

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS

DIVISION 1: COMPLIANCE SCHEDULES

**§§117.9000, 117.9010, 117.9020, 117.9030, 117.9100, 117.9110, 117.9120,
117.9130, 117.9200, 117.9210, 117.9300, 117.9320, 117.9340, 117.9500**

Effective June 14, 2007

§117.9000. Compliance Schedule for Beaumont-Port Arthur Ozone Nonattainment Area Major Sources.

The owner or operator of each industrial, commercial, and institutional source in the Beaumont-Port Arthur ozone nonattainment area shall comply with the requirements of Subchapter B, Division 1 of this chapter (relating to Beaumont-Port Arthur Ozone Nonattainment Area Major Sources) as soon as practicable, but no later than the dates specified in this section.

(1) Reasonably available control technology (RACT). The owner or operator shall for all units, comply with the requirements of Subchapter B, Division 1 of this chapter, except as specified in paragraph (2) of this section (relating to lean-burn engines) and paragraph (3) of this section (relating to emission specifications for attainment demonstration), by November 15, 1999 (final compliance date), and submit to the executive director:

(A) for units operating without a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS), the results of applicable tests for initial demonstration of compliance as specified in §117.135 of this title (relating to Initial Demonstration of Compliance); by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(B) for units operating with CEMS or PEMS in accordance with §117.140 of this title (relating to Continuous Demonstration of Compliance), the results of:

(i) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources); and

(ii) the applicable tests for the initial demonstration of compliance as specified in §117.135 of this title;

(iii) no later than:

(I) November 15, 1999, for units complying with the nitrogen oxides (NO_x) emission specification on an hourly average; and

(II) January 15, 2000, for units complying with the NO_x emission specification on a rolling 30-day average;

(C) a final control plan for compliance in accordance with §117.152 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than November 15, 1999; and

(D) the first semiannual report required by §117.145(d) or (e) of this title (relating to Notification, Recordkeeping, and Reporting Requirements), covering the period November 15, 1999, through December 31, 1999, no later than January 31, 2000.

(2) Lean-burn engines. The owner or operator shall for each lean-burn, stationary, reciprocating internal combustion engine subject to §117.105(e) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)), comply with the requirements of Subchapter B, Division 1 of this chapter for those engines as soon as practicable, but no later than November 15, 2001 (final compliance date for lean-burn engines); and

(A) no later than November 15, 2001, submit a revised final control plan that contains:

(i) the information specified in §117.152 of this title as it applies to the lean-burn engines; and

(ii) any other revisions to the source's final control plan as a result of complying with the lean-burn engine emission specifications; and

(B) no later than January 31, 2002, submit the first semiannual report required by §117.145(e) of this title covering the period November 15, 2001, through December 31, 2001.

(3) Emission specifications for attainment demonstration. The owner or operator shall comply with the requirements of §117.110(a) of this title (relating to Emission Specifications for Attainment Demonstration) as soon as practicable, but no later than:

(A) May 1, 2003, demonstrate that at least two-thirds of the NO_x emission reductions required by §117.110(a) of this title have been accomplished, as measured either by:

(i) the total number of units required to reduce emissions in order to comply with §117.110(a) of this title using direct compliance with the emission specifications, counting only units still required to reduce after May 11, 2000; or

(ii) the total amount of emissions reductions required to comply with §117.110(a) of this title using the alternative methods to comply, either:

(I) §117.115 of this title (relating to Alternative Plant-Wide Emission Specifications);

(II) §117.123 of this title (relating to Source Cap); or

(III) §117.9800 of this title (relating to Use of Emission Credits for Compliance);

(B) May 1, 2003, submit to the executive director:

(i) identification of enforceable emission limits that satisfy the conditions of subparagraph (A) of this paragraph;

(ii) for units operating without CEMS or PEMS or for units operating with CEMS or PEMS and complying with the NO_x emission limit on an hourly average, the results of applicable tests for initial demonstration of compliance as specified in §117.135 of this title;

(iii) for units newly operating with CEMS or PEMS to comply with the monitoring requirements of §117.140(c)(1)(C) of this title or §117.123 of this title, the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) - (4)(A) of this title;

(iv) the information specified in §117.154 of this title (relating to Final Control Plans Procedures for Attainment Demonstration Emission Specifications); and

(v) any other revisions to the source's final control plan as a result of complying with the emission specifications in §117.110(a) of this title;

(C) July 31, 2003, submit to the executive director:

(i) the applicable tests for the initial demonstration of compliance as specified in §117.135 of this title, for units complying with the NO_x emission specification on a rolling 30-day average; and

(ii) the first semiannual report required by §117.123(e) and §117.145(e) of this title, covering the period May 1, 2003, through June 30, 2003;

(D) May 1, 2005, comply with §117.110(a) of this title;

(E) May 1, 2005, submit a revised final control plan that contains:

(i) a demonstration of compliance with §117.110(a) of this title;

(ii) the information specified in §117.154 of this title; and

(iii) any other revisions to the source's final control plan as a result of complying with the emission specifications in §117.110(a) of this title; and

(F) July 31, 2005, submit to the executive director the applicable tests for the initial demonstration of compliance as specified in §117.135 of this title, if using the 30-day average source cap NO_x emission limit to comply with the emission specifications in §117.110(a) of this title.

Adopted May 23, 2007

Effective June 14, 2007

§117.9010. Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources.

The owner or operator of each industrial, commercial, and institutional source in the Dallas-Fort Worth ozone nonattainment area shall comply with the requirements of Subchapter B, Division 2 of this chapter (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources) as soon as practicable, but no later than March 31, 2002 (final compliance date). The owner or operator shall:

(1) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than March 31, 2002; and

(2) submit to the executive director:

(A) for units operating without a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS), the results of applicable tests for initial demonstration of compliance as specified in §117.235 of this title (relating to Initial Demonstration of Compliance) as early as practicable, but in no case later than March 31, 2002;

(B) for units operating with CEMS or PEMS in accordance with §117.240 of this title (relating to Continuous Demonstration of Compliance), the results of:

(i) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources);

(ii) the applicable tests for the initial demonstration of compliance as specified in §117.235 of this title; and

(iii) no later than:

(I) March 31, 2002, for units complying with the NO_x emission specification on an hourly average; and

(II) May 31, 2002, for units complying with the NO_x emission specification on a rolling 30-day average;

(C) a final control plan for compliance in accordance with §117.252 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than March 31, 2002; and

(D) the first semiannual report required by §117.245(d) or (e) of this title (relating to Notification, Recordkeeping, and Reporting Requirements), covering the period March 31, 2002, through June 30, 2002, no later than July 31, 2002.

