1), (2) and (3) of this section.

§117.560. Rescission. If, after reviewing the results of the Urban Airshed Model for a nonattainment area, the Texas Air Control Board (TACB) determines after conducting public hearings that the additional reductions of nitrogen oxides in the nonattainment area would not contribute to attainment of the National Ambient Air Quality Standards for ozone in that nonattainment area, then the TACB shall have the executive director submit such findings and results to the United States Environmental Protection Agency (EPA) Administrator for a determination under §182(f) of the 1990 Federal Clean Air Act Amendments. Once the TACB makes this finding, compliance with the requirements of this chapter shall be suspended as to any sources located within the nonattainment area until the EPA Administrator approves or rejects the TACB's findings. If the EPA Administrator approves the TACB's finding, then the requirements of this chapter shall not apply to any sources located within the nonattainment area. If the EPA Administrator rejects the TACB's finding, then the compliance date for the requirements of this chapter for all sources located within the nonattainment area shall be delayed for the number of days during which the EPA Administrator's review was pending.

§117.570. Alternate Means of Compliance-Trading. The executive director may approve alternate means of compliance with this chapter (relating to Control of Air Pollution From Nitrogen Compounds) including the use of emission reduction credits. The alternative compliance plan may include the trading of emission reduction credits between sources owned by the same company as well as between sources owned by different companies. Any alternative compliance plan may be approved if the executive director determines that it will provide substantially equivalent emission reductions to those required by this chapter and satisfactory means for determining ongoing compliance with the approved alternative compliance plan, including monitoring. Executive director approval does not necessarily constitute satisfaction of all federal requirements, nor eliminate the need for approval by the United States Environmental Protection Agency of any alternate method.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215334

Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call (512) 908-1457

◆ ◆ ◆ Subchapter E. Gas-Fired Steam Generation

• 31 TAC §117.601

The Texas Air Control Board (TACB) proposes new §117.601, concerning Gas-Fired Steam Generation, which will be included in a proposed new Subchapter E, concerning Gas-Fired Steam Generation. The proposed new §117.601 incorporates the provisions of existing §117.1, concerning Gas-Fired Steam Generating Rules. The proposal does not involve new requirements. Language from existing §117.3, concerning Modification Dates, and §117.4, concerning Effective Dates has been eliminated since these dates have all passed.

These changes are part of a series of substantial proposed revisions to Chapter 117, concerning Control of Air Pollution From Nitrogen Compounds. Since the proposed changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing Chapter 117 in its entirety and the addition of a new Chapter 117.

The proposed §117.601, concerning Gas-Fired Steam Generation, identifies nitrogen oxides (NO_x) emission limits for gas-fired steam generating units. These limits are identical to the existing limits in §117.1 which is concurrently proposed for repeal. These emission limits will apply to all units in applicable ozone nonattainment areas until superseded by the new emission limits of §117.105, relating to utility electric generation units, which become effective May 31, 1995.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state and local government.

Mr. Hartssock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more effective and consistent enforcement associated with the control of NO_x emissions. There are also no fiscal implications for persons or small businesses affected by the revisions.

Public hearings on this proposal are scheduled for the following times and places: December 14, 1992, 2 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; December 15, 1992, 10 a.m., John Gray Institute, 855 Florida Avenue, Beaumont

Staff members will be available to discuss the proposal 30 minutes prior to each hearing

Public comments, both oral and written, on the proposed changes are invited at the hearings. The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross examination is not permitted.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through December 31, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Randy Hamilton at (512) 908-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The new section is proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§117.601. Gas-Fired Steam Generation.

(a) Subsections (b), (c), and (d) of this section shall apply only in the Dallas-Fort Worth Air Quality Control Region which consists of Collin, Cooke, Dallas, Denton, Ellis, Erath, Fannin, Grayson, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise Counties and in the Houston-Galveston Air Quality Control Region which consists of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Waller, and Wharton Counties. For gas-fired steam generators located in applicable ozone nonattainment areas, only the emission limitations of §117.105 of this title (relating to Emission Specifications) shall apply after May 31, 1995.

(b) No person shall allow emissions of nitrogen oxides (NO_x), calculated as nitrogen dioxide (NO₂), from any "opposed-fired" steam generating unit of more than 600,000 pounds per hour (lbs/hr) maximum continuous steam capacity to exceed 0.7 pound per million (lb/MM) Btu heat input, maximum two-hour average, at maximum steam capacity. An "opposed-fired" steam generating unit is defined as a unit having burners installed on two opposite vertical firebox surfaces.

(c) No person shall allow emissions of NO_x, calculated as NO₂, from any "front-fired" steam generating unit of more than 600,000 lbs/hr maximum continuous steam

capacity to exceed 0.5 lbs/MMBtu heat input, maximum two-hour average, at maximum steam capacity. A "front-fired" steam generating unit is defined as a unit having all burners installed in a geometric array on one vertical firebox surface.

(d) No person shall allow emissions of NO_x, calculated as NO₂, from any "tangential-fired" steam generating unit of more than 600,000 lbs/hr maximum continuous steam capacity to exceed 0.25 lb/MMBtu heat input, maximum two-hour average, at maximum steam capacity. A "tangential-fired" steam generating unit is defined as a unit having burners installed on all corners of the unit at various elevations.

(e) Existing gas-fired steam generating units of more than 600,000 lbs/hour, but less than 1,100,000 lbs/hr, maximum continuous steam capacity are exempt from the provisions of this section, provided the total steam generated from the unit during any one calendar year does not exceed 30% of the product of the maximum continuous steam capacity of the unit times the number of hours in a year. Written records of the amount of steam generated for each day's operation shall be made on a daily basis and maintained for at least three years from the date of each entry. Such records shall be made available for inspection by employees of state and local agencies during regular business hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 12, 1992.

TRD-9215335

Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: May 15, 1993

For further information, please call: (512) 908-1457



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L.

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance of the Texas Department of Insurance, at a board meeting scheduled for 1:30 p.m., December 14, 1992,

under Docket Number 1956, will consider the adoption of mandatory endorsements for attachment to the Texas Homeowners Policy, the Texas Dwelling Policy, the Texas Farm and Ranch Policy, the Texas Farm and Ranch Owners Policy and the Personal Automobile Policy, that will amend the cancellation and refusal to renew conditions of the policies. The endorsements provide that if a company cancels or refuses to renew one of the aforementioned policies, for any reason, the company must state in its notice of cancellation or nonrenewal or include an attachment that states each reason for the cancellation or for the refusal to renew. The required disclosure to insureds for each reason for cancellation or refusal to renew provides immediate information to insureds and eliminates the need for insureds to separately write the insurer for such reasons.

Copies of the full text of the policy endorsements are available for review in the office of the Chief Clerk of the State Board of Insur-

ance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the endorsements, please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number O-1092-62).

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 10, 1992.

TRD-9215177

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

For further information, please call: (512) 463-6328

