

# Texas Register

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# Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 5. Quarantines

#### Sweet Potato Weevil Quarantine

##### • 4 TAC §5.63

*(Editor's Note: The Texas Department of Agriculture proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)*

The Texas Department of Agriculture proposes an amendment to §5.63, concerning sweet potato weevil quarantine. The proposed amendment to §5.63 adds Merced and Stanislaus counties in the state of California. The proposed amendment prohibits sweet potatoes shipped from these counties into weevil-free areas of Texas.

Danny Johnson, coordinator for nursery/floral and quarantines has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Johnson also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the prevention of the introduction of the sweet potato weevil into weevil-free areas of Texas. It will also decrease the need to use chemicals to control weevils, which can harm the environment. There is no anticipated economic cost to persons or small businesses.

Comments on the proposal may be submitted to David Davis, Director for Plant Quality, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under the Texas Agriculture Code, §71.001, which provides the Texas Department of Agriculture with the authority to establish quarantines against out-of-state diseases and pests.

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 June 4, 1993.

TRD-9323974

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: July 16, 1993

For further information, please call: (512) 463-7583

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 117. Control of Air Pollution From Nitrogen Compounds

The Texas Air Control Board (TACB) proposes amendments to §117.105 and §117.205, the repeal of §117.540 and §117.550, and new §§117.540, 117.550 and 117.580, 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<sub>x</sub>) 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 proposed revisions to Chapter 117. Since the proposed changes to §117.540 and §117.550 are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of existing §117.540 and §117.550 and the addition of new §117.540 and §117.550.

The proposed changes to §117.105 and §117.205, relating to Emission Specifications, clarify that credit may not be taken for Best Available Control Technology (BACT) limits which are more stringent than RACT limits, and limit the application of boiler or heater BACT limits for the RACT limit to cases in which the boiler or heater BACT limit was 0.12 pound NO<sub>x</sub> per million Btu heat input.

The proposed new §117.540, concerning Phased RACT, specifies procedures to facilitate approval of requests for extensions past the May 31, 1995, compliance date for installing NO<sub>x</sub> controls in compliance with TACB Regulation VII, "Control of Air Pollution from Nitrogen Compounds." The proposed changes require specific information ("replicable procedures") to be provided in the

petition to the Executive Director for phased RACT. TACB is seeking these changes to avoid the need for case-by-case EPA approval of extensions to the May 31, 1995, compliance date.

The proposed new §117.550, concerning Permit Requirements, renames §117.550 as "General Construction Permits for NO<sub>x</sub> RACT Projects," and establishes a general permit procedure for permitting NO<sub>x</sub> abatement equipment required to be installed as a result of TACB Chapter 117. Proposed §117.550 specifies certain conditions under which the general permit is applicable.

New §117.580, concerning Source Caps, establishes an alternate method of demonstrating compliance with the emission limitations of TACB Chapter 117 by means of a source cap. The source cap allows for activity levels, including equipment shutdowns, to be factored into a source's NO<sub>x</sub> reduction requirements.

Lane Hartsock, Deputy Director of Air Quality Planning, has determined that for the first five-year period the rules 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. Hartsock also has determined that for each year of the first five years the rules 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<sub>x</sub> emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There will be no effect on small businesses. Economic costs to persons required to implement the proposed modified emission specifications are expected to be minimal, since the difference between the applicable permit limits and the RACT limits are small. Persons subject to the proposed revisions to the Administrative Provisions are expected to experience a reduction in economic costs associated with rule compliance, since these changes add flexibility in acceptable methods of reducing emissions, allow for additional time to comply with the requirements, and reduce the need for obtaining construction permits as a consequence of the rule. There are no costs anticipated beyond 1996.

A public hearing on this proposal will be held on June 30, 1993, at 2:00 p. m. in the City of Houston, Pollution Control Building Auditorium located at 7411 Park Place Boulevard, Houston.

Staff members will be available to discuss the proposal 30 minutes prior to the 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 July 2, 1993. Material received by the Regulation Development Division by 4:00 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.

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

#### • 31 TAC §117.105

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

#### §117.105. Emission Specifications.

(a)-(l) (No change.)

(m) For purposes of this subchapter, the more stringent of any permit NO<sub>x</sub> emission limit under a permit issued pursuant to Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and the NO<sub>x</sub> emission limits of subsections (a)-(i) of this section shall apply, except that gas-fired boilers and heaters operating under a permit issued after March 3, 1982, with an emission limit of 0.12 pound NO<sub>x</sub> per million Btu heat input (LHV), shall be limited to that rate for the purposes of this subchapter.