Adopted May 23, 2007

Effective June 14, 2007

§117.9020. Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources.

The owner or operator of each industrial, commercial, and institutional source in the Houston-Galveston-Brazoria ozone nonattainment area shall comply with the requirements of Subchapter B, Division 3 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources) as soon as practicable, but no later than the dates specified in this section.

(1) Reasonably available control technology. The owner or operator shall, for all units, comply with the requirements of Subchapter B, Division 3 of this chapter, except as specified in paragraph (2) of this section, by November 15, 1999 (final compliance date); and

(A) submit a plan for compliance in accordance with §117.350 of this title (relating to Initial Control Plan Procedures) according to the following schedule:

(i) for major sources of nitrogen oxides (NO_x) that have units subject to emission specifications under this chapter, submit an initial control plan for all such units no later than April 1, 1994;

(ii) for major sources of NO_x that have no units subject to emission specifications under this chapter, submit an initial control plan for all such units no later than September 1, 1994; and

(iii) for major sources of NO_x subject to either clause (i) or (ii) of this subparagraph, submit the information required by §117.350(c)(6), (7), and (9) of this title no later than September 1, 1994;

(B) install all NO_x abatement equipment and implement all NO_x control techniques no later than November 15, 1999; and

(C) submit to the executive director:

(i) for units operating without a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS), the results of applicable tests for initial demonstration of compliance as specified in §117.335 of this title (relating to Initial Demonstration of Compliance); by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(ii) for units operating with CEMS or PEMS in accordance with §117.340 of this title (relating to Continuous Demonstration of Compliance), submit the results of:

(I) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources); and

(II) the applicable tests for the initial demonstration of compliance as specified in §117.335 of this title;

(III) no later than:

(-a-) November 15, 1999, for units complying with the NO_x emission specification on an hourly average; and

(-b-) January 15, 2000, for units complying with the NO_x emission specification on a rolling 30-day average;

(iii) a final control plan for compliance in accordance with §117.352 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than November 15, 1999; and

(iv) the first semiannual report required by §117.345(d) or (e) of this title (relating to Notification, Recordkeeping, and Reporting Requirements), covering the period November 15, 1999, through December 31, 1999, no later than January 31, 2000.

(2) Emission specifications for attainment demonstration.

(A) The owner or operator of any unit subject to §117.310(a) (relating to Emission Specifications for Attainment Demonstration) shall comply with the requirements of §117.340 of this title as follows.

(i) As soon as practicable, but no later than March 31, 2005, the owner or operator shall install any totalizing fuel flow meters, run time meters, and emissions monitors required by §117.340 of this title, except that if flue gas cleanup (for example, controls that use a chemical reagent for reduction of NO_x) is installed on a unit before March 31, 2005, then the emissions monitors required by §117.340 of this title must be installed and operated at the time of startup following the installation of flue gas cleanup on that unit. However, an owner or operator may choose to demonstrate compliance with the ammonia monitoring requirements through annual ammonia stack testing until March 31, 2005.

(I) Within 60 days after startup of a unit following installation of emissions monitors, the owner or operator shall submit to the executive director the results of the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title; or

(II) If the unit is shut down as of March 31, 2005, the CEMS or PEMS performance evaluation and quality assurance procedures must be submitted to the executive director within 60 days after the startup of the unit after March 31, 2005.

(ii) Within 60 days after startup of a unit following installation of emissions controls, the owner or operator shall submit to the executive director the results of:

(I) stack tests conducted in accordance with §117.335 of this title. For a stack test conducted before March 31, 2005, on a unit not equipped with CEMS or PEMS that CEMS or PEMS must be installed no later than March 31, 2005, the requirements of §117.335(c) of this title do not apply; or, as applicable,

(II) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title.

(B) The owner or operator of each electric generating facility (EGF) shall:

(i) no later than June 30, 2001, submit to the executive director the certification of level of activity, H_i , specified in §117.320 of this title (relating to System Cap) for each EGF in operation as of January 1, 1997;

(ii) no later than 60 days after the end of the first five years of operation, submit to the executive director the certification of activity level, H_i , based on any two consecutive third quarters of actual level of activity data available from the first five years of operation as specified in §117.320 of this title for each EGF not in operation prior to January 1, 1997; and

(iii) comply with the requirements of §117.320 of this title as soon as practicable, but no later than March 31, 2007.

(C) For any units subject to §117.310(a) of this title that stack testing or the CEMS or PEMS performance evaluation and quality assurance has not been conducted under subparagraph (A) of this paragraph or units placed into service after March 31, 2005, that do not have flue gas cleanup, the owner or operator shall submit to the executive director as soon as practicable, but no later than March 31, 2007, the results of:

(i) stack tests conducted in accordance with §117.335 of this title; or, as applicable,

(ii) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) – (4)(A) of this title.

(D) The owner or operator shall comply with the emission reduction requirements of Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) as soon as practicable, but no later than the appropriate dates specified in that program.

(E) For diesel and dual-fuel engines, the owner or operator shall comply with the restriction on hours of operation for maintenance or testing, and associated recordkeeping, as soon as practicable, but no later than April 1, 2002.

(F) The owner or operator shall comply with all other requirements of Subchapter B, Division 3 of this chapter as soon as practicable, but no later than March 31, 2005.

