The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§117.10, 117.400, 117.403, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.454, 117.456, 117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, 117.1354, 117.8000, 117.9030, 117.9130, 117.9800, and 117.9810; repeal of §§117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256, 117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1125, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156, 117.9010, and 117.9110; and new §117.405 and §117.452.

If adopted, the amended, repealed, and new sections of Chapter 117 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP), except for the following: §§117.210(c), 117.225, 117.405(d), 117.410(d), 117.425, 117.1110(b), 117.1125, 117.1310(b), and 117.1325. Sections 117.210(c), 117.225, 117.410(d), 117.425, 117.1110(b), 117.1125, 117.1310(b), and 117.1325 correspond to portions of the existing rule previously excluded from the EPA-approved Texas SIP and will not be submitted with this revision. Similarly, proposed new §117.405(d) will not be submitted to the EPA as a SIP revision.

Background and Summary of the Factual Basis for the Proposed Rules

General Background

The 1990 Federal Clean Air Act (FCAA) Amendments (42 United States Code (USC), §§7401 *et seq.*) require the EPA to establish primary National Ambient Air Quality

Standards (NAAQS) that protect public health and to designate areas as either in attainment or nonattainment with the NAAQS, or as unclassifiable. States are primarily responsible for ensuring attainment and maintenance of the NAAQS once established by the EPA. Each state is required to submit a SIP to the EPA that provides for attainment and maintenance of the NAAQS.

On March 27, 2008, the EPA revised both the primary and secondary ozone standard (the eight-hour ozone NAAQS) to a level of 0.075 parts per million (ppm) with an effective date of May 27, 2008 (73 FR 16436). On May 21, 2012, the EPA established initial air quality designations for the 2008 eight-hour ozone NAAQS. Effective July 20, 2012, the Dallas-Fort Worth (DFW) 2008 eight-hour ozone nonattainment area, consisting of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties, was classified as a moderate nonattainment area. The DFW area must attain the 2008 eight-hour ozone NAAQS by December 31, 2018 (77 FR 30088, May 21, 2012). Nonattainment areas classified as moderate and above are required to meet the mandates of the FCAA under FCAA, §172(c)(1) and §182(f). FCAA, §172(c)(1) requires that the SIP incorporate all reasonably available control measures, including reasonably available control technology (RACT), for sources of relevant pollutants. FCAA, §182(f) requires the state to submit a SIP revision that implements RACT for all major sources of nitrogen oxides (NO_X).

The EPA defines RACT as the lowest emission limitation that a particular source is capable

of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761, September 17, 1979). The FCAA requires the state to implement RACT, while EPA guidance provides states with the flexibility to determine the most technologically and economically feasible RACT requirements for a nonattainment area. The proposed rulemaking would revise Chapter 117 to implement RACT for all major sources of NO_X in the DFW area as required by FCAA, §172(c)(1) and §182(f). The state previously adopted Chapter 117 RACT rules for sources in the DFW area as part of the SIP submitted by the state on May 30, 2007 for the 1997 eight-hour ozone standard, and the EPA approved these rules on December 8, 2008 (73 FR 73562). However, Wise County was classified as attainment under the 1997 eight-hour ozone standard, so the Chapter 117 RACT rules do not currently apply in Wise County. The proposed rulemaking would therefore extend implementation of RACT to major sources of NO_X located in Wise County. If adopted, these rules would be submitted to the EPA as a SIP revision.

Under the 1997 eight-hour ozone NAAQS, the DFW eight-hour ozone nonattainment area consisted of nine counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant) and was classified as a serious nonattainment area. The EPA's proposed implementation rule for the 2008 eight-hour ozone NAAQS requires retaining the most stringent major source emission threshold level for sources in an area to prevent backsliding (78 FR 34178, June 6, 2013). For this reason, the major source threshold for the nine counties remains the serious classification potential to emit (PTE) of 50 tons per year

(tpy) of NO_X whereas for Wise County, the major source threshold is the moderate classification PTE of 100 tpy of NO_X.

The emission reduction requirements from this proposed rulemaking, if adopted, would result in reductions in ozone precursors in Wise County. The proposed compliance date for implementing control requirements and emission reductions for the DFW area is January 1, 2017, as required by the EPA's proposed implementation rule for the 2008 eight-hour ozone NAAQS.

Proposed subchapters, divisions, and key sections with new requirements or modifications associated with the DFW 2008 eight-hour ozone RACT rulemaking include: Subchapter A, Definitions, §117.10; Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas, Division 4, Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources, §§117.400, 117.403, 117.405, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.452, 117.454, and 117.456; Subchapter C, Combustion Control at Major Utility Electric Generation Sources in Ozone Nonattainment Areas, Division 4, Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources, §§117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, and 117.1354; Subchapter G, General Monitoring and Testing Requirements, Division 1, Compliance Stack Testing and Report Requirements, §117.8000; and Subchapter H, Administrative Provisions, Division 1, Compliance Schedules, §117.9030 and §117.9130, and Division 2, Compliance Flexibility, §117.9800 and

§117.9810.

Subchapters, divisions, and key sections proposed for repeal by the commission also associated with this rulemaking include all of Subchapter B, Division 2, Dallas-Fort Worth Ozone Nonattainment Area Major Sources and Subchapter C, Division 2, Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources.

The commission also proposes clarifications and minor revisions that would affect some sources in other areas covered by Chapter 117, such as changes to definitions and testing provisions for compliance flexibility. Other changes are proposed to ensure the appropriate monitoring, testing, recordkeeping, and reporting requirements for demonstrating compliance are in the rule provisions in addition to providing clarity or additional compliance flexibility to owners or operators of affected units. These proposed changes are discussed in detail in the *Section by Section Discussion* section of this preamble.

SUBCHAPTER B: COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 2: DALLAS-FORT WORTH OZONE NONATTAINMENT AREA MAJOR SOURCES

The commission proposes to repeal existing Subchapter B, Division 2 because compliance dates for sources of NO_X subject to this division have passed and are now considered obsolete. Furthermore, sources previously subject to this division are now required to

comply with more stringent rules in existing Subchapter B, Division 4.

DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA MAJOR SOURCES

The commissions is proposing a revised Subchapter B, Division 4 with new emission control requirements for major industrial, commercial, or institutional (ICI) sources of NO_X in Wise County and for major ICI sources of NO_X in the other nine counties that were not addressed in previous RACT rulemakings. For the other nine counties, one new major ICI source of NO_X was identified in Kaufman County. Proposed revised Subchapter B, Division 4 would require some owners or operators of major ICI sources of NO_X in Wise or Kaufman Counties to reduce NO_X emissions from certain stationary sources and source categories to satisfy RACT requirements. For Wise County, a major source of NO_X is any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit equal to or greater than 100 tpy of NO_X. For the remaining nine counties, a major source of NO_X is any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit equal to or greater than 50 tpy of NO_X. In the proposed rulemaking, the stationary source type categories with proposed controls in Wise County are process heaters, stationary internal combustion gas-fired engines, and stationary gas turbines. In Kaufman County, the stationary source type category with proposed controls is wood-fired boilers. Proposed revised Subchapter B, Division 4 would also extend applicability of existing monitoring, testing, recordkeeping, and reporting requirements associated with

Subchapter B, Division 4 to the affected sources located in Wise and Kaufman Counties. These requirements would be necessary to ensure compliance with the proposed emission specifications and to ensure that the NO_X emission reductions are achieved. Specific discussion associated with the proposed emission specifications and other requirements in proposed revised Subchapter B, Division 4 is provided in the *Section by Section Discussion* section.

The commission estimates that this proposed rule would result in a 1.17 tons per day reduction of NO_X from major ICI sources in the DFW area. In the RACT rules adopted for the May 30, 2007 DFW SIP revision, the state fulfilled NO_X RACT requirements through adoption of emissions specifications in §117.410 to demonstrate attainment for the nine counties of the DFW 1997 eight-hour ozone nonattainment area. With this proposed rulemaking, the commission proposes to implement and fulfill NO_X RACT requirements for major sources in Wise County.

SUBCHAPTER C: COMBUSTION CONTROL AT MAJOR UTILITY ELECTRIC GENERATION SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 2: DALLAS-FORT WORTH OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

The commission proposes to repeal existing Subchapter C, Division 2 because compliance dates for sources of NO_X subject to this division have passed and are now considered obsolete. Furthermore, sources previously subject to this division are now required to

comply with more stringent rules in existing Subchapter C, Division 4.

DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

The commission is proposing a revised Subchapter C, Division 4 with revised requirements for utility electric generation sources in the DFW area. The commission is not proposing to change the existing RACT emission specifications that were adopted as emissions specifications for attainment demonstration in the previous RACT rulemaking, as adopted in the May 30, 2007 DFW SIP revision. The commission proposes to repeal an existing exemption for auxiliary steam boilers and stationary gas turbines that were placed into service after November 15, 1992. This revision is proposed to make the utility rules that apply to gas turbines in the DFW area consistent with the major source industrial rules in the DFW area and to provide a more efficient RACT demonstration for the affected utility sources. Specific discussion associated with the proposed emission specifications and other requirements in proposed revised Subchapter C, Division 4 is provided in the *Section by Section Discussion* section. With this proposed rulemaking, the commission proposes to implement and fulfill NO_X RACT requirements for major sources in Wise County.

This proposed rulemaking would include Wise County as part of the DFW 2008 eight-hour ozone nonattainment area since it was designated as nonattainment by the EPA in the final designations rule published in the *Federal Register* on May 21, 2012 (77 FR 30088). However, the TCEQ and other concerned parties are currently challenging whether the

EPA's inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area was lawful. These challenges are currently pending in the United States Court of Appeals for the District of Columbia Circuit. If the inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area is overturned before this rulemaking is adopted, the TCEQ will take action to revise this rulemaking appropriately. Because the TCEQ cannot predict the outcome of this litigation at this time, the commission is proposing rules that will ensure that sources within Wise County will be properly accounted for in the DFW 2008 attainment demonstration SIP. Should Wise County be removed from the DFW 2008 eight-hour ozone nonattainment area after the adoption of these rules, the proposed rules will allow the commission to exempt sources in Wise County from major source RACT requirements upon notice by the TCEQ via publication in the *Texas Register* that Wise County is no longer a part of the DFW 2008 eight-hour ozone nonattainment area.

Section by Section Discussion

In addition to the proposed amendments associated with implementing RACT for the DFW area and specific minor clarifications and corrections discussed in greater detail in this *Section by Section Discussion*, the proposed rulemaking also includes various stylistic, non-substantive changes to update rule language to current *Texas Register* style and format requirements. Such changes include appropriate and consistent use of acronyms, section references, rule structure, and certain terminology. These changes are non-substantive and generally are not specifically discussed in this preamble. Comments received regarding sections and rule language associated only with reformatting and minor

stylistic changes will not be considered, and no changes will be made based on such comments.

SUBCHAPTER A, DEFINITIONS

Section 117.10, Definitions

The commission proposes revising the definitions of applicable ozone nonattainment areas in §117.10(2). The commission proposes repeal of existing §117.10(2)(B), DFW ozone nonattainment area. The existing definition of DFW ozone nonattainment area includes Collin, Dallas, Denton, and Tarrant Counties. Divisions relating to this four-county DFW area have been made obsolete by the passing of compliance dates, and sources of NO_X previously subject to these divisions are now required to comply with more stringent rules in existing divisions relating to the expanded nine-county DFW area. The commission proposes re-lettering existing §117.10(2)(C), DFW eight-hour ozone nonattainment area, to §117.10(2)(B), and existing §117.10(2)(D), Houston-Galveston-Brazoria ozone nonattainment area, to §117.10(2)(C). The commission also proposes to revise the definition of DFW eight-hour ozone nonattainment area. The existing definition of DFW eight-hour ozone nonattainment area includes Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties. For the purposes of Chapter 117, Subchapter D, Combustion Control at Minor Sources in Ozone Nonattainment Areas, the proposed revised definition includes Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, and for all other divisions of Chapter 117, the proposed revised definition includes Collin, Dallas, Denton, Ellis, Johnson, Kaufman,

Parker, Rockwall, Tarrant, and Wise Counties. This proposed change to the definition of DFW eight-hour ozone nonattainment area is necessary because the commission is not proposing to apply the existing minor source rules to sources located in Wise County.

The commission proposes revising the definition of electric power generating system in §117.10(14), to clarify the applicability of independent power producers in the ozone nonattainment areas. Systems that are owned or operated by independent power producers and are located in the Beaumont-Port Arthur ozone nonattainment area or the 10-county DFW 2008 eight-hour ozone nonattainment area are subject to Chapter 117, Subchapter C. However, as the current definition in existing §117.10(14)(C) states, cogeneration units and independent power producers in the Houston-Galveston-Brazoria ozone nonattainment area are subject to the industrial, commercial, and institutional rules in Subchapter B.

The commission therefore proposes revising §117.10(14) to clarify this difference in applicability between the different ozone nonattainment areas for independent power producers. The proposed revisions to subparagraph (A) would add independent power producers but limit the applicability of the definition to only the Beaumont-Port Arthur and DFW areas. Proposed changes to §117.10(14)(A) include removal of existing §117.10(14)(A)(ii), DFW, consistent with the proposed removal of §117.10(2)(B). The commission proposes re-numbering existing §117.10(14)(A)(iii), DFW eight-hour, to §117.10(14)(A)(ii). Existing §117.10(14)(A)(iv), Houston-Galveston-Brazoria, is proposed for removal to coincide with changes proposed in §117.10(14)(B) and proposed revised

§117.10(14)(C). The commission also proposes to remove existing §117.10(14)(B) and move it to amended §117.10(14)(D). To address electric power generating systems located in the Houston-Galveston-Brazoria ozone nonattainment area subject to Chapter 117, Subchapter C, the commission proposes a modified subparagraph (B) in §117.10(14). Proposed §117.10(14)(B) is necessary to address specific combustion unit types that are part of electric power generating systems located in the Houston-Galveston-Brazoria ozone nonattainment area that are subject to Subchapter C, Division 3 while maintaining the distinction established under §117.10(14)(C) for independent power producers. The commission also proposes revising §117.10(14)(C) to clarify that the provision only applies to Subchapter B, Division 3 and to update the reference from proposed revised §117.10(14)(A) to concurrent proposed §117.10(14)(B). These changes to §117.10(14) are proposed to clarify the existing definition of an electric power generating system and are not intended to expand the definition.

The commission proposes revising the definition of emergency situation in §117.10(15)(A)(ii) and (vii) to update the references to the Electric Reliability Council of Texas (ERCOT) Protocols to the most recent published version of the ERCOT Protocols, August 13, 2014.

The commission proposes revising the definition of large utility system in §117.10(24) to remove the reference to DFW ozone nonattainment area as an applicable ozone nonattainment area to be consistent with the proposed removal of existing §117.10(2)(B).

The commission proposes revising the definition of major source in §117.10(29). Proposed changes to §117.10(29)(B) include the removal of references to DFW and DFW eight-hour ozone nonattainment area and adding Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties as applicable counties. Proposed §117.10(29)(C) includes a new major source applicability threshold of at least 100 tpy of NO_X for sources located in Wise County. These changes are necessary to be consistent with proposed §117.10(2)(B), concerning the proposed revised definition of DFW eight-hour ozone nonattainment area and to reflect the difference in the applicability threshold because of the different classifications between Wise County and the other nine counties included in the ozone nonattainment area. The commission also proposes to re-letter existing §117.10(29)(C) to §117.10(29)(D) and re-letter existing §117.10(29)(D) to §117.10(29)(E).

Proposed revisions to the definition of small utility system in §117.10(44) include the removal of the reference to DFW ozone nonattainment area as an applicable ozone nonattainment area to be consistent with the proposed removal of existing §117.10(2)(B), DFW ozone nonattainment area.

The commission proposes revisions to the definition of unit in §117.10(51). Proposed changes to §117.10(51)(A) include a reference to proposed new §117.405, Emission Specifications for Reasonably Available Control Technology (RACT), to define unit as any boiler, process heater, stationary gas turbine, or stationary internal combustion engine, as

defined in §117.10. In addition, proposed revised §117.10(51)(A) includes removing references to sections proposed for repeal.

Finally, proposed changes to §117.10(51)(B) include deleting references to §117.210 and §117.1110 because these sections are proposed for repeal.

SUBCHAPTER B, COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 2, DALLAS-FORT WORTH OZONE NONATTAINMENT AREA MAJOR SOURCES

The commission proposes repeal of existing Subchapter B, Division 2, DFW which has been made obsolete by the passing of compliance dates because sources of NO_X previously subject to this division are now required to comply with more stringent rules in existing Subchapter B, Division 4.

DIVISION 4, DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA MAJOR SOURCES

To address new RACT requirements for sources of NO_X located in Wise County, the commission is proposing a new section, §117.405, in proposed revised Subchapter B, Division 4 that would include new rules applicable to any major stationary source of NO_X in Wise County. New NO_X RACT requirements necessary for major stationary sources of NO_X in the other nine counties that are not already addressed under the current rules are

included as proposed revisions to the existing §117.410. The commission is not proposing to expand the list of applicable unit types at major ICI stationary sources of NO_X as it currently exists in §117.400 in proposed revised Subchapter B, Division 4.

Section 117.400, Applicability

Proposed revisions to §117.400 clarify which unit types located in specific counties in the proposed revised DFW eight-hour ozone nonattainment area would be subject to the proposed revisions of Subchapter B, Division 4. Proposed §117.400(a) retains the list of applicable units located at major sources of NO_X in existing §117.400 and specifies that these units must be located at major sources of NO_X located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County. This change is necessary to clarify that specific units located in the existing nine-county DFW eight-hour ozone nonattainment area would be subject to proposed §117.410(a), with the exception of the one wood-fired boiler located in Kaufman County. The wood-fired boiler identified in Kaufman County in the calendar year 2012 TCEQ Point Source Emissions Inventory (2012 EI) would be an applicable unit under proposed §117.400(a) subject to the NO_X emission specification of proposed new §117.405(a) as an ICI boiler.

The commission proposes §117.400(b) to specify the units located at major sources of NO_X located in Wise County that would be subject to proposed §117.405(b). The proposed stationary source type categories are ICI process heaters, stationary gas turbines, and stationary internal combustion engines.

Section 117.403, Exemptions

Proposed revisions to §117.403 clarify exemption criteria of units that would be exempt from specified requirements of proposed revised Subchapter B, Division 4. To be consistent with the proposed revisions in §117.400, the commission proposes to revise §117.403(a), which retains the list of applicable unit types, sizes, and uses in existing §117.403(a). The commission proposes to specifically list Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County in subsection (a) to make clear that the list of exemptions provided in the subsection is only applicable in those counties and because exemptions applicable in Wise County are proposed to be listed separately. Changes to existing §117.403(a)(4) are proposed to facilitate consistency between the unit size exemption threshold in §117.403(a)(4) and the existing definition of maximum-rated capacity, as defined in §117.10. Proposed revisions to §117.403(a)(7)(A) and (B) are necessary to clarify that the exemption criteria for research and testing and performance verification and testing refer to research, testing, and performance verification of the stationary gas turbine or stationary internal combustion engine itself. Revisions to §117.403(a)(7)(D) are proposed in order to clarify that unit operation for testing or maintenance purposes up to 100 hours per year refers to testing and maintenance of the stationary gas turbine or stationary internal combustion engine itself. In addition, the commission proposes revising the operating hours limit for exemption criteria for stationary gas turbines and stationary internal combustion engines from a rolling 12-month average to a rolling 12-month basis. The owner or operator of an affected unit would sum all

operating hours for a consecutive 12-month period, and continue doing so on a rolling 12-month basis, as opposed to calculating the average of all operating hours during a consecutive 12-month period. A 12-month rolling average would only apply to an hours per month limit, thus conflict with an hour per year limit while a 12-month rolling basis is the preceding 12-month total, which matches the 100 hours per year limit. This would more accurately reflect the intent of the rule and how an affected unit would demonstrate compliance with the operating restriction of a total of 100 hours per year. Similarly to more accurately reflect the intent of the rule, revisions to existing §117.403(a)(8)(A) and (9)(A) are proposed by the commission to specify that the operating hours limit for exemption criteria for stationary diesel engines would be on a rolling 12-month basis and not on a rolling 12-month average and thus how an affected unit would demonstrate compliance with the operating restriction of a total of 100 hours per year. The owner or operator of an affected unit would sum all operating hours for a consecutive 12-month period, and continue doing so on a rolling 12-month basis, as opposed to calculating the average of all operating hours during a consecutive 12-month period.

The commission proposes to delete existing §117.403(b), Concerning increment of progress (IOP) exemptions, because the provisions reference existing §117.410(a), which is concurrently proposed for deletion by the commission. The provisions of proposed deletion of §117.403(b) apply to gas-fired stationary, reciprocating internal combustion engines which, due to the passing of compliance dates, are now subject to more stringent rules in existing Subchapter B, Division 4.

Proposed §117.403(b) specifies the unit types, sizes, or uses for units located in Wise County that would be exempt from the requirements of this division. Units for which the unit type, maximum-rated capacity, or specific use would be technically or economically infeasible to comply with the proposed NO_X emission specifications are exempted from the provisions of this division, except as specified in proposed revised §§117.440(i), 117.445(f)(4), and 117.450 and in proposed new §117.452. The exceptions to the proposed exemptions are related to monitoring, recordkeeping, and control plan requirements associated with exempted units. Proposed amended §117.403(b)(1) specifies that ICI process heaters with a maximum-rated capacity of less than 40 million British thermal units per hour (MMBtu/hr) would be exempted. This exemption level is proposed to be consistent with previous RACT exemption approaches for ICI process heaters located in the DFW area and the Houston-Galveston-Brazoria ozone nonattainment area.

The following stationary gas turbines and stationary internal combustion engines would be exempt in proposed §117.403(b)(2)(A) - (E): gas turbines and engines used in research and testing of the unit, used for purposes of performance verification and testing of the unit, used solely to power other gas turbines or engines during startups; used exclusively in emergency situations (except that operation for testing or maintenance purposes of the gas turbine or engine itself is allowed up to 100 hours per year, based on a rolling 12-month basis); or used in response to and during the existence of any officially declared disaster or state of emergency. These exemptions are proposed due to the limited number, if any, of

these unit types used in this dedicated service.

Proposed §117.403(b)(3) specifies an exemption for any stationary diesel engine, and proposed §117.403(b)(4) specifies an exemption for any stationary dual-fuel engine. Both stationary diesel and dual-fuel engines would meet the applicability criterion of stationary internal combustion engine in proposed §117.400(b); however, no units of these types were identified in the 2012 EI for Wise County, and the commission is not proposing emission specifications for these unit types.

Proposed §117.403(b)(5) specifies an exemption for stationary gas-fired engines with a horsepower (hp) rating of less than 50 hp. This is consistent with the size exemption threshold currently provided for stationary gas-fired engines in the other nine counties of the nonattainment area previously established as a reasonable threshold to exempt smaller engines from the NO_X control requirements.

Finally, the commission proposes subsection (c) to contain new section cross-references to proposed §117.410(a)(1) and (c) and amendments to the cross-references to existing §117.410(b)(1) and (d).

Section 117.405, Emission Specifications for Reasonably Available Control Technology (RACT)

The commission proposes new §117.405, which establishes proposed NO_X emission

specifications to satisfy RACT requirements for units in the 10-county DFW 2008 eight-hour ozone nonattainment area that would be subject to this rulemaking.

Proposed new §117.405(a) includes the proposed new emission specification for wood-fired boilers located in the proposed revised DFW eight-hour ozone nonattainment area. The proposed 0.12 pounds per million British thermal units (lb/MMBtu) emission specification for wood fuel-fired boilers is based on the permitted Best Available Control Technology limit for the unit identified in the 2012 EI, and it is anticipated to require owners or operators of affected units to possibly install and operate selective catalytic reduction (SCR). The unit identified in Kaufman County in the 2012 EI currently operates with SCR for NO_X control and uses a continuous emissions monitoring system (CEMS) for monitoring NO_X emissions. While the commission is proposing this emission standard satisfies RACT for this particular wood fuel-fired boiler because the facility has already installed the controls necessary to meet the requirement, the commission is not proposing that SCR represents RACT on wood fuel-fired boilers in general.

Proposed new §117.405(b) includes the proposed new emission specifications that would apply to the following unit types at major ICI stationary sources of NO_X located in Wise County: ICI process heaters; stationary, reciprocating internal combustion engines; and stationary gas turbines. Proposed new §117.405(b)(1) would establish the NO_X emission specifications of 0.10 lb/MMBtu (or alternatively, 82 parts per million by volume (ppmv), at 3.0% oxygen (O_2), dry basis) for process heaters with a maximum-rated capacity equal to

or greater than 40 MMBtu/hr. Combustion modifications such as dry low-NO_X combustors may be necessary for process heaters with a maximum-rated capacity equal to or greater than 40 MMBtu/hr to comply with the proposed 0.10 lb/MMBtu emission specification. No liquid-fired process heaters were identified in the 2012 EI in Wise County; however, combustion modifications may be necessary for a liquid-fired process heater to comply with the proposed NO_X emission specifications in proposed new §117.405(b)(1).

Proposed new §117.405(b)(2) provides NO_X emission specifications for stationary, reciprocating internal combustion engines. The proposed language in §117.405(b)(2)(A) and (B) would establish NO_X emission specifications for stationary, gas-fired rich-burn and lean-burn, reciprocating internal combustion engines. Gas-fired, rich-burn engines would be limited to 0.50 grams per horsepower-hour (g/hp-hr) in proposed new §117.405(b)(2)(A). The proposed emission specifications for some gas-fired, lean-burn engines in §117.405(b)(2)(B) would be based on specific engine process parameters and the date the engine was placed into service, modified, reconstructed, or relocated. Any White Superior, model 8GTL825, gas-fired, lean-burn four-cycle engines placed into service, modified, reconstructed, or relocated before June 1, 2015 would be limited to 12.0 g/hp-hr, and on or after June 1, 2015 would be limited to 2.0 g/hp-hr. Any Clark, model HBAGT or HBA-6, gas-fired, lean-burn two-cycle engines placed into service, modified, reconstructed, or relocated before June 1, 2015 would be limited to 12.0 g/hp-hr, and on or after June 1, 2015 would be limited to 2.0 g/hp-hr. Finally, any Fairbanks Morse, model MEP-8T, gas-fired, lean-burn two-cycle engines placed into service, modified, reconstructed, or

relocated before June 1, 2015 would be limited to 4.0 g/hp-hr, and on or after June 1, 2015 would be limited to 2.0 g/hp-hr. All other gas-fired, lean-burn engines would be limited to 2.0 g/hp-hr.

Nonselective catalytic reduction (NSCR), with an air-to-fuel ratio (AFR) controller, is expected to be the primary control technology for gas-fired, rich-burn engines. In some cases, the addition of a secondary catalyst module may be required to meet the proposed emission specification. The commission proposes the 0.50 g/hp-hr emission specification represents RACT for gas-fired, rich-burn engines based on the low cost and wide-spread demonstrated effectiveness of NSCR with meeting this control level.

The commission proposes specific NO_X emission specifications based on engine make and model for the White Superior, Clark, and MEP units due to the following: engine manufacturers today produce few, if any, of these engine makes and models; retrofit options or kits to reduce NO_X emissions may not exist for some of these particular makes and models; some units may have already undergone combustion modifications, such as low-emission combustion technology, to reduce emissions and thus may be unable to further reduce NO_X emissions; and in some cases the cost to retrofit the unit may be more than the cost of a new unit. The commission therefore proposes that these proposed emission levels for these specific units would satisfy RACT requirements considering technological and economic feasibility. For all other lean-burn engines, the commission anticipates that affected units would require combustion modifications to comply with the

proposed 2.0 g/hp-hr emission specification, if necessary. Any new gas-fired, lean-burn engines installed in Wise County should be able to meet the proposed 2.0 g/hp-hr standard without modification or installation of additional controls.

The commission acknowledges that the current emission specifications for stationary gas-fired, lean-burn engines in the other nine counties of the DFW eight-hour ozone nonattainment area are between 0.50 and 0.70 g/hp-hr, and are more stringent than the emission specifications proposed for Wise County. However, the commission does not consider this control level to represent RACT for the gas-fired, lean-burn engines in Wise County. In proposing the emission specifications for gas-fired, lean-burn engines in the nine-county DFW 1997 eight-hour ozone nonattainment area in December 2006, the commission acknowledged that meeting this control level may necessitate the installation of SCR technology (31 TexReg 10599, December 29, 2006). SCR would cost more than the technologies already evaluated for the particular stationary engines in Wise County, and would likely result in the replacement of many of the gas-fired, lean-burn engines in Wise County. Such an outcome is contrary to the definition of RACT, i.e., the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. A control level cannot represent RACT for a "particular source" if it is more cost-effective to replace that source with an entirely new source in order to meet the emission limitation. The commission's adoption of the emission specifications for gas-fired, lean-burn engines in the nine-county DFW 1997 eight-hour ozone nonattainment area represented an

appropriate control measure to help the area reach attainment with the 1997 eight-hour ozone NAAQS. However, control measures necessary to reach attainment can, and may, go beyond RACT requirements. Some of the NO_X control requirements adopted in 2007 for the DFW 1997 ozone NAAQS attainment demonstration were based only on RACT level of control and some, such as the emission specifications for gas-fired lean-burn engines, were beyond RACT. While the commission did not make this distinction in adopting the 2007 rulemaking and only indicated that the NO_X emission specifications would fulfill RACT, the distinction is necessary to make clear the commission's intent for RACT in Wise County. Additionally, the commission is allowed to make source-specific RACT determinations, as the definition of RACT states. The commission proposes that the NO_X emission specification in proposed §117.405(b)(2)(B) present RACT for the particular gas-fired lean-burn engines in Wise County.

The commission did not identify in Wise County any gas-fired engines fired on land-fill gas or any diesel fuel-fired or dual fuel-fired engines in the 2012 EI. Therefore, the commission is not proposing NO_X RACT requirements for these categories of stationary engines.

The commission proposes new §117.405(b)(3) for NO_X emission specifications for stationary gas turbines in Wise County. Stationary gas turbines with a hp rating of less than 4,500 hp would be limited to 0.45 lb/MMBtu; stationary gas turbines with a hp rating of 4,500 hp or greater, but less than 10,000 hp, would be limited to 0.20 lb/MMBtu; and stationary gas turbines with a hp rating of 10,000 hp or greater would be limited to 0.15

lb/MMBtu. These limits for industrial gas turbines are based on information identified in the 2012 EI similar to the approach used for gas-fired lean-burn engines: retrofit options or kits to reduce NO_X emissions may not exist for some of these particular makes and models; some units have already been retrofitted with dry low-NO_X combustors to reduce emissions and thus may be unable to further reduce NO_X emissions; and in some cases the cost to retrofit the unit may be more than the cost of a new unit. The commission therefore proposes that these proposed emission levels for these specific units would satisfy RACT requirements considering technological and economic feasibility.

Proposed new §117.405(c), concerning NO_X averaging time, specifies the averaging times for compliance with the emission specifications of proposed new §117.405(a) and (b). Proposed new §117.405(c)(1) specifies the averaging time for units equipped with CEMS or predictive emissions monitoring systems (PEMS) and provides three options under proposed subparagraphs (A) - (C). Proposed subparagraph (A) specifies a rolling 30-day average, in units of the applicable emission standard. Proposed subparagraph (B) specifies a block one-hour average basis, in the units of the applicable emission standard. Proposed subparagraph (C) specifies a block one-hour average, in pounds per hour, for boilers and process heaters, calculated based on the maximum-rated capacity and the applicable emission specification. For units not equipped with CEMS or PEMS, proposed new §117.405(c)(2) requires the averaging time to be a block one-hour average in the units of the applicable emission standard but allows the emission specifications for boilers and process heaters to be applied in pounds per hour as specified in proposed new §117.405(c)(1)(C).

The commission proposes new §117.405(d) that would establish emission specifications for related emissions from any unit subject to the emission specifications in proposed new §117.405(a) or (b). This is necessary to ensure that the NO_X reduction strategies of this proposed rulemaking do not result in a significant increase in emissions of other pollutants. Proposed new §117.405(d)(1) establishes a carbon monoxide (CO) emission specification of 400 ppmv at 3.0% O_2, dry basis (or alternatively, 3.0 g/hp-hr for stationary internal combustion engines; or 775 ppmv at 7.0% O_2, dry basis for wood fuel-fired boilers or process heaters) on a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO, and on a block one-hour averaging period for units not equipped with CEMS or PEMS for CO. Proposed new §117.405(d)(2) specifies that units that inject urea or ammonia into the exhaust stream for NO_X control must meet a 10 ppmv ammonia emission specification. The 10 ppmv ammonia emission specification is corrected to 3.0% O_2, dry, for boilers and process heaters, 15% O_2, dry, for stationary gas turbines and gas-fired lean-burn engines, and 3.0% O_2, dry, for all other units. The specified averaging time for the ammonia emission specification is on a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia, and on a block one-hour averaging period for units not equipped with CEMS or PEMS for ammonia. Proposed new subsection (d)(3) specifies that the correction of CO emissions to 3.0% O_2, dry basis, does not apply to boilers or process heaters operating at less than 10% of maximum load and with stack O_2 more than 15%.

Proposed new §117.405(e) specifies conditions for compliance flexibility with the NO_X

emission specifications of proposed new §117.405. Proposed new §117.405(e)(1) specifies that owners or operators may use the source cap option under proposed revised §117.423, or emission reduction credits as specified in proposed revised §117.9800 to comply with the NO_X emission specifications of proposed new §117.405(a) or (b). Proposed new subsection (e)(2) prohibits using proposed revised §117.425 as a method of compliance with the NO_X emission specifications of proposed new §117.405(a) or (b). This prohibition is necessary to ensure that the NO_X reductions anticipated from this proposed rulemaking would be realized. Proposed new subsection (e)(3) specifies that owners or operators may petition the executive director for an alternative to the CO and ammonia emission specifications of proposed new §117.405(d) according to proposed revised §117.425.