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 June 7, 1993.

TRD-9323969 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: August 31, 1993

For further information, please call: (512) 908-1451

### Commercial, Institutional, and Industrial Sources

#### • 31 TAC §117.205

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

#### §117.205. Emission Specifications.

(a)-(g) (No change.)

(h) For purposes of this subchapter, the more stringent of any permit NO<sub>x</sub> emission limit under a permit issued pursuant to Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and the emission limits of subsections (a)(3)-(c) of this section shall apply, except that gas-fired boilers and heaters operating under a permit issued after March 3, 1982, with an emission limit of 0.12 pound NO<sub>x</sub> per million Btu heat input (LHV), shall be limited to that rate for the purposes of this subchapter.

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 June 7, 1993.

TRD-9323970 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: August 31, 1993

For further information, please call: (512) 908-1451

### Subchapter D. Administrative Provisions

#### • 31 TAC §117.540, §117.550

*(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 repeals are proposed under the Texas Health and Safety Code (Vernon 1990), Texas Clean Air Act (TCAA), §382.017, which

provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §117.540. Phased Reasonable Available Control Technology (RACT).

#### §117.550. Permit Requirements.

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 June 7, 1993.

TRD-9323971 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: August 31, 1993

For further information, please call: (512) 908-1451

#### • 31 TAC §§117.540, 117.550, 117.580

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

#### §117.540. Phased Reasonably Available Control Technology (RACT).

(a) The owner or operator affected by the provisions of this chapter who believes that compliance by May 31, 1995, is not practicable may submit a petition for phased RACT. The process for submitting a petition and receiving approval shall be based on the following.

(1) The petition shall be submitted with the applicable initial control plan required in §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 (relating to Control Plan Procedures), or §117.409 of this title (relating to Control Plan Procedures); or as soon as possible after determination by the owner or operator that compliance by May 31, 1995, is not practicable.

(2) The owner or operator of the proposed unit shall submit information to the Texas Air Control Board (TACB) and a copy to the U.S. Environmental Protection Agency (EPA) Regional Office in Dallas which will demonstrate all of the following:

(A) compliance by May 31, 1995, is impracticable due to the unavailability of nitrogen oxides abatement equipment, engineering services, or construction labor; system unreliability; or other techno-

logical and economic factors (such as costs of additional outages necessitated by compliance with the emission specifications of this part by May 31, 1995, as demonstrated by comparison to costs of actual historical and planned outages) as TACB determines are appropriate;

(B) there is a proposed stage-by-stage program for compliance and clearly specified compliance milestones for each unit; and

(C) there is a commitment to implement the portion of the phased RACT petition that can be implemented by May 31, 1995;

(D) the final compliance date specified in the petition shall be as soon as practicable, but in no case later than August 31, 1996;

(E) the petition for phased RACT shall contain the following information:

(i) the name, location, and nameplate capacity of the unit for which the petition is requested;

(ii) a list of the company names, addresses, and telephone numbers of vendors who are qualified to provide the services and equipment capable of meeting the applicable emission limitation under this chapter and who have been contacted to obtain the required services and equipment. A copy of the request for bids along with the dates of contact shall also be provided to show a good-faith effort to obtain the required services and equipment necessary to meet the requirements of this chapter by May 31, 1995;

(iii) certification from each of the vendors listed in clause (ii) of this subparagraph that they cannot provide the necessary services and install the appropriate equipment in time for the unit to comply by May 31, 1995. Such certification shall include the reasons why the services cannot be provided and why the equipment cannot be installed in a timely manner;

(iv) a legally binding contract with a qualified vendor, signed by an authorized officer of the company, showing a detailed design, installation, and testing schedule for the required services and equipment designed to meet the applicable emission limitation, with a completion date no later than August 31, 1996. Any commercially sensitive financial information or trade secrets should be excised from the contract;

(v) the following additional information, if not included in the

contract referenced in clause (iv) of this subparagraph:

(I) material and energy balance summaries, power and other consumption requirements, including those for air, steam, and cooling water;

(II) cost information, derived from equipment specifications and normal engineering practice, including the equipment provided and the services necessary for installation and excluding commercially sensitive financial information;

(III) scheduling information, including installation and test schedules;

(vi) to demonstrate that the installation and availability of NO<sub>x</sub> emission control equipment are substantially contributing factors in causing system reliability problems, the following information:

(I) standard load or production forecasts, based on standard forecasting models for the industry to which the subject unit belongs, applied to the period May 31, 1993-May 30, 1995;

(II) outage schedule for all units in the utility grid or other operating system to which the subject unit belongs. An "operating system" shall refer to a group of like units for which, if one or more of the subject units were temporarily removed from service, the optimum rates of firing, production, or other general indicators of performance of the remaining units could not be maintained, resulting in problems with system reliability;

(III) specific reasons why an outage for the purpose of installing NO<sub>x</sub> emission control equipment cannot be scheduled by May 31, 1995.