(G) The owner or operator of a unit that is subject to §117.310(a) of this title and will be permanently shut down on or before September 30, 2005, may elect to comply with §117.340(a) and (c) - (f) of this title by performing testing in lieu of the monitoring requirements, provided that following conditions are met:

(i) submit written notification to the executive director no later than March 31, 2005, containing the following:

(I) a list of units, by emission point number, that the owner or operator will permanently shut down on or before September 30, 2005;

(II) the projected date(s) that each unit will be permanently shut down; and

(III) the projected date(s) of the testing to be performed in accordance with clause (ii) of this subparagraph;

(ii) the testing is performed in accordance with §117.335 of this title after March 31, 2005, and prior to September 30, 2005, while operating at maximum rated capacity, or as near thereto as practicable. For the time period from March 31, 2005, to September 30, 2005, the results of this testing must be used for demonstrating compliance with the emission specifications in §117.310(a) of this title or to quantify the emissions for units subject to the mass emissions cap and trade program of Chapter 101, Subchapter H, Division 3 of this title;

(iii) for units that a totalizing fuel flow meter has not been installed as required in §117.340(a) of this title, the maximum rated capacity of the unit must be used to quantify the emissions for units subject to the mass emissions cap and trade program of Chapter 101, Subchapter H, Division 3 of this title; and

(iv) if the unit is not shut down by September 30, 2005, the owner or operator will be considered in violation of this section as of March 31, 2005, and extensions beyond September 30, 2005, will not be granted.

Adopted May 23, 2007

Effective June 14, 2007

§117.9030. Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources.

(a) Increment of progress emission specifications. The owner or operator of any stationary, reciprocating internal combustion engine subject to §117.410(a) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) shall comply with the requirements of §117.410(a) of this title as soon as practicable, but no later than June 15, 2007 (the final compliance date). The owner or operator shall:

(1) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than June 15, 2007; and

(2) submit to the executive director:

(A) for units operating without a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS), the results of applicable tests for initial demonstration of compliance as specified in §117.435 of this title (relating to Initial Demonstration of Compliance) as early as practicable, but in no case later than June 15, 2007;

(B) for units operating with a CEMS or PEMS in accordance with §117.440 of this title (relating to Continuous Demonstration of Compliance), the results of:

(i) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) - (4)(A) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources);

(ii) the applicable tests for the initial demonstration of compliance as specified in §117.435 of this title; and

(iii) no later than:

(I) June 15, 2007, for units complying with the NO_x emission limit on an hourly average; and

(II) June 15, 2007, for units complying with the NO_x emission limit on a rolling 30-day average;

(C) a final control plan for compliance in accordance with §117.454 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications), no later than January 1, 2008; and

(D) the first semiannual report required by §117.445(d) or (e) of this title (relating to Notification, Recordkeeping, and Reporting Requirements), covering the period June 15, 2007, through December 31, 2007, no later than January 31, 2008.

(b) Eight-hour ozone attainment demonstration emission specifications.

(1) The owner or operator of any stationary source of NO_x in the Dallas-Fort Worth eight-hour ozone nonattainment area that is a major source of NO_x and is subject to §117.410(b) of this title shall comply with the requirements of Subchapter B, Division 4 of this chapter (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources) as follows:

(A) submit the initial control plan required by §117.450 of this title (relating to Initial Control Plan Procedures) no later than June 1, 2008; and

(B) for units subject to the emission specifications of §117.410(b) of this title, comply with all other requirements of Subchapter B, Division 4 of this chapter as soon as practicable, but no later than:

(i) March 1, 2009, for units subject to §117.410(b)(1), (2), (4), (5), (6), (7)(A), (8), (10), and (14) of this title;

(ii) March 1, 2010, for units subject to §117.410(b)(3), (7)(B), (9), (11), (12), and (13) of this title;

(C) for diesel and dual-fuel engines, comply with the restriction on hours of operation for maintenance or testing in §117.410(g) of this title, and associated recordkeeping in §117.445(f)(9) of this title, as soon as practicable, but no later than March 1, 2009; and

(D) for any stationary gas turbine or stationary internal combustion engine claimed exempt using the exemption of §117.403(a)(7)(D), (8), or (9) of this title (relating to Exemptions), comply with the run time meter requirements of §117.440(i) of this title, and recordkeeping requirements of §117.445(f)(4) of this title, as soon as practicable, but no later than March 1, 2009.

(2) The owner or operator of any stationary source of NO_x that becomes subject to the requirements of Subchapter B, Division 4 of this chapter on or after the applicable compliance date specified in paragraph (1) of this subsection, shall comply with the requirements of Subchapter B, Division 4 of this chapter as soon as practicable, but no later than 60 days after becoming subject.

Adopted May 23, 2007

Effective June 14, 2007

§117.9100. Compliance Schedule for Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources.

The owner or operator of each electric utility in the Beaumont-Port Arthur ozone nonattainment area shall comply with the requirements of Subchapter C, Division 1 of this chapter (relating to Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources) as soon as practicable, but no later than the dates specified in this section.

(1) Reasonably available control technology (RACT). The owner or operator shall for all units, comply with the requirements of Subchapter C, Division 1 of this chapter as soon as practicable, but no later than November 15, 1999 (final compliance date), except as specified in subparagraph (D) of this paragraph, relating to oil firing, and paragraph (2) of this section, relating to emission specifications for attainment demonstration:

(A) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) evaluations and quality assurance procedures as specified in §117.1040 of this title (relating to Continuous Demonstration of Compliance) according to the following schedules:

(i) for equipment and software required under 40 Code of Federal Regulations (CFR) Part 75, no later than January 1, 1995, for units firing coal, and no later than July 1, 1995, for units firing natural gas or oil; and

(ii) for equipment and software not required under 40 CFR Part 75, no later than November 15, 1999;

(B) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than November 15, 1999;

(C) submit to the executive director:

(i) for units operating without CEMS or PEMS, the results of applicable tests for initial demonstration of compliance as specified in §117.1035 of this

title (relating to Initial Demonstration of Compliance); by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(ii) for units operating with CEMS or PEMS in accordance with §117.1040 of this title, the results of:

(I) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.1040 of this title; and

(II) the applicable tests for the initial demonstration of compliance as specified in §117.1035 of this title;

(III) no later than:

(-a-) November 15, 1999, for units complying with the NO_x emission specification on an hourly average; and

(-b-) January 15, 2000, for units complying with the NO_x emission specification on a rolling 30-day average;

(D) conduct applicable tests for initial demonstration of compliance with the NO_x emission specification for fuel oil firing, in accordance with §117.1035(d)(2) of this title, and submit test results within 60 days after completion of such testing; and

(E) submit a final control plan for compliance in accordance with §117.1052 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than November 15, 1999.

