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consists of any remaining percentage toward the 15% net of growth reductions, as well as contingency measures to obtain an additional 3.0% of reductions. Phase II will be submitted by November 15, 1994.

Steve Minick, budget and planning division, has determined that for each year of the first five-year period the proposed sections are in effect, there would be no fiscal implications for state and local governments. Economic costs to small businesses, individuals, and businesses required to implement the proposed measures may vary from no cost if the facility already uses compliant solvents and already has or does not need add-on control equipment to the following estimated costs associated with the expanded abatement, monitoring, and recordkeeping requirements.

Per Facility Control Unit--0 in 1994; \$50,000 in 1995; \$50,000 in 1996; \$50,000 in 1997; and \$50,000 in \$50,000.

Per Volatile Organic Compound Monitoring Unit--0 in 1994; \$15,000 in 1995; \$15,000 in 1996; \$15,000 in 1997; \$15,000 in 1998.

Any costs continuing beyond 1998 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1994 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1994-1998.

Mr. Minick 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 VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard.

Public hearings on this proposal are scheduled for the following times and places: January 24, 1994, 7:00 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston, Texas, and January 27, 1994, 7:00 p.m., Irving Central Library, 801 West Irving Boulevard, Irving, Texas.

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. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearings must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than February 11, 1994. Material received by the Regulation Development Section by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all of the TNRCC Air Program regional offices. For further information, contact Chuck Mueller at (512) 239-1916.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

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

§115.442. Control Requirements. For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas [area] as defined in §115.10 of this title (relating to Definitions), and for Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, the following control requirements shall apply.

(1)-(2) (No change.)

§115.443. Alternate Control Requirements. For all affected persons in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, [area] as defined in §115.10 of this title (relating to Definitions), and for Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

§115.445. Approved Test Methods. For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas [area] as defined in §115.10 of this title (relating to Definitions), and for Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, compliance shall be determined by applying the following test methods, as appropriate:

(1)-(6) (No change.)

§115.446. Monitoring and Recordkeeping Requirements. For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas [area] as defined in §115.10 of this title (relating to Definitions), and for Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, the following monitoring and recordkeeping requirements shall apply:

(1)-(4) (No change.)

(5) The owner or operator of any offset lithographic printing press using refrigeration equipment on the fountain in order to comply with §115.442(a)(1)(A)-(D) shall monitor the temperature of the fountain solution reservoir at least once per hour.

(6)-(8) (No change.)

§115.449. Counties and Compliance Schedules. All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Harris, Johnson, Kaufman, Liberty, Montgomery, Parker, Rockwall, Tarrant, and Waller Counties [County] shall be in compliance with §115.442 of this title (relating to Control Requirements), §115.443 of this title (relating to Alternate Control Requirements), §115.445 of this title (relating to Testing Requirements), and §115.446 of this title (relating to Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than November 15, 1996.

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 December 17, 1993.

TRD-9334028

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: March 15, 1994

For further information, please call: (512) 463-8159

Chapter 117. Control of Air Pollution From Nitrogen Compounds

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§117.10, 117.103, 117.105, 117.107, 117.109, 117.111, 117.113, 117.115, 117.117, 117.119, 117.121, 117.203, 117.205, 117.207-117.209, 117.211, 117.213, 117.215, 117.217, 117.219, 117.221, 117.311, 117.313, 117.319, 117.321, 117.411, 117.413, 117.419, 117.421, 117.510, 117.520, 117.530, 117.540, and 117.560; the repeal of §117.580; and new §117.223, concerning Control of Air Pollution From Nitrogen Compounds. The proposed changes have been developed in response to a requirement by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) Amendments for states 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.

The proposed amendments generally clarify rule provisions and facilitate more flexible methods of rule compliance. Revisions which are administrative in nature update names and titles to reflect the organizational structure of the TNRCC, change language to con-

form with *Texas Register* style conventions, and correct typographical and other errors in the current rule. These changes are not substantive in nature and therefore will not be summarized in this preamble. For clarity, several requirements are proposed to be relocated within the rules, as discussed in this preamble. A complete list of the proposed changes, both administrative and substantive, is available upon request from the TNRCC.

The TNRCC proposes revisions to Subchapter A: Definitions, in §117.10, concerning Definitions. The changes add new definitions for average activity level for fuel oil firing, and low annual capacity factor stationary gas turbine or stationary internal combustion engine. The changes also revise the definitions for low annual capacity factor boiler, process heater, or gas turbine supplemental waste heat recovery unit; rich-burn engine; lean-burn engine; system-wide emission limit; system-wide emission rate; and unit, clarifying applicability for replacement new units and new units belonging to any equipment category included in a source cap.

Revisions to Subchapter B: Combustion at Existing Major Sources, Utility Electric Generation, are proposed by the TNRCC Proposed revisions to §117.103, concerning Exemptions, clarify the need for exempt units to be listed in the initial control plan and to demonstrate activity levels to maintain exempt status, specify the averaging period for determining operating hours, and move procedures for documenting exempt status to §117.113, concerning Continuous Demonstration of Compliance. It is proposed to exempt utility sources from fuel oil firing NO_x emission limits during officially declared emergency periods necessitating oil firing, since such periods are historically infrequent and the additional NO_x controls for oil firing may not be cost-effective. Revisions to §117.105, concerning Emission Specifications, are proposed which set a new carbon monoxide (CO) emission limit of 132 parts per million by volume (ppmv) for certain utility stationary gas turbines, thus setting the same CO limit as that currently in effect for industrial gas turbines. Other revisions to §117.105 clarify applicability of the current 400 ppmv CO emission limit for utility boilers, steam generators, and auxiliary steam boilers. It is proposed to allow the optional inclusion of replacement new facilities to facilitate compliance with the emission limitations of §117.105 by allowing new facilities with lower best available control technology emission limitations to provide credit to remaining existing facilities. Revisions proposed for §117.107, concerning Alternative System-Wide Emission Specifications, specify requirements for oil-fired utility boilers included in a system-wide averaging plan and clarify procedures for calculating in-stack NO_x.

Revisions to §117.109, concerning Initial Control Plan Procedures, are proposed which clarify that every major NO_x source is required to file an initial control plan, regardless of whether NO_x emission specifications apply to units within that source, and specify additional listing requirements in the plan. In §117.111, concerning Initial Demonstration of Compliance, revisions are proposed which clarify procedures for demonstrating initial

compliance with the rule and allow initial demonstration of compliance testing to be performed during the first 24 consecutive operating hours the unit fires fuel oil. The existing rule requires testing for oil firing by May 31, 1995, regardless of whether oil is desired to be fired at that time, potentially resulting in increased NO_x emissions and extra fuel costs not intended by the rule. Revisions to §117.113, concerning Continuous Demonstration of Compliance, are proposed allowing the option to use predictive emissions monitoring systems (PEMS) in lieu of continuous emissions monitoring systems (CEMS) for units not subject to the requirements of 40 Code of Federal Regulations (CFR) 75; requiring installation of totalizing fuel flow meters on certain stationary gas turbines; stating the requirements for certain exempt units to use totalizing fuel flow meters or elapsed run time meters (moved from §117.103), and stating procedures to follow when exemption criteria are exceeded by such units (moved from §117.103). In §117.115, concerning Final Control Plan Procedures, proposed revisions distinguish averaging periods for gaseous fuel firing from those for oil or coal firing, and specify requirements to describe the NO_x control method and submit test results for each unit included in the final control plan. Section 117.117, concerning Revision of Final Control Plan, proposes that new units installed as replacements for existing units complying with §117.105 or §117.107 may be included in the final control plan. Revisions to §117.119, concerning Notification, Recordkeeping, and Reporting Requirements, and §117.121, concerning Alternative Case Specific Specifications, are proposed which replace references to "Board" with "Commission."

The TNRCC proposes revisions to Subchapter B: Combustion at Existing Major Sources, Commercial, Institutional, and Industrial Sources. Proposed revisions to §117.203, concerning Exemptions, clarify the need for exempt units to be listed in the initial control plan and to demonstrate activity levels to maintain exempt status, state that certain new units placed into service after November 15, 1992, may not be exempt from applicable rule requirements, specify the averaging period for determining operating hours, and move procedures for documenting exempt status to §117.213, concerning Continuous Demonstration of Compliance. Revisions are proposed to §117.205, concerning Emission Specifications, which reorganize subsections (a), (b), and (h) for clarity, delete obsolete language, and state that the 400 ppmv CO emission limit for boilers and process heaters is referenced to 3.0% oxygen, dry basis. It is proposed to allow the optional inclusion of replacement new facilities to facilitate compliance with the emission limitations of §117.205 by allowing new facilities with lower best available control technology emission limitations to provide credit to remaining existing facilities. Section 117.207, concerning Alternative Plant-Wide Emission Specifications, contains proposed revisions which distinguish the methods of assigning emission limits for boilers and process heaters as opposed to gas turbines and engines, specify emission limitations for boilers and industrial furnaces (BIF units) elected to be included in

a plant-wide emissions averaging plan, and clarify procedures for calculating in-stack NO_x.

A proposed revision to §117.208, concerning Operating Requirements, references sources subject to source cap emission limits. Changes to §117.209, concerning Initial Control Plan Procedures, are proposed which clarify that every major NO_x source is required to file an initial control plan, regardless of whether NO_x emission specifications apply to units within that source, and specify additional listing requirements in the plan. Testing requirements for the initial control plan, currently contained in §117.211, concerning Initial Demonstration of Compliance, are proposed to be moved to §117.209. Proposed changes to §117.211 include extension of testing requirements to certain exempt units belonging to categories included in the source cap, addition of a reference to testing while burning solid fuel, stating that compliance for units without CEMS or PEMS shall be determined by the average of three one-hour emission test runs, allowance of alternative test methods, and addition of clarifying language. Changes are proposed to §117.213, concerning Continuous Demonstration of Compliance, which correctly cite performance specifications and test methods, specify applicability of the continuous emissions monitoring requirements of 40 CFR 75 to certain units, allow the option to use PEMS in lieu of CEMS, require installation of totalizing fuel flow meters on certain stationary gas turbines, fluid catalytic cracking unit boilers, BIF units, and gas turbine supplemental waste heat recovery units; and move from §117.203 the requirements for certain exempt gas turbines and engines to use elapsed run time meters and the procedures to follow when exemption criteria are exceeded by exempted units. Problems in implementing the equivalence test for PEMS have recently been experienced. The TNRCC seeks input to further clarify or correct the proposed §117.213(c) to resolve these technical problems.

Section 117.215, concerning Final Control Plan Procedures, contains proposed revisions which clarify that maximum allowable NO_x emissions for gas turbines and engines are to be assigned in the units given by the appropriate emission limitation of §117.205, specify requirements to describe the NO_x control method and submit test results for each unit included in the final control plan, and require sources complying with a source cap to submit a final control plan. Section 117.217, concerning Revision of Final Control Plan, proposes that new units installed as replacements for existing units complying with §117.205 or §117.207 may be included in the final control plan, and that any new unit belonging to an equipment category which participates in the source cap must be included in the source cap. In §117.219, concerning Notification, Recordkeeping, and Reporting Requirements, minor changes in wording are proposed to clarify the rule, and a reference is made to the compliance schedule for submittal of test results. Changes to §117.221, concerning Alternative Case Specific Specifications, replace references to "Board" with "Commission."