(3) The Executive Director shall approve a petition for phased RACT if the Executive Director determines that compliance is not practicable by May 31, 1995, because of the unavailability of nitrogen oxides abatement equipment, engineering services, or construction labor; system unreliability; or other technological and economic factors (such as costs of additional outages necessitated by compliance with the emission specifications of this title by May 31, 1995, as demonstrated by comparison to costs of actual historical and planned outages) as TACB determines is appropriate.

(4) Any person affected by the Executive Director's decision may appeal

the decision to the Board within 30 days after the date of the decision. Such appeal is to be taken by written notification to the Executive Director. Section 103.71 of this title (relating to Request for Action by the Board) should be consulted for the method of requesting Board action on the appeal. Approved petitions for phased RACT may be revised by the Executive Director upon a showing of just cause by the applicant.

(5) Approval of a phased RACT schedule by TACB does not waive any applicable federal requirements or eliminate the need for approval by EPA.

(6) The holder of an approved phased RACT determination shall comply with each specified compliance milestone and each date for compliance provided in the approved petition, as well as any other condition established in the approval.

(b) The Executive Director shall initiate a reevaluation of the final compliance dates specified in this undesignated head one year after the adoption of this chapter. The Executive Director shall evaluate the practicability of all sources complying with §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), by May 31, 1995. The Executive Director shall base the evaluation on the information contained in the control plans required by §117.109 of this title, §117.209 of this title, §117.309 of this title, and §117.409 of this title. In evaluating the practicability of compliance by May 31, 1995, the Executive Director shall take into consideration the availability of nitrogen oxides abatement equipment, engineering services, or construction labor; the system reliability of all affected units; or other technological and economic factors (such as costs of additional outages necessitated by compliance with the emission specifications of this title by May 31, 1995, as demonstrated by comparison to costs of actual historical and planned outages) as TACB determines is appropriate. Within 15 months after adoption of this part, 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. General Construction Permits for Nitrogen Oxides (NO<sub>x</sub>) Reasonably Available Control Technology (RACT) Projects.*

(a) In lieu of complying with the permitting requirements of Chapter 116 of

this title (relating to Control of Air Pollution by Permits for New Construction or Modification), any person who installs nitrogen oxides (NO<sub>x</sub>) abatement equipment or implements a NO<sub>x</sub> control technique in order to comply with the requirements of this chapter shall be entitled to a general permit 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), as applicable, except in the following cases.

(A) For gas turbines, any increase in capacity must be a direct result of the requirement to implement controls on existing units required to meet emission limitations required by §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), and must not exceed 14% of existing capacity for each affected existing turbine.

(B) For permitted equipment other than gas turbines, any increase in capacity must be a direct result of the requirement to implement controls on existing units previously permitted in accordance with the requirements of Chapter 116 of this title that are required to meet emission limitations required by §117.105 of this title, §117.107 of this title, §117.205 of this title, §117.207 of this title, §117.305 of this title, or §117.405 of this title. Such units must remain in compliance with all terms and limitations of their permits and cannot utilize the increase in production capacity without satisfying the permitting requirements of Chapter 116 of this title.

(C) For grandfathered equipment other than gas turbines, any increase in capacity must be a direct result of the requirement to implement controls on existing units, for which information regarding actual grandfather rates has been provided in the Initial Control Plan, that are required to meet emission limitations required by §117.105 of this title, §117.107 of this title, §117.205 of this title, §117.207 of this title, §117.305 of this title, or §117.405 of this title. The "actual grandfather rate" is the

maximum annual emission rate or data that are related to emissions (e.g., production, fuel firing, throughput, sulfur content, etc. as appropriate) at which the emission unit actually operated and emitted prior to September 1, 1971, for 12 consecutive months. Such grandfathered units cannot exceed the actual grandfather rate for the unit and cannot utilize the increase in production capacity without satisfying the permitting requirements of Chapter 116 of this title.