The commission proposes new §117.405(f) to establish provisions for prohibition of circumvention to ensure that the anticipated NO_X emission reductions associated with this proposed rulemaking would be realized. The proposed new subsection (f)(1) establishes that the maximum-rated capacity used to determine the applicability of the emission specifications in proposed new §117.405, the initial compliance demonstration in proposed revised §117.435, the monitoring and testing requirements in proposed revised §117.440, and the final control plan requirements in proposed new §117.452, respectively, must be the greater of the maximum-rated capacity as of December 31, 2012, the maximum-rated capacity after December 31, 2012, or the maximum-rated capacity authorized by a permit issued under 30 TAC Chapter 116 after December 31, 2012. Proposed new §117.405(f)(2) specifies that a unit's classification for the purposes of proposed revised new Subchapter B,

Division 4, is determined by the most specific classification applicable to the unit as of December 31, 2012. Finally, proposed new §117.405(f)(3) specifies that a source that met the definition of a major source as of December 31, 2012 is always classified as a major source for the purposes of proposed revised Subchapter B, Division 4. A source that did not meet the definition of major source on December 31, 2012, but which at any time after December 31, 2012, becomes a major source, would from that time forward always be classified as a major source for purposes of proposed revised Subchapter B, Division 4.

Section 117.410, Emission Specifications for Eight-Hour Attainment Demonstration

The commission proposes amending existing §117.410(a) and to move existing §117.410(b), Emission specifications for eight-hour ozone attainment demonstration, to proposed §117.410(a). The commission established the emission specifications under existing §117.410(a) for stationary, gas-fired rich-burn and lean-burn reciprocating internal combustion engines with a maximum-rated capacity of 300 hp or greater under the 5% IOP plan for the nine counties in the existing DFW 1997 eight-hour ozone nonattainment area. With the passing of the compliance date for eight-hour ozone attainment demonstration emission specifications in existing §117.9030(b), these gas-fired engines are now subject to emission specifications for eight-hour ozone attainment demonstration in existing §117.410(b). In addition, the commission proposes to specifically list Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County in proposed subsection (a) to make clear that the emission specifications provided in the subsection are only applicable in those counties and because emission specifications applicable in Wise County are proposed

to be listed separately.

Because of the amendment to subsection (a), all other subsections are being re-lettered accordingly.

Proposed revisions to existing §117.410(b)(7)(A) include updating the reference in the figure to proposed §117.410(a)(7)(A) to coincide with the proposed incorporation of existing §117.410(b) into proposed §117.410(a).

Proposed §117.410(c) establishes NO_X emission specifications for related emissions from any unit subject to the emission specifications in proposed §117.410(a). The commission proposes to delete existing subparagraph (A) of existing subsection (d)(4) to be concurrent with proposed the amendment of existing §117.410(a) and also because the IOP standards for the nine counties in the existing DFW area are being amended. In addition, the commission proposes to move the provisions in existing subparagraph (B) of existing subsection (d)(4) to proposed §117.410(c)(4)(A) - (C) because the restructuring of paragraph (4) is necessary to conform to *Texas Register* formatting requirements.

Proposed revisions to existing §117.410(f)(5) include updating the reference from existing §117.410(b)(14) to proposed §117.410(a)(14) to coincide with the proposed incorporation of existing §117.410(b) into proposed §117.410(a). Lastly, the commission proposes to delete existing §117.410(f)(6) since stationary gas-fired engines are no longer subject to existing

§117.410(a). These gas-fired engines are now subject to provisions in existing §117.410(b), which is proposed to be moved to proposed §117.410(a).

In §117.410(f), the commission proposes to clarify that testing or maintenance associated with the operating restriction of any stationary diesel or dual-fuel engine for testing or maintenance between the hours of 6:00 a.m. and noon refers to testing or maintenance of the engine itself.

Section 117.423, Source Cap

The commission proposes revisions to §117.423(a) to incorporate references to proposed new §117.405, Emission Specifications for RACT. The source cap approach is an option provided to owners or operators of affected units for demonstrating compliance with the NO_X emission specifications of proposed new §117.405 in addition to those of proposed revised §117.410.

Proposed revised §117.423(b) specifies the equations and procedures for determining the source cap allowable NO_X mass emission rate. The equation in proposed revised §117.423(b)(1) specifies how to calculate the 30-day rolling average emission cap in pounds per day. Proposed revised §117.423(b)(1) would contain new section cross-references to proposed new §117.405. Proposed revised subsection(b)(1) would also define the averaging period for determining the historical average daily heat input, variable H_i, as the 24 consecutive months between January 1, 2012 and December 31, 2013 for units subject to

proposed new §117.405. In addition, the effective date for an applicable permit emission limit for clause (ii) of variable R_i for units subject to proposed new §117.405 is December 31, 2012. The commission proposes the new date and date range to make clear the dates that would apply to units subject to proposed new §117.405 and the existing date and date range in existing subsection (b)(1) that apply to units subject to §117.410.

Proposed revised §117.423(b)(4) contains an update to the equation for calculating the source cap allowable emission rate, in pounds per hour, for stationary internal combustion engines. The commission proposes to revise the exponential power in the equation from a positive to a negative number. This change would allow the units, Btu and MMBtu, of the equation to properly cancel. Without this proposed change, the equation would calculate a value that would misrepresent the cap that is intended by the existing rule.

Proposed revised §117.423(b)(5) specifies the equations for calculating the source cap allowable emission rate, in pounds per hour, for stationary gas turbines. The commission proposes to delete the section cross-reference to existing §117.410(b) in the equation and to add new section cross-references to proposed new §117.405 and proposed revised §117.410 to reflect changes proposed in those sections.

Proposed revised §117.423(g) includes section cross-references to proposed new §117.405 for conditions for including a permanently retired, decommissioned, or rendered inoperable unit in the source cap. Proposed revised subsection (g)(1) specifies that the

shutdown must have occurred after December 31, 2012, for units subject to proposed new §117.405. In addition for units subject to proposed new §117.405, if the unit was not in service 24 consecutive months between January 1, 2012 and December 31, 2013, proposed revised subsection (g)(3) specifies the actual heat input must be the average daily heat input for the continuous time period that the unit was in service, consistent with the heat input used to represent the unit's emissions in the 2012 modeling inventory. The commission proposes the new date and date range to make clear the dates that would apply to units subject to proposed new §117.405 and the existing date and date range in existing subsection (g) that apply to units subject to §117.410. The years used for the rule represent the year associated with the level of activity of the units participating in the cap and the baseline that is established for modeling emissions at the time the regulations are developed. The cap is then based on that year.

Section 117.425, Alternative Case Specific Specifications

The commission proposes to revise existing §117.425(a), which provides procedures concerning alternative case specific specifications, by including new section cross-references to proposed new §117.405(d) and a corrected reference to §117.410(c). Proposed revisions to paragraph (2) include a section cross-reference to proposed new §117.405.

Section 117.430, Operating Requirements

The commission proposes revisions to existing §117.430, which establishes operating

requirements for sources subject to proposed revised Subchapter B, Division 4. Proposed revised subsection (b) adds a section cross-reference to proposed new §117.405. Additional changes to proposed revised subsection (b) include deleting the reference to existing §117.410(a) and (b) and a proposed reference to revised §117.410.

Section 117.435, Initial Demonstration of Compliance

The commission proposes revisions to existing §117.435, which details the monitoring and testing procedures required to demonstrate compliance with the emission specifications of Subchapter B, Division 4. Proposed revised §117.435(c) replaces the reference to "*relative accuracy test audit*" (RATA) with the more general term, "*monitor certification.*" This change clarifies that verification of operational status must include completion of the initial monitor certification, which includes not only the RATA but also the seven-day drift test.

Section 117.440, Continuous Demonstration of Compliance

Proposed revised §117.440(a)(1), which details the list of units that would be subject to the fuel metering requirements of proposed revised §117.440(a), adds a section cross-reference to proposed new §117.405, concerning emission specifications for RACT. The commission is also clarifying that operation of the totalizing fuel flow meter in conjunction with the unit operating time is not time averaged over a calendar year but instead continuous operating time during a calendar year that is representative of the total fuel meter operating time. This total fuel meter operating time must still be at least 95% of the time that the unit operates. In addition, the commission proposes revised §117.440(a)(1)(A) to provide an

exemption for wood-fired boilers to the fuel flow metering requirements of existing subsection (a)(1). Instead of installing and operating a totalizing fuel flow meter, owners or operators of wood-fired boilers in the 10-county DFW 2008 eight-hour ozone nonattainment area would demonstrate compliance with the monitoring provisions of proposed revised Subchapter B, Division 4 through either fuel use records that would be required in proposed revised §117.445(f) or the alternative monitoring provision of existing §117.440(a)(2)(A). As mentioned previously in this preamble, the one wood-fired boiler identified in Kaufman County currently operates with SCR and a NO_X CEMS.

Provisions in existing subsection (c) specify the units for which owners and operators shall install and operate a CEMS or PEMS to monitor NO_X exhaust, criteria for exempt units, and methods to be used to provide substitute emissions compliance data during periods when the NO_X monitors are offline. Proposed revisions to subsection (c)(1) include adding section cross-references to proposed new §117.405(a) and (b) and proposed revised §117.410(a) and deleting references to existing §117.410(b). Proposed revised §117.440(d), concerning ammonia monitoring requirements, adds section cross-references to proposed new §117.405(a) and (b) and proposed new §117.410(a) and deletes a reference to existing §117.410(b). In addition, the commission proposes a reference to proposed new §117.405(d)(2) to be consistent with the proposed new §117.405.

The commission is also requesting comments during this rulemaking proposal on the NO_X monitoring requirements in existing §117.440(c) for ceramic kilns. It has come to the

attention of the commission that issues associated with NO_X monitoring using a CEMS or PEMS may exist for owners or operators of ceramic kilns. Existing subsection (c) requires owners or operators of a ceramic kiln to install, calibrate, maintain, and operate a CEMS or PEMS to monitor exhaust NO_X. The commission therefore requests comments on alternatives, such as periodic testing, to the existing provisions of the NO_X monitoring requirements of existing §117.440(c) for ceramic kilns.

Proposed revised §117.440(j), concerning data used for compliance, specifies that the methods required in proposed revised §117.440 must be used to demonstrate compliance with the emission specifications after the initial demonstration of compliance required by proposed revised §117.435. The commission proposes references to proposed new §117.405(a) and (b) and proposed new §117.410(a) and repeal of the reference to existing §117.410(a) and (b).

Finally, proposed revised §117.440(k) specifies the testing and retesting requirements for units subject to the emission specifications of proposed new §117.405(a) or (b) or proposed revised §117.410(a). The commission proposes deleting existing paragraph (1), which has now been made obsolete by the passing of compliance dates in existing §117.9030(a) and also contains provisions for units subject to existing §117.410(a). The amendment of paragraph (1) would be concurrent with the proposed amendment of existing §117.410(a) and existing §117.9030(a), concerning IOP emission specifications. The commission proposes to move existing subsection (k)(2) to subsection (k)(1). In addition, the

commission proposes new references to proposed new §117.405(a) and (b) and proposed revised §117.410(a) and remove the reference to existing §117.410(b). Proposed new paragraph (1) would require the owner or operator of units subject to the emission specifications of proposed new §117.405(a) or (b) or proposed revised §117.410(a) to test the units as specified in proposed revised §117.435, Initial Demonstration of Compliance, in accordance with the schedule specified in proposed revised §117.9030.

The commission proposes to move existing paragraph (3) to proposed amended paragraph (2). Proposed changes also include references to proposed new §117.405(a) and (b) and proposed revised §117.410(a) with removal of the reference to existing §117.410(b). Proposed amended subsection (k)(2) is a retesting requirement for owners or operators to retest any unit subject to the emission specifications of proposed new §117.405(a) or (b) or proposed revised §117.410(a) after any modification that could be reasonably expected to increase the NO_X emission rate. This proposed retesting provision applies to units that are not equipped with CEMS or PEMS to monitor NO_X emissions.

Section 117.445, Notification, Recordkeeping, and Reporting Requirements

The commission proposes removing the requirements in existing §117.445(b)(1) and (2), which specify the notification requirements for units subject to the emission specifications of existing §117.410(a) and (b), respectively. As mentioned elsewhere in the *Section by Section Discussion* of this preamble, existing §117.410(a) is concurrently proposed for amendment due to the passing of compliance dates in existing §117.9030(a) and because

affected units of existing §117.410(a) are now subject to emission specifications in existing §117.410(b), which is also concurrently proposed to be moved to proposed §117.410(a). In addition, the commission proposes §117.445(b) to contain the provisions of proposed amended §117.445(b)(2), which detail the notification requirements for units subject to existing §117.410(b). Proposed §117.445(b) would also include section cross-references to proposed new §117.405(a) and (b) and proposed revised §117.410(a). Under proposed new subsection (b), written notice is required at least 15 days in advance of the date of any CEMS or PEMS performance evaluation conducted under proposed revised §117.440 or stack test conducted under proposed revised §117.435.

Proposed revised §117.445(e), which specifies the semiannual reporting requirements for owners or operators of any gas-fired engines, includes a section cross-reference to proposed new §117.405. Written reports of excess emissions and the air-fuel ratio monitoring system performance must be submitted to the executive director.

Proposed revised §117.445(f) specifies requirements for written or electronic records for owners or operators of units subject to the requirements of this division. Proposed revised subsection (f)(4), which specifies that records of monthly hours of operation must be maintained for units claiming an exemption based on hours per year of operation, includes section cross-references to proposed §117.403(b)(2)(D) to reflect proposed changes in §117.403. The commission proposes to clarify that owners or operators of stationary gas turbines are also required to maintain records of the purpose of unit operation, such as the

identification of the type of emergency situation.

The commission proposes revisions to existing subsection (f)(9) to clarify that records retention of each time a stationary diesel or dual-fuel engine is operated for testing and maintenance refers to testing and maintenance of the diesel or dual-fuel engine itself. Finally, proposed revised §117.445(f)(10) updates the existing section cross-reference from existing §117.410(b)(7)(A)(ii) to proposed §117.410(a)(7)(A)(ii), to coincide with the amendment of existing §117.410(a) and the proposed re-lettering of existing §117.410(b) to proposed §117.410(a).

Section 117.450, Initial Control Plan Procedures

The commission proposes revisions to existing §117.450, concerning the requirements and procedures for submitting an initial control plan. The commission proposes in §117.450(a), (a)(1), (1)(C), and (2) section cross-references to proposed new §117.405(a) and (b) and proposed revised §117.410(a) and to delete references to existing §117.410(b). Proposed revised §117.450(a) requires the owner or operator of any unit at a major source of NO_X in the 10-county DFW area that is subject to proposed new §117.405(a) or (b) or proposed revised §117.410(a) to submit an initial control plan and lists the content requirements for the initial control plans. Sources in the nine-county DFW area already subject to §117.410 would have previously been required to submit the initial control plans. Sources subject to proposed new §117.405 would be required to submit initial control plans by the applicable compliance date.

The commission proposes to revise existing subsection (b) to update the section cross-reference from existing §117.9030(b) to proposed revised §117.9030. Proposed revised §117.450(b) specifies the initial control plan must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the Office of Air by the applicable date specified for initial control plans in proposed revised §117.9030.

Finally, the commission proposes to delete existing §117.450(c), which specifies that for units located in Dallas, Denton, Collin, and Tarrant Counties, subject to existing Subchapter B, Division 2, the owner or operator may elect to submit the most recent revision of the final control plan required by proposed repealed §117.254 in lieu of the initial control plan required by existing subsection (a). The proposed deleted §117.450(c) would be concurrent with the proposed repeal of existing Subchapter B, Division 2 due to the passing of compliance dates and because sources of NO_X previously subject to Subchapter B, Division 2 are now required to comply with more stringent rules in existing Subchapter B, Division 4.

Section 117.452, Final Control Plan Procedures for Reasonably Available Control Technology

The commission proposes a new §117.452 that would require the owner or operator of any unit subject to proposed new §117.405(a) or (b) at a major source of NO_X to submit a final control report to show compliance with the requirements of proposed new §117.405.

Proposed new §117.452(a)(1) - (5) specifies the content requirements of the report. The final control report must identify which sections are used to demonstrate compliance. The report must include: the method of NO_X control for each unit; the emissions measured by testing required in proposed revised §117.435; and the specific rule citation for any unit with a claimed exemption from the emission specifications of proposed new §117.405(a) or (b). In addition, if a compliance stack test report or monitor certification report required by proposed revised §117.435 is not being submitted concurrently with the final control report, the final control report must include the date the compliance stack test report or monitor certification report was submitted, and whether it was sent to the central office, the regional office, or both offices.

Proposed new §117.452(b)(1) - (3) specifies that for sources complying with proposed revised §117.423 in addition to the requirements of proposed new subsection (a), the owner or operator shall submit: the calculations used to calculate the 30-day average and maximum daily source cap allowable emission rates; the average daily heat input, variable H_i, specified in proposed revised §117.423(b)(1); the maximum daily heat input, variable H_{mi}, specified in proposed revised §117.423(b)(2); the method of monitoring emissions; the method of providing substitute emissions data when the NO_X monitoring system is not providing valid data; and an explanation of the basis of the values of variables H_i and H_{mi}.

Proposed new §117.452(c) specifies the report must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the Office of Air by the

applicable date specified for final control plans in proposed revised §117.9030(a). The plan must be updated with any emission compliance measurements submitted for units using a CEMS or PEMS and complying with the source cap rolling 30-day average emission limit, according to the applicable schedule in proposed revised §117.9030(a).

Section 117.454, Final Control Plan Procedures for Attainment Demonstration Emission Specifications

The commission proposes revisions to existing §117.454 which require the owner or operator of any unit subject to proposed revised §117.410 at a major source of NO_X to submit a final control report to show compliance with the requirements of proposed revised §117.410. Proposed revised §117.454(a)(4) updates the reference to "*relative accuracy test audit"* to "*monitor certification"* consistent with the concurrently proposed revision to §117.435(c). Proposed revised §117.454(b)(2)(B) corrects a section cross-reference from §117.423(b)(1) to §117.423(b)(2), for sources choosing the source cap compliance option.

Finally, proposed revised §117.454(c) specifies the report must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the Office of Air by the applicable date specified for final control plans in proposed revised §117.9030.

Section 117.456, Revision of Final Control Plan

The commission proposes revisions to existing §117.456 by adding in paragraph (1) a section cross-reference to proposed new §117.405. The section specifies the conditions

under which a revised final control plan may be submitted by the owner or operator, along with any required permit applications. Paragraphs (1) - (3) specify that such a plan must adhere to the requirements and the final compliance dates of the division, and that for sources complying with proposed new §117.405 or proposed revised §117.410, replacement new units may be included in the control plan. Also, for sources complying with proposed revised §117.423, any new unit must be included in the source cap if the unit belongs to an equipment category that is included in the source cap.

SUBCHAPTER C, COMBUSTION CONTROL AT MAJOR UTILITY ELECTRIC GENERATION SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 2, DALLAS-FORT WORTH OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

The commission proposes repeal of existing Subchapter C, Division 2, which has been made obsolete by the passing of compliance dates because sources of NO_X previously subject to this division are now required to comply with more stringent rules in existing Subchapter C, Division 4.

DIVISION 4, DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

To address new RACT requirements for sources of NO_X located in Wise County, the commission is proposing revisions in Subchapter C, Division 4, that would revise existing rule language and requirements associated with any major utility electric generation source

of NO_X in the 10-county DFW 2008 eight-hour ozone nonattainment area. The definition of a major source of NO_X in Wise County is in proposed revised §117.10(29)(C) and includes any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit 100 tpy of NO_X.

Section 117.1303, Exemptions

Proposed revisions to §117.1303 clarify exemption criteria of units that would be exempt from specified requirements of proposed revised Subchapter C, Division 4. The commission is proposing to remove the existing exemption in §117.1303(a)(1), which applies to any new auxiliary steam boiler or stationary gas turbine placed into service after November 15, 1992. This revision is proposed to make the utility rules that apply to gas turbines in the DFW area consistent with the major source industrial rules in the DFW area and to provide a simpler RACT demonstration for the affected utility sources. Affected auxiliary steam boilers and gas turbines would be required to meet the NO_X emission specifications and monitoring and testing requirements, which are not proposed for revision, of proposed revised Subchapter C, Division 4. Based on a TCEQ review of the 2012 EI and available air permit information, the TCEQ expects that all existing auxiliary steam boilers in the nine counties of the DFW 1997 eight-hour ozone nonattainment area were constructed prior to the exemption date of November 15, 1992. Therefore, the exemption in §117.1303(a)(1) did not apply to these existing units, and no impact is expected as a result of the proposed repeal of the exemption. New units would either qualify for the existing exemption in §117.1303(a)(2) based on annual heat input or would be required to comply with the

provisions of proposed revised Subchapter C, Division 4. No auxiliary steam boilers were identified in Wise County.

After reviewing the 2012 EI and available air permit information for all existing gas turbines in the nine counties of the DFW 1997 eight-hour ozone nonattainment area, the TCEQ has concluded that all existing gas turbines in the nine counties of the DFW area were placed into service after November 15, 1992. Although the proposed removal of the exemption in §117.1303(a)(1) would affect these existing units, all of the affected turbines would already meet the NO_X emission specifications and monitoring requirements of proposed revised Subchapter C, Division 4. Existing monitoring provisions require owners or operators of units subject to the NO_X emission specifications to install, calibrate, maintain, and operate a NO_X emissions monitoring system. Because these units already meet the NO_X emission specifications and monitoring requirements of Subchapter C, Division 4, the commission does not expect adverse impacts to owners or operators of affected units in the nine counties of the DFW area as a result of deleting the requirement in §117.1303(a)(1). New units would either qualify for the existing exemption in §117.1303(a)(3)(B) based on unit operating hours or would be required to comply with the provisions of proposed revised Subchapter C, Division 4. One utility electric generation source in Wise County was identified as an affected source. Based on 2012 EI information, this source would already meet the NO_X emission specifications and monitoring requirements of proposed revised Subchapter C, Division 4. The remaining paragraphs will be renumbered accordingly.

The commission proposes revising the operating hours limit for exemption criteria for stationary gas turbines and stationary internal combustion engines in proposed §117.1303(a)(2)(B) from a rolling 12-month average to a rolling 12-month basis. The owner or operator of an affected unit would sum all operating hours for a consecutive 12-month period, and continue doing so on a rolling 12-month basis, as opposed to calculating the average of all operating hours during a consecutive 12-month period. This would more accurately reflect the intent of the rule and how an affected unit would demonstrate compliance with the operating restriction of a total of 850 hours per year.

Section 117.1310, Emission Specifications for Eight-Hour Attainment Demonstration

Proposed revised §117.1310(b) establishes emission specifications of related emissions for units that are subject to the emission specifications of subsection (a) of this section. The commission proposes deleting existing §117.1310(b)(1) and (2) due to removing ammonia emission specification found in existing subsection (b)(2)(B) and restructuring of subsection (b) that would be necessary to conform to current *Texas Register* formatting requirements. Existing paragraph (2) specifies ammonia emission specifications for units that are subject to the NO_X emission specifications of §117.1310(a). Existing paragraph (2)(A) applies only to units that inject urea or ammonia into the exhaust stream for NO_X control while existing paragraph (2)(B) applies to all units. Existing §117.1310(b)(2)(B) cites a RACT emission specification for ammonia that is now obsolete, and the commission proposes that an ammonia emission specification is needed only for units that use urea or

ammonia for control of NO_X emissions.

In restructuring subsection (b), the commission proposes to move the existing provisions of §117.1310(b)(1)(A) to proposed §117.1310(b)(1)(A) and (B). The existing provisions of §117.1310(b)(1)(B) are proposed to be moved to proposed §117.1310(b)(2). The existing provisions of §117.1310(b)(2)(A) are proposed to be moved to proposed §117.1310(b)(3)(A) and (B).

Section 117.1325, Alternative Case Specific Specifications

Minor stylistic, non-substantive changes are proposed in existing subsection (a) of this section. No other changes are proposed.

Section 117.1335, Initial Demonstration of Compliance

The commission proposes a paragraph (4) in existing §117.1335(d) to specify the monitoring procedures to be followed for units complying with a NO_X emission specification in lb/MMBtu on a block one-hour average. Existing rule provisions address monitoring procedures for units complying with a NO_X emission specification in lb/MMBtu on a rolling 30-day average and on a rolling 24-hour average; however, they do not address how units must comply with a NO_X emission specification in lb/MMBtu on a block one-hour average. The commission proposes to renumber existing paragraph (4) to paragraph (5). In addition, the commission proposes a paragraph (6) to specify the monitoring procedures to be followed for units complying with a NO_X emission

specification in lb/MMBtu on a rolling 168-hour average.

Similar to the approach for proposed paragraph (4), existing rule provisions do not address how units must comply with a NO_X emission specification in lb/MMBtu on a rolling 168-hour average. The commission proposes that the 168-hour average emission rate is calculated using the equation in §117.1310(a)(1)(D). In addition, the commission proposes to clarify that the system-wide heat input weighted average is calculated for each hour, and the average of that hourly data during the 168-hour test period is used to demonstrate compliance. Finally, the commission proposes to renumber existing paragraph (5) to proposed paragraph (7).

Section 117.1340, Continuous Demonstration of Compliance

The commission proposes changes to existing §117.1340, which details the operating, monitoring, and testing procedures required by owners or operators of units subject to the emission specifications of proposed revised §117.1310 in order to demonstrate continuous compliance. Proposed revised §117.1340(c), concerning ammonia monitoring requirements, updates a reference from existing §117.1310(b)(2)(A) and to proposed §117.1310(b)(3) to coincide with the changes proposed in §117.1310(b). Alternative NO_X monitoring provisions for auxiliary steam boilers are provided in existing subsection (f). Proposed revisions to §117.1340(f) include rule language to clarify that the alternative monitoring provisions for using a CEMS apply to monitoring only NO_X emissions. Proposed revised §117.1340(h)(2) includes additional rule language to clarify that stationary gas

turbines that are not rated less than 30 megawatts (MW) or that are not peaking gas turbines that use steam or water injection must use either a CEMS or PEMS to comply with the monitoring requirements for stationary gas turbines that are subject to the stationary gas turbine emission specifications of §117.1310.

Section 117.1345, Notification, Recordkeeping, and Reporting Requirements

Proposed revised subsection (d) specifies the semiannual reporting requirements for owners or operators of units using a CEMS, PEMS, or steam-to-fuel or water-to-fuel ratio monitoring system under proposed revised §117.1340. Proposed changes to subsection (d)(5) add a PEMS to the list of monitoring systems for which the owner or operator must submit a summary report and an excess emission report if the monitoring system downtime for the reporting period is greater than or equal to 5.0% of the total unit operating time for the reporting period. Proposed revised subsection (e)(3) also clarifies that the owner or operator of each unit subject to the requirements of the division shall maintain records of the quantity and type of each fuel burned in the unit. All other proposed changes to existing §117.1345 are minor stylistic, non-substantive changes.

Section 117.1350, Initial Control Plan Procedures

The commission proposes to delete existing subsection (c), which contains references to existing §117.1110 and §117.1154, concurrently proposed for repeal, to be consistent with the proposed repeal of existing Subchapter C, Division 2.

Section 117.1354, Final Control Plan Procedures for Attainment Demonstration Emission Specifications

Proposed revised §117.1354 requires the owner or operator of utility boilers listed in §117.1300 at a major source of NO_X to submit a final control plan to show compliance with the requirements of proposed revised §117.1310. Proposed §117.1354(a)(3) updates the reference to "*relative accuracy test audit*" to "*monitor certification*" consistent with the language in §117.1335(c). All other changes are minor revisions to update TCEQ office names and references.

SUBCHAPTER G, GENERAL MONITORING AND TESTING REQUIREMENTS

DIVISION 1, COMPLIANCE STACK TESTING AND REPORT REQUIREMENTS

Section 117.8000, Stack Testing Requirements

The commission proposes §117.8000(e) to establish emission testing provisions for boilers and process heaters that are used on a temporary basis and are therefore installed or relocated to an account to be operated for a brief period of time. The owner or operator of a site that temporarily brings a unit on-site for short periods of time would not have sufficient amount of time to perform the testing requirements of the rule. These proposed requirements would be applicable to affected units in all areas covered by Chapter 117. Proposed subsection (e) would provide compliance flexibility to owners or operators that use temporary boilers or process heaters for less than 60 consecutive calendar days by allowing the owner or operator to use previous stack test results conducted on the boiler or process heater or a manufacturer's guarantee of performance. The previous testing results

or manufacturer's guarantee must be for the unit that would be newly installed at the account and not testing results or guarantee of performance for a similar unit make or model. For the purposes of this proposed subsection, the term "relocate" or “relocated” means to newly install at an account, as defined in §101.1, Definitions, a boiler or process heater from anywhere outside of that account. Proposed subsection (e)(1) specifies that if previous testing results are used, testing must have been conducted on the same boiler or process heater in accordance with §117.8000(b) - (d). In addition, the owner or operator of the site temporarily installing the unit shall maintain a record of the previous test report as specified by the recordkeeping requirements under Chapter 117 applicable to the site.

Proposed subsection (e)(2) specifies that the owner or operator shall physically remove the unit from the account no later than 60 consecutive calendar days after installing the unit at the account. If the owner or operator chooses not to physically remove the unit from the account, the owner or operator shall comply with the testing requirements as specified in §117.8000(b) - (d). Lastly, the commission proposes that extensions to the 60 consecutive calendar days limitation of proposed subsection (e) would not be provided. This is to prevent circumvention of satisfying the applicable initial demonstration of compliance and testing requirements that would otherwise apply to the affected stationary boiler or stationary process heater subject to Chapter 117. In addition, the commission does not anticipate that these affected units would be using a CEMS or PEMS for demonstrating compliance with the requirements of Chapter 117.

SUBCHAPTER H, ADMINISTRATIVE PROVISIONS

DIVISION 1, COMPLIANCE SCHEDULES

Section 117.9010, Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources

The commission proposes the repeal of existing §117.9010, which has been made obsolete by the passing of compliance dates because sources of NO_X previously subject to this section are now required to comply with more stringent rules in proposed revised §117.9030.

Section 117.9030, Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources

The commission proposes deleting existing §117.9030(a), concerning compliance schedule for IOP emission specifications. With the passing of the compliance date for eight-hour ozone attainment demonstration emission specifications in existing §117.9030(b), these gas-fired engines are now subject to emission specifications for eight-hour ozone attainment demonstration in existing §117.410(b), which the commission is proposing as revised §117.410(a).

The commission proposes a new subsection (a) in §117.9030, concerning RACT emission specifications, to specify the compliance schedule requirements for units subject to the emission specifications of proposed new §117.405(a) and (b). Proposed §117.9030(a)(1) requires the owner or operator of any stationary source of NO_X in the 10-county DFW 2008 eight-hour ozone nonattainment area that is a major source of NO_X and is subject to

proposed new §117.405(a) or (b) to submit the initial control plan required by proposed revised §117.450 no later than June 1, 2016, and to comply with all other requirements of proposed revised Subchapter B, Division 4 as soon as practicable, but no later than January 1, 2017. Proposed §117.9030(a)(2) specifies that the owner or operator of any stationary source of NO_X that becomes subject to the requirements of proposed revised Subchapter B, Division 4 on or after January 1, 2017, shall comply with the requirements of Subchapter B, Division 4 as soon as practicable, but no later than 60 days after becoming subject. For example, new units placed into service after January 1, 2017 would be required to comply within 60 days after startup of the unit. Existing units previously exempt from the rule but no longer qualifying for that exemption after January 1, 2017 would be required to comply with the proposed rule no later than 60 days after the unit no longer qualifies for the exemption.

Proposed §117.9030(a)(3) specifies that if Wise County is not designated a nonattainment county as part of the DFW 2008 eight-hour ozone nonattainment area, an owner of operator of any unit located at a major stationary source of NO_X located in Wise County would not be required to comply with the applicable requirements of proposed revised Subchapter B, Division 4. The commission would publish notice of a change in nonattainment status for Wise County in the *Texas Register*. This change is proposed because Texas is currently in litigation over the inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area, as discussed elsewhere in this preamble. As the commission cannot predict the outcome of this litigation at this time, the commission is

proposing rules that will ensure that sources within Wise County will be properly accounted for in the DFW 2008 attainment demonstration SIP.

Proposed revisions to existing §117.9030(b), concerning eight-hour ozone attainment demonstration emission specifications, include updates to section cross-references. Proposed revised §117.9030(b)(1), (1)(B), (B)(i) and (ii) include deleting the references to existing §117.410(b) and proposing references to §117.410(a). Proposed revised paragraph (1)(C) deletes the reference to existing §117.410(g) and adds a reference to proposed §117.410(f).

Section 117.9110, Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources

The commission proposes repeal of existing §117.9110, which has been made obsolete by the passing of compliance dates because sources of NO_X previously subject to this section are now required to comply with more stringent rules in proposed §117.9130.

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

Proposed revised §117.9130 specifies the compliance schedule for owners or operators of electric utilities subject to proposed revised Subchapter C, Division 4. Proposed subsection (a), which specifies the compliance schedule for existing electric utilities subject to the existing rule, deletes a reference to the existing DFW eight-hour ozone nonattainment area

and proposes the following new list of counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties. This change is proposed to be consistent with the proposed revised definition of DFW eight-hour ozone nonattainment area in §117.10 and to distinguish between the existing compliance schedule for sources currently subject to the rule and those that would be newly subject by the proposed rulemaking.

The commission proposes §117.9130(b) to detail the compliance schedule for auxiliary steam boilers and stationary gas turbines located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties that would be affected by the proposed amendment to the existing exemption in §117.1303(a)(1). Affected auxiliary steam boilers and stationary gas turbines would be units that were placed into service after November 15, 1992, and these affected units would be required to meet the NO_X emission specifications and monitoring and testing requirements, which are not proposed for revision, of proposed revised Subchapter C, Division 4. Proposed §117.9130(b)(1) requires the owner or operator to submit the initial control plan required by proposed revised §117.1350 by no later than June 1, 2016. Proposed §117.9130(b)(2) specifies that the owner or operator must comply with all other requirements of proposed revised Subchapter C, Division 4 as soon as practicable but no later than January 1, 2017.

The commission proposes §117.9130(c) to detail the compliance schedule for electric utilities located in Wise County subject to the proposed rule. Proposed §117.9130(c)(1) requires the owner or operator to submit the initial control plan required by proposed

revised §117.1350 by no later than June 1, 2016. Proposed subsection (c)(2) specifies that the owner or operator must comply with all other requirements of proposed revised Subchapter C, Division 4 as soon as practicable but no later than January 1, 2017. The commission proposes to move existing subsection (b) to proposed subsection (d).