Proposed new §117.223, concerning Source Cap, incorporates the requirements of current §117.580, which is proposed for repeal. A proposed revision to §117.223 addresses EPA concerns about RACT equivalency by changing the method of calculating the historical activity level, replacing "operating days" with "actual heat input," based on a two-year average heat input plus one standard deviation. Other changes proposed for §117.223 delete language duplicated in §117.113 and §117.213, and require that the method of calculating the actual heat input for each unit included in the source cap must be included in the initial control plan.

The TNRCC proposes revisions to Subchapter C: Acid Manufacturing. In §117.311 and §117.411, concerning Initial Demonstration of Compliance, §117.313 and §117.413, concerning Continuous Demonstration of Compliance, and §117.319 and §117.419, concerning Notification, Recordkeeping, and Reporting Requirements, clarifying wording is proposed referencing PEMS and initial demonstration of compliance testing, and notification requirements. Changes are proposed to §117.313 and §117.413 which correctly cite quality assurance procedures. Changes to §117.321 and §117.421, concerning Alternative Case Specific Specifications, replace references to "Board" with "Commission."

The TNRCC proposes revisions to Subchapter D: Administrative Provisions. In §117.510, concerning Compliance Schedule for Utility Electric Generation, a proposed change states that results of testing for initial demonstration of compliance with the oil-firing NO_x allowable be submitted within 60 days after completion of the testing, and specifies the due date for final control plans in §117.520, concerning Compliance Schedule for Commercial, Institutional, and Industrial Sources, revisions are proposed specifying the schedules for submitting results of CEMS or PEMS performance evaluation and quality assurance tests and schedules for submitting final control plans. Changes are proposed in §117.530, concerning Compliance Schedule For Nitric Acid and Adipic Acid Manufacturing Sources, adding clarifying references to PEMS and initial demonstration of compliance testing. Proposed revisions to §117.540, concerning Phased RACT and §117.560, concerning Rescission, change references from the Texas Air Control Board (TACB) to the TNRCC.

Separate revisions to §117.550, concerning Standard Construction Permits for NO_x RACT Projects, and §117.570, concerning Alternate Means of Compliance-Trading, may occur before the current rule proposal is adopted. Under the requirements of the Administrative Procedure Act, a rule section may not be reopened for new rulemaking until any existing rulemaking in that section is finalized. Therefore, minor changes to §117.550 and §117.570 are not being proposed at this time to allow for the flexibility of simultaneous rulemaking in this chapter.

Since §117.580, concerning Source Cap, pertains only to commercial, institutional, and industrial sources, the staff has determined that it would be administratively more efficient

to propose concurrently the repeal of existing §117.580 and the addition of new §117.223 in the undesignated head Commercial, Institutional, and Industrial Sources in Subchapter B.

Stephen Minick, budget and planning division, has determined that for each year of the first five-year period the proposed sections are in effect, there will be no fiscal cost implications for state and local governments to implement the program.

Mr. Minick 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.

Economic costs to businesses required to implement the proposed control measures are estimated to be minimal. The current proposal to allow the use of predictive emissions monitoring systems in lieu of continuous emissions monitoring systems would result in a potential annualized cost savings of \$82,000 per monitoring system. These cost savings would extend beyond the first five years that the rule would be in effect.

Public hearings on this proposal will be held at the following times and places: January 26, 1994, 7:00 p.m., John Gray Institute, 855 Florida Avenue, Beaumont, Texas; and January 27, 1994, 11:00 a.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston, Texas.

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. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearings must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas, 78711-3087, no later than January 28, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all TNRCC Air Program regional offices. For further information, contact Randy Hamilton at (512) 239-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Subchapter A. Definitions

• 30 TAC §117.10

The amendment is proposed under the Texas Health and Safety Code, (Vernon 1990), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC 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.

Average activity level for fuel oil firing—The product of an electric utility unit's maximum rated capacity for fuel oil firing and the average annual capacity factor for fuel oil firing for the period from January 1, 1990, to December 31, 1993.

Lean-burn engine—A spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is not capable of being operated with an exhaust stream oxygen concentration equal to or less than [of] 0.5 [4.0]% by volume, [or greater] as originally designed by the manufacturer. [The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.]

Low annual capacity factor boiler, process heater, or gas turbine supplemental waste heat recovery unit—A [An] commercial, institutional, or industrial boiler; [.] process heater; [.] or gas turbine supplemental waste heat recovery unit 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(10¹¹) Btu per year (Btu/yr), based on a rolling monthly average; or

(B) greater than or equal to 100 MMBtu/hr and an annual heat input less than or equal to 2.2(10¹¹) Btu/yr, based on a rolling monthly average.

Low annual capacity factor stationary gas turbine or stationary internal combustion engine—A stationary gas turbine or stationary internal combustion engine which is demonstrated to operate less than 850 hours per year, based on a rolling monthly average.

Rich-burn engine—A spark-ignited, Otto cycle, four-stroke, naturally aspirated or turbocharged engine that is capable of being operated with an exhaust stream oxygen concentration equal to or [of] less than 0.5 [4.0]% by volume, as originally designed by the manufacturer. [The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.]

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 or portion thereof located within a single ozone nonattainment area when firing at their average activity levels [maximum rated capacity] to the total sum of average activity levels [maximum rated capacities] for those units. For gaseous or solid fuel, maximum rated capacities may be used in lieu of average activity levels for the purpose of calculating the system-wide emission limit.

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 or portion thereof located within a single ozone nonattainment area when firing at their average activity levels [maximum rated capacity] to the total sum of average activity levels [maximum rated capacities] for those units. For gaseous or solid fuel, maximum rated capacities may be used in lieu of average activity levels for the purpose of calculating the system-wide emission rate.

Unit—Any boiler, steam generator, process heater, stationary gas turbine, or stationary internal combustion engine, as defined in this section, which is either:

(A) placed into service prior to November 15, 1992;[.]

(B) placed into service after June 9, 1993, as functionally identical replacement for an existing unit subject to the provisions of this chapter and limited to the capacity limit of the unit replaced; or

(C) placed into service after June 9, 1993 and belonging to an equipment category which is complying with §117.223 of this title (relating to Source Cap).

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 December 27, 1993.

TRD-9334030

Mary Ruth McDonald
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: March 31, 1994

For further information, please call: (512) 463-8159

Subchapter B. Combustion at Existing Major Sources

Utility Electric Generation

- 30 TAC §§117.103, 117.105, 117.107, 117.109, 117.111, 117.113, 117.115, 117.117, 117.119, 117.121

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

§117.103. Exemptions.

(a) (No change.)

(b) Units exempted from the provisions of this undesignated head (relating to Utility Electric Generation), except for §117.109(b)(1) of this title (relating to Initial Control Plan Procedures) and §117.113(h) of this title (relating to Continuous Demonstration of Compliance), include the following:

(1) (No change.)

(2) any utility boiler, steam generator, or auxiliary steam boiler with an annual heat input less than or equal to 2.2(10¹¹) British thermal units (Btu) per year; or

(3) stationary gas turbines, which are:

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

(B) [used as emergency standby gas turbines or engines and] demonstrated to operate less than 850 hours per [calendar] year, based on a rolling monthly average.[: or]

[(C) peaking gas turbines and operated less than 850 hours per calendar year.]

(c) The fuel oil firing emission limitation of §117.105(c) or §117.107(b) of this title shall not apply during an emergency operating condition declared by the Electric Reliability Council of Texas or the Southwest Power Pool, or any other emergency operating condition which necessitates oil firing. All findings that emergency operating conditions exist are subject to the approval of the Executive Director. The owner or operator of an affected unit shall give the Executive Director and any local air pollution control agency having jurisdiction verbal notification as soon as possible after declaration of the emergency. Verbal no-

tification shall identify the anticipated date and time oil firing will begin, duration of the emergency period, affected oil-fired equipment, and quantity of oil to be fired in each unit. The owner or operator of an affected unit shall give the Executive Director and any local air pollution control agency having jurisdiction written notification as soon as possible but no later than two weeks after the termination of emergency fuel oil firing. Written notification shall identify the actual dates and times that oil firing began and ended, duration of the emergency period, affected oil-fired equipment, and quantity of oil fired in each unit.

[(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 (Btu/yr) or hour per year (hr/yr) limit is exceeded. If the Btu/yr or hr/yr limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after loss of the exemption, the owner or operator must submit a compliance plan detailing a plan to meet the applicable compliance limit as soon as possible but no later than 24 months after exceeding the hr/yr limit. Included with this 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)-(c) (No change.)

(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 and fuel oil, as follows: Emission Limit = [a(0.26) + b(0.30)]/(a + b) Where: a = [is] the percentage of total heat input from natural gas. b = [is] the percentage of total heat input from fuel oil.

(e)-(i) (No change.)

(j) No person shall allow the discharge into the atmosphere from any utility boiler, steam generator, or auxiliary steam boiler [unit] subject to this undesignated head (relating to Utility Electric Generation), carbon monoxide (CO) 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 stationary gas turbine with a MW rating greater than or equal to 10 MW, CO emissions in excess of a block one-hour average of 132 ppmv at 15% O₂ dry basis.

(l)(k) No person shall allow the discharge into the atmosphere from any unit subject to this undesignated head, ammonia emissions in excess of 20 ppmv based on a block one-hour averaging period.

(m) [(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), and (l) of this section shall apply at all times, except as specified in §117.103 of this title.

(n)(m) For purposes of this subchapter, the following shall apply:

(1) The [the] lower [more stringent] of any permit NO_x emission limit in effect on June 9, 1993 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_x 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_x per million Btu heat input, shall be limited to that rate for the purposes of this subchapter.

(2) For any unit placed into service after June 9, 1993, and prior to May 31, 1995, or the final compliance date as approved under the provisions of §117.540 of this title (relating to Phased Reasonably Available Control Technology (RACT)), as functionally identical replacement for an existing unit subject to the provisions of this chapter and limited to the capacity limit of the unit replaced, the higher of any permit NO_x emission limit under a permit issued after June 9, 1993, pursuant to Chapter 116 of this title

and the emission limits of subsections (a)-(i) of this section shall apply. The inclusion of such new units is an optional method for complying with the emission limitations of this section.

§117.107. Alternative System-Wide Emission Specifications.

(a) An owner or operator of any gaseous- or coal-fired utility boiler or stationary gas turbine 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, except as provided for in subsection (d) of this section. 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 enforceable emission limits for each affected unit in the system. A pound per million (MM) Btu emission limit based on a rolling 24-hour averaging period and a pound per MMBtu emission limit based on a 30-day averaging period shall apply to each gas-fired unit in the system. A pound per MMBtu emission limit based on a rolling 24-hour averaging period shall apply to each coal-fired unit in the system. For stationary gas turbines, the emission limits shall be assigned in the units given by the appropriate emission limitation of §117.105 of this title.