(2) Emission specifications for attainment demonstration. The owner or operator shall comply with the requirements of §117.1010(a) of this title (relating to Emission Specifications for Attainment Demonstration) as soon as practicable, but no later than:

(A) May 1, 2003, demonstrate that at least two-thirds of the NO_x emission reductions required by §117.1010(a) of this title have been accomplished, as measured either by:

(i) the total number of units required to reduce emissions in order to comply with §117.1010(a) of this title using direct compliance with the emission specifications, counting only units still required to reduce after May 11, 2000; or

(ii) the total amount of emissions reductions required to comply with §117.1010(a) of this title using the alternative methods to comply, either:

(I) §117.1020 of this title (relating to System Cap); or

(II) §117.9800 of this title (relating to Use of Emission Credits for Compliance);

(B) May 1, 2003, submit to the executive director:

(i) identification of enforceable emission limits that satisfy subparagraph (A) of this paragraph;

(ii) the information specified in §117.1054 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications) to comply with subparagraph (A) of this paragraph; and

(iii) any other revisions to the source's final control plan as a result of complying with subparagraph (A) of this paragraph;

(C) May 1, 2003, install CEMS or PEMS on previously exempt units and conduct applicable CEMS or PEMS evaluations and quality assurance procedures as specified in §117.1040 of this title;

(D) July 31, 2003, submit to the executive director the applicable tests for the initial demonstration of compliance as specified in §117.1035 of this title, if using the 30-day average system cap to comply with subparagraph (A) of this paragraph;

(E) May 1, 2005, comply with §117.1010(a) of this title;

(F) May 1, 2005, submit a revised final control plan that contains:

(i) a demonstration of compliance with §117.1010(a) of this title;

(ii) the information specified in §117.1054 of this title; and

(iii) any other revisions to the source's final control plan as a result of complying with the emission specifications in §117.1010(a) of this title; and

(G) July 31, 2005, submit to the executive director the applicable tests for the initial demonstration of compliance as specified in §117.1035 of this title, if

using the 30-day average system cap NO_x emission limit to comply with the emission specifications in §117.1010(a) of this title.

Adopted May 23, 2007

Effective June 14, 2007

§117.9110. Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources.

The owner or operator of each electric utility in the Dallas-Fort Worth ozone nonattainment area shall comply with the requirements of Subchapter C, Division 2 of this chapter (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources) as soon as practicable, but no later than the dates specified in this section.

(1) Reasonably available control technology (RACT). The owner or operator shall comply with the requirements of Subchapter C, Division 2 of this chapter as soon as practicable, but no later than March 31, 2001 (final compliance date), except as provided in subparagraph (D) of this paragraph, relating to oil firing, and paragraph (2) of this section, relating to emission specifications for attainment demonstration:

(A) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) evaluations and quality assurance procedures as specified in §117.1140 of this title (relating to Continuous Demonstration of Compliance) no later than March 31, 2001;

(B) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than March 31, 2001;

(C) submit to the executive director:

(i) for units operating without CEMS or PEMS, the results of applicable tests for initial demonstration of compliance as specified in §117.1135 of this title (relating to Initial Demonstration of Compliance) no later than March 31, 2001;

(ii) for units operating with CEMS or PEMS in accordance with §117.1140 of this title, the results of:

(I) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.1140 of this title; and

(II) the applicable tests for the initial demonstration of compliance as specified in §117.1135 of this title;

(III) no later than:

(-a-) March 31, 2001, for units complying with the NO_x emission specification in pounds per hour on a block one-hour average; and

(-b-) May 31, 2001, for units complying with the NO_x emission specification on a rolling 30-day average;

(D) conduct applicable tests for initial demonstration of compliance with the NO_x emission specification for fuel oil firing, in accordance with §117.1135(d)(2) of this title, and submit test results within 60 days after completion of such testing; and

(E) submit a final control plan for compliance in accordance with §117.1152 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than March 31, 2001.

(2) Emission specifications for attainment demonstration.

(A) The owner or operator shall comply with the requirements of §117.1110(a) of this title (relating to Emission Specifications for Attainment Demonstration) as soon as practicable, but no later than:

(i) May 1, 2003, demonstrate that at least two-thirds of the NO_x emission reductions required by §117.1110(a) of this title have been accomplished, as measured either by:

(I) the total number of units required to reduce emissions in order to comply with §117.1110(a) of this title using direct compliance with the emission specifications, counting only units still required to reduce after May 11, 2000; or

(II) the total amount of emissions reductions required to comply with §117.1110(a) of this title using the alternative methods to comply, either:

(-a-) §117.1120 of this title (relating to System Cap); or

(-b-) §117.9800 of this title (relating to Use of Emission Credits for Compliance);

(ii) May 1, 2003, submit to the executive director:

(I) identification of enforceable emission limits that satisfy clause (i) of this subparagraph;

(II) the information specified in §117.1154 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications) to comply with clause (i) of this subparagraph; and

(III) any other revisions to the source's final control plan as a result of complying with clause (i) of this subparagraph;

(iii) May 1, 2003, install CEMS or PEMS on previously exempt units and conduct applicable CEMS or PEMS evaluations and quality assurance procedures as specified in §117.1140 of this title;

(iv) July 31, 2003, submit to the executive director the applicable tests for the initial demonstration of compliance as specified in §117.1135 of this title, if using the 30-day average system cap to comply with clause (i) of this subparagraph;

(v) May 1, 2005, comply with §117.1110(a) of this title;

(vi) May 1, 2005, submit a revised final control plan that contains:

(I) a demonstration of compliance with §117.1110(a) of this title;

(II) the information specified in §117.1154 of this title; and

(III) any other revisions to the source's final control plan as a result of complying with the emission specifications in §117.1110(a) of this title; and

(vii) July 31, 2005, submit to the executive director the applicable tests for the initial demonstration of compliance as specified in §117.1135 of this title, if using the 30-day average system cap NO_x emission limit to comply with the emission specifications in §117.1110(a) of this title.