(2) Any emission increase of an air contaminant other than NO<sub>x</sub> must be a direct result of and incidental to installing NO<sub>x</sub> abatement equipment or implementing a NO<sub>x</sub> control technique and must comply with the emission specifications of §117.105 of this title, §117.107 of this title, §117.205 of this title, §117.207 of this title, §117.305 of this title, §117.405 of this title, or §117.121, 117.221, 117.321, or 117.421 of this title (relating to Alternative Case Specific Specifications), as applicable.

(3) If installation of NO<sub>x</sub> abatement equipment or implementation of a NO<sub>x</sub> control technique will result in a significant net increase in emissions of any criteria pollutant, a person claiming a general permit shall submit information sufficient to demonstrate that the following conditions will be met:

(A) considering the NO<sub>x</sub> reductions that will result from implementation of the requirements of this part, the emissions increase shall not cause or contribute to a violation of any national ambient air quality standard;

(B) the emissions increase shall not cause or contribute to a violation of any Prevention of Significant Deterioration (PSD) of Air Quality regulation increment; and

(C) the emissions increase shall not cause or contribute to a violation of a visibility limitation. For purposes of this title, "significant net increase" means an increase of emissions equal to or greater than the amount specified in the MAJOR MODIFICATION column of Table I of §101.1 of this title (relating to Definitions).

(4) Emission increases eligible for a general permit must:

(A) be quantified in the initial compliance plan; and

(B) 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 Compli-

ance), and §117.411 of this title (relating to Initial Demonstration of Compliance), as applicable.

(5) Notice of the intent to be covered by the general permit must be accompanied by a CO minimization plan, describing efforts to be taken to minimize increases in CO emissions that will result from installing NO<sub>x</sub> abatement equipment or implementing a NO<sub>x</sub> control technique.

(6) Notice of the intent to be covered by a general permit shall be filed with the Agency before a general permit can be claimed. Such notice should be filed on or before the date for filing an initial control plan as 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 (relating to Control Plan Procedures), and §117.409 of this title (relating to Control Plan Procedures), as applicable. Information required under paragraph (3) of this subsection must be submitted no later than 14 days prior to the commencement of construction for the installation of NO<sub>x</sub> abatement equipment or implementation of a NO<sub>x</sub> control technique.

(b) Unless notified by the Executive Director to the contrary, any person who submits notice of the intent to be covered by the general permit is authorized to emit the increase in the quantity of pollutants emitted or change in the type of pollutants emitted under the terms and conditions of this permit 14 days after the date that the notice of intent is postmarked, if all required submissions have been made. The Executive Director may deny coverage under this permit at any time upon a determination that the terms and conditions of this permit are not being met and may require submittal of a permit or permit amendment application for a permit under Chapter 116 of this title. Emissions covered by a general permit must comply with all rules and regulations of the Texas Air Control Board.

(c) For purposes of compliance with the PSD and nonattainment new source review provisions of Chapter 116 of this title, an increase that satisfies the requirements for a general permit shall not constitute a physical change or a change in the method of operation. For purposes of compliance with the Standards of Performance for New Stationary Sources regulations promulgated by the U.S. Environmental Protection Agency at 40 Code of Federal Regulations (CFR) 60.14, an increase that satisfies the requirements for a general permit shall satisfy the requirements of 40 CFR 60.14(e)(5).

(d) All representations made in association with a notice of intent to claim a general permit become conditions upon which the NO<sub>x</sub> abatement equipment cov-

ered by the general permit shall be constructed and operated or the NO<sub>x</sub> control technique implemented. It shall be unlawful for any person to vary from such representations if the change in conditions will affect that person's right to claim a general permit under this section. Any change in conditions such that a person is no longer eligible to claim a general permit under this section requires submission of a permit or permit amendment application for a permit under Chapter 116 of this title.

*§117.580. Source Cap.*

(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<sub>x</sub>) emission reductions obtained by compliance with a source cap emission limitation in accordance with the

requirements of this section. Each unit at a source which would otherwise be subject to the NO<sub>x</sub> emission limits of §117.205 of this title must be included in the source cap.

(b) The source cap allowable mass emission rate shall be calculated from the emissions limits of §117.205 of this title, as follows:

$$\text{Daily allowable NO}_x \text{ emission cap} = \sum_{i=1-N} R_i \times \frac{\text{Actual annual heat input}}{365}$$

where:  $i$  = each emission unit in the emission cap

$N$  = the total number of emission units in the emission cap

$R_i$  = The lowest of the Reasonably Available Control Technology (RACT) limit of §117.205(a)(3)-(c) of this title, the Best Available Control Technology (BACT) limit for any unit subject to a permit issued pursuant to Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification), or actual emission rate, (lb NO<sub>x</sub>/MMBtu).