Proposed §117.9130(d) specifies that for electric utilities in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County that become subject to Subchapter C, Division 4 on or after March 1, 2009, and for electric utilities in Wise County that become subject to Subchapter C, Division 4 on or after January 1, 2017, the owner or operator must comply as soon as practicable but no later than 60 days after becoming subject.

Finally, proposed §117.9130(e) specifies that if Wise County is not designated a nonattainment county as part of the DFW 2008 eight-hour ozone nonattainment area, an owner of operator of an electric utility located in Wise County would not be required to comply with the applicable requirements of proposed revised Subchapter C, Division 4. The commission would publish notice of a change in nonattainment status for Wise County in the *Texas Register*. This change is proposed because Texas is currently in litigation over the inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area, as discussed elsewhere in this preamble. As the commission cannot predict the outcome of this litigation at this time, the commission is proposing rules that will ensure that sources within Wise County will be properly accounted for in the DFW 2008 attainment demonstration SIP.

DIVISION 2, COMPLIANCE FLEXIBILITY

Section 117.9800, Use of Emission Credits for Compliance

Proposed revised §117.9800 includes section cross-reference updates to be consistent with proposed repeal of Subchapter B, Division 2, and Subchapter C, Division 2. The commission proposes revisions to existing subsections (a)(1) - (5), (b), and (d) to reflect proposed changes in the other subchapters. Proposed revised subsection (a)(1) would also add a section cross-reference to proposed new §117.405.

Section 117.9810, Use of Emission Reductions Generated from the Texas Emissions Reduction Plan (TERP)

The commission proposes revisions to existing §117.9810, which would remove cross-references to be consistent with the proposed repeal of Subchapter B, Division 2, and Subchapter C, Division 2 and renumber paragraphs accordingly. Proposed revised subsection (a)(1) would add a new reference to proposed new §117.405. The commission proposes to renumber existing subsection (a)(6) to proposed subsection (a)(2) to reflect proposed subsection (a)(2) - (5).

Fiscal Note: Costs to State and Local Government

Jeff Horvath, Analyst in the Chief Financial Officer's Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or

enforcement of the proposed rules. The proposed rules would require some major ICI sources of NO_X in the DFW area to control emissions. Fiscal implications could be significant depending on the type of emission source, the size of the source, and the type of emission control technology chosen.

The proposed rules would revise Chapter 117 to implement RACT for all major sources of NO_X in the DFW area as required by the FCAA. The state previously adopted Chapter 117 RACT rules for sources in most of the DFW area as part of the SIP for the 1997 eight-hour ozone standard; however, Wise County was classified as unclassifiable/attainment under the 1997 eight-hour ozone standard so the current RACT rules do not apply in Wise County. Under the 2008 eight-hour ozone NAAQS, the DFW 2008 eight-hour ozone nonattainment area, consisting of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties, is classified as a moderate nonattainment area with a December 31, 2018 attainment deadline. Nonattainment areas classified as moderate and above are required to meet the mandates of the FCAA. The FCAA requires that the SIP incorporate all reasonably available control measures, including RACT, for sources of relevant pollutants. The proposed rulemaking would therefore extend implementation of RACT to major sources of NO_X located in Wise County. If adopted, these rules would be submitted to the EPA as a SIP revision.

The EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering

technological and economic feasibility. Although the FCAA requires the state to implement RACT, EPA guidance provides states with the flexibility to determine the most technologically and economically feasible RACT requirements for a nonattainment area.

The proposed rules are expected to affect 27 current sites in the DFW area including 20 oil and gas facilities, six electric generation facilities, and one paperboard mill. None of the these facilities are owned or operated by units of state or local government and therefore no fiscal implications are anticipated for state or local governments for the first five-year period the proposed rules would be in effect.

Public Benefits and Costs

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules would be the reduction of NO_X in the DFW area and the enhanced protection of the environment and public health and safety through the efficient and fair administration of NO_X emission standards for the DFW 2008 eight-hour ozone nonattainment area. It is estimated that the proposed rules would reduce the amount of NO_X in the DFW area by 1.17 tons per day.

Fiscal implications are anticipated for businesses in the DFW area as a result of the administration and enforcement of the proposed rules. The proposed rules are not expected to have a direct impact on individuals other than the added health benefits from a reduction

in the amount of NO_X in the DFW area.

The proposed rulemaking would require affected businesses to comply with emission standards, conduct initial emissions testing or continuous emissions monitoring to demonstrate compliance, install and operate a totalizing fuel flow meter, perform quarterly and periodic annual emissions compliance testing on engines, submit compliance reports to the TCEQ, and maintain the appropriate records demonstrating compliance with the proposed rules, including but not limited to fuel usage, produced emissions, emissions-related control system maintenance, and emissions performance testing.

Emission sources that would be subject to the proposed rules include: industrial heaters; industrial engines; industrial turbines; utility turbines; and wood-fired boilers. There are an estimated 152 affected emission sources on 27 sites in the DFW area that would be affected by the proposed rules, with most of them in Wise County.

Oil and gas production and transmission sites and electric generating utilities in Wise County that own or operate gas-fired engines, gas-fired turbines, or gas-fired process heaters would be newly subject to the proposed rules and would be required to comply with the proposed rules. Due to proposed repeal of the existing exemption for auxiliary steam boilers and stationary gas turbines placed into service after 1992, electric generating utilities that own or operate gas-fired turbines in Collin, Ellis, Johnson, or Kaufman Counties would also be newly subject to the proposed rules and would be required to

comply with the proposed rules. Proposed removal of the exemption would apply to all nine counties of the DFW area; however, affected stationary gas-fired turbines were identified in Collin, Ellis, Johnson, and Kaufman Counties. One paperboard mill with a wood-fired boiler in Kaufman County would be required to comply with the proposed rules.

Total capital and testing costs for all affected facilities identified to implement the proposed rules are estimated to be $1,456,725 in the first year the proposed rules are in effect. Compliance testing and monitoring and maintenance costs are estimated to be $109,500 in year two, $517,875 in year three, $109,500 in year four, and $517,875 in year five for all affected sites and facilities in the DFW area. Combined total capital and total annual costs for all affected units to comply with the proposed requirements for the five-year period covered by the fiscal note are estimated to be $2,711,475, with total capital estimated to be $881,350 and total annual testing, monitoring, and maintenance costs estimated to be $1,830,125. The cost-effectiveness for the proposed emission reductions from all affected units is estimated at $1,563 per ton of NO_X reduced.

Most of the costs from the proposed rules would be incurred by facilities in Wise County and would result from compliance with the requirements to control emissions under Subchapter B, Division 4.

Utility sources of NO_X in the DFW area would be affected by Subchapter C, Division 4 of the proposed rules and are expected to incur some additional initial compliance testing and

continuous monitoring costs, but these costs are not expected to be significant (estimated to be $32,000 for all utility units subject to the emission specifications).

The following sections provide further detail on how each proposed subchapter is expected to affect the emission sources in the DFW area.

SUBCHAPTER B, DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA MAJOR SOURCES

The proposed rules would require some major ICI sources of NO_X in the DFW area to control emissions. Fiscal implications could be significant for these sources, depending on the type of emission source, the size of the source, and the type of emission-control technology chosen by the affected business.

Staff has identified 37 rich-burn engines, 84 lean-burn engines, 11 industrial turbines, and two process heaters owned or operated by businesses that would be required to install and operate additional emission controls.

All 37 rich-burn engines, 84 lean-burn engines, 11 industrial turbines, and two process heaters (or 134 emission sources) would be required to install and operate a totalizing fuel flow meter to monitor fuel usage to demonstrate compliance with the proposed rules. The wood-fired boiler is expected to use solid fuel; therefore, the wood-fired boiler located in Kaufman County would not be expected to install a totalizing fuel flow meter.

The estimated cost to purchase and install a totalizing fuel flow meter is $2,500 per meter. No annual operating and maintenance costs are expected. Fuel metering costs, therefore, have a combined total capital cost of $335,000 ($2,500 x 134 emission sources) for all affected ICI units located in Wise County.

Emissions stack testing is estimated at $3,500 per test. All engines would be required to conduct initial and periodic compliance tests as well as quarterly tests, with quarterly emissions testing using a portable NO_X analyzer estimated at $125 per test. For the first five years the proposed rules are in effect, annual costs due to compliance testing for all affected ICI units could total $517,875 in year one; $121,000 in years two and four; and $937,750 in years three and five.

Twenty-seven of the total 37 rich-burn engines in the DFW area would be required to use NSCR with an AFR controller to reduce NO_X emissions. Of the total 84 lean-burn engines, some may require combustion modifications to meet the proposed NO_X standards. Some of the 11 industrial turbine units may also require modifications to combustion methods to meet the proposed NO_X standards. Two process heaters would be subject to the proposed NO_X emission specification, and these two heaters may require installation and operation of dry low NO_X (DLN) combustors along with a single burner test to verify burner design and operation in order to meet the proposed standard. The TCEQ expects the wood-fired boiler to not require additional controls or modifications in order to meet the proposed NO_X

emission specification.

Capital costs for a new NSCR system are approximately $30/hp. For an existing system, the cost is approximately $10/hp to add catalyst elements to further reduce NO_X emissions. Three sources are anticipated to require new NSCR, and 24 are anticipated to require additional catalyst elements to meet the proposed NO_X emission specification for rich-burn gas-fired engines. The remaining ten units are expected to meet the proposed emission standard without additional controls or engine modifications. Annual costs for operation and maintenance are approximately $3,000 per year and assumed to be half of that for existing NSCR systems requiring additional catalyst elements. Capital cost associated with NSCR and secondary catalyst retrofits for 27 units are estimated to be $346,350 with annual maintenance costs of $45,000.

No capital costs due to retrofits or combustion modifications are expected for the 84 lean-burn gas-fired engines in order for these units to meet the proposed NO_X emission specifications for lean-burn engines. Analysis shows that additional controls are unnecessary in order for lean-burn engines to meet the proposed standards. Fuel meters, expected to be required for all rich-burn and lean-burn gas-fired engines that are not exempt, are estimated to total $302,500. For all 121 engines, initial and periodic compliance tests are required along with three quarterly checks. These are estimated to cost $468,875 in the first year and every other year. Quarterly checks, required for years where periodic testing is not required, is estimated to cost $60,500 per year for all 121 engines.

The requirement to perform compliance testing would allow an owner or operator of an affected engine to verify the actual performance of the engine using actual emissions data to determine compliance with the proposed standards. Application of NSCR on rich-burn gas-fired engines is estimated to achieve a reduction in NO_X emissions of 1.12 tons per day. No reductions in NO_X emissions are anticipated from these monitoring and testing requirements on lean-burn gas-fired engines.

All 11 gas-fired industrial turbines are expected to install fuel meters with a capital cost of $27,500. No capital costs due to retrofits or combustion modifications are expected for these same 11 units in order for the units to meet the proposed NO_X emission specifications for industrial gas turbines. Initial compliance testing is estimated at $38,500 for all units subject to the proposed emission specifications. These activities on gas-fired industrial turbines are not expected to result in additional reductions in NO_X emissions.

To meet the proposed NO_X standard for gas-fired process heaters, as many as two units may need to install and operate DLN combustors which have a capital cost of approximately $7,500 per burner for a conventional-style burner. A single burner test to prove the design is efficient is usually required, and estimates for this single test total $25,000. A reasonable assumption for the number of burners to meet proposed emission levels is ten burners per heater for installation. Capital costs of the retrofit for these two non-exempt units are estimated at $150,000, with an additional capital cost of approximately $50,000 for the burner tests. Annual operating and maintenance costs associated with the DLN combustors

are not expected to be significant considering the type of fuel combusted and sizes of the heaters. Fuel metering costs for the two units are estimated to be $5,000. Initial compliance testing is estimated at $7,000 for all units subject to the proposed emission specification. Combined capital costs are estimated at $205,000, and annual costs are estimated at $7,000. These burner retrofits are anticipated to achieve NO_X emission reductions of approximately 0.06 tons per day.

As the wood-fired boiler is already equipped with a SCR system for NO_X control, §117.440 requires the installation of either a CEMS or a PEMS for monitoring NO_X. However, the wood-fired boiler is already equipped with a NO_X CEMS under its permit requirements. Due to the NO_X monitoring requirement, §117.440 also requires CO monitoring using one of the methods available in Chapter 117 for CO monitoring. Furthermore due to use of an SCR system, §117.440 requires ammonia monitoring using one of the methods available in Chapter 117 for ammonia monitoring. Under its permit requirements, the wood-fired boiler is already equipped with a CO CEMS and must also test for and monitor ammonia emissions. Both the CO CEMS and ammonia monitoring methods in the permit satisfy CO and ammonia monitoring requirements of Chapter 117. Therefore, the owner or operator is not expected to incur any additional costs to comply with the NO_X, CO, and ammonia monitoring requirements of §117.440. It is expected that the owner or operator would also use the NO_X CEMS to satisfy initial compliance testing requirements and would therefore not perform a separate stack test. The owner or operator is not expected to incur any additional costs to comply with initial compliance testing requirements of §117.435.

While none of the other affected industrial sources are expected to be required to install a NO_X CEMS or PEMS as a result of the proposed rule, if an owner or operator does need to or elects to use a CEMS or PEMS to comply with the rule, the capital costs are estimated to be approximately $148,300 for equipment purchase and installation. Annual costs are estimated to be approximately $48,000 for equipment operation and maintenance.

SUBCHAPTER C, DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

The proposed rules are expected to result in some costs for electric utility sources of NO_X in the DFW area, though these costs are not expected to be significant.

Based on a review of the point source emissions inventory, all 17 utility turbines are already equipped with SCR systems for NO_X control, and the TCEQ anticipates that none of the 17 utility turbines would require combustion modifications or additional controls in order to meet the proposed NO_X emission specifications. Furthermore, §117.1340 requires the installation of a CEMS, a PEMS, or another system specified in §117.1340 for monitoring NO_X, and it also requires the owner or operator of an affected unit to conduct CO monitoring using one of the methods available in Chapter 117 for CO monitoring. Since all affected utility turbines use SCR for NO_X control, §117.1340 further requires the owner or operator of an affected unit to conduct ammonia monitoring using one of the methods available in Chapter 117 for ammonia monitoring. Based on the same review of the

emissions inventory, all 17 utility turbines are also already equipped with a NO_X and a CO CEMS. For all 17 units, both the NO_X and CO CEMS satisfy NO_X and CO monitoring requirements of Chapter 117. Therefore, the owner or operator is not expected to incur any additional costs to comply with the NO_X or CO monitoring requirements of §117.1340. It is expected that the owner or operator would also use the NO_X and CO CEMS to satisfy initial compliance testing requirements and would therefore not perform a separate stack test for either NO_X or CO. The owner or operator is not expected to incur any additional costs to comply with initial compliance testing requirements of §117.1335.

The same review of the inventory shows that 13 of the 17 utility turbines are also already equipped with an ammonia CEMS. For these 13 units, the ammonia CEMS satisfies ammonia monitoring requirements of Chapter 117. Therefore, the owner or operator is not expected to incur any additional costs to comply with the ammonia monitoring requirements of §117.1340. For these 13 units, it is further expected that the owner or operator would also use the ammonia CEMS to satisfy initial compliance testing requirements and would therefore not perform a separate stack test for ammonia emissions. The owner or operator is not expected to incur any additional costs to comply with initial compliance testing requirements of §117.1335.

The remaining four utility turbines would be required to conduct initial stack testing and ammonia monitoring to comply with the corresponding rule provisions of the division. Initial stack testing costs are estimated at $3,000 per test for the first year the proposed

rules are in effect. For ammonia monitoring, it is anticipated that owners or operators of affected units would use stain tube testing as the cheapest available method. With this method, annual compliance monitoring costs are estimated to be $1,000 per year for all five years the proposed rules are in effect. For the first five years the proposed rules are in effect, testing costs for these utility turbines could total $16,000 in year one and $4,000 in each of years two through five. Total testing costs for the first five years the rules are in effect for stationary gas-fired utility turbines are estimated to be $32,000.

Due to applicability of existing federal rules for gas turbines at electric generation facilities, the TCEQ anticipates that all 17 units more than likely already use totalizing fuel flow meters, thereby satisfying fuel meter operating requirements in the proposed rulemaking. In addition, the owner or operator can use an alternative fuel consumption monitoring method in lieu of installing a fuel meter. No capital costs due to retrofits, combustion modifications, or fuel meters are expected for these 17 units in order for the units to meet the proposed NO_X emission specifications or fuel flow monitoring requirements for utility gas turbines. Combined total capital and total annual costs for all affected units to comply with the proposed requirements of Subchapter C, Division 4 are estimated to total $32,000 with total capital estimated to be zero and total annual estimated to be $32,000. No reductions in NO_X emissions are anticipated from utility units located at electric generating utilities.

SUBCHAPTER G, DIVISION 1: COMPLIANCE STACK TESTING AND REPORT

REQUIREMENTS

For owners or operators of boilers and process heaters that are used on a temporary basis, the proposed rulemaking would provide compliance flexibility by establishing compliance testing provisions that would be applicable to affected units in all areas covered by Chapter 117. Owners or operators of affected units can use previous stack test results or a manufacturer's guarantee to satisfy initial compliance demonstration requirements. For owners or operators of these units, no additional annual costs due to compliance testing are expected.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the implementation or administration of the proposed rules. The proposed rules would apply to major ICI sources of NO_X and to electric utility sources of NO_X in the DFW area. Agency staff did not identify any small or micro-businesses that would be affected by the proposed rules.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years that the proposed rules are in effect and federal rules require the state to implement RACT.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rulemaking meets the definition of a "major environmental rule" as defined in that statute. A "major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed rulemaking does not, however, meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225, applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal

program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The state previously adopted RACT rules for NO_X sources in most of the DFW area as part of the SIP for the 1997 eight-hour ozone standard. On March 27, 2008, the EPA revised both the primary and secondary ozone standard (the eight-hour ozone NAAQS) to a level of 0.075 ppm with an effective date of May 27, 2008 (73 FR 16436). On May 21, 2012, the EPA established initial air quality designations for the 2008 eight-hour ozone NAAQS. Effective July 20, 2012, the DFW 2008 eight-hour ozone nonattainment area, consisting of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties, was classified as a moderate nonattainment area for the 2008 eight-hour ozone NAAQS. Nonattainment areas classified as moderate and above are required to meet the mandates of FCAA, §172(c)(1) and §182(f). FCAA, §172(c)(1) requires that the SIP incorporate all reasonably available control measures, including RACT, for sources of relevant pollutants. FCAA, §182(f) requires the state to submit a SIP revision that implements RACT for all major sources of NO_X. The proposed rulemaking would revise Chapter 117 to implement RACT for all major sources of NO_X in the DFW area as required by FCAA, §172(c)(1) and §182(f). The proposed rulemaking would also extend implementation of RACT to major sources of NO_X located in Wise County, which was classified as unclassifiable/attainment under the 1997 eight-hour ozone standard but is now classified as nonattainment. The commission is also proposing rules that would allow the commission to remove the applicability of RACT requirements to sources in Wise County, if Wise County were to be

removed from the DFW 2008 eight-hour ozone nonattainment area. These specific changes are proposed because Texas is currently in litigation over the inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area, as discussed elsewhere in this preamble. As the commission cannot predict the outcome of this litigation at this time, the commission is proposing rules that will ensure that sources within Wise County will be properly accounted for in the DFW 2008 attainment demonstration SIP. The proposed new rules update RACT requirements for the following source categories in Chapter 117: Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas, DFW Eight-Hour Ozone Nonattainment Area Major Sources; Combustion Control at Major Utility Electric Generation Sources in Ozone Nonattainment Areas, DFW Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources. The proposed rules also modify and update definitions; general monitoring and testing requirements; emission monitoring requirements; and administrative, scheduling, and compliance requirements.

The proposed rulemaking implements requirements of 42 USC, §7410, which requires states to adopt a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS in each air quality control region of the state. While 42 USC, §7410 generally does not require specific programs, methods, or reductions in order to meet the standard, the SIP must include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be

necessary or appropriate to meet the applicable requirements of this chapter (42 USC, Chapter 85, Air Pollution Prevention and Control). The provisions of the FCAA recognize that states are in the best position to determine what programs and controls are necessary or appropriate in order to meet the NAAQS. This flexibility allows states, affected industry, and the public, to collaborate on the best methods for attaining the NAAQS for the specific regions in the state. Even though the FCAA allows states to develop their own programs, this flexibility does not relieve a state from developing a program that meets the requirements of 42 USC, §7410. States are not free to ignore the requirements of 42 USC, §7410, and must develop programs to assure that their contributions to nonattainment areas are reduced so that these areas can be brought into attainment on schedule. The proposed rulemaking would revise Chapter 117 to implement RACT for all major sources of NO_X in the DFW area as required by FCAA, §172(c)(1) and §182(f).

The requirement to provide a fiscal analysis of proposed regulations in the Texas Government Code was amended by SB 633 during the 75th Legislature, 1997. The intent of Senate Bill (SB) 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 concluding that "based on an assessment of rules adopted by the agency in the past, it is not anticipated that the bill will have

significant fiscal implications for the agency due to its limited application. The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted proposed rules from the full analysis unless the rule was a major environmental rule that exceeded a federal law.

As discussed earlier in this preamble, the FCAA does not always require specific programs, methods, or reductions in order to meet the NAAQS; thus, states must develop programs for each area contributing to nonattainment to help ensure that those areas will meet the attainment deadlines. Because of the ongoing need to address nonattainment issues and to meet the requirements of 42 USC, §7410, the commission routinely proposes and adopts SIP rules. The legislature is presumed to understand this federal scheme. If each rule proposed for inclusion in the SIP was considered to be a major environmental rule that exceeds federal law, then every SIP rule would require the full regulatory impact analysis contemplated by SB 633. This conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the Legislative Budget Board (LBB) in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes, and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full regulatory impact analysis for rules that are extraordinary in nature. While the SIP rules will have a broad impact, the impact is no greater than is necessary or appropriate to meet the requirements of the FCAA. For these reasons, rules adopted for inclusion in the SIP fall

under the exception in Texas Government Code, §2001.0225(a), because they are required by federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code, but left this provision substantially unamended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." Central Power & Light Co. v. Sharp, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), *writ denied with per curiam opinion respecting another issue*, 960 S.W.2d 617 (Tex. 1997); Bullock v. Marathon Oil Co., 798 S.W.2d 353, 357 (Tex. App. Austin 1990, *no writ*). *Cf. Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, pet. denied); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).

The commission's interpretation of the regulatory impact analysis requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance." The legislature specifically identified Texas Government Code, §2001.0225, as falling under this standard. The commission has substantially complied with the requirements of Texas Government

Code, §2001.0225.

The specific intent of the proposed rulemaking is to protect the environment and reduce the risks to human health by requiring control measures for NO_X emission sources that have been determined by the commission to be RACT for the DFW area. These revisions would result in NO_X emission reductions in the DFW 2008 eight-hour ozone nonattainment area, which may contribute to the timely attainment of the 2008 eight-hour ozone NAAQS and reduce public exposure to NO_X. The proposed rulemaking does not exceed a standard set by federal law or exceed an express requirement of state law. No contract or delegation agreement covers the topic that is the subject of this proposed rulemaking. Therefore, this proposed rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b), because although the proposed rulemaking meets the definition of a "major environmental rule," it does not meet any of the four applicability criteria for a major environmental rule.

The commission invites public comment regarding the draft regulatory impact analysis determination during the public comment period. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an assessment of

whether Texas Government Code, Chapter 2007, is applicable. The specific purpose of the proposed rulemaking is to implement RACT for all NO_X emission sources in the 2008 eight-hour ozone DFW nonattainment area, as required by FCAA, §172(c)(1) and §182(f). Texas Government Code, §2007.003(b)(4), provides that Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking because it is an action reasonably taken to fulfill an obligation mandated by federal law.

In addition, the commission's assessment indicates that Texas Government Code, Chapter 2007 does not apply to these proposed rules because this is an action that is taken in response to a real and substantial threat to public health and safety; that is designed to significantly advance the health and safety purpose; and that does not impose a greater burden than is necessary to achieve the health and safety purpose. Thus, this action is exempt under Texas Government Code, §2007.003(b)(13). The proposed rules fulfill the FCAA requirement to implement RACT in nonattainment areas. These revisions would result in NO_X emission reductions in ozone nonattainment areas that may contribute to the timely attainment of the 2008 eight-hour ozone NAAQS and reduce public exposure to NO_X. Consequently, the proposed rulemaking meets the exemption criteria in Texas Government Code, §2007.003(b)(4) and (13). For these reasons, Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking

identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the rulemaking will not affect any coastal natural resource areas because the rules only affect counties outside the CMP area and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Effect on Sites Subject to the Federal Operating Permits Program

Chapter 117 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits Program. If the proposed revisions to Chapter 117 are adopted, owners or operators subject to the federal operating permit program must, consistent with the revision process in Chapter 122, upon the effective date of the rulemaking, revise their operating permit to include the new Chapter 117 requirements.

Announcement of Hearing

The commission will hold two public hearings on this proposal: one in Arlington on January 15, 2015 at 6:30 p.m. in the City of Arlington Council Chamber at the Arlington Municipal Building located at 101 W. Abram Street, Arlington, Texas, 76010; and a second hearing in Austin on January 22, 2015 at 10:00 a.m. in Building E, Conference Room 201S, at the commission's central office located at 12100 Park 35 Circle, Austin, Texas, 78753. The hearings will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearings; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearings.

Persons who have special communication or other accommodation needs who are planning to attend the hearings should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: *http://www5.tceq.texas.gov/rules/ecomments/*. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-049-117-AI. The comment period closes January 30, 2015.

Copies of the proposed rulemaking can be obtained from the commission's Website at *http://www.tceq.texas.gov/nav/rules/propose_adopt.html*. For further information, please contact Javier Galván of the Air Quality Planning Section, at (512) 239-1492.

SUBCHAPTER A: DEFINITIONS

§117.10

Statutory Authority

The amended section is proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amended section is also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The amended section is also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions. The amended section is also proposed under Federal Clean Air Act (FCAA), 42 United

States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The amended section implements THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq*.

§117.10. Definitions.

Unless specifically defined in the Texas Clean Air Act or Chapter 101 of this title (relating to General Air Quality Rules), the terms in this chapter have the meanings commonly used in the field of air pollution control. Additionally, the following meanings apply, unless the context clearly indicates otherwise. Additional definitions for terms used in this chapter are found in §3.2 and §101.1 of this title (relating to Definitions).

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

(2) Applicable ozone nonattainment area--The following areas, as designated under the 1990 Federal Clean Air Act Amendments.

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

[(B) Dallas-Fort Worth ozone nonattainment area--An area consisting of Collin, Dallas, Denton, and Tarrant Counties.]

(B) [(C)] Dallas-Fort Worth eight-hour ozone nonattainment area--An area consisting of: [Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties.]

(i) for the purposes of Subchapter D of this chapter (relating to Combustion Control at Minor Sources in Ozone Nonattainment Areas), Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties; or

(ii) for all other divisions of this chapter, Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties.

(C) [(D)] Houston-Galveston-Brazoria ozone nonattainment area--An area consisting of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

(3) Auxiliary steam boiler--Any combustion equipment within an electric power generating system, as defined in this section, that is used to produce steam for

purposes other than generating electricity. An auxiliary steam boiler produces steam as a replacement for steam produced by another piece of equipment that is not operating due to planned or unplanned maintenance.

(4) 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.

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

(6) Boiler--Any combustion equipment fired with solid, liquid, and/or gaseous fuel used to produce steam or to heat water.

(7) Btu--British thermal unit.

(8) Chemical processing gas turbine--A gas turbine that vents its exhaust gases into the operating stream of a chemical process.

(9) Continuous emissions monitoring system (CEMS)--The total equipment necessary for the continuous determination and recordkeeping of process gas concentrations and emission rates in units of the applicable emission limitation.

(10) Daily--A calendar day starting at midnight and continuing until midnight the following day.

(11) Diesel engine--A compression-ignited two- or four-stroke engine that liquid fuel injected into the combustion chamber ignites when the air charge has been compressed to a temperature sufficiently high for auto-ignition.

(12) Duct burner--A unit that combusts fuel and that is placed in the exhaust duct from another unit (such as a stationary gas turbine, stationary internal combustion engine, kiln, etc.) to allow the firing of additional fuel to heat the exhaust gases.

(13) Electric generating facility (EGF)--A unit that generates electric energy for compensation and is owned or operated by a person doing business in this state, including a municipal corporation, electric cooperative, or river authority.

(14) Electric power generating system--One electric power generating system consists of either:

(A) for the purposes of Subchapter C, Divisions 1 and 4 of this chapter (relating to Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources; and Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources) [(relating to Combustion Control at Major Utility Electric Generation Sources in Ozone Nonattainment Areas)], all boilers, auxiliary steam boilers, and stationary gas turbines (including duct burners used in turbine exhaust ducts) at electric generating facility (EGF) accounts that generate electric energy for compensation; are owned or operated by an electric cooperative, municipality, river authority, public utility, independent power producer, or a Public Utility Commission of Texas regulated utility, or any of its successors; and are entirely located in one of the following ozone nonattainment areas:

(i) Beaumont-Port Arthur; or

[(ii) Dallas-Fort Worth;]

(ii) [(iii)] Dallas-Fort Worth eight-hour; [or]

[(iv) Houston-Galveston-Brazoria;]

(B) for the purposes of Subchapter C, Division 3 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Utility Electric

Generation Sources), all boilers, auxiliary steam boilers, and stationary gas turbines (including duct burners used in turbine exhaust ducts) at EGF accounts that generate electric energy for compensation; are owned or operated by an electric cooperative, municipality, river authority, public utility, or a Public Utility Commission of Texas regulated utility, or any of its successors; and are entirely located in the Houston-Galveston-Brazoria ozone nonattainment area;

[(B) for the purposes of Subchapter E, Division 1 of this chapter (relating to Utility Electric Generation in East and Central Texas), all boilers, auxiliary steam boilers, and stationary gas turbines at EGF accounts that generate electric energy for compensation; are owned or operated by an electric cooperative, independent power producer, municipality, river authority, or public utility, or any of its successors; and are 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, or Wharton County; or]

(C) for the purposes of Subchapter B, Division 3 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources) [(relating to Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas)], all units in the Houston-Galveston-Brazoria ozone nonattainment area that generate electricity but do not meet the conditions specified

in subparagraph (B) [(A)] of this paragraph, including, but not limited to, cogeneration units and units owned by independent power producers; or[.]

(D) for the purposes of Subchapter E, Division 1 of this chapter (relating to Utility Electric Generation in East and Central Texas), all boilers, auxiliary steam boilers, and stationary gas turbines at EGF accounts that generate electric energy for compensation; are owned or operated by an electric cooperative, independent power producer, municipality, river authority, or public utility, or any of its successors; and are 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, or Wharton County.

(15) Emergency situation--As follows.

(A) An emergency situation is any of the following:

(i) an unforeseen electrical power failure from the serving electric power generating system;

(ii) the period of time that an Electric Reliability Council of Texas, Inc. (ERCOT)-issued emergency notice or energy emergency alert (EEA) (as defined

in *ERCOT Nodal Protocols, Section 2: Definitions and Acronyms* (August 13, 2014)[(June 1, 2012)] and issued as specified in *ERCOT Nodal Protocols, Section 6: Adjustment Period and Real-Time Operations* (August 13, 2014))[(June 1, 2012))] is applicable to the serving electric power generating system. The emergency situation is considered to end upon expiration of the emergency notice or EEA issued by ERCOT;

(iii) an unforeseen failure of on-site electrical transmission equipment (e.g., a transformer);

(iv) an unforeseen failure of natural gas service;

(v) an unforeseen flood or fire, or a life-threatening situation;

(vi) operation of emergency generators for Federal Aviation Administration licensed airports, military airports, or manned space flight control centers for the purposes of providing power in anticipation of a power failure due to severe storm activity; or

(vii) operation of an emergency generator as part of ERCOT's emergency response service (as defined in *ERCOT Nodal Protocols, Section 2: Definitions and Acronyms* (August 13, 2014))[(June 1, 2012))] if the operation is in direct response to

an instruction by ERCOT during the period of an ERCOT EEA as specified in clause (ii) of this subparagraph.

(B) An emergency situation does not include:

(i) operation for training purposes or other foreseeable events; or

(ii) operation for purposes of supplying power for distribution to the electric grid, except as specified in subparagraph (A)(vii) of this paragraph.

(16) Functionally identical replacement--A unit that performs the same function as the existing unit that it replaces, with the condition that the unit replaced must be physically removed or rendered permanently inoperable before the unit replacing it is placed into service.

(17) Heat input--The chemical heat released due to fuel combustion in a unit, using the higher heating value of the fuel. This does not include the sensible heat of the incoming combustion air. In the case of carbon monoxide (CO) boilers, the heat input includes the enthalpy of all regenerator off-gases and the heat of combustion of the incoming CO and of the auxiliary fuel. The enthalpy change of the fluid catalytic cracking

unit regenerator off-gases refers to the total heat content of the gas at the temperature it enters the CO boiler, referring to the heat content at 60 degrees Fahrenheit, as being zero.

(18) Heat treat furnace--A furnace that is used in the manufacturing, casting, or forging of metal to heat the metal so as to produce specific physical properties in that metal.

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

(20) Horsepower rating--The engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed.

(21) Incinerator--As follows.

(A) For the purposes of this chapter, the term "incinerator" includes both of the following:

(i) a control device that combusts or oxidizes gases or vapors (e.g., thermal oxidizer, catalytic oxidizer, vapor combustor); and

(ii) an incinerator as defined in §101.1 of this title (relating to Definitions).

(B) The term "incinerator" does not apply to boilers or process heaters as defined in this section, or to flares as defined in §101.1 of this title.

(22) Industrial boiler--Any combustion equipment, not including utility or auxiliary steam boilers as defined in this section, fired with liquid, solid, or gaseous fuel, that is used to produce steam or to heat water.

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

(24) Large utility system--All boilers, auxiliary steam boilers, and stationary gas turbines that are located in [the Dallas-Fort Worth or] the Dallas-Fort Worth eight-hour ozone nonattainment area, and were part of one electric power generating system on January 1, 2000, that had a combined electric generating capacity equal to or greater than 500 megawatts.

(25) 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 0.5% by volume, as originally designed by the manufacturer.