(B) The requirements of subparagraph (A)(i) of this paragraph may be modified as follows. Boilers that are to be retired and decommissioned before May 1, 2005, are not required to install controls by May 1, 2003, if the following conditions are met:

(i) the boiler is designated by the Public Utility Commission of Texas to be necessary to operate for reliability of the electric system;

(ii) the owner provides the executive director an enforceable written commitment by May 1, 2003, to retire and permanently decommission the boiler by May 1, 2005;

(iii) the utility boiler is retired and permanently decommissioned by May 1, 2005; and

(iv) by May 1, 2003, all remaining boilers (those not designated for retirement and decommissioning as specified in clauses (i) - (iii) of this subparagraph) within the electric utility system are controlled to achieve at least two-thirds of the NO_x emission reductions from units not being retired and decommissioned.

Adopted May 23, 2007

Effective June 14, 2007

§117.9120. Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Utility Electric Generation Sources.

The owner or operator of each electric utility in the Houston-Galveston-Brazoria ozone nonattainment area shall comply with the requirements of Subchapter C, Division 3 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Utility Electric Generation Sources) as soon as practicable, but no later than the dates specified in this section.

(1) Reasonably available control technology. The owner or operator shall, for all units, comply with the requirements of Subchapter C, Division 3 of this chapter as soon as practicable, but no later than November 15, 1999 (final compliance date), except as specified in subparagraph (D) of this paragraph, relating to oil firing, and paragraph (2) of this section:

(A) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) evaluations and quality assurance procedures as specified in §117.1240 of this title (relating to Continuous Demonstration of Compliance) according to the following schedules:

(i) for equipment and software required under 40 Code of Federal Regulations (CFR) Part 75, no later than January 1, 1995, for units firing coal, and no later than July 1, 1995, for units firing natural gas or oil; and

(ii) for equipment and software not required under 40 CFR Part 75, no later than November 15, 1999;

(B) install all nitrogen oxides (NO_x) abatement equipment and implement all NO_x control techniques no later than November 15, 1999;

(C) submit to the executive director:

(i) for units operating without CEMS or PEMS, the results of applicable tests for initial demonstration of compliance as specified in §117.1235 of this title (relating to Initial Demonstration of Compliance); by April 1, 1994, or as early as practicable, but in no case later than November 15, 1999;

(ii) for units operating with CEMS or PEMS in accordance with §117.1240 of this title, the results of:

(I) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.1240 of this title; and

(II) the applicable tests for the initial demonstration of compliance as specified in §117.1235 of this title;

(III) no later than:

(-a-) November 15, 1999, for units complying with the NO_x emission specification on an hourly average; and

(-b-) January 15, 2000, for units complying with the NO_x emission specification on a rolling 30-day average;

(D) conduct applicable tests for initial demonstration of compliance with the NO_x emission specification for fuel oil firing, in accordance with §117.1235(d)(2) of this title, and submit test results within 60 days after completion of such testing; and

(E) submit a final control plan for compliance in accordance with §117.1252 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), no later than November 15, 1999.

(2) Emission specifications for attainment demonstration.

(A) The owner or operator of a unit subject to §117.1210(a) of this title (relating to Emission Specifications for Attainment Demonstration) shall comply with the requirements of §117.1240 of this title as soon as practicable, but no later than:

(i) March 31, 2005, install any totalizing fuel flow meters and emissions monitors required by §117.1240 of this title, except that if flue gas cleanup (for example, controls that use a chemical reagent for reduction of NO_x) is installed on a unit before March 31, 2005, then the emissions monitors required by §117.1240 of this title must be installed and operated at the time of startup following the installation of flue gas cleanup on that unit. However, an owner or operator may choose to demonstrate compliance with the ammonia monitoring requirements through annual ammonia stack testing until March 31, 2005; and

(ii) 60 days after startup of a unit following installation of emissions controls, submit to the executive director the results of:

(I) stack tests conducted in accordance with §117.1235 of this title; or, as applicable,

(II) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.1240 of this title.

(B) The owner or operator shall:

(i) no later than June 30, 2001, submit to the executive director the certification of level of activity, H_i, specified in §117.1220 of this title (relating to System Cap) for electric generating facilities (EGFs) in operation as of January 1, 1997;

(ii) no later than 60 days after the second consecutive third quarter of actual level of activity level data are available, submit to the executive director the certification of activity level, H_i, specified in §117.1220 of this title for EGFs not in operation prior to January 1, 1997; and

(iii) comply with the requirements of §117.1220 of this title as soon as practicable, but no later than:

(I) March 31, 2003, demonstrate that at least 50% of the NO_x emission reductions have been accomplished, as measured by the difference between the highest 30-day average emissions measured in the 1997 - 1999 period and the system cap limit of §117.1220 of this title; and

(II) March 31, 2004, submit the information specified in §117.1254 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications);

(III) March 31, 2004, demonstrate compliance with the system cap limit of §117.1220 of this title.

(C) For any unit subject to §117.1210(a) of this title that stack testing or a CEMS or PEMS performance evaluation and quality assurance has not been conducted under subparagraph (A)(ii) of this paragraph, the owner or operator shall submit to the executive director as soon as practicable, but no later than March 31, 2007, the results of:

(i) stack tests conducted in accordance with §117.1235 of this title; or, as applicable,

(ii) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.1240 of this title.

(D) The owner or operator shall comply with the emission reduction requirements of Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) as soon as practicable, but no later than the appropriate dates specified in that program.

Adopted May 23, 2007

Effective June 14, 2007

§117.9130. Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources.

(a) The owner or operator of each electric utility in the Dallas-Fort Worth eight-hour ozone nonattainment area shall comply with the requirements of Subchapter C, Division 4 of this chapter (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources) as soon as practicable, but no later than as follows:

(1) submit the initial control plan required by §117.1350 of this title (relating to Initial Control Plan Procedures) no later than June 1, 2008; and

(2) comply with all other requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than March 1, 2009.