(b) An owner or operator of any fuel oil-fired utility boiler may achieve compliance with the NO_x emission limits of §117.105 of this title by achieving compliance with a system-wide emission limitation. Any owner or operator who elects to comply with system-wide emission limits for oil firing shall reduce emissions of NO_x from affected units so that, if all such units were operated at their average activity level for fuel oil firing as defined in §117.10 of this title, the system-wide emission rate from all oil-fired units in the system would not exceed the system-wide emission limit as defined in §117.10 of this title, and shall establish enforceable emission limits for oil firing for each affected unit in the system. A pound per MMBtu emission limit based on a rolling 24-hour averaging period shall apply to each oil-fired unit in the system. The emission limit assigned to each oil-fired unit in the system shall not exceed 0.5 pound per MMBtu based on a rolling 24-hour average.

(c)[(b)] An owner or operator of any gaseous 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 gaseous fuel] shall calculate the gaseous and liquid fuel-fired system-wide emission limits of subsections (a) and (b) of this section separately. The owner or operator shall also:

(1) (No change.)

(2) comply with the assigned maximum allowable emission rates for liquid fuel [liquid fuel emission limit of §117.105 of this title] while firing liquid fuel only; and

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

(d) [(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), (d), or (e) of this title shall comply with those individual emission specifications under this section and shall not be included in the system-wide emission specification. Coal-fired utility boilers or steam generators shall be treated as a separate system, and system averaging for coal-fired utility boilers or steam generators shall be limited to those units under this section.

(e)[(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 average activity level for fuel oil firing or maximum rated capacity for gas firing 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 exhaust flow rate (expressed in pounds per hour at megawatt (MW) rating and International Standards Organization (ISO) flow conditions), and (46/28)(10); Where:

%O₂

= the volume percent oxygen in the stack gases on a wet basis, as calculated from the manufacturer's data, or other data as approved by the Executive Director, at the MW rating and ISO flow conditions.

§117.109. Initial Control Plan Procedures.

(a) The owner or operator of any major source of nitrogen oxides (NO_x) [which has units subject to §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System-Wide Emission)] shall submit, for the approval of the Executive Director, an initial control plan for installation of nitrogen oxides (NO_x) emissions control equipment and demonstration of anticipated compliance with other applicable requirements of this subchapter [to meet the

requirements of §117.105 of this title or §117.107 of this title]. The Executive Director shall approve the plan if it contains all the information specified in this section. Revisions to the initial control plan shall be submitted with the final control plan.

(b) The initial control plan shall be submitted in accordance with the schedule specified in §117.510(1) [§117.510] of this title (relating to Compliance Schedule For Utility Electric Generation) and shall contain the following:

(1) a list of all combustion units at the source with a maximum rated capac-

ity greater than 5.0 million Btu per hour; all stationary, reciprocating internal combustion which are located in the Houston/Galveston ozone nonattainment area and rated 150 horsepower (hp) or greater, or located in the Beaumont/Port Arthur ozone nonattainment area and rated 300 hp 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 capacity factor, the facility identification numbers and emission point numbers as submitted to the Emissions Inventory Section [Division] of the Texas Natural Re-

source Conservation Commission (TNRCC) [Texas Air Control Board (TACB)], and the emission point numbers as listed on the Maximum Allowable Emissions Rate Table of any applicable TNRCC [TACB] permit for each unit;

(2) identification of all units subject to the emission specifications of §117.105 [of this title] or §117.107 of this title;

(3) identification of all boilers[,] and stationary gas turbines 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;

(4)-(5) (No change.)

(6) a list of any units which have been or will be retired, decommissioned, or shutdown and rendered inoperable, indicating the date of occurrence and whether these actions are [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 §117.105 [of this title] or §117.107 of this title. Emissions from stationary gas turbines shall be represented in the units given by the appropriate emission limitation of §117.105 of this title.

(8) for units required to install totalizing fuel flow meters in accordance with §117.113(e), (g), or (h) of this title (relating to Continuous Demonstration of Compliance), indication of whether the devices have been placed in operation by April 1, 1994.

§117.111. Initial Demonstration of Compliance.

(a) All units which are [identified in the control plan required by §117.109 of this title (relating to Initial Control Plan Procedures) and are] subject to the emission limitations of §117.105 of this title (relating to Emission Specifications) or §117.107 of this title (relating to Alternative System [Plant]-Wide Emission Specifications)[.] shall be tested for nitrogen oxides (NO_x), carbon monoxide (CO), and oxygen (O₂) emissions. 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 schedules [schedule] specified in §117.510(4) [§117.510(3)] and (5) of this title (relating to Compliance Schedule For Utility Electric Generation).

(b) (No change.)

(c) Continuous emissions monitoring systems (CEMS) required by §117.113(a) of this title (relating to Contin-

uous Demonstration of Compliance) or predictive emissions monitoring systems (PEMS) required by §117.113(e) of this title shall be installed and operational prior to conducting initial demonstration of compliance [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.

(d) Initial compliance with the emission specifications of §117.105 [of this title] or §117.107 of this title for units operating with CEMS in accordance with §117.113(a) of this title or with PEMS in accordance with §117.113(e) of this title shall be demonstrated using the NO_x CEMS or PEMS as follows.

(1) (No change.)

(2) To comply with the NO_x emission limit in pound per MMBtu on a rolling 24-hour average, NO_x emissions from a unit are monitored for 24 consecutive operating hours and the 24-hour average emission rate is used to determine compliance with the NO_x emission limit. The 24-hour average emission rate is calculated as the average of all hourly emissions data recorded by the monitoring system during the 24-hour test period. Compliance with the NO_x emission limit for fuel oil firing shall be determined based on the first 24 consecutive operating hours a unit fires fuel oil.

(3) (No change.)

§117.113. Continuous Demonstration of Compliance.

(a) (No change.)

(b) Any CEMS required by subsection (a) of this section shall be installed, calibrated, maintained, and operated in accordance with 40 CFR, Part 75 or 40 CFR, Part 60, as applicable. The [Texas Air Control Board (TACB)] Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) may approve alternative locations to in-stack monitoring for any affected unit subject to this section.

(c)-(d) (No change.)

(e) As an alternative to CEMS, the owner or operator of units subject to continuous monitoring requirements under this undesignated head and not subject to the requirements of 40 CFR 75 may, with the approval of the Executive Director, elect to install, calibrate, maintain, and operate predictive emissions monitoring systems (PEMS) and totalizing fuel flow meters. The required PEMS and fuel flow meters shall be used to measure NO_x, CO, and O₂ (or CO₂) emissions and fuel flow for each affected unit

and shall be used to demonstrate continuous compliance with the emission limitations of §117.105 or §117.107. As an alternative to using PEMS to monitor O₂ or CO₂, subsection (a) of this section or similar alternative method approved by the Executive Director may be used. Any PEMS shall meet the requirements of §117.119 of this title (relating to Notification, Recordkeeping, and Reporting Requirements) and §117.213(c)(1)-(3) of this title (relating to Continuous Demonstration of Compliance).

(f)[(e)] The owner or operator of each gas turbine subject to the emission specifications of §117.105 of this title, in lieu of monitoring emissions in accordance with the monitoring requirements of 40 CFR 75, may elect to comply with the following monitoring requirements:

(1) for gas turbines rated less than 30 megawatt (MW) or peaking gas turbines (as defined in §117.10 of this title) which use steam or water injection to comply with the emission specifications of §117.105(h) or (i) of this title:

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

(B) (No change.)

(2) for gas turbines subject to the emission specifications of §117.105(f) or (g) of this title, install, calibrate, maintain and operate a CEMS or PEMS in compliance with subsection (b) of this section [title].

(g) The owner or operator of any stationary gas turbine with a MW rating greater than or equal to 1.0 MW operated more than 850 hours per year shall install and maintain totalizing fuel flow meters on an individual unit basis.

(h) The owner or operator of any utility boiler, steam generator, or auxiliary steam boiler using the exemption of §117.103(b)(2) of this title shall install and maintain totalizing fuel meters for each individual unit, as approved by the Executive Director, and record the annual fuel input for each unit, based on a rolling monthly average. The owner or operator of any stationary gas turbine using the exemption of §117.103(b)(3) of this title shall record the operating time with an elapsed run time meter approved by the Executive Director.

(i) The owner or operator of any utility boiler, steam generator, or auxiliary steam boiler using the exemption of §117.103(b)(2) of this title, or any stationary gas turbine using the exemption of §117.103(b)(3) of this title shall notify the Executive Director within seven days if

the Btu/yr or hour-per-year (hr/yr) limit specified in §117.103(b)(2) or §117.103(b)(3) of this title, as appropriate, is exceeded. If the Btu/yr or hr/yr limit, as appropriate, is exceeded, the exemption from the emission specifications of §117.105 of this title shall be permanently withdrawn. Within 90 days after loss of the exemption, the owner or operator shall submit a compliance plan detailing a plan to meet the applicable compliance limit as soon as possible, but no later than 24 months after exceeding the Btu/yr or hr/yr limit, as appropriate. Included with this compliance plan, the owner or operator shall 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)(f) 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] or §117.107 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 TNRCC [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 date specified in §117.510(6) [§117.510(4)] of this title (relating to Compliance Schedule For Utility Electric 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 date specified

in §117.510(6) [§117.510(4)] of this title. The owner or operator shall:

(1) assign to each affected unit the maximum NO_x emission rate, expressed in units of pound per million Btu heat input on a rolling 24-hour average and rolling 30-day average for gaseous [or liquid] fuel [-]firing, and a rolling 24-hour average for oil or coal firing, which are allowable for that unit under the requirements of §117.107 of this title;

(2) (No change.)

(3) submit a description of the NO_x control method used to achieve compliance with §117.107 of this title, and the results of testing for each unit in accordance with the requirements of §117.111 of this title. For units complying with a pound per million Btu emission limit on a rolling 30-day average, this information may be submitted according to the schedule given in §117.510(4) of this title.

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

§117.117. Revision of Final Control Plan. A revised final 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). For sources complying with §117.105 of this title (relating to Emission Specifications), or §117.107 of this title (relating to Alternative System-Wide Emission Specifications), replacement new units may be included in the control plan. The revision of the final control plan shall be subject to the review and approval of the Executive Director.

§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 start-up and/or shutdown events and maintained for a period of at least two years. Records shall be available for inspection by the Texas Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)], United States Environmental Protection Agency (EPA), and any local air pollution control agency having jurisdiction upon request. These records shall include, but are not limited to: type of fuel burned; quantity of each type fuel burned; gross and net energy production in megawatt hours (MW-hr); and the date, time, and duration of the event [procedure].

(b) The owner or operator of a unit 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) shall submit notification to the Executive Director [written notification.] as follows:

(1) verbal notification of the date of any initial demonstration of compliance [performance] testing conducted under §117.111 of this title (relating to Initial Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed; and

(2) verbal notification of the date of any continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS) performance evaluation conducted under §117.113 of this title (relating to Continuous Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed.

(c) The owner or operator of an affected unit shall furnish the Executive Director and any local air pollution control agency having jurisdiction a copy of any initial demonstration of compliance [performance] testing conducted under §117.111 of this title or any CEMS or PEMS performance evaluation conducted under §117.113 of this title within 60 days after completion of such testing or evaluation. Such results shall be submitted in accordance with the appropriate compliance schedules specified in §117.510(3) and (4) of this title (relating to Compliance Schedule for Utility Electric Generation).