Actual annual heat input = Actual historical average annual heat input as certified to the TACB.

(c) The owner or operator of each unit included in the emission cap shall install, calibrate, maintain, and operate a continuous exhaust NO<sub>x</sub> monitor, carbon monoxide (CO) monitor, an O<sub>2</sub> (or carbon dioxide) diluent monitor, and a totalizing fuel flow meter to measure NO<sub>x</sub>, CO, and O<sub>2</sub> (or CO<sub>2</sub>) emissions and fuel use for each unit in the source cap. The continuous emissions monitoring systems shall meet all installation and quality assurance requirements of §117.213(b) of this title (relating to Continuous Demonstration of Compliance), and all requirements of §117.219 of this title (relating to Notification, Recordkeeping and Reporting Requirements).

(d) The owner or operator of any units subject to a source cap shall maintain daily records indicating the NO<sub>x</sub> emissions from each source and the total fuel usage for each unit and include a total NO<sub>x</sub> emissions summation and total fuel usage for all units under the source cap on a daily basis. Records shall also be retained in accordance with §117.219 of this title.

(e) The owner or operator of any units operating under this provision shall report any exceedance of the source cap emission limit within 48 hours to the appropriate regional office. The owner or operator shall then follow up within 15 working days of the exceedance with a written report which includes an analysis of the cause for the exceedance with appropriate data to demonstrate the amount of emissions in excess of the applicable limit and the necessary corrective actions taken by the company to assure future compliance. Additionally, the owner or operator shall submit quarterly reports for the monitoring systems in accordance with §117.219 of this title.

(f) The owner or operator shall demonstrate initial compliance with the source cap in accordance with the schedule specified in §117.520 of this title (relating to Compliance Schedule for Commercial, Institutional, and Industrial Combustion Sources).

(g) The owner or operator who submits a compliance plan using a source cap must specifically identify all sources that

will be included in the source cap. All units subject to the emissions specifications of §117.205 of this title must be included in the cap. The owner or operator at its option may include any of the entire classes of exempted units of §117.207(f) of this title (relating to Alternate Plant-Wide Emission Specifications) in a source cap compliance plan. Such units shall be required to reduce emissions by an additional amount calculated in accordance with the U.S. Environmental Protection Agency's proposed Economic Incentive Program rules for offset ratios for trades between RACT and non-RACT sources, as published in the February 23, 1993, *Federal Register* (58 FR 11110).

(h) A unit which has operated since November 15, 1990, and has since been permanently retired or decommissioned and rendered inoperable, may be included in the source cap emission limit under the following conditions:

(1) the unit must have actually operated since November 15, 1990;

(2) for purposes of calculating the source cap emission limit, the applicable emission limit for retired units shall be in accordance with subsection (b) of this section;

(3) the actual heat input and maximum capacity shall be prorated based upon actual number of days of operation from January 1, 1991, to December 31, 1992;

(4) the unit must be shutdown and rendered inoperable prior to the final compliance date of §117.520 of this title;

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

(6) a unit which has been shutdown and rendered inoperable but not permanently retired may be included in the plant-wide source cap. Before resuming operation of such a unit, however, the owner or operator must apply for and receive a permit or permit amendment which includes a revised control plan for the entire source which complies with all requirements of this chapter;

(7) emission reductions from shutdowns or curtailments that have been made permanently state or federally enforceable before the effective date of the rule cannot be included in the baseline for establishing the cap.

(i) An owner or operator who chooses to use the source cap option must include in the initial control plan required to be filed under §117.209 of this title (relating to Initial Control Plan Procedures) a plan for initial compliance. The owner or operator shall include in the initial control plan the identification of the election to use the source cap procedure as specified in this section to achieve compliance with this section. An owner or operator who chooses to use the source cap option must include in the final control plan procedures of §117.215 of this title (relating to Final Control Plan Procedures), the information necessary under this section to demonstrate final compliance with the source cap means of compliance.

(j) For the purposes of determining compliance with the source cap emission limit, the contribution of each affected unit that is operating during a startup, shutdown, maintenance, or upset period shall be calculated from the NO<sub>x</sub> emission rate, as measured by the initial demonstration of compliance, for that unit.

(k) Any exceedance of the source cap emission limit shall constitute an exceedance for each unit subject to the source cap emission limit.

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 June 7, 1993.

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Planning  
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For further information, please call: (512) 908-1451

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