(b) The owner or operator of any unit in the Dallas-Fort Worth eight-hour ozone nonattainment area of nitrogen oxides that becomes subject to the requirements of

Subchapter C, Division 4 of this chapter on or after March 1, 2009, shall comply with the requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than 60 days after becoming subject.

Adopted May 23, 2007

Effective June 14, 2007

§117.9200. Compliance Schedule for Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources.

The owner or operator of each stationary source of nitrogen oxides (NO_x) in the Houston-Galveston-Brazoria ozone nonattainment area that is not a major source of NO_x shall comply with the requirements of Subchapter D, Division 1 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources) as follows.

(1) For sources subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program), the owner or operator shall:

(A) install any totalizing fuel flow meters and run time meters required by §117.2035 of this title (relating to Monitoring and Testing Requirements) and begin keeping records of fuel usage as required by §117.2045 of this title (relating to Recordkeeping and Reporting Requirements) no later than March 31, 2005, except that if flue gas cleanup (for example, controls that use a chemical reagent for reduction of NO_x) is installed on a unit before March 31, 2005, then the emissions monitors required by §117.2035 of this title must be installed and operated at the time of startup following the installation of flue gas cleanup on that unit. However, an owner or operator may choose to demonstrate compliance with the ammonia monitoring requirements through annual ammonia stack testing until March 31, 2005;

(B) no later than 60 days after startup of a unit following installation of emissions controls, submit to the executive director the results of:

(i) stack tests conducted in accordance with §117.2035 of this title. For a stack test conducted before March 31, 2005, on a unit not equipped with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) that CEMS or PEMS must be installed no later than March 31, 2005, the requirements of §117.2035(e)(6) of this title do not apply; or, as applicable,

(ii) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) - (4)(A) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources). The applicable CEMS or PEMS performance evaluation and quality assurance procedures must be submitted no later than March 31,

2005, except that if the unit is shut down as of March 31, 2005, the CEMS or PEMS performance evaluation and quality assurance procedures must be submitted within 60 days after startup of the unit after March 31, 2005;

(C) no later than March 31, 2005, for any units subject to §117.2010 of this title (relating to Emission Specifications) that stack testing or a CEMS or PEMS performance evaluation and quality assurance has not been conducted under subparagraph (B) of this paragraph, submit to the executive director the results of:

(i) stack tests conducted in accordance with §117.2035 of this title; or, as applicable,

(ii) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) - (4)(A) of this title;

(D) comply with the emission reduction requirements of Chapter 101, Subchapter H, Division 3 of this title as soon as practicable, but no later than the appropriate dates specified in that program;

(E) for diesel and dual-fuel engines, comply with the restriction on hours of operation for maintenance or testing, and associated recordkeeping, as soon as practicable, but no later than April 1, 2002; and

(F) comply with all other requirements of Subchapter D, Division 1 of this chapter as soon as practicable, but no later than March 31, 2005.

(2) For sources not subject to Chapter 101, Subchapter H, Division 3 of this title, the owner or operator shall:

(A) install any totalizing fuel flow meters and run time meters required by §117.2035 of this title and begin keeping records of fuel usage as required by §117.2045 of this title no later than March 31, 2005, except that if flue gas cleanup (for example, controls that use a chemical reagent for reduction of NO_x) is installed on a unit before March 31, 2005, then the emissions monitors required by §117.2035 of this title must be installed and operated at the time of startup following the installation of flue gas cleanup on that unit. However, an owner or operator may choose to demonstrate compliance with the ammonia monitoring requirements through annual ammonia stack testing until March 31, 2005;

(B) no later than 60 days after startup of a unit following installation of emissions controls, submit to the executive director the results of:

(i) stack tests conducted in accordance with §117.2035 of this title. For a stack test conducted before March 31, 2005, on a unit not equipped with a CEMS or PEMS that CEMS or PEMS must be installed no later than March 31, 2005, the requirements of §117.2035(e)(6) of this title do not apply; or, as applicable,

(ii) the applicable CEMS or PEMS performance evaluation and quality assurance procedures as specified in §117.8100(a)(1)(A) and (B) and (b)(2) - (4)(A) of this title. The applicable CEMS or PEMS performance evaluation and quality assurance procedures must be submitted no later than March 31, 2005, except that if the unit is shut down as of March 31, 2005, the CEMS or PEMS performance evaluation and quality assurance procedures must be submitted within 60 days after startup of the unit after March 31, 2005;

(C) for diesel and dual-fuel engines, comply with the restriction on hours of operation for maintenance or testing, and associated recordkeeping, as soon as practicable, but no later than April 1, 2002; and

(D) comply with all other requirements of Subchapter D, Division 1 of this chapter as soon as practicable, but no later than March 31, 2005.

Adopted May 23, 2007

Effective June 14, 2007

§117.9210. Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Minor Sources.

(a) The owner or operator of any stationary source of nitrogen oxides (NO_x) in the Dallas-Fort Worth eight-hour ozone nonattainment area that is not a major source of NO_x and is subject to the requirements of Subchapter D, Division 2 of this chapter (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Minor Sources) shall comply with the requirements of Subchapter D, Division 2 of this chapter as soon as practicable, but no later than:

(1) March 1, 2009, for rich-burn stationary gas-fired reciprocating internal combustion engines;

(2) March 1, 2010, for lean-burn stationary gas-fired reciprocating internal combustion engines; and

(3) March 1, 2009, for diesel-fired and dual-fuel stationary, reciprocating internal combustion engines.

(b) The owner or operator of any stationary source of NO_x that becomes subject to the requirements of Subchapter D, Division 2 of this chapter on or after the applicable

compliance date specified in subsection (a) of this section shall comply with the requirements of Subchapter D, Division 2 of this chapter as soon as practicable, but no later than 60 days after becoming subject.

Adopted May 23, 2007

Effective June 14, 2007

§117.9300. Compliance Schedule for Utility Electric Generation in East and Central Texas.