(d) The owner or operator of a unit required to install a CEMS, PEMS, [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] or §117.107 of this title 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 unit operating time during the reporting period. For gas turbines using steam-to-fuel or water-to-fuel ratio monitoring to demonstrate compliance in accordance with §117.113(f)(1)(B) [§117.113(e)(1)(B)] of this title, excess emissions are computed as each one-hour period dur-

ing which the hourly steam-to-fuel or water-to-fuel ratio is less than the ratio determined to result in compliance during the initial demonstration of compliance [performance] test required by §117.111 of this title.

(2)-(4) (No change.)

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total unit operating time for the reporting period and the CEMS, PEMS, or steam-to-fuel or water-to-fuel ratio monitoring system downtime for the reporting period is less than 5.0% of the total unit operating time for the reporting period, only a summary report form (as outlined in the latest edition of the TNRCC [TACB] "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless otherwise requested by the Executive Director of the TNRCC [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 steam-to-fuel or water-to-fuel ratio 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] or §117.107 of this title, records of hours of operation and other operating records shall be made and maintained for a period of at least two years. Records shall be available for inspection by the TNRCC [TACB], EPA, or local air pollution control agencies having jurisdiction upon request. Operating records for each unit shall be recorded and maintained at a frequency equal to the applicable emission specification averaging period, or monthly for units exempt from the emission specifications based on annual heat input, or hours of operation per calendar year, and shall include:

(1)-(4) (No change.)

(5) CEMS, PEMS, [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. The records shall include:

(A) (No change.)

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

(C) (No change.)

§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. Any person affected by the decision of the Executive Director may appeal to the Commission [Board] by filing written notice of appeal with the Executive Director within 30 days after 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 Commission [Board]) should be consulted for the method of requesting Commission [Board] action on the appeal. 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 December 27, 1993

TRD-9334031

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: March 31, 1994

For further information, please call: (512) 463-8159



Subchapter B. Combustion at Existing Major Sources Commercial, Institutional, and Industrial Sources

• 30 TAC §§117.203, 117.205, 117.207-117.209, 117.211, 117.213, 117.215, 117.217, 117.219, 117.221, 117.223

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

§117.203. Exemptions.

(a) (No change.)

(b) Units exempted from the provisions of this undesignated head (relating to Commercial, Institutional, and Industrial Sources), except for §117.209(c)(1) (relating to Initial Control Plan Procedures) and §117.213(d)(2) and (g) (relating to Continuous Demonstration of Compliance), include the following:

(1) any new units placed into service after November 15, 1992, except for new units which were placed into service as functionally identical replacement for existing units subject to the provisions of this undesignated head as of June 9, 1993. Such replacement shall be limited to the capacity limit of the units replaced;

(2)-(5) (No change.)

(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; or

(B) [used as emergency standby gas turbines which are] demonstrated to operate less than 850 hours per [calendar] year, based on a rolling monthly average. [(low annual capacity

factor gas turbines) or engines which are demonstrated to operate less than 850 hours per calendar year (low annual capacity factor engines). 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 as peaking gas turbines or engines and operated less than 850 hours per calendar 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 90 days after loss of the exemption, the owner or operator must submit a 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 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)-(8) (No change)

§117.205 Emission Specifications.

(a) No person shall allow the discharge of air contaminants into the atmosphere to exceed the emission limits of this section, except as provided in §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), or §117.223 of this title (relating to Source Cap).

(1) For purposes of this subchapter, the lower of any permit NO_x emission limit in effect on June 9, 1993 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 (b)-(d) of this section shall apply, except that.

(A) gas-fired boilers and process heaters operating under a permit issued after March 3, 1982, with an emission limit of 0.12 pound NO_x per million Btu heat input, shall be limited to that rate for the purposes of this subchapter; and

(B) gas-fired boilers and process heaters which have had NO_x reduction projects permitted since November 15, 1990 and prior to June 9, 1993 that were solely for the purpose of making early

NO_x reductions, shall be subject to the appropriate emission limit of subsection (b) of this section. The affected person shall document that the NO_x reduction project was solely for the purpose of obtaining early reductions, and include this documentation in the initial control plan required in §117.209 of this title (relating to Initial Control Plan Procedures).

(2) For any unit placed into service after June 9, 1993 and prior to May 31, 1995 or the final compliance date as approved under the provisions of §117.540 of this title (relating to Phased Reasonably Available Control Technology (RACT)), as functionally identical replacement for an existing unit subject to the provisions of this chapter and limited to the capacity limit of the unit replaced, the higher of any permit NO_x emission limit under a permit issued after June 9, 1993 pursuant to Chapter 116 of this title and the emission limits of subsections (b)-(d) of this section shall apply. The inclusion of such new units is an optional method for complying with the emission limitations of this section.

(b) For boilers and process heaters [units] which operate with continuous emission monitors in accordance with §117.213(b) of this title (relating to Continuous Demonstration of Compliance), or with predictive emissions monitors in accordance with §117.213(c) of this title, the emission limits shall apply as the mass of nitrogen oxides (NO_x) emitted per unit of energy input (pound NO_x per million (MM) Btu), on a rolling 30-day average period, or as the mass of NO_x emitted per hour (pounds per hour), on a block one-hour average. For boilers and process heaters [units] which do not operate with continuous or predictive emission monitors, the emission limits shall apply as the mass of NO_x emitted per hour (pounds NO_x per hour), on a block one-hour average. The mass of NO_x emitted per hour shall be calculated as the product of the boiler's or process heater's [unit's] maximum rated capacity and its applicable limit [(in pound NO_x per MMBtu)], as follows. For 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, the applicable emission limit is 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 placed into service prior to November 15, 1992, and subject to a NO_x best available control technology review shall be subject to the permitted NO_x limitation, as follows:

[(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) the limit explicitly stated in pound NO_x per MMBtu 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 the above are available, the unit's nameplate heat input.]

[(1) [(A)] gas-fired boilers, as follows:

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

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

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

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

(E)(v) high heat release boilers with preheated air greater than or equal to 250 degrees Fahrenheit and less than 500 degrees Fahrenheit [of air pre-heat], 0.24 lb NO_x/MMBtu of heat input; or

(F)(vi) high heat release boilers with preheated air greater than or equal to 500 degrees Fahrenheit [of air pre-heat], 0.28 lb NO_x/MMBtu of heat input.

(2)(B) gas-fired process heaters, based on either air preheat temperature or firebox temperature, as follows:

(A)(i) based on air preheat temperature:

(i)(I) process heaters with preheated air less than 200 degrees Fahrenheit [of air preheat], 0.10 lb NO_x/MMBtu of heat input;

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

(iii)(III) process heaters with preheated air greater than or equal to 400 degrees Fahrenheit [of air preheat], 0.18 lb NO_x/MMBtu of heat input.

(B)(ii) based on firebox temperature:

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

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

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

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

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

(5)(E) any unit operated with a combination of gaseous, liquid, or wood fuel, a variable emission limit calculated as the heat-input weighted average of the applicable emission limits of this subsection [paragraph].

(6)(4) For any [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 may be used[,] for that eight-hour period. The total hydrogen volume in all gaseous fuel streams will be divided by the total gaseous fuel flow volume to determine the volume percent of hydrogen in the fuel supply.

(c)(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 132 ppmv carbon monoxide (CO) at 15% oxygen, dry basis.

(d)(c) No person shall allow the discharge into the atmosphere from any gas-fired, rich-burn, stationary, reciprocating internal combustion engine, 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 for engines which are:

(1) rated 150 hp or greater and located in the Houston/Galveston ozone nonattainment area; or

(2) rated 300 hp or greater and located in the Beaumont/Port Arthur ozone nonattainment area.

(e)(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) or (b) of this section, CO in excess of 400 ppmv at 3.0% oxygen, dry basis, based on a block one-hour average.

(f)(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 20 ppmv based on a block one-hour averaging period.

(g)(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, stationary gas turbine, or stationary internal combustion engine as defined in §117.10 of this title (relating to Definitions);

(3) boilers and industrial furnaces which are regulated as existing facilities by the United States [U.S.] Environmental Protection Agency at 40 Code of Federal Regulations [CFR] Part 266, Subpart H;

(4)-(7) (No change.)

(h)(g) The NO_x emission limits specified in subsections (a)-(d)(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)], and §117.223 of this title. The CO emission limits specified in subsections (c)(b), (d)(c), and (e)(d) of this section and the ammonia emission limits specified in subsection (f)(e) of this section shall apply at all times, except as specified in §117.203 of this title.

(h) For purposes of this subchapter, the more stringent of any permit NO_x emission limit in effect on June 9, 1993 under a permit issued pursuant to Chapter 116 of this title and the emission limits of subsections a)(3)-(c) of this section shall apply, except that:

(1) gas-fired boilers and heaters operating under a permit issued after March 3, 1982, with an emission limit of 0.12 pound NO_x per million Btu heat input, shall be limited to that rate for the purposes of this subchapter; and

(2) gas-fired boilers and process heaters which have had NO_x reduction projects permitted since November 15, 1990 and prior to June 9, 1993 that were solely for the purpose of making early NO_x reductions, shall be subject to the appropriate emission limit of subsections (a)(3)-(c) of this section. The affected person must document that the NO_x reduction project was solely for the purpose of obtaining early reductions, and include this documentation in the initial control plan required in §117.209 of this title (relating to Initial Control Plan Procedures).

§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. For boilers and process heaters [units] which operate with continuous emission monitors in accordance with §117.213(b) of this title (relating to Continuous Demonstration of Compliance), or with predictive

emission monitors in accordance with §117.213(c) of this title, the emission limits shall apply as the mass of NO_x emitted per unit of energy input (pound NO_x per million (MM) Btu), on a rolling 30-day average period, or as the mass of NO_x emitted per hour (pounds per hour), on a block one-hour average. For boilers and process heaters [units] which do not operate with continuous or predictive emission monitors, the emission limits shall apply as the mass of NO_x emitted per hour (pounds NO_x per hour), on a block one-hour average. For stationary gas turbines, the emission limits shall apply as the concentration in parts per million by volume at 15% oxygen, dry basis on a block one-hour average. For stationary internal combustion engines, the emission limits shall apply in units of grams per horsepower-hour on a block one-hour average.

(b) Units exempted from emission specifications in accordance with §117.205(g) [§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)-(e) (No change.)

(f) The owner or operator of exempted units as defined in §117.205(g) [§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 annual capacity factor boilers, [or] process heaters, [and low annual capacity factor] gas turbines, or engines as defined in §117.10 of this title [and §117.203(b)(6)(B) of this title] 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)-(4) (No change.)

(5) boilers and industrial furnaces which are regulated as existing facilities by the United States Environmental Protection Agency at 40 Code of Federal Regulations Part 266, Subpart H, the appropriate emission limitation in §117.205(b) of this title.

(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)-(2) (No change.)

(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)(10⁻⁶);

Where:

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

$$\text{NO}_x (\text{allowable}) = \text{the applicable NO}_x \text{ emission specification of §117.105(f) or (g) of this title (expressed in ppmv NO}_x \text{ at 15\% oxygen, dry basis)}$$

$$\% \text{H}_2\text{O} = \text{the volume percent water in the stack gases, as calculated from the manufacturer's data, or other data as approved by the Executive Director, at MW rating and ISO flow conditions}$$

%O₂

= the volume percent oxygen in the stack gases on a wet basis, as calculated from the manufacturer's data, or other data as approved by the Executive Director, at the 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(b)(6) [§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. The total H₂ volume in all gaseous fuel streams will be divided by the total gaseous fuel flow volume to determine the volume percent of H₂ in the fuel supply.