(26) Low annual capacity factor boiler, process heater, or gas turbine supplemental waste heat recovery unit--An industrial, commercial, or institutional boiler; process heater; or gas turbine supplemental waste heat recovery unit with maximum rated capacity:

(A) greater than or equal to 40 million British thermal units per hour (MMBtu/hr), but less than 100 MMBtu/hr and an annual heat input less than or equal to 2.8 (10^{11}) British thermal units per year (Btu/yr), based on a rolling 12-month average; or

(B) greater than or equal to 100 MMBtu/hr and an annual heat input less than or equal to 2.2 (10^{11}) Btu/yr, based on a rolling 12-month average.

(27) Low annual capacity factor stationary gas turbine or stationary internal combustion engine--A stationary gas turbine or stationary internal combustion engine that is demonstrated to operate less than 850 hours per year, based on a rolling 12-month average.

(28) Low heat release rate--A ratio of boiler design heat input to firebox volume less than 70,000 British thermal units per hour per cubic foot.

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

(A) at least 50 tons per year (tpy) of nitrogen oxides (NO_X) and is located in the Beaumont-Port Arthur ozone nonattainment area;

(B) at least 50 tpy of NO_X and is located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County[the Dallas-Fort Worth or Dallas-Fort Worth eight-hour ozone nonattainment area];

(C) at least 100 tpy of NO_X and is located in Wise County;

(D) [(C)] at least 25 tpy of NO_X and is located in the Houston-Galveston-Brazoria ozone nonattainment area; or

(E) [(D)] the amount specified in the major source definition contained in the Prevention of Significant Deterioration of Air Quality regulations promulgated by the United States Environmental Protection Agency in 40 Code of Federal Regulations §52.21 as amended June 3, 1993 (effective June 3, 1994), and is located in Atascosa, Bastrop,

Bexar, Brazos, Calhoun, Cherokee, Comal, Fannin, Fayette, Freestone, Goliad, Gregg, Grimes, Harrison, Hays, Henderson, Hood, Hunt, Lamar, Limestone, Marion, McLennan, Milam, Morris, Nueces, Red River, Robertson, Rusk, Titus, Travis, Victoria, or Wharton County.

(30) Maximum rated capacity--The maximum design heat input, expressed in million British thermal units per hour, unless:

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

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

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

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

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

(32) Nitric acid--Nitric acid that is 30% to 100% in strength.

(33) Nitric acid production unit--Any source producing nitric acid by either the pressure or atmospheric pressure process.

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

(35) Parts per million by volume (ppmv)--All ppmv emission specifications specified in this chapter are referenced on a dry basis. When required to adjust pollutant

concentrations to a specified oxygen (O_2) correction basis, the following equation must be used.

Figure: 30 TAC §117.10(35) (No change as figure appears in Texas Administrative Code)

(36) Peaking gas turbine or engine--A stationary gas turbine or engine used intermittently to produce energy on a demand basis.

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

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

(39) Predictive emissions monitoring system (PEMS)--The total equipment necessary for the continuous determination and recordkeeping of process gas concentrations and emission rates using process or control device operating parameter

measurements and a conversion equation or computer program to produce results in units of the applicable emission limitation.

(40) Process heater--Any combustion equipment fired with liquid and/or gaseous fuel that is used to transfer heat from combustion gases to a process fluid, superheated steam, or water for the purpose of heating the process fluid or causing a chemical reaction. The term "process heater" does not apply to any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment, or to boilers as defined in this section.

(41) Pyrolysis reactor--A unit that produces hydrocarbon products from the endothermic cracking of feedstocks such as ethane, propane, butane, and naphtha using combustion to provide indirect heating for the cracking process.

(42) Reheat furnace--A furnace that is used in the manufacturing, casting, or forging of metal to raise the temperature of that metal in the course of processing to a temperature suitable for hot working or shaping.

(43) 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 less than 0.5% by volume, as originally designed by the manufacturer.

(44) Small utility system--All boilers, auxiliary steam boilers, and stationary gas turbines that are located in [the Dallas-Fort Worth or] the Dallas-Fort Worth eight-hour ozone nonattainment area, and were part of one electric power generating system on January 1, 2000, that had a combined electric generating capacity less than 500 megawatts.

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

(46) Stationary internal combustion engine--A reciprocating engine that remains or will remain at a location (a single site at a building, structure, facility, or installation) for more than 12 consecutive months. Included in this definition is any engine that, by itself or in or on a piece of equipment, is portable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine being replaced is included in calculating the consecutive residence time period. An engine is considered stationary if it is removed

from one location for a period and then returned to the same location in an attempt to circumvent the consecutive residence time requirement. Nonroad engines, as defined in 40 Code of Federal Regulations §89.2, are not considered stationary for the purposes of this chapter.

(47) 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 maximum rated capacity to the total maximum rated capacities for those units. For fuel oil firing, average activity levels must be used in lieu of maximum rated capacities for the purpose of calculating the system-wide emission rate.

(48) System-wide emission specification--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 maximum rated capacity to the total maximum rated capacities for those units. For fuel oil firing, average activity levels must be used in lieu of maximum rated capacities for the purpose of calculating the system-wide emission specification.

(49) Thirty-day rolling average--An average, calculated for each day that fuel is combusted in a unit, of all the hourly emissions data for the preceding 30 days that fuel was combusted in the unit.

(50) Twenty-four hour rolling average--An average, calculated for each hour that fuel is combusted (or acid is produced, for a nitric or adipic acid production unit), of all the hourly emissions data for the preceding 24 hours that fuel was combusted in the unit.

(51) Unit--A unit consists of either:

(A) for the purposes of §§117.105, [117.205,] 117.305, 117.405, 117.1005, [117.1105,] and 117.1205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) and each requirement of this chapter associated with §§117.105, [117.205,] 117.305, 117.405, 117.1005, [117.1105,] and 117.1205 of this title, any boiler, process heater, stationary gas turbine, or stationary internal combustion engine, as defined in this section;

(B) for the purposes of §§117.110, [117.210,] 117.310, 117.1010, [117.1110,] and 117.1210 of this title (relating to Emission Specifications for Attainment Demonstration) and each requirement of this chapter associated with §§117.110, [117.210,] 117.310, 117.1010, [117.1110,] and 117.1210 of this title, any boiler, process heater, stationary gas turbine, or stationary internal combustion engine, as defined in this section, or any

other stationary source of nitrogen oxides (NO_X) at a major source, as defined in this section;

(C) for the purposes of §117.2010 of this title (relating to Emission Specifications) and each requirement of this chapter associated with §117.2010 of this title, any boiler, process heater, stationary gas turbine (including any duct burner in the turbine exhaust duct), or stationary internal combustion engine, as defined in this section;

(D) for the purposes of §117.2110 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) and each requirement of this chapter associated with §117.2110 of this title, any stationary internal combustion engine, as defined in this section;

(E) for the purposes of §117.3310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) and each requirement of this chapter associated with §117.3310 of this title, any stationary internal combustion engine, as defined in this section; or

(F) for the purposes of §117.410 and §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) and each requirement of this chapter associated with §117.410 and §117.1310 of this title, any boiler, process

heater, stationary gas turbine, or stationary internal combustion engine, as defined in this section, or any other stationary source of NO_X at a major source, as defined in this section.

(52) Utility boiler--Any combustion equipment owned or operated by an electric cooperative, municipality, river authority, public utility, or Public Utility Commission of Texas regulated utility, fired with solid, liquid, and/or gaseous fuel, used to produce steam for the purpose of generating electricity. Stationary gas turbines, including any associated duct burners and unfired waste heat boilers, are not considered to be utility boilers.

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

[SUBCHAPTER B: COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS]

[DIVISION 2: DALLAS-FORT WORTH OZONE NONATTAINMENT AREA MAJOR SOURCES]

[§§117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256]

Statutory Authority

The repealed sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The repealed sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to

prepare and develop a general, comprehensive plan for the proper control of the state's air. The repealed sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions. The repealed sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The repealed sections implement THSC,§§ 382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq*.

[§117.200. Applicability.]

[(a) The provisions of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources), apply to the following units located at any major stationary source of nitrogen oxides (NO_X) located within the Dallas-Fort Worth ozone nonattainment area:]

[(1) industrial, commercial, or institutional boilers and process heaters;]

[(2) stationary gas turbines; and]

[(3) stationary internal combustion engines.]

[(b) This division no longer applies to any units that are subject to the emission specifications in §117.410 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) located at any major stationary source of NO_X located within Collin, Dallas, Denton, and Tarrant Counties after the appropriate compliance date(s) specified in §117.9030 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).]

[§117.203. Exemptions.]

[(a) General exemptions. Units exempted from the provisions of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources), except as specified in §§117.240(i), 117.245(f)(6), and 117.254(a)(5) of this title (relating to Continuous Demonstration of Compliance; Notification, Recordkeeping, and Reporting Requirements; and Final Control Plan Procedures for Attainment Demonstration Emission Specifications), include the following:]

[(1) any new units placed into service after November 15, 1992, except for new units that are qualified, at the option of the owner or operator, as functionally identical replacement for existing units under §117.205(a)(3) of this title (relating to Emission

Specifications for Reasonably Available Control Technology (RACT)). Any emission credits resulting from the operation of such replacement units are limited to the cumulative maximum rated capacity of the units replaced;]

[(2) any industrial, commercial, or institutional boiler or process heater with a maximum rated capacity of less than 40 million British thermal units per hour (MMBtu/hr);]

[(3) heat treating furnaces and reheat furnaces;]

[(4) flares, incinerators, pulping liquor recovery furnaces, sulfur recovery units, sulfuric acid regeneration units, molten sulfur oxidation furnaces, and sulfur plant reaction boilers;]

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

[(6) stationary gas turbines and stationary internal combustion engines, that are used as follows:]

[(A) in research and testing;]

[(B) for purposes of performance verification and testing;]

[(C) solely to power other engines or gas turbines during startups;]

[(D) exclusively in emergency situations, except that operation for testing or maintenance purposes is allowed for up to 52 hours per year, based on a rolling 12-month average;]

[(E) in response to and during the existence of any officially declared disaster or state of emergency;]

[(F) directly and exclusively by the owner or operator for agricultural operations necessary for the growing of crops or raising of fowl or animals; or]

[(G) as chemical processing gas turbines;]

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

[(8) stationary internal combustion engines with a horsepower (hp) rating of less than 300 hp; and]

[(9) any stationary diesel engine.]

[(b) RACT exemptions. Units exempted from the emissions specifications of §117.205 of this title include the following:]

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

[(2) any low annual capacity factor boiler, 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 that were regulated as existing facilities in 40 Code of Federal Regulations Part 266, Subpart H, as was in effect on June 9, 1993;]

[(4) fluid catalytic cracking units (including carbon monoxide (CO) boilers, CO furnaces, and catalyst regenerator vents);]

[(5) duct burners used in turbine exhaust ducts;]

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

[(7) any stationary gas turbine with a MW rating less than 10.0 MW;]

[(8) any new units placed into service after November 15, 1992, except for new units that were placed into service as functionally identical replacement for existing units subject to the provisions of this division as of June 9, 1993. Any emission credits resulting from the operation of such replacement units are limited to the cumulative maximum rated capacity of the units replaced;]

[(9) stationary gas turbines and engines, that are demonstrated to operate less than 850 hours per year, based on a rolling 12-month average; and]

[(10) stationary internal combustion engines with a hp rating of less than 300 hp.]

[(c) Attainment demonstration exemptions. Units exempted from the emissions specifications of §117.210 of this title (relating to Emission Specifications for Attainment Demonstration) include units exempted from emission specifications in subsection (b)(2) - (5) and (9) of this section.]

[§117.205. Emission Specifications for Reasonably Available Control Technology (RACT).]

[(a) No person shall allow the discharge of air contaminants into the atmosphere to exceed the emission specifications of this section, except as provided in §§117.215, 117.223, or 117.9800 of this title (relating to Alternative Plant-Wide Emission Specifications; Source Cap; and Use of Emission Credits for Compliance).]

[(1) For purposes of this subchapter, the lower of any permit nitrogen oxides (NO_X) emission limit in effect on June 9, 1993, under a permit issued in accordance with Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and the emission specifications of subsections (b) - (d) of this section apply, except that:]

[(A) gas-fired boilers and process heaters operating under a permit issued after March 3, 1982, with a NO_X emission limit of 0.12 pounds per million British thermal units (lb/MMBtu) heat input, are limited to that rate for the purposes of this subchapter; and]

[(B) gas-fired boilers and process heaters that 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, are subject to the appropriate emission specification of subsection (b) of this section.]

[(2) For purposes of calculating NO_X emission specifications under this section from existing permit limits, the following procedure must be used:]

[(A) the NO_X limit explicitly stated in lb/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 million British thermal units 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 must 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.]

[(3) For any unit placed into service after June 9, 1993, and before the final compliance date as specified in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources) as functionally identical replacement for an existing unit or group of units subject to the provisions of this chapter, the higher of any permit NO_X emission limit under a permit issued after June 9, 1993, in accordance with Chapter 116 of this title and the emission limits of subsections (b) - (d) of this section apply. Any emission credits resulting from the operation of such replacement units are limited to the cumulative maximum rated capacity of the units replaced. The

inclusion of such new units is an optional method for complying with the emission limitations of §117.215 or §117.223 of this title. Compliance with this paragraph does not eliminate the requirement for new units to comply with Chapter 116 of this title.]

[(b) For each boiler and process heater with a maximum rated capacity greater than or equal to 100.0 MMBtu/hr of heat input, the applicable NO_X emission specification is as follows:]

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

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

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

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

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

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

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

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

[(A) based on air preheat temperature:]

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

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

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

[(B) based on firebox temperature:]

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

[(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/MMBtu of heat input; or]

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

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

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

[(5) any unit operated with a combination of gaseous, liquid, or wood fuel, a variable emission specification calculated as the heat input weighted sum of the applicable emission specifications of this subsection;]

[(6) for any gas-fired boiler or process heater firing gaseous fuel that 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 up to 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. The multiplier may not be used to increase limits set by permit. The following equation must be used by an owner or operator using a gas-fired boiler or process heater that is subject to this paragraph and one of the rolling 30-day averaging period emission specifications contained in paragraph (1) or (2) of this subsection to calculate an emission specification for each rolling 30-day period:]

[Figure: 30 TAC §117.205(b)(6)]

[(7) for units that operate with a NO_X continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) under §117.240 of this title (relating to Continuous Demonstration of Compliance), the emission limits apply as:]

[(A) the mass of NO_X emitted per unit of energy input (lb/MMBtu), on a rolling 30-day average period; or]

[(B) the mass of NO_X emitted per hour (pounds per hour), on a block one-hour average, calculated as the product of the boiler's or process heater's maximum rated capacity and its applicable limit in (lb/MMBtu); and]

[(8) for units that do not operate with a NOx CEMS or PEMS under §117.240 of this title, the emission specifications apply in pounds per hour, as specified in paragraph (7)(B) of this subsection.]

[(c) 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 (O_2), dry basis. For stationary gas turbines equipped with CEMS or PEMS for CO, the owner or operator may elect to comply with the CO specification of this subsection using a 24-hour rolling average.]

[(d) No person shall allow the discharge into the atmosphere from any gas-fired, rich-burn, stationary, reciprocating internal combustion engine rated 300 horsepower (hp) or greater, NO_X emissions in excess of a block one-hour average of 2.0 grams per horsepower-hour (g/hp-h r) and CO emissions in excess of a block one-hour average of 3.0 g/hp-hr.]

[(e) 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 emissions in excess of the following specifications:]

[(1) for gas or liquid fuel-fired boilers or process heaters, 400 ppmv at 3.0% O_2, dry basis;]

[(2) for wood fuel-fired boilers or process heaters, 775 ppmv at 7.0% O_2, dry basis; and]

[(3) for units equipped with CEMS or PEMS for CO, the specifications of paragraphs (1) and (2) of this subsection apply on a rolling 24-hour averaging period. For units not equipped with CEMS or PEMS for CO, the specifications apply on a one-hour average.]

[(f) No person shall allow the discharge into the atmosphere from any unit subject to a NO_X emission specification in this section (including an alternative to the NO_X limit in this section under §117.215 or §117.223 of this title) ammonia emissions in excess of 20 ppmv based on a block one-hour averaging period.]

[§117.210. Emission Specifications for Attainment Demonstration.]

[(a) Emission specifications. No person shall allow the discharge into the atmosphere emissions in excess of the following emission specifications, except as provided in subsection (d) of this section and §117.203(c) of this title (relating to Exemptions).]

[(1) Gas-fired boilers with a maximum rated capacity equal to or greater than 40 million British thermal units per hour, must comply with 30 parts per million by volume (ppmv) nitrogen oxides (NO_X), at 3.0% oxygen (O_2), dry basis, according to the applicable schedule in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(2) Gas-fired and dual-fuel, lean-burn, stationary reciprocating internal combustion engines rated 300 horsepower (hp) or greater, must comply with a NO_X emission specification of 2.0 grams per horsepower-hour (g/hp-hr) and a carbon monoxide (CO) emission specification of 3.0 g/hp-hr, according to the applicable schedule in §117.9010 of this title.]

[(b) NO_X averaging time. The emission specifications of subsection (a) of this section apply:]

[(1) if the unit is operated with a NO_X continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) under §117.240 of this title (relating to Continuous Demonstration of Compliance), either as:]

[(A) a rolling 30-day average period, in the units of the applicable standard;]

[(B) a block one-hour average, in the units of the applicable standard, or alternatively;]

[(C) a block one-hour average, in pounds per hour, for boilers and process heaters, calculated as the product of the boiler's or process heater's maximum rated capacity and its applicable limit in pounds per million British thermal units; and]

[(2) if the unit is not operated with a NO_X CEMS or PEMS under §117.240 of this title, a block one-hour average, in the units of the applicable standard. Alternatively for boilers and process heaters, the emission limits may be applied in pounds per hour, as specified in paragraph (1)(C) of this subsection.]

[(c) Related emissions. No person shall allow the discharge into the atmosphere from any unit subject to NO_X emission specifications in subsection (a) of this section, emissions in excess of the following, except as provided in §117.225 of this title (relating to Alternative Case Specific Specifications) or paragraph (3) or (4) of this subsection.]

[(1) CO emissions must not exceed 400 ppmv at 3.0% O_2, dry basis (or alternatively, 3.0 g/hp-hr for stationary internal combustion engines; or 775 ppmv at 7.0% O_2, dry basis for wood fuel-fired boilers or process heaters):]

[(A) on a rolling 24-hour averaging period, for units equipped with CEMS or PEMS for CO; and]

[(B) on a one-hour average, for units not equipped with CEMS or PEMS for CO.]

[(2) For units that inject urea or ammonia into the exhaust stream for NO_X control, ammonia emissions must not exceed 10 ppmv at 3.0% O_2, dry, for boilers and process heaters; 15% O_2, dry, for stationary gas turbines and gas-fired lean-burn engines; 7.0% O_2, dry, for wood-fired boilers; and 3.0% O_2, dry, for all other units, based on:]

[(A) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; or]

[(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia.]

[(3) The correction of CO emissions to 3.0% O_2, dry basis, in paragraph (1) of this subsection does not apply to boilers and process heaters operating at less than 10% of maximum load and with stack O_2 in excess of 15% (i.e., hot-standby mode).]

[(4) The CO specifications in paragraph (1) of this subsection do not apply to stationary internal combustion engines subject to subsection (a)(2) of this section.]

[(d) Compliance flexibility.]

[(1) An owner or operator may use any of the following alternative methods to comply with the NO_X emission specifications of this section:]

[(A) §117.215 of this title (relating to Alternative Plant-Wide Emission Specifications);]

[(B) §117.223 of this title (relating to Source Cap); or]

[(C) §117.9800 of this title (relating to Use of Emission Credits for Compliance).]

[(2) Section 117.225 of this title is not an applicable method of compliance with the NO_X emission specifications of this section.]

[(3) An owner or operator may petition the executive director for an alternative to the CO or ammonia emission specifications of this section in accordance with §117.225 of this title.]

[§117.215. Alternative Plant-Wide Emission Specifications.]

[(a) An owner or operator may achieve compliance with the nitrogen oxides (NO_X) emission limits of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.210 of this title (relating to Emission Specifications for Attainment Demonstration) by achieving equivalent NO_X emission reductions obtained by compliance with a plant-wide emission specification. Any owner or operator who elects to comply with a plant-wide emission specification 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 specification as defined in §117.10 of this title (relating to Definitions).]

[(b) The owner or operator shall establish an enforceable NO_X emission limit for each affected unit at the source as follows.]

[(1) For boilers and process heaters that operate with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) in accordance with §117.240 of this title (relating to Continuous Demonstration of Compliance), the emission limits apply in:]

[(A) the units of the applicable standard (the mass of NO_X emitted per unit of energy input (pound per million British thermal units (lb/MMBtu) or parts per million by volume (ppmv)), on a rolling 30-day average period; or]

[(B) as the mass of NO_X emitted per hour (pounds per hour), on a block one-hour average.]

[(2) For boilers and process heaters that do not operate with CEMS or PEMS, the emission specifications apply as the mass of NO_X emitted per hour (pounds per hour), on a block one-hour average.]

[(3) For stationary gas turbines, the emission specifications apply as the NO_X concentration in ppmv at 15% oxygen (O_2), dry basis on a block one-hour average.]

[(4) For stationary internal combustion engines, the NO_X emission specifications apply in units of grams per horsepower-hour (g/hp-hr) on a block one-hour average.]

[(c) An owner or operator of any gaseous and liquid fuel-fired unit that derives more than 50% of its annual heat input from gaseous fuel shall use only the appropriate gaseous fuel emission limit of §117.205 or §117.210 of this title at maximum rated capacity in calculating the plant-wide emission specification and shall assign to the unit the maximum allowable NO_X emission rate while firing gas, calculated in accordance with subsection (a) of this section. The owner or operator shall also:]

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

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

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

[(d) An owner or operator of any gaseous and liquid fuel-fired unit that derives more than 50% of its annual heat input from liquid fuel shall use a heat input weighted sum of the appropriate gaseous and liquid fuel emission specifications of §117.205 or §117.210 of this title in calculating the plant-wide emission specification and shall assign to the unit the

maximum allowable NO_X emission rate, calculated in accordance with subsection (a) of this section.]

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

[(f) Units exempted from emission specifications in accordance with §117.203(b) and (c) of this title (relating to Exemptions) are also exempt under this section and must not be included in the plant-wide emission specification, except as follows. The owner or operator of exempted units as defined in §117.203(b) and (c) of this title may opt to include one or more of an entire equipment class of exempted units into the alternative plant-wide emission specifications.]

[(1) Low annual capacity factor boilers, process heaters, stationary gas turbines, or stationary internal combustion engines as defined in §117.10 of this title are not to be considered as part of the opt-in class of equipment.]

[(2) The ammonia and carbon monoxide emission specifications of §117.205 or §117.210 of this title apply to the opt-in units.]

[(3) The individual NO_X emission limit that is to be used in calculating the alternative plant-wide emission specifications is the lowest of any applicable permit emission specification determined in accordance with §117.205(a) of this title, the specification of paragraph (4) of this subsection, or when applicable, subsection (i) of this section.]

[(4) The equipment classes that may be included in the alternative plant-wide emission specifications and the NO_X emission rates that are to be used in calculating the alternative plant-wide emission specifications are listed in the table titled §117.215(f) OPT-IN UNITS.]

[Figure: 30 TAC §117.215(f)(4)]

[(g) Solely for the purposes of calculating the plant-wide emission specification, the allowable NO_X emission rate (in pounds per hour) for each affected unit must be calculated from the lowest of the emission specifications of §117.205 of this title, or when applicable, §117.210 of this title, or any applicable permit emission specification identified in subsection (i) of this section, as follows.]

[(1) For each affected boiler and process heater, the rate is determined by the following equation.]

[Figure: 30 TAC §117.215(g)(1)]

[(2) For each affected stationary internal combustion engine, the rate is determined by the following equation.]

[Figure: 30 TAC §117.215(g)(2)]

[(3) For each affected stationary gas turbine, the rate is determined by the following equations.]

[Figure: 30 TAC §117.215(g)(3)]

[(4) Each affected gas-fired boiler and process heater firing gaseous fuel that contains more than 50% hydrogen (H_2) by volume, over an annual basis, may be adjusted with a multiplier of up to 1.25 times the product of its maximum rated capacity and its NO_X emission specification of §117.205 of this title.]

[(A) Double application of the H2 content multiplier using this paragraph and §117.205(b)(6) of this title is not allowed.]

[(B) The multiplier may not be used to increase a limit set by permit.]

[(C) The fuel gas composition must be sampled and analyzed every three hours.]

[(D) This paragraph is not applicable for establishing compliance with §117.210 of this title.]

[(h) The owner or operator of any gas-fired boiler or process heater firing gaseous fuel that contains more than 50% H_2 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 up to 1.25 times the emission limit assigned to the unit in this section for that eight-hour period. The total H_2 volume in all gaseous fuel streams will be divided by the total gaseous fuel flow volume to determine the volume percent of H_2 in the fuel supply. This subsection is not applicable to:]

[(1) units under subsection (g)(4) of this section;]

[(2) increase limits set by permit; or]

[(3) establish compliance with §117.210 of this title.]

[(i) When using this section for establishing alternative compliance with §117.210 of this title, the individual NO_X emission limit that is to be used in calculating the alternative

plant-wide emission specifications is the lowest of the specification of §117.210 of this title, the actual emission rate as of September 1, 1997, and any applicable permit emission specification in effect on September 1, 1997.]

[§117.223. Source Cap.]

[(a) An owner or operator may achieve compliance with the nitrogen oxides (NO_X) emission limits of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.210 of this title (relating to Emission Specifications for Attainment Demonstration), by achieving equivalent NO_X emission reductions obtained by compliance with a source cap emission limitation in accordance with the requirements of this section. Each equipment category at a source whose individual emission units would otherwise be subject to the NO_X emission limits of §117.205 or §117.210 of this title may be included in the source cap. Any equipment category included in the source cap must 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 must comply with the requirements of §§117.205, 117.210, or 117.215 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); Emission Specifications for Attainment Demonstration; and Alternative Plant-Wide Emission Specifications).]

[(b) The source cap allowable mass emission rate must be calculated as follows.]

[(1) A rolling 30-day average emission cap must be calculated for all emission units included in the source cap using the following equation.]

[Figure: 30 TAC §117.223(b)(1)]

[(2) A maximum daily cap must be calculated for all emission units included in the source cap using the following equation.]

[Figure: 30 TAC §117.223(b)(2)]

[(3) Each emission unit included in the source cap is 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 §117.215(f) of this title in a source cap. For compliance with §117.205(a) - (d) of this title, such units are required to reduce emissions available for use in the cap by an additional amount calculated in accordance with the United States Environmental Protection Agency's proposed Economic Incentive Program rules for offset ratios for trades between RACT and non-RACT sources, as published in the February 23, 1993, Federal Register (58 FR 11110).]

[(5) For stationary internal combustion engines, the source cap allowable emission rate must be calculated in pounds per hour using the procedures specified in §117.215(g)(2) of this title.]

[(6) For stationary gas turbines, the source cap allowable emission rate must be calculated in pounds per hour using the procedures specified in §117.215(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 NO_X monitor, carbon monoxide (CO) monitor, an oxygen (O_2) (or carbon dioxide (CO_2)) diluent monitor, and a totalizing fuel flow meter in accordance with the requirements of §117.240 of this title (relating to Continuous Demonstration of Compliance). The required continuous emissions monitoring systems (CEMS) and fuel flow meters must be used to measure NO_X, CO, and O_2 (or CO_2) emissions and fuel use for each affected unit and must 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 §117.240 of this title. The required PEMS and fuel flow meters must be used to measure NO_X, CO, and O_2 (or CO_2) emissions and fuel flow for each affected unit and must be used to demonstrate continuous compliance with the source cap; or]

[(C) for units not subject to continuous monitoring requirements and units belonging to the equipment classes listed in §117.215(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 §117.235(e) of this title (relating to Initial Demonstration of Compliance) in lieu of CEMS or PEMS. Emission rates for these units are limited to the maximum emission rates obtained from testing conducted under §117.235(e) of this title; and]

[(2) for each operating unit equipped with CEMS, either use a PEMS in accordance with §117.240 of this title, or the maximum emission rate as measured by hourly emission rate testing conducted in accordance with §117.235(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 must 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 must also be retained in accordance with §117.245 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 that 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 semiannual reports for the monitoring systems in accordance with §117.245 of this title.]

[(f) The owner or operator shall demonstrate initial compliance with the source cap in accordance with the schedule specified in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(g) For compliance with §117.205(a) - (d) of this title by November 15, 1999, a unit that 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 must have actually operated since November 15, 1990.]

[(2) For purposes of calculating the source cap emission limit, the applicable emission limit for retired units must be calculated in accordance with subsection (b) of this section.]

[(3) The actual heat input must be calculated according to subsection (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 must be the average daily heat input for the continuous time period that the unit was in service, plus one standard deviation of the average daily heat input for that period. The maximum heat input must be the maximum heat input, as certified to the executive director, 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) Emission reductions from shutdowns or curtailments that 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) For compliance with §117.210 of this title, a unit that has been permanently retired or decommissioned and rendered inoperable may be included in the source cap under the following conditions.]

[(1) Shutdowns must have occurred after September 1, 1997.]

[(2) The source cap emission limit for retired units is calculated in accordance with subsection (b) of this section.]

[(3) The actual heat input must be calculated according to subsection (b)(1) of this section. If the unit was not in service 24 consecutive months between January 1, 1997, and December 31, 1999, the actual heat input must be the average daily heat input for the continuous time period that the unit was in service, consistent with the heat input used to represent the unit's emissions in the attainment demonstration modeling inventory. The maximum heat input must be the maximum heat input, as certified to the executive director, 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) Emission reductions from shutdowns or curtailments that have been used for netting or offset purposes under the requirements of Chapter 116 of this title may not be included in the baseline for establishing the cap.]

[(i) A unit that has been shut down and rendered inoperable after June 9, 1993, but not permanently retired, should be identified in the final control plan and may be included in the source cap to comply with the NO_X emission specifications of this division applicable in the Dallas-Fort Worth ozone nonattainment area, required by March 31, 2001.]

[(j) An owner or operator who chooses to use the source cap option shall include in the final control plan, if required to be filed under §117.252 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), a plan for initial compliance. The owner or operator shall include in the final 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 final control plan the method of calculating the actual heat input for each unit included in the source cap, as specified in subsection (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 §117.252 of this title the information necessary under this section to demonstrate initial compliance with the source cap.]

[(k) 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 emission events, as defined in §101.1 of this title (relating to Definitions), must 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.]

[§117.225. Alternative Case Specific Specifications.]

[(a) Where a person can demonstrate that an affected unit cannot attain the applicable requirements of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or the carbon monoxide (CO) or ammonia specifications of §117.210(c) of this title (relating to Emission Specifications for Attainment Demonstration), the executive director may approve emission specifications different from §117.205 of this title or the CO or ammonia specifications in §117.210(c) of this title for that unit. The executive director:]

[(1) shall consider on a case-by-case basis the technological and economic circumstances of the individual unit;]

[(2) shall determine that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of controls to meet the nitrogen oxides emission specifications of §117.205 or §117.210 of this title, as applicable; and]

[(3) in determining whether to approve alternative emission specifications, may take into consideration the ability of the plant where the unit is located to meet emission specifications through plant-wide averaging at maximum capacity.]

[(b) Any owner or operator affected by the executive director's decision to deny an alternative case specific emission specification may file a motion to overturn the executive director's decision. The requirements of §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) apply. 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 division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[§117.230. Operating Requirements.]

[(a) The owner or operator shall operate any unit subject to the emission specifications of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) in compliance with those specifications.]

[(b) The owner or operator shall operate any unit subject to the plant-wide emission specification of §117.215 of this title (relating to Alternative Plant-Wide Emission Specifications) such that the assigned maximum nitrogen oxides (NO_X) emission rate for each unit expressed in units of the applicable emission limit and averaging period, is in accordance with the list approved by the executive director pursuant to §117.252 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology).]

[(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) All units subject to the emission limitations of §§117.205, 117.210(a), 117.215, or 117.223 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); Emission Specifications for Attainment Demonstration; Alternative Plant-Wide Emission Specifications; and Source Cap) must 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) Each boiler, except for wood-fired boilers, must be operated with oxygen (O_2), carbon monoxide (CO), or fuel trim.]

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

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

[(4) Each unit controlled with steam or water injection must be operated such that injection rates are maintained to limit NO_X concentrations to less than or equal to the NO_X concentrations achieved at maximum rated capacity (corrected to 15% O_2 on a dry basis for stationary gas turbines).]

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

[(6) Each stationary internal combustion engine controlled with nonselective catalytic reduction must be equipped with an automatic air-fuel ratio (AFR) controller that operates on exhaust O_2 or CO control and maintains AFR in the range required to meet the engine's applicable emission limits.]

[(7) Each stationary internal combustion engine must be checked for proper operation of the engine according to §117.8140(b) of this title (relating to Emission Monitoring for Engines).]

[§117.235. Initial Demonstration of Compliance.]

[(a) The owner or operator of all units that are subject to the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources) shall test the units as follows.]

[(1) The units must be tested for nitrogen oxides (NO_X), carbon monoxide (CO), and oxygen emissions while firing gaseous fuel or, as applicable:]

[(A) hydrogen (H_2) fuel for units that may fire more than 50% H_2 by volume; and]

[(B) liquid and solid fuel.]

[(2) Units that inject urea or ammonia into the exhaust stream for NO_X control must be tested for ammonia emissions.]

[(3) All units must be tested that belong to equipment classes elected to be included in:]

[(A) the alternative plant-wide emission specifications as defined in §117.215(f) of this title (relating to Alternative Plant-Wide Emission Specifications); or]

[(B) the source cap as defined in §117.223(b)(4) of this title (relating to Source Cap).]

[(4) Initial demonstration of compliance testing must be performed in accordance with the schedule specified in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(b) The initial demonstration of compliance tests required by subsection (a) of this section must use the methods referenced in subsection (e) or (f) of this section and must be used for determination of initial compliance with the emission specifications of this division. Test results must be reported in the units of the applicable emission specifications and averaging periods.]