The owner or operator of each utility electric power boiler or stationary gas turbine located in Atascosa, Bastrop, Bexar, Brazos, Calhoun, Cherokee, Fannin, Fayette, Freestone, Goliad, Gregg, Grimes, Harrison, Henderson, Hood, Hunt, Lamar, Limestone, Marion, McLennan, Milam, Morris, Nueces, Parker, Red River, Robertson, Rusk, Titus, Travis, Victoria, and Wharton Counties shall comply with the requirements of Subchapter E, Division 1 of this chapter (relating to Utility Electric Generation in East and Central Texas) as soon as practicable, but no later than the following dates:

(1) except as provided in subparagraph (C) of this paragraph, May 1, 2003, for units owned by utilities subject to the cost-recovery provisions of Texas Utilities Code, §39.263(b):

(A) the owner or operator shall use the period of May 1, 2003, through April 30, 2004, for the initial annual compliance period. Compliance for each subsequent annual period is on a calendar year basis. For example, the second annual compliance period is January 1, 2004, through December 31, 2004;

(B) the updated final control plan required by §117.3054 of this title (relating to Final Control Plan Procedures) must be submitted by May 31, 2004, and by January 31, 2005; and

(C) the owner or operator shall comply with the ammonia specification of §117.3010(2) of this title (relating to Emission Specifications) by May 1, 2005; and

(2) May 1, 2005, for all other units:

(A) the owner or operator shall use the period of May 1, 2005, through April 30, 2006, for the initial annual compliance period. Compliance for each subsequent annual period is on a calendar year basis. For example, the second annual compliance period is January 1, 2006, through December 31, 2006; and

(B) the updated final control plan required by §117.3054 of this title must be submitted by May 31, 2006, and by January 31, 2007.

Adopted May 23, 2007

Effective June 14, 2007

§117.9320. Compliance Schedule for Cement Kilns.

(a) Except as specified in subsection (c) of this section, the owner or operator of each portland cement kiln placed into service before December 31, 1999, in Bexar, Comal, Ellis, Hays, and McLennan Counties shall be in compliance with the requirements of Subchapter E, Division 2 of this chapter (relating to Cement Kilns) as soon as practicable, but no later than the following dates:

(1) May 1, 2003, for cement kilns in Ellis County; and

(2) May 1, 2005, for cement kilns in Bexar, Comal, Hays, and McLennan Counties.

(b) Notwithstanding subsection (a)(1) of this section, for a cement kiln in Ellis County that the owner or operator has filed an application for modification of its facility to meet the requirements of Subchapter E, Division 2 of this chapter on or before May 30, 2003, the compliance schedule is extended until six months after the issuance of the permit for operation of a low- NO_x burner and 12 months after issuance of the permit for operation of a secondary combustion system. Such application(s) must relate only to those modifications required to comply with Subchapter E, Division 2 of this chapter, and any issues incident thereto.

(c) The owner or operator of each portland cement kiln in Ellis County shall comply with the requirements of §117.3123 and §117.3142 of this title (relating to Dallas-Fort Worth Eight-Hour Ozone Attainment Demonstration Control Requirements; and Emission Testing and Monitoring for Eight-Hour Attainment Demonstration), and the applicable requirements of §117.3145 of this title (relating to Notification, Recordkeeping, and Reporting Requirements) that are associated with §117.3123 and §117.3142 of this title, as soon as practicable, but no later than March 1, 2009.

(1) The provisions regarding extension of compliance schedules in subsection (b) of this section do not apply to this subsection or the requirements of §117.3123, §117.3142, or the applicable requirements of §117.3145 of this title.

(2) If a contested case hearing is granted as a direct result of a permit application necessary to comply with the requirements of §117.3123 of this title, the compliance date of this subsection for the site affected by the contested case hearing is extended until no later than March 1, 2010. The compliance date for the affected site remains March 1, 2009, if:

(A) a contested case hearing is granted as a result of a permit application that includes modifications necessary to comply with §117.3123 of this title, but the contested case hearing is the result of modifications included in the permit that are unrelated to compliance with §117.3123 of this title, then the compliance date for the affected site remains March 1, 2009; or

(B) a contested case hearing is granted at the request of the owner or operator of the affected portland cement kiln or any third party affiliated with the owner or operator.

Adopted May 23, 2007

Effective June 14, 2007

§117.9340. Compliance Schedule for East Texas Combustion.

(a) The owner or operator of each stationary, reciprocating internal combustion engine subject to the requirements of Subchapter E, Division 4 of this chapter (relating to East Texas Combustion) shall comply with the requirements of Subchapter E, Division 4 of this chapter as soon as practicable, but no later than March 1, 2010.

(b) The owner or operator of a stationary, reciprocating internal combustion engine that becomes subject to the requirements of Subchapter E, Division 4 of this chapter on or after March 1, 2010, shall comply with the requirements of Subchapter E, Division 4 of this chapter as soon as practicable, but no later than 60 days after becoming subject.

Adopted May 23, 2007

Effective June 14, 2007

§117.9500. Compliance Schedule for Nitric Acid and Adipic Acid Manufacturing Sources.

All persons affected by the provisions of Subchapter F, Division 1 of this chapter (relating to Adipic Acid Manufacturing) or the provisions of Subchapter F, Division 2 of this chapter (relating to Nitric Acid Manufacturing-Ozone Nonattainment Areas) shall be in compliance as soon as practicable, but no later than November 15, 1999 (final compliance date). All affected persons shall meet the following compliance schedules and submit written notification to the executive director:

(1) no later than April 1, 1994, submit a control plan for compliance as specified in §117.4050 of this title and §117.4150 of this title (relating to Control Plan Procedures);

(2) conduct applicable continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) performance evaluation and quality

assurance procedures as specified in §117.4040 and §117.4140 of this title (relating to Continuous Demonstration of Compliance); provide previous testing documentation for any claimed test waiver as allowed by §117.4035(d) or §117.4135(d) of this title (relating to Initial Demonstration of Compliance); and conduct applicable initial demonstration of compliance testing as specified in §117.4035 and §117.4135 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 §117.4050 and §117.4150 of this title; and

(B) no later than November 15, 1999, for affected facilities performing process modification or installation of a CEMS or PEMS device as part of the control plan specified in §117.4050 and §117.4150 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 testing specified in paragraph (2) of this section.

Adopted May 23, 2007

Effective June 14, 2007

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS
DIVISION 2: COMPLIANCE FLEXIBILITY
§117.9800, §117.9810
Effective April 19, 2012

§117.9800. Use of Emission Credits for Compliance.