§117.208. Operating Requirements.

(a)-(b) (No change.)

(c) The owner or operator shall operate any unit subject to the source cap emission limits of §117.223 of this title (relating to Source Cap) in compliance with those limitations.

(d)[(c)] All units subject to the emission limitations of §117.205, [of this

title or] §117.207, or §117.223 of this title 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 the following.

(1)-(7) (No change.)

§117.209. Initial Control Plan Procedures.

(a) The owner or operator of any major source of nitrogen oxides (NO_x) [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)] shall submit, for the approval of the Executive Director, an initial control plan for installation of [nitrogen oxides (NO_x)] emissions control equipment and demonstration of anticipated

compliance with the applicable requirements of this subchapter [meet the requirements of §117.205 of this title or §117.207 of this title]. The Executive Director shall approve the plan if it contains all the information specified in this section. Revisions to the initial control plan shall be submitted with the final control plan.

(b) The owner or operator shall provide results of emissions testing using portable analyzers or, as available, initial demonstration of compliance [performance] testing conducted in accordance with §117.211(e) [§117.211(f)] or (f) [(g)] of this title [for each unit subject to the testing requirements of §117.211 of this title] for 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/or liquid and/or solid fuel at the maximum rated capacity or as near thereto as practicable, for the units listed in this subsection [paragraph]. Previous testing documentation for any claimed test waiver as allowed by §117.211(d) of this title (relating to Initial Demonstration of Compliance) shall be submitted with the initial control plan. Test results are required for the following units: [Testing using portable analyzers is acceptable for the units listed in this paragraph. The units listed are as follows:]

(1) boilers and process heaters with a maximum rated capacity greater than or equal to 40.0 million Btu per hour (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 United States Environmental Protection Agency (EPA) at 40 Code of Federal Regulations, 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 gas turbine supplemental waste heat recovery 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, except for low annual capacity factor gas turbines or peaking gas turbines as defined in §117.10 of this title; and

(6) gas-fired, stationary, reciprocating internal combustion engines which are located in the Houston/Galveston ozone nonattainment area and rated 150 horsepower (hp) or greater, or located in the Beaumont/Port Arthur ozone nonattainment area and rated 300 hp or greater, except for low annual capacity factor engines or peaking engines as defined in §117.10 of this title.

(c) The initial control plan shall be submitted in accordance with the schedule specified in §117.520(1) [§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 which are located in the Houston/Galveston ozone nonattainment area and rated 150 horsepower (hp) or greater, or located in the Beaumont/Port Arthur ozone nonattainment area and rated 300 hp 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 capacity factor, the facility identification numbers and emission point numbers as submitted to the Emissions Inventory Section [Division] of the Texas Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)], and the emission point numbers as listed on the Maximum Allowable Emissions Rate Table of any applicable TNRCC [TACB] permit for each unit;

(2) identification of all units subject to the emission specifications of §117.205 of this title (relating to Emission Specifications), [or] §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), or §117.223 of this title (relating to Source Cap);

(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 as specified in §117.207 of this title, or the source cap emission limit as specified in §117.223 of this title to achieve compliance with this rule;

(5) (No change)

(6) A list of units requiring operating modifications to comply with §117.208(d) of this title (relating to Oper-

ating Requirements) and the type of modification to be applied for all such units, including an anticipated construction schedule;

(7)[(6)] a list of any units which have been or will be retired, decommissioned, or shutdown and rendered inoperable, indicating the date of occurrence and whether these actions are [as] a result of compliance with this regulation;

(8)[(7)] the basis for calculation of the 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, or §117.223 of this title. For fluid catalytic cracking unit [carbon monoxide (CO)] boilers, the basis for calculation of the pound NO_x per million Btu (lb NO_x/MMBtu) rate for each unit shall include the following:

(A) -(B) (No change.)

(C) the calculation of the CO boiler lb NO_x/MMBtu emission rate;.]

[(8) previous testing documentation for any claimed test waiver as allowed by §117.211(e) of this title (relating to Initial Demonstration of Compliance);]

(9) for units required to install totalizing fuel flow meters in accordance with §117.213(a)-(e) of this title (relating to Continuous Demonstration of Compliance), indication of whether the devices have been installed as a result of the requirements of this chapter, and whether the devices have been placed in operation by April 1, 1994;

[(9) results of emissions testing using portable analyzers or, as available, performance testing conducted in accordance with §117.211(f) or (g) of this title for each unit subject to the testing requirements of §117.211 of this title;]

(10) for units which have had NO_x reduction projects as specified in §117.205(a)(1)(B) of this title, documentation that such projects were undertaken solely for the purpose of obtaining early NO_x reductions; and

(11) Test results in accordance with subsection (b) of this section.

§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), or §117.223 of this title (relating to Source

Cap), and all units belonging to equipment classes which are elected to be included in the alternative plant-wide emission specifications as defined in §117.207(f) of this title, or in the source cap as defined in §117.223(b)(4) of this title, 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 and solid fuel). Units which inject urea or ammonia into the exhaust stream for NO_x control shall be tested for ammonia emissions. Initial demonstration of compliance [Performance] testing of these units shall be performed in accordance with the schedule specified in §117.520 [§117.520(2)] of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources).

(b) The initial demonstration of compliance [performance] tests required by subsection (a) of this section shall use the test methods referenced in subsection (e)[(f)] or (f)[(g)] of this section and 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, or §117.223 of this title, as applicable. Test results shall be reported in the units of the applicable emission limits and averaging periods.

(c)[(d)] Any continuous emissions monitoring system (CEMS) required by §117.213(b) of this title (relating to Continuous Demonstration of Compliance) or any predictive emissions monitoring system (PEMS) approved for use in lieu of CEMS in accordance with §117.213(c) of this title shall be installed and operational prior to conducting initial demonstration of compliance [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 or system.

(c) The units listed in this subsection 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/or liquid fuel at the maximum rated capacity or as near thereto as practicable. Testing using portable analyzers is acceptable for the units listed in this subsection. The testing results shall be submitted with the initial control plan performed in accordance with the schedule specified in §117.520(1) of this title. The units listed are as follows:

(1) process heaters and boilers with a maximum rated capacity greater than or equal to 400 million Btu per hour

(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 (EPA) 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 gas turbine supplemental waste heat recovery units as defined in §117.10 of this title;

(5) stationary gas turbines with a megawatt (MW) rating of greater than or equal to 10 MW and less than 10.0 MW, except for low annual capacity factor gas turbines as defined in §117.203(b)(6)(B) of this title (relating to Exemptions), or peaking gas turbines as defined in §117.203(b)(6)(C) of this title; and

(6) lean-burn, gas-fired, stationary, reciprocating internal combustion engines which are located in the Houston/Galveston ozone nonattainment area and rated 150 horsepower (hp) or greater, or located in the Beaumont/Port Arthur ozone nonattainment area and rated 300 hp or greater, except for low annual capacity factor engines as defined in §117.203(b)(6)(B) of this title, or peaking engines as defined in §117.203(b)(6)(C) of this title.]

(d)[(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 §117.223 of this title, or to satisfy the [additional] testing requirements of §117.209(b) [subsection (c)] of this title [section] (relating to Initial Control Plan Procedures), 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), (e)[(d)], and (f)[(g)] of this section. The Executive Director reserves the right to request performance testing or CEMS or PEMS performance evaluation at any time.

(e)[(f)] Compliance with the emission specifications of §117.205 [of this title] or §117.207 of this title for units operating without CEMS or PEMS shall be demonstrated while operating at the maximum

rated capacity, or as near thereto as practicable.]. Compliance shall be determined by the average of three one-hour emission test runs, using [application of] the following test methods:

(1) Test method 7E or 20 (40 Code of Federal Regulations (CFR) [CFR], Part 60, Appendix A) for NO_x;

(2)-(4) (No change.)

(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 alternate methods as approved by the Executive Director; or

(6) (No change.)

(f)[(g)] Initial compliance with the emission specifications of §117.205 [of this title] or §117.207 of this title for units operating with CEMS in accordance with §117.213(b) of this title, or PEMS in accordance with §117.213(c) of this title, shall be demonstrated using the CEMS or PEMS as follows:[]

(1) For boilers and process heaters [units] complying with a NO_x emission limit in pound per MMBtu on a rolling 30-day average, NO_x emissions from the unit are monitored for 30 successive unit operating days and the 30-day average emission rate is used to determine compliance with the NO_x emission limit. The 30-day average emission rate is calculated as the average of all hourly emissions data recorded by the monitoring system during the 30-day test period.

(2) For units complying with a NO_x emission limit in pounds per hour or parts per million by volume at 15% oxygen, dry basis, on a block one-hour average, any one-hour period while operating at the maximum rated capacity, or as near thereto as practicable, after CEMS certification testing required in §117.213(b) of this title or PEMS certification testing required in §117.213(c) of this title is used to determine compliance with the NO_x emission limit.

(3) For units complying with a CO emission limit, block one-hour average, any one-hour period after CEMS certification testing required in §117.213(b) of this title or PEMS certification testing required in §117.213(c) of this title is used to determine compliance with the CO emission limit.

(h) Testing with portable analyzers may be used to satisfy the emissions test requirements for units listed in subsection (c) of this section, and for providing initial compliance plan information for all units which are subject to emission limits. The information shall be provided in accordance with the schedule specified for

submission of the initial control plan in §117.520 of this title.]

§117.213. Continuous Demonstration of Compliance.

(a) (No change.)

(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 exhaust nitrogen oxides (NO_x) monitor, a carbon monoxide (CO) monitor, an O₂ (or carbon dioxide (CO₂)) diluent monitor, and a totalizing fuel flow meter. The required continuous emissions monitoring systems (CEMS) and fuel flow meters will be used to measure NO_x, CO, and O₂ (or CO₂) emissions and fuel flow for each affected unit. One CEMS may be used to monitor up to three units. 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 4; and quality assurance procedures of 40 CFR 60, Appendix F, [Procedure 1, Section 5.1.2.] except that a cylinder gas audit may be performed in lieu of the annual relative accuracy test audit required in Section 5.1.1 [5.1.2]. The CEMS shall be subject to the approval of the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) under any permit issued pursuant to Title V of the 1990 Federal Clean Air Act [(FCAA)] Amendments.

(1) 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:

(A)-(B) (No change.)

(C) each stationary gas turbine with a megawatt (MW) rating greater than or equal to 30 MW operated more than 850 hours per year,

(D) (No change)

(E) each unit for which the owner or operator elects to comply with the NO_x emission specifications of §117.205 [of this title] or §117.207 of this title using a pound per MMBtu limit on a 30-day rolling average

(2) The units listed in §117.205(g)(3)-(5) [§117.205(f)(3)-(5)] of this title are not required to install CEMS under this subsection.

(3) Gas turbines or other units which are affected units and are subject to continuous emissions monitoring re-

quirements in accordance with 40 CFR 75 shall comply with those requirements in lieu of complying with the 40 CFR 60 requirements of this section.