[(c) Any continuous emissions monitoring system (CEMS) or any predictive emissions monitoring system (PEMS) required by §117.240 of this title (relating to Continuous Demonstration of Compliance) must be installed and operational before conducting testing under subsection (a) of this section. Verification of operational status must, at a minimum, include completion of the initial relative accuracy test audit and the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device or system.]

[(d) Early testing conducted before March 21, 1999, may be used to demonstrate compliance with the standards specified in this division, if the owner or operator of an affected facility demonstrates to the executive director that the prior compliance testing at least meets the requirements of subsections (a), (b), (c), (e), and (f) of this section. For early testing, the compliance stack test report required by subsection (g) must be as complete as necessary to demonstrate to the executive director that the stack test was valid and the source has complied with the rule. The executive director reserves the right to request compliance testing or CEMS or PEMS performance evaluation at any time.]

[(e) Compliance with the emission specifications of this division for units operating without CEMS or PEMS must be demonstrated according to the requirements of §117.8000 of this title (relating to Stack Testing Requirements).]

[(f) Initial compliance with the emission specifications of this division for units operating with CEMS or PEMS in accordance with §117.240 of this title, must be demonstrated after monitor certification testing using the CEMS or PEMS as follows.]

[(1) For boilers and process heaters complying with a NO_X emission specification in pound per million British thermal units 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 specification. 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 specification on a block one-hour average, any one-hour period while operating at the maximum rated capacity, or as near thereto as practicable is used to determine compliance with the NO_X emission specification.]

[(3) For units complying with a CO emission specification, on a rolling 24-hour average, any 24-hour period is used to determine compliance with the CO emission specification.]

[(4) For units complying with §117.223 of this title, a rolling 30-day average of total daily pounds of NO_X emissions from the units are monitored (or calculated in

accordance with §117.223(c) of this title) for 30 successive source operating days and the 30-day average emission rate is used to determine compliance with the NO_X emission specification. The 30-day average emission rate is calculated as the average of all daily emissions data recorded by the monitoring and recording system during the 30-day test period. There must be no exceedances of the maximum daily cap during the 30-day test period.]

[(g) Compliance stack test reports must include the information required in §117.8010 of this title (relating to Compliance Stack Test Reports).]

[§117.240. Continuous Demonstration of Compliance.]

[(a) Totalizing fuel flow meters. The owner or operator of units listed in this subsection shall install, calibrate, maintain, and operate a totalizing fuel flow meter, with an accuracy of ± 5%, to individually and continuously measure the gas and liquid fuel usage. A computer that collects, sums, and stores electronic data from continuous fuel flow meters is an acceptable totalizer. The owner or operator of units with totalizing fuel flow meters installed prior to March 31, 2005, that do not meet the accuracy requirements of this subsection shall either recertify or replace existing meters to meet the ± 5% accuracy required as soon as practicable but no later than March 31, 2007. For the purpose of compliance with this subsection for units having pilot fuel supplied by a separate fuel system or from an unmonitored portion of the same fuel system, the fuel flow to pilots may

be calculated using the manufacturer's design flow rates rather than measured with a fuel flow meter. The calculated pilot fuel flow rate must be added to the monitored fuel flow when fuel flow is totaled.]

[(1) Totalizing fuel flow meters are required for the following units that are subject to §117.205 or §117.210 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); and Emission Specifications for Attainment Demonstration), and for stationary gas turbines that are exempt under §117.203(b)(7) of this title (relating to Exemptions):]

[(A) if individually rated more than 40 million British thermal units per hour (MMBtu/hr):]

[(i) boilers;]

[(ii) process heaters; and]

[(iii) gas turbine supplemental-fired waste heat recovery units;]

[(B) stationary, reciprocating internal combustion engines not exempt by §117.203(a)(6) or (8) of this title, or §117.203(b)(9) or (10) of this title; and]

[(C) stationary gas turbines with a megawatt (MW) rating greater than or equal to 1.0 MW operated more than 850 hours per year.]

[(2) The following are alternatives to the fuel flow monitoring requirements of paragraph (1) of this subsection.]

[(A) Units operating with a nitrogen oxides (NO_X) and diluent continuous emissions monitoring system (CEMS) under subsection (e) of this section may monitor stack exhaust flow using the flow monitoring specifications of 40 Code of Federal Regulations (CFR) Part 60, Appendix B, Performance Specification 6 or 40 CFR Part 75, Appendix A.]

[(B) Units that vent to a common stack with a NO_X and diluent CEMS under subsection (e) of this section may use a single totalizing fuel flow meter.]

[(b) Oxygen (O_2) monitors.]

[(1) The owner or operator shall install, calibrate, maintain, and operate an O_2 monitor to measure exhaust O_2 concentration on the following units operated with an annual heat input greater than 2.2(1011) British thermal units per year (Btu/yr):]

[(A) boilers with a rated heat input greater than or equal to 100 MMBtu/hr; and]

[(B) process heaters with a rated heat input greater than or equal to 100 MMBtu/hr, except as provided in subsection (f) of this section.]

[(2) The following are not subject to this subsection:]

[(A) units listed in §117.203(b)(3) - (5) and (8) - (10) of this title;]

[(B) process heaters operating with a carbon dioxide CEMS for diluent monitoring under subsection (e) of this section; and]

[(C) wood-fired boilers.]

[(3) The O_2 monitors required by this subsection are for process monitoring (predictive monitoring inputs, boiler trim, or process control) and are only required to meet the location specifications and quality assurance procedures referenced in subsection (e) of this section if O_2 is the monitored diluent under that subsection. However, if new O_2 monitors are required as a result of this subsection, the criteria in subsection (e) of this section should be considered the appropriate guidance for the location and calibration of the monitors.]

[(c) NO_X monitors.]

[(1) The owner or operator of units listed in this paragraph shall install, calibrate, maintain, and operate a CEMS or predictive emissions monitoring system (PEMS) to monitor exhaust NO_X. The units are:]

[(A) boilers with a rated heat input greater than or equal to 250 MMBtu/hr and an annual heat input greater than 2.2(10 11) Btu/yr;]

[(B) process heaters with a rated heat input greater than or equal to 200 MMBtu/hr and an annual heat input greater than 2.2(10 11) Btu/yr;]

[(C) stationary gas turbines with an MW rating greater than or equal to 30 MW operated more than 850 hours per year;]

[(D) units that use a chemical reagent for reduction of NO_X; and]

[(E) units that the owner or operator elects to comply with the NO_X emission specifications of §117.205 or §117.210(a) of this title using a pound per million British thermal units (lb/MMBtu) limit on a 30-day rolling average.]

[(2) The following are not required to install CEMS or PEMS under this subsection:]

[(A) for purposes of §117.205 or §117.210(a) of this title, units listed in §117.203(b)(3) - (5) and (8) - (10) of this title; and]

[(B) units subject to the NO_X CEMS requirements of 40 CFR Part 75.]

[(3) The owner or operator shall use one of the following methods to provide substitute emissions compliance data during periods when the NO_X monitor is off-line:]

[(A) if the NO_X monitor is a CEMS:]

[(i) subject to 40 CFR Part 75, use the missing data procedures specified in 40 CFR Part 75, Subpart D (Missing Data Substitution Procedures); or]

[(ii) subject to 40 CFR Part 75, Appendix E, use the missing data procedures specified in 40 CFR Part 75, Appendix E, §2.5 (Missing Data Procedures);]

[(B) use 40 CFR Part 75, Appendix E monitoring in accordance with §117.1140(d) of this title (relating to Continuous Demonstration of Compliance);]

[(C) if the NO_X monitor is a PEMS:]

[(i) use the methods specified in 40 CFR Part 75, Subpart D; or]

[(ii) use calculations in accordance with §117.8110(b) of this title (relating to Emission Monitoring System Requirements for Utility Electric Generation Sources); or]

[(D) if the methods specified in subparagraphs (A) - (C) of this paragraph are not used, the owner or operator shall use the maximum block one-hour emission rate as measured during the initial demonstration of compliance required in §117.235(f) of this title (relating to Initial Demonstration of Compliance).]

[(d) Carbon monoxide (CO) monitoring. The owner or operator shall monitor CO exhaust emissions from each unit listed in subsection (c)(1) of this section using one or more of the methods specified in §117.8120 of this title (relating to Carbon Monoxide (CO) Monitoring).]

[(e) CEMS requirements. The owner or operator of any CEMS used to meet a pollutant monitoring requirement of this section shall comply with the requirements of §117.8100(a) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources).]

[(f) PEMS requirements. The owner or operator of any PEMS used to meet a pollutant monitoring requirement of this section shall comply with the following.]

[(1) The PEMS must predict the pollutant emissions in the units of the applicable emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(2) The PEMS must meet the requirements of §117.8100(b) of this title.]

[(g) Engine monitoring. The owner or operator of any stationary gas engine subject to the emission specifications of this division shall stack test engine NO_X and CO emissions as specified in §117.8140(a) of this title (relating to Emission Monitoring for Engines).]

[(h) Monitoring for stationary gas turbines less than 30 MW. 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 or §117.215 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT) and Alternative Plant-Wide Emission Specifications) shall either:]

[(1) install, calibrate, maintain, and operate a NO_X CEMS or PEMS in compliance with this section and monitor CO in compliance with subsection (d) 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:]

[(A) the system must be accurate to within ± 5.0%;]

[(B) the steam-to-fuel or water-to-fuel ratio monitoring data must be used for demonstrating continuous compliance with the applicable emission specification of §117.205 or §117.215 of this title; and]

[(C) steam or water injection control algorithms are subject to executive director approval.]

[(i) Run time meters. The owner or operator of any stationary gas turbine or stationary internal combustion engine claimed exempt using the exemption of §117.203(a)(6)(D), (b)(2), or (b)(9) of this title shall record the operating time with an elapsed run time meter. Any run time meter installed on or after October 1, 2001, must be non-resettable.]

[(j) Hydrogen (H_2) monitoring. The owner or operator claiming the H_2 multiplier of §117.205(b)(6) or §117.215(g)(4) or (h) of this title shall sample, analyze, and record every three hours the fuel gas composition to determine the volume percent H_2.]

[(1) The total H_2 volume flow in all gaseous fuel streams to the unit must be divided by the total gaseous volume flow to determine the volume percent of H_2 in the fuel supply to the unit.]

[(2) Fuel gas analysis must be tested according to American Society for Testing and Materials (ASTM) Method D1945-81 or ASTM Method D2650-83, or other methods that are demonstrated to the satisfaction of the executive director and the United States Environmental Protection Agency to be equivalent.]

[(3) A gaseous fuel stream containing 99% H_2 by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this subsection.]

[(A) A fuel gas analysis must be performed initially using one of the test methods in this subsection to demonstrate that the gaseous fuel stream is 99% H_2 by volume or greater.]

[(B) The process flow diagram of the process unit that is the source of the H_2 must be supplied to the executive director to illustrate the source and supply of the hydrogen stream.]

[(C) The owner or operator shall certify that the gaseous fuel stream containing H_2 will continuously remain, as a minimum, at 99% H_2 by volume or greater during its use as a fuel to the combustion unit.]

[(k) Data used for compliance. After the initial demonstration of compliance required by §117.235 of this title, the methods required in this section must be used to determine compliance with the emission specifications of §117.205 or §117.210(a) of this title. For enforcement purposes, the executive director may also use other commission compliance methods to determine whether the source is in compliance with applicable emission limitations.]

[(l) Enforcement of NO_X RACT limits. If compliance with §117.205 of this title is selected, no unit subject to §117.205 of this title may be operated at an emission rate higher than that allowed by the emission specifications of §117.205 of this title. If compliance with §117.215 of this title is selected, no unit subject to §117.215 of this title may be operated at an emission rate higher than that approved by the executive director under §117.252(b) of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology).]

[(m) Loss of NO_X RACT exemption. The owner or operator of any unit claimed exempt from the emission specifications of this division using the low annual capacity factor exemption of §117.203(b)(2) of this title shall notify the executive director within seven days if the Btu/yr or hour-per-year limit specified in §117.10 of this title (relating to Definitions), as appropriate, is exceeded.]

[(1) If the limit is exceeded, the exemption from the emission specifications of this division is permanently withdrawn.]

[(2) 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 limit. The plan must include a schedule of increments of progress for the installation of the required control equipment.]

[(3) The schedule must be subject to the review and approval of the executive director.]

[§117.245. Notification, Recordkeeping, and Reporting Requirements.]

[(a) Startup and shutdown records. For units subject to the startup and/or shutdown provisions of §101.222 of this title (relating to Demonstrations), hourly records must be

made of startup and/or shutdown events and maintained for a period of at least two years. Records must be available for inspection by the executive director, United States Environmental Protection Agency, and any local air pollution control agency having jurisdiction upon request. These records must include, but are not limited to: type of fuel burned; quantity of each type of fuel burned; and the date, time, and duration of the procedure.]

[(b) Notification. The owner or operator of an affected source shall submit notification to the appropriate regional office and any local air pollution control agency having jurisdiction as follows:]

[(1) verbal notification of the date of any testing conducted under §117.235 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) relative accuracy test audit (RATA) conducted under §117.240 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) Reporting of test results. The owner or operator of an affected unit shall furnish the Office of Compliance and Enforcement, the appropriate regional office, and any local air pollution control agency having jurisdiction a copy of any testing conducted under §117.235 of this title and any CEMS or PEMS RATA conducted under §117.240 of this title:]

[(1) within 60 days after completion of such testing or evaluation; and]

[(2) not later than the compliance schedule specified in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(d) Semiannual reports. 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 §117.240 of this title shall report in writing to the executive director on a semiannual basis any exceedance of the applicable emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources) and the monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:]

[(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations §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:]

[(A) for stationary gas turbines using steam-to-fuel or water-to-fuel ratio monitoring to demonstrate compliance in accordance with §117.240(h)(2) of this title, excess emissions are computed as each one-hour period that the average steam or water injection rate is below the level defined by the control algorithm as necessary to achieve compliance with the applicable emission specifications in §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)); and]

[(B) for units complying with §117.223 of this title (relating to Source Cap), excess emissions are each daily period that the total nitrogen oxides (NO_X) emissions exceed the rolling 30-day average or the maximum daily NO_X cap;]

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

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

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

[(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 commission's Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports) must be submitted, unless otherwise requested by the executive director. 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 must both be submitted.]

[(e) Reporting for engines. The owner or operator of any gas-fired engine subject to the emission specifications in §117.205, §117.210 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT) and Emission Specifications for Attainment Demonstration), or §117.215 of this title (relating to

Alternative Plant-Wide Emission Specifications) shall report in writing to the executive director on a semiannual basis any excess emissions and the air-fuel ratio monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:]

[(1) the magnitude of excess emissions (based on the quarterly emission checks of §117.230(d)(7) of this title (relating to Operating Requirements) and the biennial emission testing required for demonstration of emissions compliance in accordance with §117.240(g) 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; and]

[(2) specific identification, to the extent feasible, of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the engine or emission control system, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.]

[(f) Recordkeeping. The owner or operator of a unit subject to the requirements of this division shall maintain written or electronic records of the data specified in this subsection. Such records must be kept for a period of at least five years and must be made available upon request by authorized representatives of the executive director, the United

States Environmental Protection Agency, or local air pollution control agencies having jurisdiction. The records must include:]

[(1) for each unit subject to §117.240(a) of this title, records of annual fuel usage;]

[(2) for each unit using a CEMS or PEMS in accordance with §117.240 of this title, monitoring records of:]

[(A) hourly emissions and fuel usage (or stack exhaust flow) for units complying with an emission limit enforced on a block one-hour average; or]

[(B) daily emissions and fuel usage (or stack exhaust flow) for units complying with an emission limit enforced on a daily or rolling 30-day average. Emissions must be recorded in units of:]

[(i) pound per million British thermal units heat input; and]

[(ii) pounds or tons per day;]

[(3) for each stationary internal combustion engine subject to the emission specifications of this division, records of:]

[(A) emissions measurements required by:]

[(i) §117.230(d)(7) of this title; and]

[(ii) §117.240(g) of this title; and]

[(B) catalytic converter, air-fuel ratio controller, or other emissions-related control system maintenance, including the date and nature of corrective actions taken;]

[(4) for each stationary gas turbine monitored by steam-to-fuel or water-to-fuel ratio in accordance with §117.240(h) of this title, records of hourly:]

[(A) pounds of steam or water injected;]

[(B) pounds of fuel consumed; and]

[(C) the steam-to-fuel or water-to-fuel ratio;]

[(5) for hydrogen (H2) fuel monitoring in accordance with §117.240(j) of this title, records of the volume percent H2 every three hours;]

[(6) for units claimed exempt from emission specifications using the exemption of §117.203(a)(6)(D) or (b)(2) of this title (relating to Exemptions), either records of monthly:]

[(A) fuel usage, for exemptions based on heat input; or]

[(B) hours of operation, for exemptions based on hours per year of operation. In addition, for each engine claimed exempt under §117.203(a)(6)(D) of this title, written records must be maintained of the purpose of engine operation and, if operation was for an emergency situation, identification of the type of emergency situation and the start and end times and date(s) of the emergency situation;]

[(7) records of carbon monoxide measurements specified in §117.240(d) of this title;]

[(8) records of the results of initial certification testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS, PEMS, or steam-to-fuel or water-to-fuel ratio monitoring systems; and]

[(9) records of the results of performance testing, including initial demonstration of compliance testing conducted in accordance with §117.235 of this title.]

[§117.252. Final Control Plan Procedures for Reasonably Available Control Technology.]

[(a) The owner or operator of units listed in §117.200 of this title (relating to Applicability) at a major source of nitrogen oxides (NO_X) shall submit a final control report to show compliance with the requirements of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)). The report must include a list of the units listed in §117.200 of this title, showing:]

[(1) the NO_X emission specification resulting from application of §117.205 of this title for each non-exempt unit;]

[(2) the section under which NO_X compliance is being established for units specified in paragraph (1) of this subsection, either:]

[(A) §117.205 of this title;]

[(B) §117.215 of this title (relating to Alternative Plant-Wide Emission Specifications);]

[(C) §117.223 of this title (relating to Source Cap);]

[(D) §117.225 of this title (relating to Alternative Case Specific Specifications); or]

[(E) §117.9800 of this title (relating to Use of Emission Credits for Compliance);]

[(3) the method of control of NO_X emissions for each unit;]

[(4) the emissions measured by testing required in §117.235 of this title (relating to Initial Demonstration of Compliance);]

[(5) the submittal date, and whether sent to the Austin or the regional office (or both), of any compliance stack test report or relative accuracy test audit report required by §117.235 of this title that is not being submitted concurrently with the final compliance report; and]

[(6) the specific rule citation for any unit with a claimed exemption from the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources), for:]

[(A) boilers and heaters with a maximum rated capacity greater than or equal to 100.0 million British thermal units per hour;]

[(B) gas turbines with a megawatt (MW) rating greater than or equal to 10.0 MW; and]

[(C) gas-fired internal combustion engines rated greater than or equal to 300 horsepower.]

[(b) For sources complying with §117.215 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall:]

[(1) assign to each affected:]

[(A) boiler or process heater, the maximum allowable NO_X emission rate in pounds per million British thermal units (rolling 30-day average), or in pounds per hour (block one-hour average) indicating whether the fuel is gas, high-hydrogen gas, solid, or liquid;]

[(B) 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; and]

[(C) stationary internal combustion engine, the maximum allowable NO_X emission rate in grams per horsepower-hour on a block one-hour average;]

[(2) submit a list to the executive director for approval of:]

[(A) the maximum allowable NO_X emission rates identified in paragraph (1) of this subsection; and]

[(B) the maximum rated capacity for each unit;]

[(3) submit calculations used to calculate the plant-wide average in accordance with §117.215(g) of this title; and]

[(4) maintain a copy of the approved list of emission specifications for verification of continued compliance with the requirements of §117.215 of this title.]

[(c) For sources complying with §117.223 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall submit:]

[(1) the calculations used to calculate the 30-day average and maximum daily source cap allowable emission rates; and]

[(2) a list containing, for each unit in the cap:]

[(A) the historical average daily heat input information, H_i ;]

[(B) the maximum daily heat input, H_{mi};]

[(C) the applicable restriction, R_i;]

[(D) the method of monitoring emissions; and]

[(3) an explanation of the basis of the values of H_i, H_{mi}, and R_i; and]

[(4) the information applicable to shutdown units, specified in §117.223(g) and (h) of this title.]

[(d) The report must be submitted by the applicable date specified for final control plans in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources). The plan must be updated with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with an emission limit on a rolling 30-day average, according to the applicable schedule given in §117.9010 of this title.]

[§117.254. Final Control Plan Procedures for Attainment Demonstration Emission Specifications.]

[(a) The owner or operator of units listed in §117.210 of this title (relating to Emission Specifications for Attainment Demonstration) at a major source of nitrogen oxides (NO_X) shall submit a final control report to show compliance with the requirements of §117.210 of this title. The report must include:]

[(1) the section under which NO_X compliance is being established, either:]

[(A) §117.210 of this title;]

[(B) §117.215 of this title (relating to Alternative Plant-Wide Emission Specifications);]

[(C) §117.223 of this title (relating to Source Cap); or]

[(D) §117.9800 of this title (relating to Use of Emission Credits for Compliance);]

[(2) the method of NO_X control for each unit;]

[(3) the emissions measured by testing required in §117.235 of this title (relating to Initial Demonstration of Compliance);]

[(4) the submittal date, and whether sent to the central or the regional office (or both), of any compliance stack test report or relative accuracy test audit report required by §117.235 of this title that is not being submitted concurrently with the final compliance report; and]

[(5) the specific rule citation for any unit with a claimed exemption from the emission specification of §117.210 of this title.]

[(b) For sources complying with §117.223 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall submit:]

[(1) the calculations used to calculate the 30-day average and maximum daily source cap allowable emission rates;]

[(2) a list containing, for each unit in the cap:]

[(A) the average daily heat input, H_i, specified in §117.223(b)(1) of this title;]

[(B) the maximum daily heat input, H_{mi}, specified in §117.223(b)(1) of this title;]

[(C) the method of monitoring emissions; and]

[(D) the method of providing substitute emissions data when the NO_X monitoring system is not providing valid data; and]

[(3) an explanation of the basis of the values of H_i and H_{mi}.]

[(c) The report must be submitted to the executive director by the applicable date specified for final control plans in §117.9010 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Major Sources). The plan must be updated with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with the source cap rolling 30-day average emission limit, according to the applicable schedule given in §117.9010 of this title.]

[§117.256. 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 must adhere to the emission specifications and the final compliance dates of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Major Sources).]

[(1) For sources complying with §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)), §117.210 of this title (relating to Emission Specifications for Attainment Demonstration), or §117.215 of this title (relating to Alternative Plant-Wide Emission Specifications), replacement new units may be included in the control plan.]

[(2) For sources complying with §117.223 of this title (relating to Source Cap), any new unit must be included in the source cap, if the unit belongs to an equipment category that is included in the source cap.]

[(3) The revision of the final control plan is subject to the review and approval of the executive director.]

SUBCHAPTER B: COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA MAJOR SOURCES

§§117.400, 117.403, 117.405, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.452, 117.454, 117.456

Statutory Authority

The new and amended sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The new and amended sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control

Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The new and amended sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions. The new and amended sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The new and amended sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

§117.400. Applicability.

(a) The provisions of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources),] apply to the following units located at any major stationary source of nitrogen oxides (NO_X) located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County [within the Dallas-Fort Worth eight-hour ozone nonattainment area]:

(1) industrial, commercial, or institutional boilers and process heaters;

(2) stationary gas turbines;

(3) stationary internal combustion engines;

(4) duct burners used in turbine exhaust ducts;

(5) lime kilns;

(6) metallurgical heat treating furnaces and reheat furnaces;

(7) incinerators;

(8) glass, fiberglass, and mineral wool melting furnaces;

(9) fiberglass and mineral wool curing ovens;

(10) natural gas-fired ovens and heaters;

(11) natural gas-fired dryers used in organic solvent, printing ink, clay, brick, ceramic tile, calcining, and vitrifying processes;

(12) brick and ceramic kilns; and

(13) lead smelting reverberatory and blast (cupola) furnaces.

(b) The provisions of this division apply to the following units located at any major stationary source of NO_X located in Wise County:

(1) industrial, commercial, or institutional process heaters;

(2) stationary gas turbines; and

(3) stationary internal combustion engines.

§117.403. Exemptions.

(a) Units located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County exempted from the provisions of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources)], except as specified in §§117.440(i), 117.445(f)(4) and (9), 117.450, and 117.454 of this title (relating to Continuous Demonstration of Compliance; Notification, Recordkeeping, and Reporting Requirements; Initial Control Plan Procedures; and Final Control Plan Procedures for Attainment Demonstration Emission Specifications), include the following:

(1) industrial, commercial, or institutional boilers or process heaters with a maximum rated capacity equal to or less than:

(A) 2.0 million British thermal units per hour (MMBtu/hr) for boilers; and

(B) 5.0 MMBtu/hr for process heaters;

(2) heat treating furnaces and reheat furnaces with a maximum rated capacity less than 20 MMBtu/hr;

(3) flares, incinerators with a maximum rated capacity less than 40 MMBtu/hr, pulping liquor recovery furnaces, sulfur recovery units, sulfuric acid regeneration units, molten sulfur oxidation furnaces, and sulfur plant reaction boilers;

(4) dryers, heaters, or ovens with a maximum rated capacity of 5.0 MMBtu/hr or less;

(5) any dryers, heaters, or ovens fired on fuels other than natural gas. This exemption does not apply to gas-fired curing ovens used for the production of mineral wool-type or textile-type fiberglass;

(6) any glass, fiberglass, and mineral wool melting furnaces with a maximum rated capacity of 2.0 MMBtu/hr or less;

(7) stationary gas turbines and stationary internal combustion engines, that are used as follows:

(A) in research and testing of the unit;

(B) for purposes of performance verification and testing of the unit;

(C) solely to power other engines or gas turbines during startups;

(D) exclusively in emergency situations, except that operation for testing or maintenance purposes of the gas turbine or engine is allowed for up to 100 hours per year, based on a rolling 12-month basis [average]. Any new, modified, reconstructed, or relocated stationary diesel engine placed into service on or after June 1, 2007, is ineligible for this exemption. For the purposes of this subparagraph, the terms "modification" and "reconstruction" have the meanings defined in §116.10 of this title (relating to General Definitions) and 40 Code of Federal Regulations (CFR) §60.15 (December 16, 1975), respectively, and the term "relocated" means to newly install at an account, as defined in

§101.1 of this title (relating to Definitions), a used engine from anywhere outside that account;

(E) in response to and during the existence of any officially declared disaster or state of emergency;

(F) directly and exclusively by the owner or operator for agricultural operations necessary for the growing of crops or raising of fowl or animals; or

(G) as chemical processing gas turbines;

(8) any stationary diesel engine placed into service before June 1, 2007, that:

(A) operates less than 100 hours per year, based on a rolling 12-month basis [average]; and

(B) has not been modified, reconstructed, or relocated on or after June 1, 2007. For the purposes of this subparagraph, the terms "modification" and "reconstruction" have the meanings defined in §116.10 of this title and 40 CFR §60.15 (December 16, 1975), respectively, and the term "relocated" means to newly install at an account, as defined in §101.1 of this title, a used engine from anywhere outside that account;

(9) any new, modified, reconstructed, or relocated stationary diesel engine placed into service on or after June 1, 2007, that:

(A) operates less than 100 hours per year, based on a rolling 12-month basis [average], in other than emergency situations; and

(B) meets the corresponding emission standard for non-road engines listed in 40 CFR §89.112(a), Table 1 (October 23, 1998), and in effect at the time of installation, modification, reconstruction, or relocation. For the purposes of this paragraph, the terms "modification" and "reconstruction" have the meanings defined in §116.10 of this title and 40 CFR §60.15 (December 16, 1975), respectively, and the term "relocated" means to newly install at an account, as defined in §101.1 of this title, a used engine from anywhere outside that account;

(10) boilers and industrial furnaces that were regulated as existing facilities by 40 CFR Part 266, Subpart H, as was in effect on June 9, 1993;

(11) brick or ceramic kilns with a maximum rated capacity less than 5.0 MMBtu/hr;

(12) low-temperature drying and curing ovens used in mineral wool-type fiberglass manufacturing and wet-laid, non-woven fiber mat manufacturing in which nitrogen-containing resins, or other additives are used;

(13) stationary, gas-fired, reciprocating internal combustion engines with a horsepower (hp) rating less than 50 hp;

(14) electric arc melting furnaces used in steel production;

(15) forming ovens and forming processes used in mineral wool-type fiberglass manufacturing; and

(16) natural gas-fired heaters used exclusively for providing comfort heat to areas designed for human occupancy.

(b) Units located in Wise County exempted from the provisions of this division, except as specified in §§117.440(i), 117.445(f)(4), 117.450, and 117.452 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology), include the following:

(1) industrial, commercial, or institutional process heaters with a maximum rated capacity less than 40 MMBtu/hr;

(2) stationary gas turbines and stationary internal combustion engines that are used as follows:

(A) in research and testing of the unit;

(B) for purposes of performance verification and testing of the unit;

(C) solely to power other engines or gas turbines during startups;

(D) exclusively in emergency situations, except that operation for testing or maintenance purposes of the gas turbine or engine is allowed for up to 100 hours per year, based on a rolling 12-month basis; and

(E) in response to and during the existence of any officially declared disaster or state of emergency;

(3) stationary, diesel, reciprocating internal combustion engines;

(4) stationary, dual-fuel, reciprocating internal combustion engines; and

(5) stationary, gas-fired, reciprocating internal combustion engines with an hp rating less than 50 hp.

[(b) Increment of progress exemptions.]

[(1) Stationary, reciprocating internal combustion engines with a maximum rated capacity less than 300 horsepower are exempt from the emission specifications in §117.410(a) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration).]

[(2) The emission specifications in §117.410(a) of this title no longer apply to any stationary, reciprocating internal combustion engine subject to the emission specifications of §117.410(b) of this title after the compliance date specified in §117.9030(b) of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).]

[(3) Stationary engines that are demonstrated to operate less than 850 hours per year, based on a rolling 12-month average are exempt from the emission specifications in §117.410(a) of this title.]

(c) Emergency fuel oil firing exemption for gas-fired broilers. The emission specifications in §117.410(a)(1) and (c) [§117.410(b)(1) and (d)] of this title (relating to

Emission Specifications for Eight-Hour Attainment Demonstration) do not apply to gas-fired boilers during periods that the owner or operator is required to fire fuel oil on an emergency basis due to natural gas curtailment or other emergency, provided:

(1) the fuel oil firing occurs during the months of November, December, January, or February; and

(2) the fuel oil firing does not exceed a total of 72 hours in any calendar month specified in paragraph (1) of this subsection.

§117.405. Emission Specifications for Reasonably Available Control Technology (RACT).

(a) Reasonably Available Control Technology (RACT) emission specifications for wood-fired boilers. For units located in the Dallas-Fort Worth eight-hour ozone nonattainment area, no person shall allow the discharge into the atmosphere nitrogen oxides (NO_X) emissions in excess of 0.12 pounds per million British thermal units (lb/MMBtu) for wood-fired boilers, in accordance with the applicable schedule in §117.9030(a) of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources), except as provided in subsection (e) of this section.

(b) Emission specifications for RACT in Wise County. For units located in Wise County, no person shall allow the discharge into the atmosphere NO_X emissions in excess of the following emission specifications, in accordance with the applicable schedule in §117.9030(a) of this title, except as provided in subsection (e) of this section:

(1) process heaters with a maximum rated capacity equal to or greater than 40 million British thermal units per hour (MMBtu/hr), 0.10 lb/MMBtu (or alternatively, 82 parts per million by volume (ppmv), at 3.0% oxygen (O_2), dry basis);

(2) stationary, reciprocating internal combustion engines:

(A) gas-fired rich-burn engines, 0.50 grams per horsepower-hour (g/hp-hr); and

(B) gas-fired lean-burn engines:

(i) White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated:

(I) before June 1, 2015, 12.0 g/hp-hr; and

(II) on or after June 1, 2015, 2.0 g/hp-hr;

(ii) Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated:

(I) before June 1, 2015, 12.0 g/hp-hr; and

(II) on or after June 1, 2015, 2.0 g/hp-hr;

(iii) Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated:

(I) before June 1, 2015, 4.0 g/hp-hr; and

(II) on or after June 1, 2015, 2.0 g/hp-hr; and

(iv) all others, 2.0 g/hp-hr; and

(3) stationary gas turbines:

(A) with a horsepower (hp) rating of less than 4,500 hp, 0.45 lb/MMBtu;

(B) with an hp rating of 4,500 hp or greater, but less than 10,000 hp, 0.20 lb/MMBtu; and

(C) with an hp rating of 10,000 hp or greater, 0.15 lb/MMBtu.

(c) NO_X averaging time. The emission specifications of subsections (a) and (b) of this section apply:

(1) if the unit is operated with a NO_X continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) under §117.440 of this title (relating to Continuous Demonstration of Compliance), either as:

(A) a rolling 30-day average, in the units of the applicable standard;

(B) a block one-hour average, in the units of the applicable standard, or alternatively;

(C) a block one-hour average, in pounds per hour, for boilers and process heaters, calculated as the product of the boiler's or process heater's maximum rated capacity and its applicable specification in lb/MMBtu; and

(2) if the unit is not operated with a NO_X CEMS or PEMS under §117.440 of this title, a block one-hour average, in the units of the applicable standard. Alternatively for boilers and process heaters, the emission specification may be applied in pounds per hour, as specified in paragraph (1)(C) of this subsection.

(d) Related emissions. No person shall allow the discharge into the atmosphere from any unit subject to NO_X emission specifications in subsection (a) or (b) of this section, emissions in excess of the following, except as provided in §117.425 of this title (relating to Alternative Case Specific Specifications) or paragraph (3) or (4) of this subsection.

(1) Carbon monoxide (CO) emissions must not exceed 400 ppmv at 3.0% O_2, dry basis (or alternatively, 3.0 g/hp-hr for stationary internal combustion engines; or 775 ppmv at 7.0% O_2, dry basis for wood fuel-fired boilers or process heaters):

(A) on a rolling 24-hour averaging period, for units equipped with CEMS or PEMS for CO; and

(B) on a block one-hour averaging period, for units not equipped with CEMS or PEMS for CO.