(a) An owner or operator of a unit not subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) may meet emission control requirements of the sections specified in paragraphs (1) - (8) of this subsection, in whole or in part, by obtaining an emission reduction credit (ERC), mobile emission reduction credit (MERC), discrete emission reduction credit (DERC), or mobile discrete emission reduction credit (MDERC) in accordance with Chapter 101, Subchapter H, Division 1 or 4 of this title (relating to Emission Credit Banking and Trading; and Discrete Emission Credit Banking and Trading), unless there are federal or state regulations or permits under the same commission account number that contain a condition or conditions precluding such use:

(1) §§117.105, 117.205, 117.305, 117.1005, 117.1105, or 117.1205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT));

(2) §§117.110, 117.210, 117.1010, or 117.1110 of this title (relating to Emission Specifications for Attainment Demonstration);

(3) §§117.1015, 117.1115, or 117.1215 of this title (relating to Alternative System-Wide Emission Specifications);

(4) §§117.115, 117.215, or 117.315 of this title (relating to Alternative Plant-Wide Emission Specifications);

(5) §§117.123, 117.223, 117.323, 117.423, or §117.3120 of this title (relating to Source Cap);

(6) §§117.2010, 117.3010, or 117.3110 of this title (relating to Emission Specifications);

(7) §§117.410, 117.1310, 117.2110, or 117.3310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration); or

(8) §117.3123 of this title (relating to Dallas-Fort Worth Eight-Hour Ozone Attainment Demonstration Control Requirements).

(b) An owner or operator of a unit subject to §§117.320, 117.1020, 117.1120, 117.1220, or 117.3020 of this title (relating to System Cap) may meet the emission control requirements of these sections in whole or in part, by complying with the requirements of Chapter 101, Subchapter H, Division 1 or 4 of this title, by obtaining an ERC, MERC, DERC, or MDERC, unless there are federal or state regulations or permits under the same commission account number that contain a condition or conditions precluding such use.

(c) For the purposes of this section, the term "reduction credit (RC)" refers to an ERC, MERC, DERC, or MDERC, whichever is applicable.

(d) Any lower nitrogen oxides (NO_x) emission specification established under this chapter for the unit or units using RCs requires the user of the RCs to obtain additional RCs in accordance with Chapter 101, Subchapter H, Division 1 or 4 of this title and/or otherwise reduce emissions prior to the effective date of such rule change. For units using RCs in accordance with this section that are subject to new, more stringent rule limitations, the owner or operator using the RCs shall submit a revised final control plan to the executive director in accordance with §§117.156, 117.256, 117.356, 117.456, 117.1056, 117.1156, 117.1256, and 117.1356 of this title (relating to Revision of Final Control Plan) to revise the basis for compliance with the emission specifications of this chapter. The owner or operator using the RCs shall submit the revised final control plan as soon as practicable, but no later than 90 days prior to the effective date of the new, more stringent rule. The owner or operator of the unit(s) currently using RCs shall calculate the necessary emission reductions per unit as follows.

Figure: 30 TAC §117.9800(d) (No change)

$$\Delta E = \left[LA \times (ER_{old} - ER_{new}) \times \frac{d}{2000} \right]$$

Where:

ΔE = the differential of emissions;

LA = the maximum level of activity;

ER_{old} = the existing NO_x emission rate for the affected unit in pounds per unit of activity;

ER_{new} = the new NO_x emission rate for the affected unit in pounds per unit of activity; and

d = (A) to calculate annual emission reductions, d = 365; and

(B) to calculate emission reductions for the remainder of a control period, d = thenumber of days remaining in the control period.

Adopted March 28, 2012

Effective April 19, 2012

§117.9810. Use of Emission Reductions Generated from the Texas Emissions Reduction Plan (TERP).

(a) An owner or operator of a unit located in the Dallas-Fort Worth eight-hour ozone nonattainment area or in the Houston-Galveston-Brazoria ozone nonattainment area that is not subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) may meet emission control requirements of the sections specified in paragraphs (1) – (6) of this subsection, by obtaining emission reductions generated from the TERP as specified in subsection (b) of this section:

(1) §§117.205, 117.305, 117.1105, or 117.1205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT));

(2) §117.210 or §117.1110 of this title (relating to Emission Specifications for Attainment Demonstration);

(3) §117.215 or §117.315 of this title (relating to Alternative Plant-Wide Emission Specifications);

(4) §117.1120 of this title (relating to System Cap);

(5) §117.223 or §117.323 of this title (relating to Source Cap); or

(6) §117.410 or §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration).

(b) An owner or operator may obtain emission reductions generated from TERP, as provided in subsection (a) of this section, if:

(1) the owner or operator of the site as defined in §122.10 of this title (relating to General Definitions) contributes to the TERP fund, \$75,000 per ton of nitrogen oxides emissions used, not to exceed 25 tons per year or 0.5 tons per day on a site-wide basis;

(2) the owner or operator of the site demonstrates to the executive director that the site will be in full compliance with the applicable emission reduction requirements of this chapter no later than the fifth anniversary of the date that the emission reductions would otherwise be required;

(3) emissions from the site are reduced by at least 80% of the required reductions;

(4) the reductions accomplished under the TERP have not been previously used to meet reduction requirements under a state implementation plan attainment demonstration;

(5) the reductions accomplished under the TERP are used in the same nonattainment area that they are generated; and

(6) the executive director approves a petition submitted by the owner or operator of the site that demonstrates that it is technically infeasible to comply with applicable emission reduction requirements of this chapter above 80% of the required reductions. When considering technical infeasibility the executive director may consider, but will not be limited to:

(A) current technology;

(B) adaptability of technology to a particular source;

(C) age and projected useful life of a source; and

(D) cost benefits at the time of application.

(c) The emissions reductions funded under the TERP, and used to offset commission requirements, must be used to benefit the community where the site using the emissions reductions is located. If there are no eligible emissions reduction projects within the community, the commission may authorize projects in an adjacent community. For purposes of this section, a community means a Justice of the Peace precinct.

Adopted May 23, 2007

Effective June 14, 2007