(c) As an alternative to CEMS, the owner or operator of units subject to continuous monitoring requirements under this undesignated head may, with the approval of the Executive Director, elect to install, calibrate, maintain, and operate predictive emissions monitoring systems (PEMS) and totalizing fuel flow meters. The required PEMS and fuel flow meters shall be used to measure NO_x, CO, and O₂ (or CO₂) emissions and fuel flow for each affected unit and shall be used to demonstrate continuous compliance with the emission limitations of §117.205, §117.207, or §117.223, as applicable. As an alternative to using PEMS to monitor O₂ or CO₂, subsection (b) of this section or similar alternative method approved by the Executive Director may be used. Any PEMS shall meet the requirements of §117.219 of this title (relating to Notification, Recordkeeping, and Reporting Requirements) and all the requirements of 40 CFR 75, Subpart E, except that the following alternatives or exceptions may be made:

(1) Alternatives to 40 CFR 75, Subpart E which the owner or operator demonstrates to the satisfaction of the TNRCC to be substantially equivalent to the requirements of 40 CFR 75, Subpart E;

(2) Requirements of 40 CFR 75, Subpart E which the owner or operator demonstrates to the satisfaction of the TNRCC are not applicable;

(3) As an alternative to the test procedure of Subpart E for initial certification of any unit while firing its primary fuel, the owner or operator:

(A) May perform the following initial certification tests:

(i) Conduct initial relative accuracy test audit (RATA) pursuant to 40 CFR Part 60, Appendix B, Performance Specification 2, subsection 4.3 (pertaining to NO_x), Performance Specification 3, subsection 2.3 (pertaining to O₂ or CO₂), and Performance Specification 4, and subsection 2.3 (pertaining to CO) at each load level described in §75.41(a)(4)(i)-(iii) of 40 CFR 75, and

(ii) Conduct an F-test, a t-test, and a correlation analysis pursuant to 40 CFR 75, Subpart E at each load level described in §75.41(a)(4)(i)-(iii). Calculations shall be based on a minimum of 24 successive emission data points at each load range which are either 20-minute averages or hourly averages; and

(B) Shall further demonstrate PEMS accuracy with the following tests:

(i) For each of the three successive quarters following the quarter in which initial certification was conducted, demonstrate accuracy and precision of PEMS for at least one unit of a category of equipment by performing RATA and statistical testing in accordance with subparagraph (3)(A) of this subsection; and

(ii) For each alternative fuel fired in a unit, the PEMS shall be certified in accordance with subparagraph (3)(A) of this subsection.

(d)[(c)] In addition to the totalizing fuel flow meters specified in subsections (a), [and] (b), and (c) 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, including boilers and industrial furnaces regulated as existing facilities by the United States Environmental Protection Agency at 40 CFR Part 266, Subpart H, and gas turbine supplemental waste heat recovery units, with a rated heat input greater than or equal to 40.0 MMBtu/hr and less than 100.0 MMBtu/hr;

(2) (No change)

(3) lean-burn, stationary, reciprocating internal combustion engines which are located in the Houston/Galveston ozone nonattainment area and rated 150 horsepower (hp) or greater, or located in the Beaumont/Port Arthur ozone nonattainment area and rated 300 hp or greater, [and]

(4) stationary gas turbines with a MW rating greater than or equal to 10 MW and [or] less than 30.0 [100] MW operated more than 850 hours per year; and []

(5) Fluid catalytic cracking unit boilers.

(e)[(d)] The owner or operator of any stationary gas engine subject to the emission specifications of §117.205 [of this title] 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(e) [§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 TNRCC [Texas Air Control Board] and any local 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.

(f)[(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 (b) of this section or a PEMS in compliance with subsection (c) 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.

(g) The owner or operator of any low annual capacity factor stationary gas turbine or stationary internal combustion engine as defined in §117.10 of this title shall record the operating time with an elapsed run time meter approved by the Executive Director.

(h)[(f)] The owner or operator of any gas-fired boiler or process heater firing gaseous fuel which contains more than 50% H₂ 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. The total H₂ volume flow in all gaseous fuel streams to the unit will be divided by the total gaseous volume flow to determine the volume percent of H₂ in the fuel supply to the unit. Fuel gas analysis shall be tested according to American Society of Testing and Materials (ASTM) Method D1945-81 or ASTM Method D-2650-83, or other methods which are demonstrated to the satisfaction of the Executive Director to be equivalent. A gaseous fuel stream containing 99% H₂ by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this subsection.

(1) A fuel gas analysis shall [must] be performed initially using one of the test methods in this subsection to demonstrate that the gaseous fuel stream is 99% H₂ by volume or greater

(2) The process flow diagram of the process unit which is the source of the H₂ shall be supplied to the TNRCC [Texas Air Control Board (TACB)] to illustrate the source and supply of the hydrogen stream.

(3) (No change.)

(i) [(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 TNRCC [TACB] compliance method.

(j)[(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 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 emission rate higher than that approved by the Executive Director pursuant to §117.215(b)(4) [§117.215(b)(2)] of this title (relating to Final Control Plan Procedures).

(k)[(i)] The owner or operator of any low annual capacity factor boiler, [or] process heater, stationary gas turbine, or stationary internal combustion engine, as defined in §117.10 of this title, shall [must] notify the Executive Director within seven days if the Btu/yr or hour-per-year mimi(hr/yr) limit specified in §117.10 of this title, as appropriate, is exceeded. If the Btu/yr or hr/yr limit, as appropriate, is exceeded, the exemption from the emission specifications of §117.205 [§117.205(a)(3)] of this title shall be permanently withdrawn. Within 90 [30] days after loss of the exemption, the owner or operator shall [must] submit a compliance plan detailing a plan to meet the applicable compliance limit as soon as possible, but no later than 24 months after exceeding the Btu/yr or hr/yr limit, as appropriate. Included with this compliance plan, the owner or operator shall [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.

§117.215. 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 date specified in §117.520(6) [§117.520(4)] 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 date specified in §117.520(6) [§117.520(4)] of this title. The owner or operator shall:

(1) assign to each affected boiler or process heater [unit] the maximum allowable NO_x emission rate in pound per million Btu (rolling 30-day average), or in pounds per hour (block one-hour average) while firing gaseous or liquid fuel, which are allowable for that unit under the requirements of §117.207 of this title;[.]

(2) assign to each affected stationary gas turbine the maximum allowable NO_x emission in parts per million by volume at 15% oxygen, dry basis on a block one-hour average;

(3) assign to each affected stationary internal combustion engine the maximum allowable NO_x emission rate in grams per horse-power-hour on a block one-hour average;

(4)[(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

(5) submit a description of the NO_x control method used to achieve compliance with §117.207 of this title, and the results of testing for each unit in accordance with the requirements of §117.211 of this title. For boilers and process heaters complying with a pound per million Btu emission limit on a rolling 30-day average, this information may be submitted according to the schedule given in §117.520(4) of this title.

(6)[(3)] submit a list summarizing the results of testing of each unit at maximum rated capacity, in accordance with the requirements of §117.211(e), and (f)(2) and (3) [§117.520] of this title.

(c) For sources complying with §117.223 of this title (relating to Source Cap), the owner or operator of an affected source shall submit a final control plan to show attainment of the require-

ments of §117.223 of this title by the date specified in §117.520(6) of this title.

§117.217. Revision of Final Control Plan. A revised final 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). For sources complying with §117.205 of this title (relating to Emission Specifications), or §117.207 of this title (relating to Alternative Plant-Wide Emission Specifications), replacement new units may be included in the control plan. For sources complying with §117.223 of this title (relating to Source Cap), any new unit shall be included in the source cap, if the unit belongs to an equipment category which is included in the source cap. [New units, including functionally identical replacement units, shall not be incorporated into the plan.] The revision of the final control plan shall be subject to the review and approval of the Executive Director.

§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 start-up and/or shutdown events and maintained for a period of at least two years. Records shall be available for inspection by the Texas Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)], United States [U.S.] Environmental Protection Agency (EPA), and any local air pollution control agency having jurisdiction upon request. These records shall include, but are not limited to, type of fuel burned; quantity of each type fuel burned; and the date, time, and duration of the event [procedure]

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

(1) verbal notification of the date of any initial demonstration of compliance [performance] testing conducted under §117.211 of this title (relating to Initial Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed; and

(2) verbal notification of the date of any continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) performance evaluation conducted under §117.213 of this title (relating to Continuous Demonstration of Compliance) at least

15 days prior to such date followed by written notification within 15 days after testing is completed.

(c) The owner or operator of an affected unit shall furnish the Executive Director and any local air pollution control agency having jurisdiction a copy of any initial demonstration of compliance [performance] testing conducted under §117.211 of this title or any CEMS or PEMS performance evaluation conducted under §117.213 of this title, within 60 days after completion of such testing or evaluation. Such [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 in accordance with the compliance schedule [no later than 30 days before the final compliance date] specified in §117.520 of this title (relating to Compliance Schedule For Commercial, Institutional, and Industrial Combustion Sources).

(d) The owner or operator of a unit required to install a CEMS, PEMS, or water-to-fuel or steam-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 unit operating time during the reporting period. For gas turbines using steam-to-fuel or water-to-fuel ratio monitoring to demonstrate compliance in accordance with §117.213(f)(2) [§117.213(e)(2)] of this title, excess emissions are computed as each one-hour period during which the hourly steam-to-fuel or water-to-fuel ratio is less than the ratio determined to result in compliance during the initial demonstration of compliance [performance] test required by §117.211 of this title.

(2)-(4) (No change.)

(5) if the total duration of excess emissions for the reporting period is less than 1.0% of the total unit operating time for the reporting period and the CEMS, PEMS, or water-to-fuel or steam-to-fuel ratio monitoring system downtime for the reporting period is less than 5.0% of the total unit operating time for the reporting period,

only a summary report form (as outlined in the latest edition of the TNRCC [TACB] "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless otherwise requested by the Executive Director of the TNRCC [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, PEMS, or water-to-fuel or steam-to-fuel ratio 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(d)(7) [§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(e) [§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 engine operating time during the reporting period,

(2) (No change.)

(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 fuel usage rates. Such records shall be kept for a period of at least two years and shall be made available upon request by authorized representatives of the TNRCC [TACB], EPA, or local air pollution control agencies having jurisdiction. The emission monitoring (as applicable) and fuel usage records for each unit shall be recorded and maintained:

(1)-(3) (No change.)

§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. Any person affected by the decision of the Executive Director may appeal to the Commission [Board] by filing written notice of appeal with the Executive Director within 30 days after 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 Commission [Board]) should be consulted for the method of requesting Com-

mission [Board] action on the appeal. 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 Commercial, Institutional, and Industrial Sources).

§117.223. 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_x) emission reductions obtained by compliance with a source cap emission limitation in accordance with the requirements of this section. Each equip-

ment category at a source whose individual emission units would otherwise be subject to the NO_x emission limits of §117.205 of this title may be included in the source cap. Any equipment category included in the source cap shall include all emission units belonging to that category. Equipment categories include, but are not limited to, the following: steam generation, electrical generation, and units with the same product outputs, such as ethylene cracking furnaces. All emission units not included in the source cap shall comply with the requirements of §117.205 or §117.207 (relating to Alternative Plant-Wide Emission Specifications) of this title.