(2) For units that inject urea or ammonia into the exhaust stream for NO_X control, ammonia emissions must not exceed 10 ppmv at 3.0% O_2, dry, for boilers and

process heaters; 15% O_2, dry, for stationary gas turbines and gas-fired lean-burn engines; and 3.0% O_2, dry, for all other units, based on:

(A) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; and

(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia.

(3) The correction of CO emissions to 3.0% O_2, dry basis, in paragraph (1) of this subsection does not apply to boilers and process heaters operating at less than 10% of maximum load and with stack O_2 in excess of 15% (i.e., hot-standby mode).

(e) Compliance flexibility.

(1) An owner or operator may use any of the following alternative methods to comply with the NO_X emission specifications of this section:

(A) §117.423 of this title (relating to Source Cap); or

(B) §117.9800 of this title (relating to Use of Emission Credits for Compliance).

(2) Section 117.425 of this title is not an applicable method of compliance with the NO_X emission specifications of this section.

(3) An owner or operator may petition the executive director for an alternative to the CO or ammonia specifications of this section in accordance with §117.425 of this title.

(f) Prohibition of circumvention.

(1) The maximum rated capacity used to determine the applicability of the emission specifications in this section and the initial compliance demonstration, monitoring, testing requirements, and final control plan in §§117.435, 117.440, and 117.452 of this title (relating to Initial Demonstration of Compliance; Continuous Demonstration of Compliance; and Final Control Plan Procedures for Reasonably Available Control Technology) must be the greater of the following:

(A) the maximum rated capacity as of December 31, 2012;

(B) the maximum rated capacity after December 31, 2012; or

(C) the maximum rated capacity authorized by a permit issued under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) after December 31, 2012.

(2) A unit's classification is determined by the most specific classification applicable to the unit as of December 31, 2012. For example, a unit that is classified as a stationary gas-fired engine as of December 31, 2012, but subsequently is authorized to operate as a dual-fuel engine, is classified as a stationary gas-fired engine for the purposes of this chapter.

(3) A source that met the definition of major source on December 31, 2012, is always classified as a major source for purposes of this chapter. A source that did not meet the definition of major source (i.e., was a minor source, or did not yet exist) on December 31, 2012, but becomes a major source at any time after December 31, 2012, is from that time forward always classified as a major source for purposes of this chapter.

§117.410. Emission Specifications for Eight-Hour Attainment Demonstration.

[(a) Emission specifications for increment of progress. The owner or operator of any gas-fired stationary, reciprocating internal combustion engine with a maximum rated horsepower (hp) of 300 hp or greater shall comply with the following emission specifications, in accordance with the applicable schedule in §117.9030(a) of this title

(relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources), except as provided in subsection (e) of this section:]

[(1) nitrogen oxides (NO_X), as follows:]

[(A) lean-burn engines, 2.0 grams per horsepower-hour (g/hp-hr); and]

[(B) rich-burn engines:]

[(i) placed into service before January 1, 2000, that have not been modified, reconstructed, or relocated on or after January 1, 2000, 2.0 g/hp-hr. For the purposes of this clause, the terms "modification" and "reconstruction" have the meanings defined in §116.10 of this title (relating to General Definitions) and 40 Code of Federal Regulations (CFR) §60.15 (December 16, 1975), respectively, and the term "relocated" means to newly install at an account, as defined in §101.1 of this title (relating to Definitions), a used engine from anywhere outside that account; and]

[(ii) installed, modified, reconstructed, or relocated on or after January 1, 2000, 0.50 g/hp-hr; and]

[(2) carbon monoxide (CO), 3.0 g/hp-hr.]

(a) [(b)] Emission specifications for eight-hour ozone attainment demonstration. For units located in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Rockwall, or Tarrant County, no [No] person shall allow the discharge into the atmosphere nitrogen oxides (NO_X) [NO_X] emissions in excess of the following emission specifications, in accordance with the applicable schedule in §117.9030(b) of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources), except as provided in subsection (d) [(e)] of this section:

(1) gas-fired boilers:

(A) with a maximum rated capacity equal to or greater than 100 million British thermal units per hour (MMBtu/hr), 0.020 pounds per million British thermal units (lb/MMBtu);

(B) with a maximum rated capacity equal to or greater than 40 MMBtu/hr, but less than 100 MMBtu/hr, 0.030 lb/MMBtu; and

(C) with a maximum rated capacity less than 40 MMBtu/hr, 0.036 lb/MMBtu (or alternatively, 30 parts per million by volume (ppmv) NO_X, at 3.0% oxygen (O_2), dry basis);

(2) liquid-fired boilers, 2.0 pounds per 1,000 gallons of liquid burned;

(3) process heaters:

(A) with a maximum rated capacity equal to or greater than 40 MMBtu/hr, 0.025 lb/MMBtu; and

(B) with a maximum rated capacity less than 40 MMBtu/hr, 0.036 lb/MMBtu (or alternatively, 30 ppmv, at 3.0% O_2, dry basis);

(4) stationary, reciprocating internal combustion engines:

(A) gas-fired rich-burn engines:

(i) fired on landfill gas, 0.60 grams per horsepower-hour (g/hp-hr) [g/hp-hr]; and

(ii) all others, 0.50 g/hp-hr;

(B) gas-fired lean-burn engines:

(i) placed into service before June 1, 2007, that have not been modified, reconstructed, or relocated on or after June 1, 2007, 0.70 g/hp-hr; and

(ii) placed into service, modified, reconstructed, or relocated on or after June 1, 2007:

(I) fired on landfill gas, 0.60 g/hp-hr; and

(II) all others, 0.50 g/hp-hr;

(C) dual-fuel engines, 0.50 g/hp-hr;

(D) diesel engines, excluding dual-fuel engines, placed into service before March 1, 2009, that have not been modified, reconstructed, or relocated on or after March 1, 2009, the lower of 11.0 g/hp-hr or the emission rate established by testing, monitoring, manufacturer's guarantee, or manufacturer's other data;

(E) for diesel engines, excluding dual-fuel engines, not subject to subparagraph (D) of this paragraph:

(i) with a horsepower (hp) [hp] rating of less than 50 hp that are installed, modified, reconstructed, or relocated on or after March 1, 2009, 5.0 g/hp-hr;

(ii) with a hp rating of 50 hp or greater, but less than 100 hp, that are installed, modified, reconstructed, or relocated on or after March 1, 2009, 3.3 g/hp-hr;

(iii) with a hp rating of 100 hp or greater, but less than 750 hp, that are installed, modified, reconstructed, or relocated on or after March 1, 2009, 2.8 g/hp-hr; and

(iv) with an [a] hp rating of 750 hp or greater that are installed, modified, reconstructed, or relocated on or after March 1, 2009, 4.5 g/hp-hr; and

(F) for the purposes of this paragraph, the terms "modification" and "reconstruction" have the meanings defined in §116.10 of this title (relating to General Definitions) and 40 Code of Federal Regulations (CFR) [CFR] §60.15 (December 16, 1975), respectively, and the term "relocated" means to newly install at an account, as defined in §101.1 of this title (relating to Definitions), a used engine from anywhere outside that account;

(5) stationary gas turbines:

(A) rated at 10 megawatts (MW) or greater, 0.032 lb/MMBtu;

(B) rated at 1.0 MW or greater, but less than 10 MW, 0.15 lb/MMBtu; and

(C) rated at less than 1.0 MW, 0.26 lb/MMBtu;

(6) duct burners used in turbine exhaust ducts, the corresponding gas turbine emission specification of paragraph (5) of this subsection;

(7) kilns:

(A) lime kilns, 3.7 pounds per ton (lb/ton) of calcium oxide, demonstrated either:

(i) on an individual kiln basis; or

(ii) on a site-wide production rate weighted average basis, using the following equation:

Figure: 30 TAC §117.410(a)(7)(A)(ii)

[Figure: 30 TAC §117.410(b)(7)(A)(ii)]

$$E_{avg} = \frac{\sum_{i=1}^{N} (E_i \times PR_i)}{\sum_{i=1}^{N} PR_i}$$

Where:

E_{avg} = daily production rate weighted average nitrogen oxides (NO_X) [NO_X] emission rate, pounds per ton (lb/ton) [lb/ton] of calcium oxide;

E_i = daily average NO_X emission rate for kiln i, lb/ton of calcium oxide;

i = each lime kiln at the site;

N = the total number of kilns at the site; and

PR_i = production rate of calcium oxide for kiln i, tons/day.

(B) brick and ceramic kilns, one of the following:

(i) a 40% reduction from the daily NO_X emissions reported to the [Industrial] Emissions Assessment Section for the calendar year 2000 Emissions [Emission] Inventory. To ensure that this emission specification will result in a real 40% reduction in actual emissions, a consistent methodology must be used to calculate the 40% reduction;

(ii) 0.175 lb/ton of product for brick kilns; or

(iii) 0.27 lb/ton of product for ceramic kilns;

(8) metallurgical furnaces:

(A) heat treating furnaces, 0.087 lb/MMBtu. For heat treating furnaces equipped with NO_X continuous emissions monitoring systems (CEMS) [CEMS] or predictive emissions monitoring systems (PEMS) [PEMS] that comply with §117.440 of this title (relating to Continuous Demonstration of Compliance), this emission specification only applies from March 1 to October 31 of any calendar year;

(B) reheat furnaces, 0.10 lb/MMBtu. For reheat furnaces equipped with NO_X CEMS or PEMS that comply with §117.440 of this title, this emission specification only applies from March 1 to October 31 of any calendar year; and

(C) lead smelting blast (cupola) and reverberatory furnaces used in conjunction, the combined rate of 0.45 lb/ton product;

(9) incinerators, either of the following:

(A) an 80% reduction from the daily NO_X emissions reported to the [Industrial] Emissions Assessment Section for the calendar year 2000 Emissions [Emission] Inventory. To ensure that this emission specification will result in a real 80%

reduction in actual emissions, a consistent methodology must be used to calculate the 80% reduction; or

(B) 0.030 lb/MMBtu;

(10) glass and fiberglass melting furnaces:

(A) container glass melting furnaces:

(i) 4.0 lb/ton of glass pulled during furnace operation equal to or greater than 25% of the permitted glass production capacity; and

(ii) the applicable maximum allowable pound per hour NO_X permit limit in a permit issued before June 1, 2007, during furnace operation less than 25% of the permitted glass production capacity;

(B) mineral wool-type cold-top electric fiberglass melting furnaces, 4.0 lb/ton of product pulled;

(C) mineral wool-type fiberglass regenerative furnaces, 1.45 lb/ton of product pulled; and

(D) mineral wool-type fiberglass non-regenerative gas-fired furnaces, 3.1 lb/ton product pulled;

(11) gas-fired curing ovens used for the production of mineral wool-type or textile-type fiberglass, 0.036 lb/MMBtu;

(12) natural gas-fired ovens and heaters, 0.036 lb/MMBtu;

(13) natural gas-fired dryers:

(A) dryers used in organic solvent, printing ink, clay, brick, ceramic tile, calcining, and vitrifying processes, 0.036 lb/MMBtu;

(B) spray dryers used in ceramic tile manufacturing processes, 0.15 lb/MMBtu; and

(14) as an alternative to the emission specifications in paragraphs (1) - (13) of this subsection for units with an annual capacity factor of 0.0383 or less, 0.060 lb/MMBtu. The capacity factor as of December 31, 2000, must be used to determine whether the unit is eligible for the emission specification of this paragraph. A 12-month rolling average must be used to determine the annual capacity factor for units placed into service after December 31, 2000.

(b) [(c)] NO_X averaging time. The emission specifications of subsection [subsections] (a) [and (b)] of this section apply:

(1) if the unit is operated with a NO_X CEMS [continuous emissions monitoring system (CEMS)] or PEMS [predictive emissions monitoring system (PEMS)] under §117.440 of this title [(relating to Continuous Demonstration of Compliance)], either as:

(A) a rolling 30-day average period, in the units of the applicable standard;

(B) a block one-hour average, in the units of the applicable standard, or alternatively;

(C) a block one-hour average, in pounds per hour, for boilers and process heaters, calculated as the product of the boiler's or process heater's maximum rated capacity and its applicable specification in lb/MMBtu; and

(2) if the unit is not operated with a NO_X CEMS or PEMS under §117.440 of this title, a block one-hour average, in the units of the applicable standard. Alternatively for boilers and process heaters, the emission specification may be applied in pounds per hour, as specified in paragraph (1)(C) of this subsection.

(c) [(d)] Related emissions. No person shall allow the discharge into the atmosphere from any unit subject to NO_X emission specifications in subsection (a) [or (b)] of this section, emissions in excess of the following, except as provided in §117.425 of this title (relating to Alternative Case Specific Specifications) or paragraph (3) or (4) of this subsection.

(1) Carbon monoxide (CO) [CO] emissions must not exceed 400 ppmv at 3.0% O_2, dry basis (or alternatively, 3.0 g/hp-hr for stationary internal combustion engines; or 775 ppmv at 7.0% O_2, dry basis for wood fuel-fired boilers or process heaters):

(A) on a rolling 24-hour averaging period, for units equipped with CEMS or PEMS for CO; and

(B) on a block one-hour averaging period [average], for units not equipped with CEMS or PEMS for CO.

(2) For units that inject urea or ammonia into the exhaust stream for NO_X control, ammonia emissions must not exceed 10 ppmv at 3.0% O_2, dry, for boilers and process heaters; 15% O_2, dry, for stationary gas turbines (including duct burners used in turbine exhaust ducts) and gas-fired lean-burn engines; 7.0% O_2, dry, for incinerators; and 3.0% O_2, dry, for all other units, based on:

(A) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; and [or]

(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia.

(3) The correction of CO emissions to 3.0% O_2, dry basis, in paragraph (1) of this subsection does not apply to boilers and process heaters operating at less than 10% of maximum load and with stack O_2 in excess of 15% (i.e., hot-standby mode).

(4) The CO specifications in paragraph (1) of this subsection do not apply to incinerators subject to the CO limits of one of the following:

(A) §111.121 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators);

(B) §113.2072 of this title (relating to Emission Limits) for hospital/medical/infectious waste incinerators; or

(C) 40 CFR Part 264 or 265, Subpart O, for hazardous waste incinerators.

[(A) stationary internal combustion engines subject to subsection (a) of this section; or]

[(B) incinerators subject to the CO limits of one of the following:]

[(i) §111.121 of this title (relating to Single-, Dual-, and Multiple-Chamber Incinerators);]

[(ii) §113.2072 of this title (relating to Emission Limits) for hospital/medical/infectious waste incinerators; or]

[(iii) 40 CFR Part 264 or 265, Subpart O, for hazardous waste incinerators.]

(d) [(e)] Compliance flexibility.

(1) An owner or operator may use any of the following alternative methods to comply with the NO_X emission specifications of this section:

(A) §117.423 of this title (relating to Source Cap); or

(B) §117.9800 of this title (relating to Use of Emission Credits for Compliance).

(2) Section 117.425 of this title is not an applicable method of compliance with the NO_X emission specifications of this section.

(3) An owner or operator may petition the executive director for an alternative to the CO or ammonia specifications of this section in accordance with §117.425 of this title.

(e) [(f)] Prohibition of circumvention.

(1) The maximum rated capacity used to determine the applicability of the emission specifications in this section and the initial compliance demonstration, monitoring, testing requirements, and final control plan in §§117.435, 117.440, and 117.454 of this title (relating to Initial Demonstration of Compliance; Continuous Demonstration of Compliance; and Final Control Plan Procedures for Attainment Demonstration Emission Specifications) must be the greater of the following:

(A) the maximum rated capacity as of December 31, 2000;

(B) the maximum rated capacity after December 31, 2000; or

(C) the maximum rated capacity authorized by a permit issued under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) after December 31, 2000.

(2) A unit's classification is determined by the most specific classification applicable to the unit as of December 31, 2000. For example, a unit that is classified as a stationary gas-fired engine as of December 31, 2000, but subsequently is authorized to operate as a dual-fuel engine, is classified as a stationary gas-fired engine for the purposes of this chapter.

(3) Changes after December 31, 2000, to a unit subject to an emission specification in this section that result in increased NO_X emissions from a unit not subject to an emission specification of this section, such as redirecting one or more fuel or waste streams containing chemical-bound nitrogen to an incinerator with a maximum rated capacity of less than 40 MMBtu/hr, or a flare, are [is] only allowed if:

(A) the increase in NO_X emissions at the unit not subject to this section is determined using a CEMS or PEMS that meets the requirements of §117.440 of this title, or through stack testing that meets the requirements of §117.435 of this title; and

(B) emission credits equal to the increase in NO_X emissions at the unit not subject to this section are obtained and used in accordance with §117.9800 of this title [(relating to Use of Emission Credits for Compliance)].

(4) A source that met the definition of major source on December 31, 2000, is always classified as a major source for purposes of this chapter. A source that did not meet the definition of major source (i.e., was a minor source, or did not yet exist) on December 31, 2000, but becomes a major source at any time after December 31, 2000, is from that time forward always classified as a major source for purposes of this chapter.

(5) The availability under subsection (a)(14) [(b)(14)] of this section of an emission specification for units with an annual capacity factor of 0.0383 or less is based on the unit's status as of [on] December 31, 2000. Reduced operation after December 31, 2000, cannot be used to qualify for a more lenient emission specification under subsection (a)(14) [(b)(14)] of this section than would otherwise apply to the unit.

[(6) This subsection does not apply to stationary, reciprocating internal combustion engines subject to subsection (a) of this section until the compliance date specified in §117.9030(b) of this title.]

(f) [(g)] Operating restrictions. No person may start or operate any stationary diesel or dual-fuel engine for testing or maintenance of the engine between the hours of 6:00 a.m. and noon, except:

(1) for specific manufacturer's recommended testing requiring a run of over 18 consecutive hours;

(2) to verify reliability of emergency equipment (e.g., emergency generators or pumps) immediately after unforeseen repairs. Routine maintenance such as an oil change is not considered to be an unforeseen repair; or

(3) firewater pumps for emergency response training conducted from April 1 through October 31.

§117.423. Source Cap.

(a) An owner or operator may achieve compliance with the nitrogen oxides (NO_X) emission specifications of §117.405 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration), by achieving equivalent NO_X emission reductions obtained by compliance with a source cap emission limitation in accordance with the requirements of this section. Each equipment category at

a source whose individual emission units would otherwise be subject to the NO_X emission specifications of §117.405 or §117.410 of this title may be included in the source cap. Any equipment category included in the source cap must 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 must comply with the requirements of §117.405 or §117.410 of this title.

(b) The source cap allowable mass emission rate must be calculated as follows.

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

Figure: 30 TAC §117.423(b)(1)

$$Cap_{30day} = \sum_{i=1}^{N} \left(H_i \times R_i \right)$$

Where:

Cap_{30day} = the nitrogen oxides (NO_X) [NO_X] 30-day rolling average emission cap in pounds per day;

i = each emission unit in the emission cap;

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

H_i = for units subject to §117.405 of this title, the actual historical average of the daily heat input for each unit included in the source cap, in million British thermal units per day (MMBtu/day), as certified to the executive director, for a 24 consecutive month period between January 1, 2012 and December 31, 2013. For units subject to §117.410 of this title, the actual historical average of the daily heat input for each unit included in the source cap, in [million British thermal units per day] MMBtu/day, as certified to the executive director, for a 24 consecutive month period between January 1, 2000, and December 31, 2001. All sources included in the source cap must use the same 24 consecutive month period. If sufficient historical data are not available for this calculation, the executive director and the United States Environmental Protection Agency may approve another method for calculating H_i; and

R_i = the lowest of:

(i) the [appropriate] applicable NO_X emission specification of §117.405 or §117.410 of this title;

(ii) any permit NO_X emission limit for any unit subject to a permit issued in accordance with Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification), in pounds per million British thermal units (lb/MMBtu), that applies to emission unit i in the absence of trading, in the Dallas-Fort Worth eight-hour ozone nonattainment area, in effect on December 31, 2012, for units subject to §117.405 of this title, and December 31, 2000, for units subject to §117.410 of this title; and

(iii) the actual emission rate as of the dates specified in clause (ii) of this figure. All calculations of emission rates must presume that emission controls in effect on the dates specified in clause (ii) of this figure are in effect for the two-year period used in calculating the actual heat input.

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

Figure: 30 TAC §117.423(b)(2) (No change as figure appears in Texas Administrative Code)

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

(4) For stationary internal combustion engines, the source cap allowable emission rate must be calculated in pounds per hour using the following equation.

Figure: 30 TAC §117.423(b)(4)

[Figure: 30 TAC §117.423(b)(4)]

$$Cap_{ICE} = \frac{MRC \times ES}{HR \times \left(454 \times 10^{-6}\right)}$$

Where:

Cap_{ICE} = source cap allowable emission rate in pounds per hour;

ES = emission specification in grams per horsepower-hour (g/hp-hr);

MRC = engine manufacturer's rated heat input in million British thermal units per hour; and

HR = engine manufacturer's rated heat rate at the engines horsepower (hp) rating, in British thermal units per horsepower-hour.

(5) For stationary gas turbines, the source cap allowable emission rate must be calculated in pounds per hour using the following equations.

Figure: 30 TAC §117.423(b)(5)

$$C_{instack} = A_{NO_X} \times \left(1 - \frac{\%H_2O}{100}\right) \times \left[\left(20.9 - \frac{\%O_2}{\left(1 - \frac{\%H_2O}{100}\right)}\right) \times \frac{1}{5.9}\right]$$

$$\text{Cap}_{GT} = C_{instack} \times MF \times \left(\frac{46}{28} \times 10^{-6}\right)$$

Where:

$C_{instack}$ = the nitrogen oxides (NO_X) [NO_X] in-stack concentration in parts per million by volume (ppmv);

A_{NOX} = the applicable NO_X emission specification of §117.405 or §117.410 [§117.410(b)] of this title (expressed in parts per million by volume [ppmv] NO_X at 15% oxygen (O_2), dry basis);

$\%H_2O$ = the volume percent of water in the stack gases, as calculated from the manufacturer's data, or other data as approved by the executive director, at megawatt (MW) rating and International Standards Organization (ISO) flow conditions;

$\%O_2$ = the volume percent of O_2 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 MW rating and ISO conditions;

Cap_{GT} = source cap allowable emission rate in pounds per hour; and

MF = the turbine manufacturer's rated exhaust flow rate, in pounds per hour at MW rating and ISO flow conditions.

(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 NO_X monitor, carbon monoxide (CO) monitor, an oxygen (O_2) (or carbon dioxide (CO_2)) diluent monitor, and a totalizing fuel flow meter in accordance with the requirements of §117.440 of this title (relating to Continuous Demonstration of Compliance). The required continuous emissions monitoring systems (CEMS) and fuel flow meters must be used to measure NO_X, CO, and O_2 (or CO_2) emissions and fuel use for each affected unit and must 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 §117.440 of this title. The required PEMS and fuel flow meters must be used to measure NO_X, CO, and O_2 (or CO_2) emissions and fuel flow for each affected unit and must be used to demonstrate continuous compliance with the source cap; or

(C) for units not subject to continuous monitoring requirements, use the maximum emission rate as measured by hourly emission rate testing conducted in accordance with §117.435(d) of this title (relating to Initial Demonstration of Compliance) in lieu of CEMS or PEMS. Emission rates for these units are limited to the maximum emission rates obtained from testing conducted under §117.435(d) of this title; and

(2) for each operating unit equipped with CEMS, either use a PEMS in accordance with §117.440 of this title, or the maximum emission rate as measured by hourly emission rate testing conducted in accordance with §117.435(d) of this title, to provide emissions compliance data during periods when the CEMS is off-line. The methods specified in 40 Code of Federal Regulations §75.46 must 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 unit [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 must also be retained in accordance with §117.445 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 that 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 semiannual reports for the monitoring systems in accordance with §117.445 of this title.

(f) The owner or operator shall demonstrate initial compliance with the source cap in accordance with the schedule specified in §117.9030 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(g) For compliance with §117.405 or §117.410 of this title, a unit that has been permanently retired or decommissioned and rendered inoperable may be included in the source cap under the following conditions.

(1) Permanent shutdowns must have occurred after December 31, 2012, for units subject to §117.405 of this title, and December 31, 2000, for units subject to §117.410 of this title.

(2) The source cap emission limit for retired units is calculated in accordance with subsection (b) of this section.

(3) The actual heat input must be calculated according to subsection (b)(1) of this section. If the unit was not in service 24 consecutive months between January 1, 2012, and December 31, 2013, for units subject to §117.405 of this title, and between January 1, 2000, and December 31, 2001, for units subject to §117.410 of this title, the actual heat input must be the average daily heat input for the continuous time period that the unit was in service, consistent with the heat input used to represent the unit's emissions in the 2012

modeling inventory for units subject to §117.405 of this title, and in the 2000 attainment demonstration modeling inventory for units subject to §117.410 of this title. The maximum heat input must be the maximum heat input, as certified to the executive director, 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) Emission reductions from permanent shutdowns or curtailments that have been used for netting or offset purposes under the requirements of Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) may not 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, if required to be filed under §117.450 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 subsection (b)(1) of this section.

(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 emissions event as defined in §101.1 of this title (relating to Definitions) must 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.

§117.425. Alternative Case Specific Specifications.

(a) Where a person can demonstrate that an affected unit cannot attain the applicable requirements of the carbon monoxide (CO) or ammonia specifications of §117.405(d) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410(c) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstrations), the executive director may approve emission specifications different from the CO or ammonia specifications in §117.405(d) or §117.410(c) [§117.410(d)] of this title for that unit. The executive director:

(1) shall consider on a case-by-case basis the technological and economic circumstances of the individual unit;

(2) shall determine that such specifications are the result of the lowest emission specification the unit is capable of meeting after the application of controls to meet the nitrogen oxides emission specifications of §117.405 or §117.410 of this title, as applicable; and

(3) in determining whether to approve alternative emission specifications, may take into consideration the ability of the plant where the unit is located to meet emission specifications through plant-wide averaging at maximum capacity.

(b) Any owner or operator affected by the executive director's decision to deny an alternative case specific emission specification may file a motion to overturn the executive director's decision. The requirements of §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) apply. 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 division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources)].

§117.430. Operating Requirements.

(a) The owner or operator shall operate any unit subject to the source cap emission limits of §117.423 of this title (relating to Source Cap) in compliance with those limitations.

(b) All units subject to the emission specifications of §117.405 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410 [§117.410(a) or (b)] of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) or §117.423 of this title must be operated so as to minimize nitrogen oxides (NO_X) [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) Each boiler, except for wood-fired boilers, must be operated with oxygen (O_2), carbon monoxide (CO), or fuel trim.

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

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

(4) Each unit controlled with steam or water injection must be operated such that injection rates are maintained to limit NO_X concentrations to less than or equal to the NO_X concentrations achieved at maximum rated capacity (corrected to 15% O_2 on a dry basis for stationary gas turbines).

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

(6) Each stationary internal combustion engine controlled with nonselective catalytic reduction must be equipped with an automatic air-fuel ratio (AFR) controller that operates on exhaust O_2 or CO control and maintains AFR in the range required to meet the engine's applicable emission specifications.

(7) Each stationary internal combustion engine must be checked for proper operation of the engine according to §117.8140(b) of this title (relating to Emission Monitoring for Engines).

§117.435. Initial Demonstration of Compliance.

(a) The owner or operator of any unit subject to the emission specifications of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources)] shall test the unit as follows.

(1) The unit must be tested for nitrogen oxides (NO_X), carbon monoxide (CO), and oxygen (O_2) emissions while firing gaseous fuel or, as applicable, liquid and solid fuel.

(2) Units that inject urea or ammonia into the exhaust stream for NO_X control must be tested for ammonia emissions.

(3) Initial demonstration of compliance testing must be performed in accordance with the schedule specified in §117.9030 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(b) The initial demonstration of compliance tests required by subsection (a) of this section must use the methods referenced in subsection (d) or (e) of this section and must be used for determination of initial compliance with the emission specifications of this division. Test results must be reported in the units of the applicable emission specifications and averaging periods.

(c) Any continuous emissions monitoring system (CEMS) or any predictive emissions monitoring system (PEMS) required by §117.440 of this title (relating to

Continuous Demonstration of Compliance) must be installed and operational before conducting testing under subsection (a) of this section. Verification of operational status must, at a minimum, include completion of the initial monitor certification [relative accuracy test audit] and the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device or system.

(d) Compliance with the emission specifications of this division for units operating without CEMS or PEMS must be demonstrated according to the requirements of §117.8000 of this title (relating to Stack Testing Requirements).

(e) Initial compliance with the emission specifications of this division for units operating with CEMS or PEMS in accordance with §117.440 of this title, must be demonstrated after monitor certification testing using the CEMS or PEMS as follows.

(1) For boilers and process heaters complying with a NO_X emission specification [specifications] in pounds per million British thermal units (lb/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 specification. 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 specification on a block one-hour average, any one-hour period while operating at the maximum rated capacity, or as near thereto as practicable is used to determine compliance with the NO_X emission specification.

(3) For units complying with a CO emission specification, on a rolling 24-hour average, any 24-hour period is used to determine compliance with the CO emission specification.

(4) For units complying with §117.423 of this title (relating to Source Cap) a rolling 30-day average of total daily pounds of NO_X emissions from the units are monitored (or calculated in accordance with §117.423(c) of this title) for 30 successive source 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 daily emissions data recorded by the monitoring and recording system during the 30-day test period. There must be no exceedances of the maximum daily cap during the 30-day test period.

(f) Compliance stack test reports must include the information required in §117.8010 of this title (relating to Compliance Stack Test Reports).

§117.440. Continuous Demonstration of Compliance.

(a) Totalizing fuel flow meters. The owner or operator of units listed in this subsection shall install, calibrate, maintain, and operate a totalizing fuel flow meter, with an accuracy of ± 5%, to individually and continuously measure the gas and liquid fuel usage. A computer that collects, sums, and stores electronic data from continuous fuel flow meters is an acceptable totalizer. The owner or operator must continuously operate the totalizing fuel flow meter at least 95% of the time when the unit is operating during[, averaged over] a calendar year. For the purpose of compliance with this subsection for units having pilot fuel supplied by a separate fuel system or from an unmonitored portion of the same fuel system, the fuel flow to pilots may be calculated using the manufacturer's design flow rates rather than measured with a fuel flow meter. The calculated pilot fuel flow rate must be added to the monitored fuel flow when fuel flow is totaled.

(1) The units are the following units subject to §117.405 (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstrations):

(A) boilers (excluding wood-fired boilers that must comply by maintaining records of fuel usage as required in §117.445(f) of this title (relating to Notification, Recordkeeping, and Reporting Requirements) or monitoring in accordance with paragraph (2)(A) of this subsection);

(B) process heaters;

(C) duct burners used in turbine exhaust ducts;

(D) stationary, reciprocating internal combustion engines;

(E) stationary gas turbines;

(F) lime kilns

(G) brick and ceramic kilns;

(H) heat treating furnaces;

(I) reheat furnaces;

(J) lead smelting blast (cupola) and reverberatory furnaces;

(K) glass and fiberglass/mineral wool melting furnaces;

(L) incinerators (excluding vapor streams resulting from vessel cleaning routed to an incinerator, provided that fuel usage is quantified using good

engineering practices, including calculation methods in general use and accepted in new source review permitting in Texas. All other fuel and vapor streams must be monitored in accordance with this subsection);

(M) gas-fired glass, fiberglass, and mineral wool curing ovens;

(N) natural gas-fired ovens and heaters; and

(O) natural gas-fired dryers used in organic solvent, printing ink, clay, brick, ceramic, and calcining and vitrifying processes.

(2) The following are alternatives to the fuel flow monitoring requirements of paragraph (1) of this subsection.

(A) Units operating with a nitrogen oxides (NO_X) and diluent continuous emissions monitoring system (CEMS) under subsection (f) of this section may monitor stack exhaust flow using the flow monitoring specifications of 40 Code of Federal Regulations (CFR) Part 60, Appendix B, Performance Specification 6 or 40 CFR Part 75, Appendix A.

(B) Units that vent to a common stack with a NO_X and diluent CEMS under subsection (f) of this section may use a single totalizing fuel flow meter.

(C) Diesel engines operating with run time meters may meet the fuel flow monitoring requirements of this subsection through monthly fuel use records maintained for each engine.

(D) Stationary reciprocating internal combustion engines and gas turbines equipped with a continuous monitoring system that continuously monitors horsepower and hours of operation are not required to install totalizing fuel flow meters. The continuous monitoring system must be installed, calibrated, maintained, and operated according to manufacturers' recommended procedures.

(b) Oxygen (O_2) monitors.

(1) The owner or operator shall install, calibrate, maintain, and operate an O_2 monitor to measure exhaust O_2 concentration on the following units operated with an annual heat input greater than $2.2(10^{11})$ British thermal units per year (Btu/yr):

(A) boilers with a rated heat input greater than or equal to 100 million British thermal units per hour (MMBtu/hr); and

(B) process heaters with a rated heat input greater than or equal to 100 MMBtu/hr, except:

(i) as provided in subsection (g) of this section; and

(ii) for process heaters operating with a carbon dioxide (CO_2) CEMS for diluent monitoring under subsection (f) of this section.

(2) The O_2 monitors required by this subsection are for process monitoring (predictive monitoring inputs, boiler trim, or process control) and are only required to meet the location specifications and quality assurance procedures referenced in subsection (f) of this section if O_2 is the monitored diluent under that subsection. However, if new O_2 monitors are required as a result of this subsection, the criteria in subsection (f) of this section should be considered the appropriate guidance for the location and calibration of the monitors.

(c) NO_X monitors.

(1) The owner or operator of units listed in this paragraph shall install, calibrate, maintain, and operate a CEMS or predictive emissions monitoring system (PEMS) to monitor exhaust NO_X. The units are:

(A) units with a rated heat input greater than or equal to 100 MMBtu/hr that are subject to §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title;

(B) stationary gas turbines with a megawatt (MW) rating greater than or equal to 30 MW operated more than 850 hours per year;

(C) units that use a chemical reagent for reduction of NO_X;

(D) units that the owner or operator elects to comply with the NO_X emission specifications of §117.405(a) or (b) of this title or §117.410(a) [§117.410(b)] of this title using a pound per MMBtu (lb/MMBtu) limit on a 30-day rolling average;

(E) lime kilns; and

(F) brick kilns and ceramic kilns.

(2) Units subject to the NO_X CEMS requirements of 40 CFR Part 75 are not required to install CEMS or PEMS under this subsection.