(b) The source cap allowable mass emission rate shall be calculated as follows:

(1) A rolling 30-day average emission cap shall be calculated for all emission units included in the source cap using the following equation:

$$\text{NO}_x \text{ 30-day rolling average emission cap (lb/day)} = \sum_{i=1}^N (R_i \times \text{Actual heat input})$$

Where: i = each emission unit in the emission cap

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

R_i = (A) For emission units subject to the federal New Source Review (NSR) requirements of 40 Code of Federal Regulations (CFR) 51.165(a), 40 CFR 51.166, or 40 CFR 52.21, or to the requirements of Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) which implements these federal re-

(B) For all other emission units, R_i is the lowest of the reasonably available control technology (RACT) limit of §117.205(b)-(d) or §117.207(f) of this title or the best available control technology (BACT) limit for any unit subject to a permit issued pursuant to Chapter 116 of this title that applies to emission unit i in the absence of trading.

Actual heat input

= The actual historical average daily heat input for each unit included in the source cap, as certified to the Texas Natural Resource Conservation Commission (TNRCC), for a 24 consecutive month period between January 1, 1990 and June 9, 1993, plus one standard deviation of the heat input for that period. All sources included in the source cap shall use the same 24 consecutive month period.

(2) A maximum daily cap shall be calculated for all emission units included in the source cap using the following equation:

$$\text{NO}_x \text{ maximum daily cap (lb/day)} = \sum_{i=1}^N (R_i \times \text{Maximum daily heat input})$$

Where: i , N , and R_i are defined as in paragraph (1) of this subsection.

Maximum daily heat input

= The maximum heat input, as certified to the TNRCC, allowed or possible (whichever is lower) in a 24-hour period.

(3) Each emission unit included in the source cap shall be subject to the requirements of both paragraphs (1) and (2) of this subsection at all times.

(4) The owner or operator at its option may include any of the entire classes of exempted units listed in §117.207(f) of this title in a source cap. Such units shall be

required to reduce emissions available for use in the cap by an additional amount calculated in accordance with the U.S. Environmental Protection Agency's proposed Economic Incentive Program rules for off-

set ratios for trades between RACT and non-RACT sources, as published in the February 23, 1993, *Federal Register* (58 FedReg 11110).

(5) For stationary internal combustion engines, the source cap allowable emission rate shall be calculated in pounds per hour using the procedures specified in §117.207(g)(2) of this title.

(6) For stationary gas turbines, the source cap allowable emission rate shall be calculated in pounds per hour using the procedures specified in §117.207(g)(3) of this title.

(c) The owner or operator who elects to comply with this section shall:

(1) For each unit included in the source cap, either:

(A) Install, calibrate, maintain, and operate a continuous exhaust nitrogen oxides (NO_x) monitor, carbon monoxide (CO) monitor, an oxygen (O₂) (or carbon dioxide (CO₂)) diluent monitor, and a totalizing fuel flow meter in accordance with the requirements of §117.213(b) of this title (relating to Continuous Demonstration of Compliance). The required continuous emissions monitoring systems (CEMS) and fuel flow meters shall be used to measure NO_x, CO, and O₂ (or CO₂) emissions and fuel use for each affected unit and shall be used to demonstrate continuous compliance with the source cap;

(B) Install, calibrate, maintain, and operate a predictive emissions monitoring system (PEMS) and a totalizing fuel flow meter in accordance with the requirements of §117.213(c) of this title. The required PEMS and fuel flow meters shall be used to measure NO_x, CO, and O₂ (or CO₂) emissions and fuel flow for each affected unit and shall be used to demonstrate continuous compliance with the source cap; or

(C) For units not subject to continuous monitoring requirements, as provided for in §117.213(a) of this title, and units belonging to the equipment classes listed in §117.207(f) of this title, the owner or operator may use the maximum emission rate as measured by hourly emission rate testing conducted in accordance with §117.211(e) of this title (relating to Initial Demonstration of Compliance) in lieu of CEMS or PEMS. Emission rates for these units shall be limited to the maximum emission rates obtained from testing conducted under §117.211(e) of this title.

(2) For each operating unit equipped with CEMS, the owner or operator shall either use a PEMS pursuant to §117.213

(c) of this title, or the maximum emission rate as measured by hourly emission rate testing conducted in accordance with §117.211(e) of this title, to provide emissions compliance data during periods when the CEMS is off-line. The methods specified in 40 CFR 75.46 shall be used to provide emissions substitution data for units equipped with PEMS.

(d) The owner or operator of any units subject to a source cap shall maintain daily records indicating the NO_x emissions from each source and the total fuel usage for each unit and include a total NO_x 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 (relating to Notification, Recordkeeping, and Reporting Requirements).

(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 21 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) A unit which has operated since November 15, 1990 and has since been permanently retired or decommissioned and rendered inoperable prior to June 9, 1993 may be included in the source cap emission limit under the following conditions:

(1) the unit shall 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 calculated in accordance with subsection (b) of this section;

(3) the actual heat input shall be calculated according to paragraph (b)(1) of this section. If the unit was not in service 24 consecutive months between January 1, 1990 and June 9, 1993, the actual heat input shall be the average daily heat input for the continuous time period that the unit was in service, plus one standard deviation of the daily heat input for that period. The maxi-

mum heat input shall be the maximum heat input, as certified to the TNRCC, allowed or possible (whichever is lower) in a 24-hour period;

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

(5) a unit which has been shut-down and rendered inoperable, but not permanently retired, should be identified in the initial control plan and may be included in the source cap.

(6) emission reductions from shutdowns or curtailments which have not been used for netting or offset purposes under the requirements of Chapter 116 of this title or have not resulted from any other state or federal requirement may be included in the baseline for establishing the cap.

(h) An owner or operator who chooses to use the source cap option shall 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 and shall specifically identify all sources that will be included in the source cap. The owner or operator shall also include in the initial control plan the method of calculating the actual heat input for each unit included in the source cap, as specified in paragraph (b)(1) of this section. An owner or operator who chooses to use the source cap option shall 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.

(i) 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, or upset period shall be calculated from the NO_x emission rate, as measured by the initial demonstration of compliance, for that unit, unless the owner or operator provides data demonstrating to the satisfaction of the Executive Director that actual emissions were less than maximum emissions during such periods.

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

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Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

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For further information, please call: (512) 463-8159

Subchapter C. Acid Manufacturing

Adipic Acid Manufacturing

• 30 TAC §§117.311, 117.313, 117.319, 117.321

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

§117.311. Initial Demonstration of Compliance.

(a)-(b) (No change.)

(c) Any continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) 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 or system.

(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 or PEMS performance evaluation at any time.

§117.313. Continuous Demonstration of Compliance.

(a) (No change.)

(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, [Procedure 1, Section 5.1.2.] except that a cylinder gas audit may be performed in lieu of the annual relative accuracy test audit required in Section 5.1.1 [5.1.2].

(c) As an alternative to CEMS, the owner or operator of units subject to continuous monitoring requirements un-

der this undesignated head may, with the approval of the Executive Director, elect to install, calibrate, maintain, and operate a predictive emissions monitoring system (PEMS). The required PEMS shall be used to measure NO_x emissions for each affected unit and shall be used to demonstrate continuous compliance with the emission limitations of §117.305 of this title. Any PEMS shall meet the requirements of §117.319 of this title (relating to Notification, Recordkeeping, and Reporting Requirements) and §117.213(c)(1)-(3) of this title (relating to Continuous Demonstration of Compliance).

(d) [(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 or PEMS shall be represented in terms of both parts per million by volume and pounds NO_x per ton of acid produced.

(e)[(d)] After the initial demonstration of compliance required by §117.311 of this title (relating to Initial Demonstration of Compliance), compliance with §117.305 of this title (relating to Emission Specifications) 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 Natural Resource Conservation Commission [Texas Air Control Board] compliance method.

§117.319. Notification, Recordkeeping, and Reporting Requirements.

(a) The owner or operator of an affected facility shall submit notification to the Executive Director [written notification], as follows:

(1) verbal notification of the date of any continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) performance evaluation conducted under §117.313(b) of this title (relating to Continuous Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed; and

(2) verbal notification of the date of any initial demonstration of compliance [performance] testing conducted under §117.311 of this title (relating to Initial Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed.

(b) The owner or operator of an affected facility shall furnish the Executive

Director and any local air pollution control agency having jurisdiction a copy of any CEMS or PEMS performance evaluation conducted under §117.313 of this title, or any initial demonstration of compliance [performance] testing conducted under §117.311 of this title, within 60 days after 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 24-hour period during which the average nitrogen oxides (NO_x) emissions (arithmetic average of 24 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 postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:

(1)-(2) (No change.)

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

(4) (No change.)

(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 PEMS 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 Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)] "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless otherwise requested by the Executive Director of the TNRCC [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 PEMS 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 two years and shall be made available upon request by authorized representatives of the TNRCC [TACB], United States Environmental Protection Agency, or local air pollution control agencies having jurisdiction.

§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. Any person affected by the decision of the Executive Director may appeal to the Commission [Board] by filing written notice of appeal with the Executive Director within 30 days after 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 Commission [Board]) should be consulted for the method of requesting Commission [Board] action on the appeal. 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 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 December 27, 1993.

TRD-9334033

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

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For further information, please call: (512) 463-8159

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**Nitric Acid Manufacturing—
Ozone Nonattainment Areas**

- 30 TAC §§117.411, 117.413, 117.419, 117.421

The amendments are proposed under the Texas Health and Safety Code (Vernon 1990), the Texas Clean Air Act (TCAA),

§382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposed of the TCAA.

§117.411. Initial Demonstration of Compliance.

(a)-(b) (No change.)

(c) Any continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) 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 or system.

(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 or PEMS performance evaluation at any time.

§117.413. Continuous Demonstration of Compliance.

(a) (No change.)

(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, [Procedure 1, Section 5.1.2.] except that a cylinder gas audit may be performed in lieu of the annual relative accuracy test audit required in Section 5.1.1 [5.1.2].

(c) As an alternative to CEMS, the owner or operator of units subject to continuous monitoring requirements under this undesignated head may, with the approval of the Executive Director, elect to install, calibrate, maintain, and operate a predictive emissions monitoring system (PEMS). The required PEMS shall be used to measure NO_x emissions for each affected unit and shall be used to demonstrate continuous compliance with the emission limitations of §117.405 of this title. Any PEMS shall meet the requirements of §117.419 of this title (relating to Notification, Recordkeeping, and Reporting Requirements) and §117.213(c)(1)-(3) of this title (relating to Continuous Demonstration of Compliance).

(d) [(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 or PEMS 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.

(e)[(d)] After the initial demonstration of compliance required by §117.411 of this title (relating to Initial Demonstration of Compliance), compliance with §117.405 of this title (relating to Emission Specifications) 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 Natural Resource Conservation Commission [Texas Air Control Board] compliance method.

§117.419. Notification, Recordkeeping, and Reporting Requirements.

(a) The owner or operator of an affected facility shall submit notification to the Executive Director [written notification], as follows:

(1) verbal notification of the date of any continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) performance evaluation conducted under §117.413(b) of this title (relating to Continuous Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed; and

(2) verbal notification of the date of any initial demonstration of compliance [performance] testing conducted under §117.411 of this title (relating to Initial Demonstration of Compliance) at least 15 days prior to such date followed by written notification within 15 days after testing is completed.