(3) The owner or operator shall use one of the following methods to provide substitute emissions compliance data during periods when the NO_X monitor is off-line:

(A) if the NO_X monitor is a CEMS:

(i) subject to 40 CFR Part 75, use the missing data procedures specified in 40 CFR Part 75, Subpart D (Missing Data Substitution Procedures); or

(ii) subject to 40 CFR Part 75, Appendix E, use the missing data procedures specified in 40 CFR Part 75, Appendix E, §2.5 (Missing Data Procedures);

(B) use 40 CFR Part 75, Appendix E monitoring in accordance with §117.1340(d) of this title (relating to Continuous Demonstration of Compliance);

(C) if the NO_X monitor is a PEMS:

(i) use the methods specified in 40 CFR Part 75, Subpart D; or

(ii) use calculations in accordance with §117.8110(b) of this title (relating to Emission Monitoring System Requirements for Utility Electric Generation Sources); or

(D) the maximum block one-hour emission rate as measured during the initial demonstration of compliance required in §117.435(e) of this title (relating to Initial Demonstration of Compliance).

(d) Ammonia monitoring requirements. The owner or operator of any unit subject to §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title and the ammonia emission specification of §117.405(d)(2) or §117.410(c)(2) of this title shall monitor ammonia emissions from the unit according to the requirements of §117.8130 of this title (relating to Ammonia Monitoring).

(e) Carbon monoxide (CO) monitoring. The owner or operator shall monitor CO exhaust emissions from each unit listed in subsection (c)(1) of this section using one or more of the methods specified in §117.8120 of this title (relating to Carbon Monoxide (CO) Monitoring).

(f) CEMS requirements. The owner or operator of any CEMS used to meet a pollutant monitoring requirement of this section shall comply with the requirements of §117.8100(a) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources).

(g) PEMS requirements. The owner or operator of any PEMS used to meet a pollutant monitoring requirement of this section shall comply with the following.

(1) The PEMS must predict the pollutant emissions in the units of the applicable emission limitations of this division (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(2) The PEMS must meet the requirements of §117.8100(b) of this title.

(h) Engine monitoring. The owner or operator of any stationary gas engine subject to the emission specifications of this division shall stack test engine NO_X and CO emissions as specified in §117.8140(a) of this title (relating to Emission Monitoring for Engines).

(i) Run time meters. The owner or operator of any stationary gas turbine or stationary internal combustion engine claimed exempt using the exemption of §117.403(a)(7)(D), (8), or (9) or (b)(2)(D) of this title (relating to Exemptions) shall record the operating time with a non-resettable elapsed run time meter.

(j) Data used for compliance. After the initial demonstration of compliance required by §117.435 of this title, the methods required in this section must be used to determine compliance with the emission specifications of §117.405(a) or (b) or §117.410(a) [or (b)] of this title. For enforcement purposes, the executive director may also use other commission compliance methods to determine whether the unit [source] is in compliance with applicable emission specifications.

(k) Testing requirements.

[(1) The owner or operator of units that are subject to the emission specifications of §117.410(a) of this title shall test the units as specified in §117.435 of this title in accordance with the schedule specified in §117.9030(a) of this title.]

(1) [(2)] The owner or operator of units that are subject to the emission specifications of §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title shall test the units as specified in §117.435 of this title in accordance with the applicable schedule specified in §117.9030 [§117.9030(b)] of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(2) [(3)] The owner or operator of any unit not equipped with CEMS or PEMS that are subject to the emission specifications of §117.405(a) or (b) of this title or §117.410(a) [§117.410(b)] of this title shall retest the unit as specified in §117.435 of this title within 60 days after any modification that could reasonably be expected to increase the NO_X emission rate.

§117.445. Notification, Recordkeeping, and Reporting Requirements.

(a) Startup and shutdown records. For units subject to the startup and/or shutdown provisions of §101.222 of this title (relating to Demonstrations), hourly records must be made of startup and/or shutdown events and maintained for a period of at least two years. Records must be available for inspection by the executive director, the United States

Environmental Protection Agency, and any local air pollution control agency having jurisdiction upon request. These records must include, but are not limited to: type of fuel burned; quantity of each type of fuel burned; and the date, time, and duration of the procedure.

(b) Notification. The owner or operator of a unit subject to the emission specifications of §117.405(a) or (b) of this title (relating to Emission Specifications for Reasonably Available Control Technology) or §117.410(a) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) shall submit written notification of any continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) relative accuracy test audit (RATA) conducted under §117.440 of this title (relating to Continuous Demonstration of Compliance) or any testing conducted under §117.435 of this title (relating to Initial Demonstration of Compliance) at least 15 days in advance of the date of the RATA or testing to the appropriate regional office and any local air pollution control agency having jurisdiction.

[(b) Notification. The owner or operator of an affected source shall submit notification to the appropriate regional office and any local air pollution control agency having jurisdiction as follows:]

[(1) for units subject to the emission specifications of §117.410(a) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration):]

[(A) verbal notification of the date of any testing conducted under §117.435 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]

[(B) verbal notification of the date of any continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) relative accuracy test audit (RATA) conducted under §117.440 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) for units subject to the emission specifications of §117.410(b) of this title, written notification of any CEMS or PEMS RATA conducted under §117.440 of this title or any testing conducted under §117.435 of this title at least 15 days in advance of the date of the RATA or testing.]

(c) Reporting of test results. The owner or operator of an affected unit shall furnish the Office of Compliance and Enforcement, the appropriate regional office, and any local air pollution control agency having jurisdiction a copy of any testing conducted under §117.435 of this title and any CEMS or PEMS RATA conducted under §117.440 of this title:

(1) within 60 days after completion of such testing or evaluation; and

(2) not later than the compliance schedule specified in §117.9030 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(d) Semiannual reports. The owner or operator of a unit required to install a CEMS or PEMS under §117.440 of this title shall report in writing to the executive director on a semiannual basis any exceedance of the applicable emission specifications of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources)] and the monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations §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 units complying with §117.423 of this title (relating to Source Cap), excess emissions are each daily period that the total nitrogen oxides (NO_X) emissions exceed the rolling 30-day average or the maximum daily NO_X cap;

(2) specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected unit, the nature and cause of

any malfunction (if known), and the corrective action taken or preventative measures adopted;

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

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

(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 or PEMS 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 commission's *Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports*) must be submitted, unless otherwise requested by the executive director. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total unit 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 unit operating time for the reporting period, a summary report and an excess emission report must both be submitted.

(e) Reporting for engines. The owner or operator of any gas-fired engine subject to the emission specifications in §117.405 or §117.410 of this title shall report in writing to the executive director on a semiannual basis any excess emissions and the air-fuel ratio monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:

(1) the magnitude of excess emissions (based on the quarterly emission checks of §117.430(b)(7) of this title (relating to Operating Requirements) and the biennial emission testing required for demonstration of emissions compliance in accordance with §117.440(h) 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; and

(2) specific identification, to the extent feasible, of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the engine or emission control system, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(f) Recordkeeping. The owner or operator of a unit subject to the requirements of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major

Sources)] shall maintain written or electronic records of the data specified in this subsection. Such records must be kept for a period of at least five years and must be made available upon request by authorized representatives of the executive director, the United States Environmental Protection Agency, or local air pollution control agencies having jurisdiction. The records must include:

(1) for each unit subject to §117.440(a) of this title, records of annual fuel usage;

(2) for each unit using a CEMS or PEMS in accordance with §117.440 of this title, monitoring records of:

(A) hourly emissions and fuel usage (or stack exhaust flow) for units complying with an emission specification enforced on a block one-hour average; or

(B) daily emissions and fuel usage (or stack exhaust flow) for units complying with an emission specification enforced on a daily or rolling 30-day average. Emissions must be recorded in units of:

(i) pounds per million British thermal units (lb/MMBtu) heat input; and

(ii) pounds or tons per day;

(3) for each stationary internal combustion engine subject to the emission specifications of this division, records of:

(A) emissions measurements required by:

(i) §117.430(b)(7) of this title; and

(ii) §117.440(h) of this title;

(B) catalytic converter, air-fuel ratio controller, or other emissions-related control system maintenance, including the date and nature of corrective actions taken; and

(C) daily average horsepower and total daily hours of operation for each engine that the owner or operator elects to use the alternative monitoring system allowed under §117.440(a)(2)(D) of this title;

(4) for units claimed exempt from emission specifications using the exemption of §117.403(a)(7)(D), (8), or (9) or (b)(2)(D) of this title (relating to Exemptions), records of monthly hours of operation, for exemptions based on hours per

year of operation. In addition, for each turbine or engine claimed exempt under §117.403(a)(7)(D) or (b)(2)(D) of this title, written records must be maintained of the purpose of turbine or engine operation and, if operation was for an emergency situation, identification of the type of emergency situation and the start and end times and date(s) of the emergency situation;

(5) records of ammonia measurements specified in §117.440(d) of this title;

(6) records of carbon monoxide measurements specified in §117.440(e) of this title;

(7) records of the results of initial certification testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS or PEMS;

(8) records of the results of performance testing, including initial demonstration of compliance testing conducted in accordance with §117.435 of this title;

(9) for each stationary diesel or dual-fuel engine, records of each time the engine is operated for testing and maintenance of the engine, including:

(A) date(s) of operation;

(B) start and end times of operation;

(C) identification of the engine; and

(D) total hours of operation for each month and for the most recent 12 consecutive months; and

(10) for lime kilns that comply with the alternative site-wide production rate weighted average emission specification in §117.410(a)(7)(A)(ii) [§117.410(b)(7)(A)(ii)] of this title, daily records of:

(A) average NO_X emission rates in pounds per ton (lb/ton) of calcium oxide (CaO) for each kiln;

(B) production rate of CaO for each kiln in tons per day; and

(C) site-wide production rate weighted average NO_X emission rate in lb/ton of CaO.

§117.450. Initial Control Plan Procedures.

(a) The owner or operator of any unit at a major source of nitrogen oxides (NO_X) in the Dallas-Fort Worth eight-hour ozone nonattainment area that is subject to §117.405(a) or (b) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410(a) [§117.410(b)] of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) shall submit an initial control plan. The control plan must include:

(1) a list of all combustion units at the account that are listed in §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title. The list must include for each unit:

(A) the maximum rated capacity;

(B) anticipated annual capacity factor;

(C) estimated or measured NO_X emission data in the units associated with the category of equipment from §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title;

(D) the method of determination for the NO_X emission data required by subparagraph (C) of this paragraph;

(E) the facility identification number and emission point number as submitted to the [Industrial] Emissions Assessment Section of the commission; and

(F) the emission point number as listed on the Maximum Allowable Emissions Rate Table of any applicable commission permit;

(2) identification of all units with a claimed exemption from the emission specifications of §117.405(a) or (b) or §117.410(a) [§117.410(b)] of this title and the rule basis for the claimed exemption;

(3) identification of the election to use the source cap emission limit as specified in §117.423 of this title (relating to Source Cap) to achieve compliance with this rule and a list of the units to be included in the source cap;

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

(5) a list of units requiring operating modifications to comply with §117.430(b) of this title (relating to Operating Requirements) and the type of modification to be applied for all such units, including an anticipated construction schedule;

(6) for units required to install totalizing fuel flow meters in accordance with §117.440(a) of this title (relating to Continuous Demonstration of Compliance), indication of whether the devices are currently in operation, and if so, whether they have been installed as a result of the requirements of this chapter; and

(7) for units required to install continuous emissions monitoring systems or predictive emissions monitoring systems in accordance with §117.440 of this title, indication of whether the devices are currently in operation, and if so, whether they have been installed as a result of the requirements of this chapter.

(b) The initial control plan must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the [Chief Engineer's] Office of Air by the applicable date specified for initial control plans in §117.9030 [§117.9030(b)] of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

[(c) For units located in Dallas, Denton, Collin, and Tarrant Counties subject to §117.210 of this title (relating to Emission Specifications for Attainment Demonstration), the owner or operator may elect to submit the most recent revision of the final control plan required by §117.254 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications) in lieu of the initial control plan required by subsection (a) of this section.]

§117.452. Final Control Plan Procedures for Reasonably Available Control Technology.

(a) The owner or operator of any unit subject to §117.405 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) at a major source of nitrogen oxides (NO_X) shall submit a final control report to show compliance with the requirements of §117.405 of this title. The report must include:

(1) the section used to demonstrate compliance, either:

(A) §117.405 of this title;

(B) §117.423 of this title (relating to Source Cap); or

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

(2) the method of NO_X control for each unit;

(3) the emissions measured by testing required in §117.435 of this title (relating to Initial Demonstration of Compliance);

(4) the submittal date, and whether sent to the central or the regional office (or both), of any compliance stack test report or monitor certification report required by §117.435 of this title that is not being submitted concurrently with the final compliance report; and

(5) the specific rule citation for any unit with a claimed exemption from the emission specification of §117.405 of this title.

(b) For sources complying with §117.423 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall submit:

(1) the calculations used to calculate the 30-day average and maximum daily source cap allowable emission rates;

(2) a list containing, for each unit in the cap:

(A) the average daily heat input, H_i, specified in §117.423(b)(1) of this title;

(B) the maximum daily heat input, H_{mi}, specified in §117.423(b)(2) of this title;

(C) the method of monitoring emissions; and

(D) the method of providing substitute emissions data when the NO_X monitoring system is not providing valid data; and

(3) an explanation of the basis of the values of H_i and H_{mi}, specified in §117.423(b)(1) and (2) of this title.

(c) The report must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the Office of Air by the applicable date specified for final control plans in §117.9030(a) of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources). The plan must be updated with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with the source cap rolling 30-day average emission limit, according to the applicable schedule given in §117.9030(a) of this title.

§117.454. Final Control Plan Procedures for Attainment Demonstration Emission Specifications.

(a) The owner or operator of any unit subject to §117.410 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration [Demonstrations]) at a major source of nitrogen oxides (NO_X) shall submit a final control report to show compliance with the requirements of §117.410 of this title. The report must include:

(1) the section used to demonstrate compliance, either:

(A) §117.410 of this title;

(B) §117.423 of this title (relating to Source Cap); or

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

(2) the method of NO_X control for each unit;

(3) the emissions measured by testing required in §117.435 of this title (relating to Initial Demonstration of Compliance);

(4) the submittal date, and whether sent to the central or the regional office (or both), of any compliance stack test report or monitor certification [relative accuracy test

audit] report required by §117.435 of this title that is not being submitted concurrently with the final compliance report; and

(5) the specific rule citation for any unit with a claimed exemption from the emission specification of §117.410 of this title.

(b) For sources complying with §117.423 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall submit:

(1) the calculations used to calculate the 30-day average and maximum daily source cap allowable emission rates;

(2) a list containing, for each unit in the cap:

(A) the average daily heat input, H_i, specified in §117.423(b)(1) of this title;

(B) the maximum daily heat input, H_{mi}, specified in §117.423(b)(2) [§117.423(b)(1)] of this title;

(C) the method of monitoring emissions; and

(D) the method of providing substitute emissions data when the NO_X monitoring system is not providing valid data; and

(3) an explanation of the basis of the values of H_i and H_{mi}, specified in §117.423(b)(1) and (2) of this title

(c) The report must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the [Chief Engineer's] Office of Air by the applicable date specified for final control plans in §117.9030 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources). The plan must be updated with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with the source cap rolling 30-day average emission limit, according to the applicable schedule given in §117.9030 of this title.

§117.456. 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 must adhere to the requirements and the final compliance dates of this division (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources).

(1) For sources complying with §117.405 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) or §117.410 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration), replacement new units may be included in the control plan.

(2) For sources complying with §117.423 of this title (relating to Source Cap), any new unit must be included in the source cap, if the unit belongs to an equipment category that is included in the source cap.

(3) The revision of the final control plan is subject to the review and approval of the executive director.

[SUBCHAPTER C: COMBUSTION CONTROL AT MAJOR UTILITY ELECTRIC GENERATION SOURCES IN OZONE NONATTAINMENT AREAS]

[DIVISION 2: DALLAS-FORT WORTH OZONE NONATTAINMENT AREA UTILITY ELETRIC GENERATION SOURCES]

[§§117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1125, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156]

Statutory Authority

The repealed sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The repealed sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air.

The repealed sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions. The repealed sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The repealed sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq*.

[§117.1100. Applicability.]

[(a) The provisions of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources apply to utility boilers, auxiliary steam boilers, stationary gas turbines, and duct burners in turbine exhaust ducts used in an electric power generating system, as defined in §117.10 of this title (relating to Definitions), that is located within the Dallas-Fort Worth ozone nonattainment area and is owned or operated by:]

[(1) a municipality or a Public Utility Commission of Texas (PUC) regulated utility, or any of their successors, regardless of whether the successor is a municipality or is regulated by the PUC; or]

[(2) an electric cooperative, municipality, river authority, or public utility.]

[(b) The provisions of this division are applicable for the life of each affected unit within an electric power generating system or until this division or sections of this title that are applicable to an affected unit are rescinded.]

[(c) This division no longer applies to any electric generating facility in Collin, Dallas, Denton, and Tarrant Counties that is subject to the emission specifications in §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) after the appropriate compliance date(s) specified in §117.9130 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).]

[§117.1103. Exemptions.]

[(a) Reasonably available control technology. Units exempted from the provisions of §§117.1105, 117.1115, and 117.1140 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); Alternative System-Wide Emission

Specifications; and Continuous Demonstration of Compliance), except as specified in §117.1140(h) - (j) of this title, include the following:]

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

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

[(3) stationary gas turbines and engines, that are:]

[(A) used solely to power other engines or gas turbines during startups; or]

[(B) demonstrated to operate less than 850 hours per year, based on a rolling 12-month average.]

[(b) Emission specifications for attainment demonstration. Stationary gas turbines and engines that are used solely to power other engines or gas turbines during startups are exempt from the provisions of §§117.1110, 117.1120, and 117.1140 of this title (relating to Emission Specifications for Attainment Demonstration; System Cap; and Continuous Demonstration of Compliance), except as specified in §117.1140(i) of this title.]

[(c) Emergency fuel oil firing.]

[(1) The fuel oil firing emission specifications of §§117.1105(c), 117.1110(a), 117.1115(b), and 117.1120 of this title do not apply during an emergency operating condition declared by the Electric Reliability Council of Texas, or any other emergency operating condition that necessitates oil firing. All findings that emergency operating conditions exist are subject to the approval of the executive director.]

[(2) 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 but no later than 48 hours after declaration of the emergency. Verbal notification must 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, and must be followed by written notification containing this information no later than five days after declaration of the emergency.]

[(3) The owner or operator of an affected unit shall give the executive director and any local air pollution control agency having jurisdiction final written notification as soon as possible but no later than two weeks after the termination of emergency fuel oil firing. Final written notification must 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.]

[§117.1105. Emission Specifications for Reasonably Available Control Technology (RACT).]

[(a) No person shall allow the discharge into the atmosphere from any utility boiler or auxiliary steam boiler, emissions of nitrogen oxides (NO_X) in excess of 0.26 pound per million British thermal units (lb/MMBtu) heat input on a rolling 24-hour average and 0.20 lb/MMBtu heat input on a 30-day rolling average while firing natural gas or a combination of natural gas and waste oil.]

[(b) No person shall allow the discharge into the atmosphere from any utility boiler, NO_X emissions in excess of 0.38 lb/MMBtu heat input for tangentially-fired units on a rolling 24-hour averaging period or 0.43 lb/MMBtu heat input for wall-fired units on a rolling 24-hour averaging period while firing coal.]

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

[(d) No person shall allow the discharge into the atmosphere from any utility boiler or auxiliary steam boiler, NO_X emissions in excess of the heat input weighted average of the applicable emission specifications specified in subsections (a) and (c) of this section on a

rolling 24-hour averaging period while firing a mixture of natural gas and fuel oil, as follows.]

[Figure: 30 TAC §117.1105(d)]

[(e) Each auxiliary steam boiler that is an affected facility as defined by New Source Performance Standards (NSPS) 40 Code of Federal Regulations Part 60, Subparts D, Db, or Dc is limited to the applicable NSPS NO_X emission limit, unless the boiler is also subject to a more stringent permit emission limit, in which case the more stringent emission limit applies. Each auxiliary steam boiler subject to an emission specification under this subsection is not subject to the emission specifications of subsection (a), (c), or (d) of this section.]

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

[(1) 42 parts per million by volume (ppmv) at 15% oxygen (O_2), dry basis, while firing natural gas; and]

[(2) 65 ppmv at 15% O_2, dry basis, while firing fuel oil.]

[(g) No person shall allow the discharge into the atmosphere from any stationary gas turbine used for peaking service with an annual electric output in MW-hr of less than the product of 2,500 hours and the MW rating of the unit NO_X emissions in excess of a block one-hour average of:]

[(1) 0.20 lb/MMBtu heat input while firing natural gas; and]

[(2) 0.30 lb/MMBtu heat input while firing fuel oil.]

[(h) No person shall allow the discharge into the atmosphere from any utility boiler or auxiliary steam boiler subject to the NO_X emission specifications specified in subsections (a) - (e) of this section, carbon monoxide (CO) emissions in excess of 400 ppmv at 3.0% O_2, dry (or alternatively, 0.30 lb/MMBtu heat input for gas-fired units, 0.31 lb/MMBtu heat input for oil-fired units, and 0.33 lb/MMBtu heat input for coal-fired units), based on:]

[(1) a one-hour average for units not equipped with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) for CO; or]

[(2) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO.]

[(i) 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% O_2, dry basis.]

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

[(k) For purposes of this subchapter, the following apply.]

[(1) The lower of any permit NO_X emission limit in effect on June 9, 1993, under a permit issued in accordance with Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and the NO_X emission specifications of subsections (a) - (g) of this section apply, except that gas-fired boilers operating under a permit issued after March 3, 1982, with a NO_X emission limit of 0.12 lb/MMBtu heat input, are limited to that rate for the purposes of this subchapter.]

[(2) For any unit placed into service after June 9, 1993, and prior to the final compliance date as specified in §117.9110 of this title (relating to Compliance Schedule for

Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources) as functionally identical replacement for an existing unit or group of units subject to the provisions of this chapter, the higher of any permit NO_X emission limit under a permit issued after June 9, 1993, in accordance with Chapter 116 of this title and the emission specifications of subsections (a) - (g) of this section apply. Any emission credits resulting from the operation of such replacement units are limited to the cumulative maximum rated capacity of the units replaced. The inclusion of such new units is an optional method for complying with the emission specifications of §117.1115 of this title (relating to Alternative System-Wide Emission Specifications). Compliance with this paragraph does not eliminate the requirement for new units to comply with Chapter 116 of this title.]

[(l) This section no longer applies to any utility boiler after the appropriate compliance date(s) for emission specifications for attainment demonstration given in §117.9110(2) of this title.]

[§117.1110. Emission Specifications for Attainment Demonstration.]

[(a) Nitrogen oxides (NO_X) emission specifications. The owner or operator of each utility boiler shall ensure that emissions of NO_X do not exceed:]

[(1) 0.033 pounds per million British thermal units (lb/MMBtu) heat input from boilers that are part of a large utility system, as defined in §117.10 of this title (relating

to Definitions), on a daily average, except as provided in §117.1120 or §117.9800 of this title (relating to System Cap; and Use of Emission Credits for Compliance); and]

[(2) 0.06 lb/MMBtu heat input from boilers that are part of a small utility system, as defined in §117.10 of this title, on a daily average, except as provided in §117.1120 or §117.9800 of this title. The annual heat input exemption of §117.1103(a)(2) of this title (relating to Exemptions) is not applicable to a small utility system.]

[(b) Related emissions. No person shall allow the discharge into the atmosphere from any unit subject to the NO_X emission specifications specified in subsection (a) of this section:]

[(1) carbon monoxide (CO) emissions in excess of 400 parts per million by volume (ppmv) at 3.0% oxygen (O_2), dry (or alternatively, 0.30 lb/MMBtu heat input for gas-fired units, 0.31 lb/MMBtu heat input for oil-fired units, and 0.33 lb/MMBtu heat input for coal-fired units), based on:]

[(A) a one-hour average for units not equipped with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) for CO; or]

[(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO; and]

[(2) for units that inject urea or ammonia into the exhaust stream for NO_X control, ammonia emissions in excess of 10 ppmv, at 3.0% O_2, dry, for boilers and 15% O_2, dry, for stationary gas turbines (including duct burners used in turbine exhaust ducts), based on:]

[(A) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; or]

[(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia.]

[(c) Compliance flexibility.]

[(1) An owner or operator may use either of the following alternative methods of compliance with the NO_X emission specifications of this section:]

[(A) §117.1120 of this title; or]

[(B) §117.9800 of this title.]

[(2) An owner or operator may petition the executive director for an alternative to the CO or ammonia specification of this section in accordance with §117.1125 of this title (relating to Alternative Case Specific Specifications).]

[(3) Section 117.1115 of this title (relating to Alternative System-Wide Emission Specifications) and §117.1125 of this title are not alternative methods of compliance with the NO_X emission specifications of this section.]

[§117.1115. 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 specifications of §117.1105 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) by achieving compliance with a system-wide emission specification. Any owner or operator who elects to comply with system-wide emission specifications 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 as defined in §117.10 of this title (relating to Definitions) would not exceed the system-wide emission specification as defined in §117.10 of this title.]

[(1) The following units must comply with the individual emission specifications of §117.1105 of this title and must not be included in the system-wide emission specification:]

[(A) gas turbines used for peaking service subject to the emission specifications of §117.1105(g) of this title; and]

[(B) auxiliary steam boilers subject to the emission specifications of §117.1105(a), (c), (d), or (e) of this title.]

[(2) Coal-fired utility boilers must have a separate system average under this section, limited to those units.]

[(3) Oil-fired utility boilers must have a separate system average under this section, limited to those units. The NO_X emission specification assigned to each oil-fired unit in the system must not exceed 0.5 pounds per million British thermal units (lb/MMBtu) based on a rolling 24-hour average.]

[(b) The owner or operator shall establish enforceable emission limits for each affected unit in the system calculated in accordance with the maximum rated capacity averaging in this section as follows:]

[(1) for each gas-fired unit in the system, in lb/MMBtu:]

[(A) on a rolling 24-hour averaging period; and]

[(B) on a rolling 30-day averaging period;]

[(2) for each coal-fired unit in the system, in lb/MMBtu on a rolling 24-hour averaging period;]

[(3) for stationary gas turbines, in the units of the appropriate emission specification of §117.1105 of this title; and]

[(4) for each fuel oil-fired unit in the system, in lb/MMBtu on a rolling 24-hour averaging period.]

[(c) An owner or operator of any gaseous and liquid fuel-fired utility boiler or gas turbine shall:]

[(1) comply with the assigned maximum allowable emission rates for gas fuel while firing natural gas only;]

[(2) comply with the assigned maximum allowable emission rate for liquid fuel while firing liquid fuel only; and]

[(3) comply with a limit calculated as the actual heat input weighted sum of the assigned gas-firing, 24-hour average, allowable emission specification and the assigned liquid-firing allowable emission specifications while operating on liquid and gaseous fuel concurrently.]

[(d) Solely for purposes of calculating the system-wide emission specification, the allowable mass emission rate for each affected unit must be calculated from the emission specifications of §117.1105 of this title, as follows.]

[(1) The NO_X emissions rate (in pounds per hour) for each affected utility boiler is determined by the following equation.]

[Figure: 30 TAC §117.1115(d)(1)]

[(2) The NO_X emissions rate (in pounds per hour) for each affected stationary gas turbine is determined by the following equations.]

[Figure: 30 TAC §117.1115(d)(2)]

[§117.1120. System Cap.]

[(a) An owner or operator of an electric generating facility (EGF) may achieve compliance with the nitrogen oxides (NO_X) emission specifications of §117.1110 of this title (relating to Emission Specifications for Attainment Demonstration) by achieving equivalent NO_X emission reductions obtained by compliance with a daily and 30-day system cap emission limitation in accordance with the requirements of this section.]

[(b) Each EGF within an electric power generating system, as defined in §117.10 of this title (relating to Definitions), that would otherwise be subject to the NO_X emission rates of §117.1110 of this title must be included in the system cap.]

[(c) The system cap must be calculated as follows.]

[(1) A rolling 30-day average emission cap must be calculated using the following equation.]

[Figure: 30 TAC §117.1120(c)(1)]

[(2) A maximum daily cap must be calculated using the following equation.]

[Figure: 30 TAC §117.1120(c)(2)]

[(3) Each EGF in the system cap is subject to the emission limits of both paragraphs (1) and (2) of this subsection at all times.]

[(d) The NO_X emissions monitoring required by §117.1140 of this title (relating to Continuous Demonstration of Compliance) for each EGF in the system cap must be used to demonstrate continuous compliance with the system cap.]

[(e) For each operating EGF, the owner or operator shall use one of the following methods to provide substitute emissions compliance data during periods when the NO_X monitor is off-line:]

[(1) if the NO_X monitor is a continuous emissions monitoring system (CEMS):]

[(A) subject to 40 Code of Federal Regulations (CFR) Part 75, use the missing data procedures specified in 40 CFR Part 75, Subpart D (Missing Data Substitution Procedures); or]

[(B) subject to 40 CFR Part 75, Appendix E, use the missing data procedures specified in 40 CFR Part 75, Appendix E, §2.5 (Missing Data Procedures);]

[(2) use Appendix E monitoring in accordance with §117.1140(d) of this title;]

[(3) if the NO_X monitor is a predictive emissions monitoring system (PEMS):]

[(A) use the methods specified in 40 CFR Part 75, Subpart D; or]

[(B) use calculations in accordance with §117.8110(b) of this title (relating to Emission Monitoring System Requirements for Utility Electric Generation Sources); or]

[(4) if the methods specified in paragraphs (1) - (3) of this subsection are not used, the owner or operator shall use the maximum block one-hour emission rate as measured by the 30-day testing.]

[(f) The owner or operator of any EGF subject to a system cap shall maintain daily records indicating the NO_X emissions and fuel usage from each EGF and summations of total NO_X emissions and fuel usage for all EGFs under the system cap on a daily basis. Records must also be retained in accordance with §117.1145 of this title (relating to Notification, Recordkeeping, and Reporting Requirements).]

[(g) The owner or operator of any EGF subject to a system cap shall report any exceedance of the system 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 to the regional office that 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 semiannual reports for the monitoring systems in accordance with §117.1145 of this title.]

[(h) The owner or operator of any EGF subject to a system cap shall demonstrate initial compliance with the system cap in accordance with the schedule specified in §117.9110 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources).]

[(i) An EGF that is permanently retired or decommissioned and rendered inoperable may be included in the system cap emission limit, provided that the permanent shutdown occurred after January 1, 1999. The system cap emission limit is calculated in accordance with subsection (b) of this section.]

[(j) Emission reductions from shutdowns or curtailments that have been used for netting or offset purposes under the requirements of Chapter 116 of this title (relating to

Control of Air Pollution by Permits for New Construction or Modification) may not be included in the baseline for establishing the cap.]

[(k) For the purposes of determining compliance with the system cap emission limit, the contribution of each affected EGF that is operating during a startup, shutdown, or emissions event as defined in §101.1 of this title (relating to Definitions) must be calculated from the NO_X emission rate measured by the NO_X monitor, if operating properly. If the NO_X monitor is not operating properly, the substitute data procedures identified in subsection (e) of this section must be used. If neither the NO_X monitor nor the substitute data procedure are operating properly, the owner or operator shall use the maximum daily rate measured during the initial demonstration of compliance, unless the owner or operator provides data demonstrating to the satisfaction of the executive director and the United States Environmental Protection Agency that actual emissions were less than maximum emissions during such periods.]

[(l) An owner or operator of a source of NO_X who is participating in the system cap under this section may exceed their system cap provided that the owner or operator is complying with the requirements of §117.9800 of this title (relating to Use of Emission Credits for Compliance) or 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).]

[(m) In the event that a unit within an electric power generating system is sold or transferred, the unit must become subject to the transferee's system cap. The value Ri in this section is based on the unit's status as part of a large or small system as of January 1, 2000, and does not change as a result of sale or transfer of the unit, regardless of the size of the transferee's system.]

[§117.1125. Alternative System-Wide Emission Specifications.]

[(a) Where a person can demonstrate that an affected unit cannot attain the applicable requirements of §117.1105 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)), or the carbon monoxide (CO) or ammonia specifications of §117.1110(b) of this title (relating to Emission Specifications for Attainment Demonstration), the executive director may approve emission specifications different from §117.1105 of this title or the CO or ammonia specifications in §117.1110(b) of this title for that unit. The executive director:]

[(1) shall consider on a case-by-case basis the technological and economic circumstances of the individual unit;]

[(2) shall determine that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of controls to meet

the nitrogen oxides emission specifications of §117.1105 or §117.1110 of this title, as applicable; and]

[(3) in determining whether to approve alternative emission specifications, may take into consideration the ability of the plant where the unit is located to meet emission specifications through system-wide averaging at maximum capacity.]

[(b) Any owner or operator affected by the executive director's decision to deny an alternative case specific emission specification may file a motion to overturn the executive director's decision. The requirements of §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) apply. 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 division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources).]

[§117.1135. Initial Demonstration of Compliance.]

[(a) The owner or operator of all units that are subject to the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources) shall test the units as follows.]

[(1) The units must be tested for nitrogen oxides (NO_X), carbon monoxide (CO), and oxygen (O_2) emissions.]

[(2) Units that inject urea or ammonia into the exhaust stream for NO_X control must be tested for ammonia emissions.]

[(3) Testing must be performed in accordance with the schedules specified in §117.9110 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources).]

[(b) The tests required by subsection (a) of this section must be used for determination of initial compliance with the emission specifications of this division. Test results must be reported in the units of the applicable emission specifications and averaging periods. If compliance testing is based on 40 Code of Federal Regulations Part 60, Appendix A reference methods, the report must contain the information specified in §117.8010 of this title (relating to Compliance Stack Test Reports).]

[(c) Continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) required by §117.1140 of this title (relating to Continuous Demonstration of Compliance) must be installed and operational before testing under subsection (a) of this section. Verification of operational status must, at a minimum,

include completion of the initial monitor certification and the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.]

[(d) Initial compliance with the emission specifications of this division for units operating with CEMS or PEMS in accordance with §117.1140 of this title must be demonstrated after monitor certification testing using the NO_X CEMS or PEMS as follows.]