(b) The owner or operator of an affected facility shall furnish the Executive Director and any local air pollution control agency having jurisdiction a copy of any CEMS or PEMS performance evaluation conducted under §117.413 of this title (relating to Continuous Demonstration of Compliance), or any initial demonstration of compliance [performance] testing conducted under §117.411 of this title (relating to Initial Demonstration of Compliance), within 60 days after 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 24-hour period during which the average nitrogen oxides emissions (arithmetic average of 24 contiguous one-hour periods) as measured by a CEMS or PEMS 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)-(2) (No change.)

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

(4) (No change.)

(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 PEMS 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 Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)] "Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports") shall be submitted, unless otherwise requested by the Executive Director of the TNRCC [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 PEMS 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 two years and shall be made available upon request by authorized representatives of the TNRCC [TACB], United States Environmental Protection Agency, or any local air pollution control agency having jurisdiction.

§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. Any person affected by the decision of the Executive Director may appeal to the Commission [Board] by filing written notice of appeal with the Executive Director within 30 days after 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 Commission [Board]) should be consulted for the method of requesting Commission [Board] action on the appeal. 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 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.

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Texas Natural Resource
Conservation
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For further information, please call: (512) 463-8159

Subchapter D. Administrative Provisions

• 30 TAC §§117.510, 117.520, 117.530, 117.540, 117.560

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

§117.510. Compliance Schedule For Utility Electric 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 sched-

ules and submit written notification to the Executive Director:

(1) (No change.)

(2) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS) 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;

(3) install all nitrogen oxides (NO_x) abatement equipment, implement all NO_x control techniques, and submit the results of the CEMS or PEMS performance evaluation and quality assurance procedures to the Texas Natural Resource Conservation Commission [Texas Air Control Board] no later than May 31, 1995;

(4) conduct applicable tests for initial demonstration of compliance as specified in §117.111 of this title (relating to Initial Demonstration of Compliance) and submit the results no later than July [60 days after May] 31, 1995;[.]

(5) conduct applicable tests for initial demonstration of compliance with the NO_x emission limit for fuel oil firing, in accordance with §117.111(d)(2) of this title, and submit test results within 60 days after completion of such testing; and

(6) no later than May 31, 1995, submit a final control plan for compliance in accordance with §117.115 of this title (relating to Final Control Plan Procedures).

§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). All affected persons shall meet the following compliance schedules and submit written notification to the Executive Director:

(1)-(2) (No change.)

(3) for units operating without continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS), conduct applicable tests for initial demonstration of compliance as specified in §117.211 of this title (relating to Initial Demonstration of Compliance); and submit the results by April 1, 1994, or as early as practicable, but in no case later than May 31, 1995;

(4) for units operating with CEMS or PEMS and complying with the NO_x emission limit [in pound per million Btu] on a rolling 30-day average, conduct

the applicable tests for the initial demonstration of compliance as specified in §117.211 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.213 of this title (relating to Continuous Demonstration of Compliance) no later than July [within 60 days after May] 31, 1995;[.]

(5) for units operating with CEMS or PEMS and complying with the NO_x emission limit in pounds per hour on a block one-hour average, conduct the applicable tests for the initial demonstration of compliance as specified in §117.211 of this title and submit the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.213 of this title by May 31, 1995; and

(6) no later than May 31, 1995, submit a final control plan for compliance in accordance with §117.215 of this title (relating to Final Control Plan Procedures).

§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). All affected persons shall meet the following compliance schedules and submit written notification to the Executive Director:

(1) (No change.)

(2) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring systems (PEMS) 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 §117.311(d) of this title (relating to Initial Demonstration of Compliance) or §117.411(d) of this title (relating to Initial Demonstration of Compliance); and conduct applicable initial demonstration of compliance [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 or PEMS 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 or PEMS device as part of the control plan specified in §117.309 [of this title] and §117.409 of this title.

(3) Within 60 days after the applicable date specified in paragraph (2)(A) or (B) of this section, submit the results of CEMS or PEMS performance evaluation and quality assurance procedures and the results of initial demonstration of compliance [performance] testing specified in paragraph (2) of this section.

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

(a) The owner or operator affected by the provisions of this chapter (relating to Control of Air Pollution from Nitrogen Compounds) who determines 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) (No change.)

(2) The owner or operator of the affected unit or units shall submit information in the petition to the Texas Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)] and a copy to the United States 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 (NO_x) abatement equipment, engineering services, or construction labor; system unreliability; manufacturing unreliability; equipment unreliability; or other technological and economic factors as the TNRCC [TACB] determines are appropriate.

(B)-(D) (No change)

(3)-(4) (No change)

(5) Within 30 days of receiving a petition for phased RACT, the Executive Director shall inform the applicant in writing that the petition is complete or that additional information is required. If the petition is deficient, the notification shall state any additional information required. The requested information correcting the deficiency shall [must] be received by the Executive Director within 30 days of the date of the letter notifying the applicant of the deficiency.

(6) The Executive Director shall approve or deny the petition within 90 days of receiving an administratively complete

phased RACT petition. 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 either the unavailability of nitrogen oxides abatement equipment, engineering services, or construction labor, system unreliability; manufacturing unreliability; equipment unreliability; or other technological and economic factors as the TNRCC [TACB] determines are appropriate.

(7) Any person affected by the Executive Director's decision to deny a petition for phased RACT or to deny a revision to an approved phased RACT petition may appeal the decision to the Commission [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 Commission [Board]) should be consulted for the method of requesting Commission [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

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

(9) (No change)

(b) The Executive Director shall initiate a reevaluation of the final compliance dates specified in this undesignated head (relating to Administrative Provisions) one year after the adoption of this chapter. The Executive Director shall evaluate the practicability of all sources complying with §117.105 (relating to Emission Specifications), §117.107 (relating to Alternative System-Wide Emission Specifications), §117.205 (relating to Emission Specifications), §117.207 (relating to Alternative Plant-Wide Emission Specifications), §117.305 (relating to Emission Specifications), [and] §117.405 (relating to Emission Specifications), and §117.223 (relating to Source Cap) of this title by May 31, 1995. The Executive Director shall base the evaluation on the information contained in the control plans required by §§117.109, 117.209, 117.309, 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 NO_x abatement equipment, engineering services, or construction labor; system unreliability, manufacturing unreliability; equipment unreliability, or other technological and economic factors as the TNRCC [TACB] determines are appropriate. Within 15 months after adoption of this chapter, the Executive Director shall publish notice in the *Texas Register* of the intent to either retain or extend by

rulemaking the final compliance dates of this undesignated head.

§117.560. Rescission. If, after reviewing the results of the Urban Airshed Model for a nonattainment area, the Texas Natural Resource Conservation Commission (TNRCC) [Texas Air Control Board (TACB)] determines after conducting public hearings that the additional reductions of nitrogen oxides (NO_x) in the nonattainment area would not contribute to attainment of the National Ambient Air Quality Standards for ozone in that nonattainment area, then the TNRCC [TACB] shall have the Executive Director submit such findings and results to the United States Environmental Protection Agency (EPA) Administrator for a determination under the 1990 Federal Clean Air Act Amendments, §182(f). If the EPA Administrator approves the TNRCC's [TACB's] finding, then the requirements of this chapter shall be repropoed in rulemaking to address the findings of the Administrator as to the applicable NO_x 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

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Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

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For further information, please call: (512) 463-8159

Subchapter D. Administrative Provisions

• 30 TAC §117.580

(Editor's note. The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

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

§117.580. Source Cap.

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

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Director, Legal Division
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Conservation
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For further information, please call: (512) 463-8159

Chapter 305. Consolidated Permits

Subchapter R. Petition for Groundwater Protection Information

• 30 TAC §§305.601-305.604

The Texas Natural Resource Conservation Commission (TNRCC) proposes new Subchapter R, §§305.601-305.604, concerning petitions for groundwater protection information. Current regulations of the Railroad Commission of Texas (RRC) require that the Texas Natural Resource Conservation Commission determine the occurrence and depth of usable-quality groundwater in conjunction with approval of various activities regulated by the RRC, including underground injection of oil and gas wastes, plugging and testing of inactive wells and exploration and production of oil, gas and other minerals. This determination is required in order to identify the existence of usable groundwater resources in relation to these underground activities and ensure that proper conditions, such as well casing intervals, are incorporated into permits and project plans to protect groundwater sources. It is the intention of the TNRCC to provide adequate resources to respond in a timely manner to the requests received and to ensure that programs be developed and maintained to provide the accurate and current data on groundwater occurrence to ensure protection of these resources. These sections are proposed in order that the TNRCC be able to recover its reasonable costs of providing services to applicants in conjunction with review of activities under the jurisdiction of the RRC.

Stephen Minick, budget and planning division, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcement and administration of the sections. The effect on state government will be an increase in revenue of approximately \$500,000 in fiscal year 1994 and \$1 million in each of the fiscal years 1995-1998. There are no effects anticipated for local governments. The effects on applicants for permits for mineral exploration or production or related activities will be an added cost of \$50 to \$100 for each application. Some affected entities may be small businesses; however, the affects will vary only with the number of applications filed and will not otherwise affect small business on any other basis.

Mr. Minick 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 enforcement of and compliance with the

sections will be improvements in the programs for determination of groundwater occurrence in conjunction with underground mineral exploration and development and certain waste disposal activities, improved service to applicants seeking commission concurrence on RRC permits, and enhanced protection of the quality of the state's usable groundwater sources. There are no anticipated costs to any persons required to comply with these sections as proposed.

Comments on this proposal may be submitted to Stephen Minick, Budget and Planning Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-8227. The deadline for submission of written comments will be 30 days after the date of publication of this proposal in the *Texas Register*.

These amendments are proposed under Water Code, §5.103 and §26.011, which authorize the Texas Natural Resource Conservation Commission to adopt any rules necessary to carry out its powers, duties and policies and to protect water quality in the state, and under Water Code, §5.235, which authorizes the Commission to assess a fee to recover the costs of review and processing of applications and petitions received by the Commission. These rules are proposed in order to implement the provisions of Water Code, §5.235(b) and provisions of Senate Bill 5, Acts of the 73rd Legislature, 1993 (General Appropriations Act).

§305.601. Applicability. Fees required under this subchapter apply to petitions to the Executive Director of the Texas Natural Resources Conservation Commission for written certification regarding:

(1) occurrence of usable-quality groundwater during tests on inactive wells as provided by §3.14(a)(3) of this title (relating to Plugging);

(2) occurrence of usable-quality groundwater for the purpose of protecting groundwater resources during exploration for and production of oil, gas, and other minerals and for the plugging of associated wells as provided by §3.13(b)(2)(A)(i) of this title (relating to Casing, Cementing, Drilling, and Completion Requirements) and §3.14(a)(3);

(3) the depth or depths of usable-quality groundwater that must be protected during cathodic protection well operations as provided by §3.99(c) of this title (relating to Cathodic Protection Wells);

(4) recommendations to the Railroad Commission of Texas concerning the protection of groundwater resources during underground injection of oil and gas wastes as provided by Water Code, §27.033;

(5) the depth or depths of usable-quality groundwater to be protected during drilling for seismic and core holes in a project area as provided by §3.100(d) of