[(1) To comply with the NO_X emission specification in pounds per million British thermal units (lb/MMBtu) on a rolling 30-day average, NO_X emissions from a 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 specification. 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) To comply with the NO_X emission specification in lb/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 specification. 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 specification for fuel oil firing must be determined based on the first 24 consecutive operating hours a unit fires fuel oil.]

[(3) Any electric generating facility (EGF) complying with §117.1120 of this title (relating to System Cap), a rolling 30-day average of total daily pounds of NO_X emissions from the EGF must be monitored (or calculated in accordance with §117.1120(e) of this title) for 30 successive system operating days and the 30-day average emission rate is used to determine compliance with the NO_X emission specification. The 30-day average emission rate is calculated as the average of all daily emissions data recorded by the monitoring and recording system during the 30-day test period. There must be no exceedances of the maximum daily cap during the 30-day test period.]

[(4) To comply with the NO_X emission specification in pounds per hour or parts per million by volume (ppmv) at 15% O_2 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 or PEMS certification testing required in §117.1140 of this title is used to determine compliance with the NO_X emission specification.]

[(5) To comply with the CO emission specification in ppmv on a rolling 24-hour average, CO emissions from a unit are monitored for 24 consecutive hours and the rolling 24-hour average emission rate is used to determine compliance with the CO emission specification. The rolling 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.]

[§117.1140. Continuous Demonstration of Compliance.]

[(a) Nitrogen oxides (NO_X) monitoring. The owner or operator of each unit subject to the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources), shall install, calibrate, maintain, and operate a continuous emissions monitoring system (CEMS), predictive emissions monitoring system (PEMS), or other system specified in this section to measure NO_X on an individual basis. Each NO_X monitor (CEMS or PEMS) is subject to the relative accuracy test audit relative accuracy requirements of 40 Code of Federal Regulations (CFR) Part 75, Appendix B, Figure 2, except the concentration options (parts per million by volume (ppmv) and pounds per million British thermal units) do not apply. Each NO_X monitor must meet either the relative accuracy percent requirement of 40 CFR Part 75, Appendix B, Figure 2, or an alternative relative accuracy requirement of ± 2.0 ppmv from the reference method mean value.]

[(b) Carbon monoxide (CO) monitoring. The owner or operator shall monitor CO exhaust emissions from each unit subject to the emission specifications of this division using one or more of the methods specified in §117.8120 of this title (relating to Carbon Monoxide (CO) Monitoring).]

[(c) CEMS requirements. The owner or operator of any CEMS used to meet a pollutant monitoring requirement of this section shall comply with the requirements of §117.8110(a) of this title (relating to Emission Monitoring System Requirements for Utility Electric Generation Sources).]

[(d) Acid rain peaking units. The owner or operator of each peaking unit as defined in 40 CFR §72.2, may:]

[(1) monitor operating parameters for each unit in accordance with 40 CFR Part 75, Appendix E, §1.1 or §1.2 and calculate NO_X emission rates based on those procedures; or]

[(2) use CEMS or PEMS in accordance with this section to monitor NO_X emission rates.]

[(e) Auxiliary steam boilers. The owner or operator of each auxiliary steam boiler as defined in §117.10 of this title (relating to Definitions) shall:]

[(1) install, calibrate, maintain, and operate a CEMS in accordance with this section; or]

[(2) comply with the appropriate (considering boiler maximum rated capacity and annual heat input) industrial boiler monitoring requirements of §117.240 of this title (relating to Continuous Demonstration of Compliance).]

[(f) PEMS requirements. The owner or operator of any PEMS used to meet a pollutant monitoring requirement of this section shall comply with the following. The required PEMS and fuel flow meters must be used to demonstrate continuous compliance with the emission specifications of this division.]

[(1) The PEMS must predict the pollutant emissions in the units of the applicable emission specifications of this division.]

[(2) The PEMS must meet the requirements of §117.8110(b) of this title.]

[(g) Stationary gas turbine monitoring for NO_X reasonably available control technology (RACT). The owner or operator of each stationary gas turbine subject to the emission specifications of §117.1105 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)), instead of monitoring emissions in accordance with the monitoring requirements of 40 CFR Part 75, may comply with the following monitoring requirements:]

[(1) for stationary gas turbines rated less than 30 megawatts (MW) or peaking gas turbines (as defined in §117.10 of this title) that use steam or water injection to comply with the emission specifications of §117.1105(g) of this title:]

[(A) install, calibrate, maintain and operate a CEMS or PEMS in compliance with this section; or]

[(B) install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the average hourly fuel and steam or water consumption. The system must be accurate to within ± 5.0%. The steam-to-fuel or water-to-fuel ratio monitoring data must be used for demonstrating continuous compliance with the applicable emission specification of §117.1105 of this title; and]

[(2) for stationary gas turbines subject to the emission specifications of §117.1105(f) of this title, install, calibrate, maintain and operate a CEMS or PEMS in compliance with this section.]

[(h) Totalizing fuel flow meters. The owner or operator of units listed in this subsection shall install, calibrate, maintain, and operate totalizing fuel flow meters to individually and continuously measure the gas and liquid fuel usage. A computer that collects, sums, and stores electronic data from continuous fuel flow meters is an acceptable totalizer. In lieu of installing a totalizing fuel flow meter on a unit, an owner or operator

may opt to assume fuel consumption at maximum design fuel flow rates during hours of the unit's operation. The units are:]

[(1) any unit subject to the emission specifications of this division;]

[(2) any stationary gas turbine with an MW rating greater than or equal to 1.0 MW operated more than 850 hours per year; and]

[(3) any unit claimed exempt from the emission specifications of this division using the low annual capacity factor exemption of §117.1103(a)(2) of this title (relating to Exemptions).]

[(i) Run time meters. The owner or operator of any stationary gas turbine using the exemption of §117.1103(a)(3) or (b) of this title shall record the operating time with an elapsed run time meter approved by the executive director.]

[(j) Loss of exemption. The owner or operator of any unit claimed exempt from the emission specifications of this division using the low annual capacity factor exemptions of §117.1103(a)(2) or (3) of this title, shall notify the executive director within seven days if the applicable limit is exceeded.]

[(1) If the limit is exceeded, the exemption from the emission specifications of this division is permanently withdrawn.]

[(2) 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 limit. The plan must include a schedule of increments of progress for the installation of the required control equipment.]

[(3) The schedule is subject to the review and approval of the executive director.]

[(k) Data used for compliance. After the initial demonstration of compliance required by §117.1135 of this title (relating to Initial Demonstration of Compliance), the methods required in this section must be used to determine compliance with the emission specifications of §117.1105 of this title or §117.1110(a) of this title (relating to Emissions Specifications for Attainment Demonstration). Compliance with the emission specifications may also be determined at the discretion of the executive director using any commission compliance method.]

[(l) Enforcement of NO_X RACT limits. If compliance with §117.1105 of this title is selected, no unit subject to §117.1105 of this title may be operated at an emission rate higher than that allowed by the emission specifications of §117.1105 of this title. If compliance with

§117.1115 of this title (relating to Alternative System-Wide Emission Specifications) is selected, no unit subject to §117.1115 of this title may be operated at an emission rate higher than that approved by the executive director in accordance with §117.1152 of this title (relating to Final Control Plan Procedures for Reasonably Available Control Technology).]

[§117.1145. Notification, Recordkeeping, and Reporting Requirements.]

[(a) Startup and shutdown records. For units subject to the startup and/or shutdown provisions of §101.222 of this title (relating to Demonstrations), hourly records must be made of startup and/or shutdown events and maintained for a period of at least two years. Records must be available for inspection by the executive director, United States Environmental Protection Agency, and any local air pollution control agency having jurisdiction upon request. These records must 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.]

[(b) Notification. The owner or operator of a unit subject to the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources) shall submit notification to the appropriate regional office and any local air pollution control agency having jurisdiction as follows:]

[(1) verbal notification of the date of any testing conducted under §117.1135 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 §117.1140 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) Reporting of test results. The owner or operator of an affected unit shall furnish the Office of Compliance and Enforcement, the appropriate regional office, and any local air pollution control agency having jurisdiction a copy of any testing conducted under §117.1135 of this title or any CEMS or PEMS performance evaluation conducted under §117.1140 of this title:]

[(1) within 60 days after completion of such testing or evaluation; and]

[(2) not later than the appropriate compliance schedules specified in §117.9110 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources).]

[(d) Semiannual reports. The owner or operator of a unit required to install a CEMS, PEMS, or steam-to-fuel or water-to-fuel ratio monitoring system under §117.1140 of this title shall report in writing to the executive director on a semiannual basis any exceedance of the applicable emission specifications in this division and the monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:]

[(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations §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:]

[(A) for stationary gas turbines using steam-to-fuel or water-to-fuel ratio monitoring to demonstrate compliance in accordance with §117.1140 of this title, excess emissions are computed as each one-hour period that 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 test required by §117.1135 of this title; and]

[(B) for utility boilers complying with §117.1120 of this title (relating to System Cap), excess emissions are each daily period that the total nitrogen oxides (NO_X) emissions exceed the rolling 30-day average or the maximum daily NO_X cap;]

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

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

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

[(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 commission's Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports) must be submitted, unless otherwise requested by the executive director. 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 must both be submitted.]

[(e) Recordkeeping. The owner or operator of a unit subject to the requirements of this division shall maintain records of the data specified in this subsection. Records must be kept for a period of at least five years and made available for inspection by the executive director, United States Environmental Protection Agency, or local air pollution control agencies having jurisdiction upon request. Operating records for each unit must be recorded and maintained at a frequency equal to the applicable emission specification averaging period, or for units claimed exempt from the emission specifications based on low annual capacity factor, monthly. Records must include:]

[(1) emission rates in units of the applicable standards;]

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

[(3) quantity and type of fuel burned;]

[(4) the injection rate of reactant chemicals (if applicable); and]

[(5) emission monitoring data, in accordance with §117.1140 of this title, including:]

[(A) the date, time, and duration of any malfunction in the operation of the monitoring system, except for zero and span checks, if applicable, and a description of system repairs and adjustments undertaken during each period;]

[(B) the results of initial certification testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS, PEMS, or operating parameter monitoring systems; and]

[(C) actual emissions or operating parameter measurements, as applicable;]

[(6) the results of performance testing, including initial demonstration of compliance testing conducted in accordance with §117.1135 of this title; and]

[(7) records of hours of operation.]

[§117.1152. Final Control Plan Procedures for Reasonably Available Control Technology.]

[(a) The owner or operator of units listed in §117.1100 of this title (relating to Applicability) at a major source of nitrogen oxides (NO_X) shall submit a final control report to show compliance with the requirements of §117.1105 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)). The report must include a list of all units listed in §117.1100 of this title, showing:]

[(1) the NO_X emission specification resulting from application of §117.1105 of this title for each non-exempt unit;]

[(2) the section under which NO_X compliance is being established for units specified in paragraph (1) of this subsection, either:]

[(A) §117.1105 of this title;]

[(B) §117.1115 of this title (relating to Alternative System-Wide Emission Specifications)];

[(C) §117.1125 of this title (relating to Alternative Case Specific Specifications); or]

[(D) §117.9800 of this title (relating to Use of Emission Credits for Compliance);]

[(3) the method of NO_X control for each unit;]

[(4) the emissions measured by testing required in §117.1135 of this title (relating to Initial Demonstration of Compliance);]

[(5) the submittal date, and whether sent to the Austin or the regional office (or both), of any compliance stack test report or relative accuracy test audit report required by §117.1135 of this title that is not being submitted concurrently with the final compliance report; and]

[(6) the specific rule citation for any unit with a claimed exemption from the emission specifications of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources).]

[(b) For sources complying with §117.1115 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall:]

[(1) assign to each affected unit the maximum NO_X emission rate, expressed in units of pounds per million British thermal units heat input on:]

[(A) a rolling 24-hour average and rolling 30-day average for gaseous fuel firing, and]

[(B) a rolling 24-hour average for oil or coal firing;]

[(2) submit a list to the executive director for approval of:]

[(A) the maximum allowable NO_X emission rates identified in paragraph (1) of this subsection; and]

[(B) the maximum rated capacity for each unit;]

[(3) submit calculations used to calculate the system-wide average in accordance with §117.1115(e) of this title; and]

[(4) maintain a copy of the approved list of emission specifications for verification of continued compliance with the requirements of §117.1115 of this title.]

[(c) The report must be submitted by the applicable date specified for final control plans in §117.9110 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources). The plan must be updated

with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with an emission specification on a rolling 30-day average, according to the applicable schedule given in §117.9110 of this title.]

[§117.1154. Final Control Plan Procedures for Attainment Demonstration Emission Specifications.]

[(a) The owner or operator of utility boilers listed in §117.1100 of this title (relating to Applicability) at a major source of nitrogen oxides (NO_X) shall submit to the executive director a final control report to show compliance with the requirements of §117.1110 of this title (relating to Emission Specifications for Attainment Demonstration). The report must include:]

[(1) the section under which NO_X compliance is being established for the utility boilers within the electric generating system, either:]

[(A) §117.1110 of this title; or]

[(B) §117.1120 of this title (relating to System Cap); and as applicable,]

[(C) §117.9800 of this title (relating to Use of Emission Credits for Compliance);]

[(2) the methods of NO_X control for each utility boiler;]

[(3) the emissions measured by testing required in §117.1135 of this title (relating to Initial Demonstration of Compliance);]

[(4) the submittal date, and whether sent to the Austin or the regional office (or both), of any compliance stack test report or relative accuracy test audit report required by §117.1135 of this title that is not being submitted concurrently with the final compliance report; and]

[(5) the specific rule citation for any utility boiler with a claimed exemption from the emission specifications of §117.1110 of this title.]

[(b) For sources complying with §117.1120 of this title, in addition to the requirements of subsection (a) of this section, the owner or operator shall submit:]

[(1) the calculations used to calculate the 30-day average and maximum daily system cap allowable emission rates;]

[(2) a list containing, for each unit in the cap:]

[(A) the average daily heat input, Hi , specified in §117.1120(c)(1) of this title;]

[(B) the maximum daily heat input, Hmi , specified in §117.1120(c)(2) of this title;]

[(C) the method of monitoring emissions; and]

[(D) the method of providing substitute emissions data when the NO_X monitoring system is not providing valid data; and]

[(3) an explanation of the basis of the values of H_i and H_{mi}.]

[(c) The report must be submitted by the applicable date specified for final control plans in §117.9110 of this title (relating to Compliance Schedule for Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources). The plan must be updated with any emission compliance measurements submitted for units using continuous emissions monitoring system or predictive emissions monitoring system and complying with the system cap rolling 30-day average emission limit, according to the applicable schedule given in §117.9110 of this title.]

[§117.1156. 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 must adhere to the emission specifications and the final compliance dates of this division (relating to Dallas-Fort Worth Ozone Nonattainment Area Utility Electric Generation Sources). For sources complying with §§117.1105, 117.1110, or 117.1115 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); Emission Specifications for Attainment Demonstration; and Alternative System-Wide Emission Specifications), replacement new units may be included in the control plan. The revision of the final control plan is subject to the review and approval of the executive director.]

SUBCHAPTER C: COMBUSTION CONTROL AT MAJOR UTILITY ELECTRIC GENERATION SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 4: DALLAS-FORT WORTH EIGHT-HOUR OZONE NONATTAINMENT AREA UTILITY ELECTRIC GENERATION SOURCES

§§117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, 117.1354

Statutory Authority

The amended sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amended sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The amended sections are also proposed under THSC, §382.016, concerning Monitoring

Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions. The amended sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The amended sections implement THSC, §§ 382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

§117.1303. Exemptions.

(a) Emission specifications for attainment demonstrations. Units exempt from the provisions of §117.1310 and §117.1340 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration; and Continuous Demonstration of Compliance), except as specified in §117.1340(i) or (j) of this title, include the following:

[(1) any new auxiliary steam boiler or stationary gas turbines placed into service after November 15, 1992;]

(1) [(2)] any auxiliary steam boiler with an annual heat input less than or equal to $2.2(10^{11})$ British thermal units per year; or

(2) [(3)] stationary gas turbines and engines that are:

(A) used solely to power other engines or gas turbines during startups; or

(B) demonstrated to operate less than 850 hours per year, based on a rolling 12-month basis [average].

(b) Emergency fuel oil firing.

(1) The emissions specifications of §117.1310 of this title do not apply during an emergency operating condition declared by the Electric Reliability Council of Texas, or any other emergency operating condition that necessitates oil firing. All findings that emergency operating conditions exist are subject to the approval of the executive director.

(2) 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 but no later than 48 hours after declaration of the emergency. Verbal notification must 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, and must be

followed by written notification containing this information no later than five days after declaration of the emergency.

(3) The owner or operator of an affected unit shall give the executive director and any local air pollution control agency having jurisdiction final written notification as soon as possible but no later than two weeks after the termination of emergency fuel oil firing. Final written notification must 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.

§117.1310. Emission Specifications for Eight-Hour Attainment Demonstration.

(a) Nitrogen oxides (NO_X) emission specifications. The owner or operator of any utility boiler, auxiliary steam boiler, or stationary gas turbine subject to this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources)] shall not allow the discharge into the atmosphere, emissions of NO_X in excess of the following:

(1) utility boilers:

(A) 0.06 pounds per million British thermal units (lb/MMBtu) heat input from utility boilers that are part of a small utility system, as defined in §117.10 of this title (relating to Definitions):

(i) on a rolling 24-hour average basis during the months of March through October of each calendar year; and

(ii) on a rolling 30-day average basis during the months of November, December, January, and February of each calendar year;

(B) 0.033 lb/MMBtu heat input from utility boilers that are part of a large utility system, as defined in §117.10 of this title:

(i) on a rolling 24-hour average basis during the months of March through October of each calendar year; and

(ii) on a rolling 30-day average basis during the months of November, December, January, and February of each calendar year;

(C) 0.50 pounds per megawatt-hour output on an annual average basis; or

(D) 0.033 lb/MMBtu heat input on a system-wide heat input weighted average basis for utility boilers that are part of a large utility system, as defined in §117.10 of this title:

(i) on a rolling 168-hour average basis for each hour during which fuel was combusted in any unit in the system; and

(ii) determined according to the following equation:

Figure: 30 TAC §117.1310(a)(1)(D)(ii) (No change as figure appears in Texas Administrative Code)

(2) auxiliary steam boilers:

(A) 0.26 lb/MMBtu heat input on a rolling 24-hour average and 0.20 lb/MMBtu heat input on a 30-day rolling average while firing natural gas or a combination of natural gas and waste oil;

(B) 0.30 lb/MMBtu heat input on a rolling 24-hour averaging period while firing fuel oil only;

(C) the heat input weighted average of the applicable emission specifications specified in subparagraphs (A) and (B) of this paragraph on a rolling 24-hour averaging period while firing a mixture of natural gas and fuel oil, as follows:

Figure: 30 TAC §117.1310(a)(2)(C) (No change as figure appears in Texas Administrative Code)

(D) for each auxiliary steam boiler that is an affected facility as defined by New Source Performance Standards (NSPS) 40 Code of Federal Regulations Part 60, Subparts D, Db, or Dc, the applicable NSPS NO_X emission limit, unless the boiler is also subject to a more stringent permit emission limit, in which case the more stringent emission limit applies. Each auxiliary steam boiler subject to an emission specification under this subparagraph is not subject to the emission specifications of subparagraphs (A), (B), or (C) of this paragraph.

(3) stationary gas turbines:

(A) with a megawatt (MW) rating greater than or equal to 30 MW and an annual electric output in megawatt-hr (MW-hr) of greater than or equal to the product of 2,500 hours and the MW rating of the unit, NO_X emissions in excess of a block one-hour average of:

(i) 42 parts per million by volume (ppmv) at 15% oxygen (O_2), dry basis, while firing natural gas; and

(ii) 65 ppmv at 15% O_2, dry basis, while firing fuel oil; and

(B) used for peaking service with an annual electric output in MW-hr of less than the product of 2,500 hours and the MW rating of the unit, NO_X emissions in excess of a block one-hour average of:

(i) 0.20 lb/MMBtu heat input while firing natural gas; and

(ii) 0.30 lb/MMBtu heat input while firing fuel oil.

(b) Related emissions. The owner or operator of any unit subject to the emission specifications of subsection (a) of this section shall not allow emissions [emission] in excess of the following, except as provided in §117.1325 of this title (relating to Alternative Case Specific Specifications):

(1) for utility boilers or auxiliary steam boilers, carbon monoxide (CO) emissions of 400 ppmv at 3.0% O_2, dry (or alternatively, 0.30 lb/MMBtu heat input for gas-fired units and 0.31 lb/MMBtu heat input for oil-fired units), based on:

(A) a block one-hour averaging period for units not equipped with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) for CO; and

(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO;

(2) for 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% O_2, dry basis; and

(3) for units that inject urea or ammonia into the exhaust stream for NO_X control, ammonia emissions of 10 ppmv, at 3.0% O_2, dry, for utility boilers or auxiliary steam boilers and 15% O_2, dry, for stationary gas turbines (including duct burners used in turbine exhaust ducts), based on:

(A) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; and

(B) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia.

[(1) carbon monoxide (CO):]

[(A) for utility boilers or auxiliary steam boilers, 400 ppmv at 3.0% O_2, dry (or alternatively, 0.30 lb/MMBtu heat input for gas-fired units and 0.31 lb/MMBtu heat input for oil-fired units), based on:]

[(i) a one-hour average for units not equipped with a continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) for CO; or]

[(ii) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for CO; and]

[(B) for 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% O_2, dry basis; and]

[(2) ammonia:]

[(A) for units that inject urea or ammonia into the exhaust stream for NO_X control, 10 ppmv, at 3.0% O_2, dry, for boilers and 15% O_2, dry, for stationary gas turbines (including duct burners used in turbine exhaust ducts), based on:]

[(i) a block one-hour averaging period for units not equipped with a CEMS or PEMS for ammonia; or]

[(ii) a rolling 24-hour averaging period for units equipped with CEMS or PEMS for ammonia; and]

[(B) for all other units, 20 ppmv based on a block one-hour averaging period.]

(c) Compliance flexibility.

(1) An owner or operator may use §117.9800 of this title (relating to Use of Emission Credits for Compliance) to comply with the NO_X emission specifications of this section.

(2) Section 117.1325 of this title is not an applicable method of compliance with the NO_X emission specifications of this section.

(3) An owner or operator may petition the executive director for an alternative to the CO or ammonia specifications of this section in accordance with §117.1325 of this title.

§117.1325. Alternative Case Specific Specifications.

(a) Where a person can demonstrate that an affected unit cannot attain the applicable requirements of the carbon monoxide (CO) or ammonia emission specifications of §117.1310(b) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration), the executive director may approve emission specifications different from the CO or ammonia specifications in §117.1310(b) of this title for that unit. The executive director:

(1) shall consider on a case-by-case basis the technological and economic circumstances of the individual unit;

(2) shall determine that such specifications are the result of the lowest emission limitation the unit is capable of meeting after the application of controls to meet the nitrogen oxides emission specifications of §117.1310 of this title, as applicable; and

(3) in determining whether to approve alternative emission specifications, may take into consideration the ability of the plant where the unit is located to meet emission specifications through system-wide averaging at maximum capacity.

(b) Any owner or operator affected by the executive director's decision to deny an alternative case specific emission specification may file a motion to overturn the executive director's decision. The requirements of §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) apply. 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 division (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).

§117.1335. Initial Demonstration of Compliance.

(a) The owner or operator of all units subject to the emission specifications of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources)] shall test the units as follows.

(1) The units must be tested for nitrogen oxides (NO_X), carbon monoxide (CO), and oxygen (O_2) emissions.

(2) Units that inject urea or ammonia into the exhaust stream for NO_X control must be tested for ammonia emissions.

(3) Testing must be performed in accordance with the schedules specified in §117.9130 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).

(b) The tests required by subsection (a) of this section must be used for determination of initial compliance with the emission specifications of this division. Test results must be reported in the units of the applicable emission specifications and averaging periods. If compliance testing is based on 40 Code of Federal Regulations Part 60, Appendix A reference methods, the report must contain the information specified in §117.8010 of this title (relating to Compliance Stack Test Reports).

(c) Continuous emissions monitoring systems (CEMS) or predictive emissions monitoring systems (PEMS) required by §117.1340 of this title (relating to Continuous Demonstration of Compliance) must be installed and operational before conducting testing under subsection (a) of this section. Verification of operational status must, at a minimum, include completion of the initial monitor certification and the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(d) Initial compliance with the emission specifications of this division for units operating with CEMS or PEMS in accordance with §117.1340 of this title must be demonstrated after monitor certification testing using the NO_X CEMS or PEMS as follows.

(1) To comply with the NO_X emission specification in pounds per million British thermal units (lb/MMBtu) on a rolling 30-day average, NO_X emissions from a unit are monitored for 30 consecutive [successive] unit operating days and the 30-day average emission rate is used to determine compliance with the NO_X emission specification. 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) To comply with the NO_X emission specification in lb/MMBtu on a rolling 24-hour average, NO_X emissions from a unit are monitored for 24 consecutive unit operating hours and the 24-hour average emission rate is used to determine compliance with the NO_X emission specification. 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 specification for fuel oil firing must be determined based on the first 24 consecutive operating hours a unit fires fuel oil.

(3) To comply with the NO_X emission specification in pounds per hour or parts per million by volume (ppmv) at 15% O_2 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 or PEMS certification testing required in §117.1340 of this title is used to determine compliance with the NO_X emission specification.

(4) To comply with the NO_X emission specification in lb/MMBtu 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 or PEMS certification testing required in §117.1340 of this title is used to determine compliance with the NO_X emission specification.

(5) [(4)] To comply with the NO_X emission specification in pounds per megawatt-hour output on an annual average basis, NO_X emissions from the unit are monitored in accordance with §117.1340(a) and (k) of this title. The annual average is calculated as the average of all hourly emissions [emission] data recorded by the monitoring system. The averaging period for demonstrating initial compliance with the emission specification in §117.1310(a)(1)(C) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) is from March 1, 2009, through February 28, 2010.

(6) To comply with the NO_X emission specification in lb/MMBtu on a rolling 168-hour average, NO_X emissions from all units in the system are monitored for 168 consecutive unit operating hours and the 168-hour average emission rate is used to determine compliance with the NO_X emission specification. The 168-hour average emission rate is calculated using the equation in §117.1310(a)(1)(D) of this title by calculating the system-wide heat input weighted average for each hour and then averaging the hourly data during the 168-hour test period.

(7) [(5)] To comply with the CO emission specification in ppmv [parts per million by volume] on a rolling 24-hour average, CO emissions from a unit are monitored for 24 consecutive unit operating hours and the rolling 24-hour average emission rate is used to determine compliance with the CO emission specification. The rolling 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.

§117.1340. Continuous Demonstration of Compliance.

(a) Nitrogen oxides (NO_X) monitoring. The owner or operator of each unit subject to the emission specifications of this division [(relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources)], shall install, calibrate, maintain, and operate a continuous emissions monitoring system (CEMS), predictive emissions monitoring system (PEMS), or other system specified in this section to measure NO_X on an individual basis. Each NO_X monitor (CEMS or PEMS) is subject to the relative accuracy test audit relative accuracy requirements of 40 Code of Federal Regulations (CFR) Part 75, Appendix B, Figure 2, except the concentration options (parts per million by volume (ppmv) and pound per million British thermal units (lb/MMBtu)) do not apply. Each NO_X monitor must meet either the relative accuracy percent requirement of 40 CFR Part 75, Appendix B, Figure 2, or an alternative relative accuracy requirement of ± 2.0 ppmv from the reference method mean value.

(b) Carbon monoxide (CO) monitoring. The owner or operator shall monitor CO exhaust emissions from each unit subject to the emission specifications of this division using one or more of the methods specified in §117.8120 of this title (relating to Carbon Monoxide (CO) Monitoring).

(c) Ammonia monitoring requirements. The owner or operator of units that are subject to the ammonia emission specification of §117.1310(b)(3) [§117.1310(b)(2)(A)] of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) shall comply with the ammonia monitoring requirements of §117.8130 of this title (relating to Ammonia Monitoring).

(d) CEMS requirements. The owner or operator of any CEMS used to meet a pollutant monitoring requirement of this section shall comply with the requirements of §117.8110(a) of this title (relating to Emission Monitoring System Requirements for Utility Electric Generation Sources).

(e) Acid rain peaking units. The owner or operator of each peaking unit as defined in 40 CFR §72.2, may:

(1) monitor operating parameters for each unit in accordance with 40 CFR Part 75, Appendix E, §1.1 or §1.2 and calculate NO_X emission rates based on those procedures; or

(2) use CEMS or PEMS in accordance with this section to monitor NO_X emission rates.

(f) Auxiliary steam boilers. The owner or operator of each auxiliary steam boiler shall comply with the following to monitor NO_X emission rates:

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

(2) comply with the appropriate (considering boiler maximum rated capacity and annual heat input) industrial boiler monitoring requirements of §117.440 of this title (relating to Continuous Demonstration of Compliance).

(g) PEMS requirements. The owner or operator of any PEMS used to meet a pollutant monitoring requirement of this section shall comply with the following. The required PEMS and fuel flow meters must be used to demonstrate continuous compliance with the emission specifications of this division.

(1) The PEMS must predict the pollutant emissions in the units of the applicable emission limitations of this division.

(2) The PEMS must meet the requirements of §117.8110(b) of this title.

(h) Stationary gas turbine monitoring. The owner or operator of each stationary gas turbine subject to the emission specifications of §117.1310 of this title, instead of monitoring emissions in accordance with the monitoring requirements of 40 CFR Part 75, may comply with the following monitoring requirements:

(1) for stationary gas turbines rated less than 30 megawatts (MW) or peaking gas turbines (as defined in §117.10 of this title (relating to Definitions)) that use steam or water injection to comply with the emission specifications of §117.1310(a)(3) of this title:

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

(B) install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the average hourly fuel and steam or water consumption. The system must be accurate to within ± 5.0%. The steam-to-fuel or water-to-fuel ratio monitoring data must be used for demonstrating continuous compliance with the applicable emission specification of §117.1310 of this title; and

(2) for all other stationary gas turbines subject to the emission specifications of §117.1310 of this title, install, calibrate, maintain, and operate a CEMS or PEMS in compliance with this section.

(i) Totalizing fuel flow meters. The owner or operator of units listed in this subsection shall install, calibrate, maintain, and operate totalizing fuel flow meters to individually and continuously measure the gas and liquid fuel usage. A computer that collects, sums, and stores electronic data from continuous fuel flow meters is an acceptable totalizer. In lieu of installing a totalizing fuel flow meter on a unit, an owner or operator may opt to assume fuel consumption at maximum design fuel flow rates during hours of the unit's operation. The units are:

(1) any unit subject to the emission specifications of §117.1310 of this title;

(2) any stationary gas turbine with an MW rating greater than or equal to 1.0 MW operated more than 850 hours per year; and

(3) any unit claimed exempt from the emission specifications of this division using the low annual capacity factor exemption of §117.1303(a)(2) of this title (relating to Exemptions).

(j) Run time meters. The owner or operator of any stationary gas turbine using the exemption of §117.1303(a)(3) of this title shall record the operating time with an elapsed run time meter.

(k) Monitoring for output-based NO_X emission specification. The owner or operator of any unit that complies with the optional output-based NO_X emission specification in §117.1310(a)(1)(C) of this title, shall comply with the following:

(1) install, calibrate, maintain, and operate a system to continuously monitor, at least once every 15 minutes, and record the gross energy production of the unit in megawatt-hours;

(2) for each hour of operation, determine the total mass emission of NO_X, in pounds, from the unit using the NO_X monitoring requirements of subsection (a) of this section and the fuel monitoring requirements of subsection (i) of this section; and

(3) for each hour of operation, calculate and record the NO_X emissions in pounds per megawatt-hour using the monitoring specified in paragraphs (1) and (2) of this subsection.

(l) Loss of exemption. The owner or operator of any unit claimed exempt from the emission specifications of this division using the exemptions in §117.1303(a)(2) or (3) of

this title, shall notify the executive director within seven days if the applicable limit is exceeded.

(1) If the limit is exceeded, the exemption from the emission specifications of this division is permanently withdrawn.

(2) 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 limit. The plan must include a schedule of increments of progress for the installation of the required control equipment.

(3) The schedule is subject to the review and approval of the executive director.

(m) Data used for compliance. After the initial demonstration of compliance required by §117.1335 of this title (relating to Initial Demonstration of Compliance), the methods required in this section must be used to determine compliance with the emission specifications of §117.1310 of this title. Compliance with the emission specifications may also be determined at the discretion of the executive director using any commission compliance method.

§117.1345. Notification, Recordkeeping, and Reporting Requirements.

(a) Startup and shutdown records. For units subject to the startup and/or shutdown provisions of §101.222 of this title (relating to Demonstrations), hourly records must be made of startup and/or shutdown events and maintained for a period of at least two years. Records must be available for inspection by the executive director, United States Environmental Protection Agency, and any local air pollution control agency having jurisdiction upon request. These records must 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.

(b) Notification. The owner or operator of a unit subject to the emission specifications of this division (relating to Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources) shall submit notification to the appropriate regional office and any local air pollution control agency having jurisdiction as follows:

(1) written notification of the date of any testing conducted under §117.1335 of this title (relating to Initial Demonstration of Compliance) at least 15 days prior to such date; and

(2) written notification of the date of any continuous emissions monitoring system (CEMS) or predictive emissions monitoring system (PEMS) performance evaluation

conducted under §117.1340 of this title (relating to Continuous Demonstration of Compliance) at least 15 days prior to such date.

(c) Reporting of test results. The owner or operator of an affected unit shall furnish the Office of Compliance and Enforcement, the appropriate regional office, and any local air pollution control agency having jurisdiction a copy of any testing conducted under §117.1335 of this title or any CEMS or PEMS performance evaluation conducted under §117.1340 of this title:

(1) within 60 days after completion of such testing or evaluation; and

(2) not later than the appropriate compliance schedules specified in §117.9130 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).

(d) Semiannual reports. The owner or operator of a unit required to install a CEMS, PEMS, or steam-to-fuel or water-to-fuel ratio monitoring system under §117.1340 of this title shall report in writing to the executive director on a semiannual basis any exceedance of the applicable emission limitations in this division and the monitoring system performance. All reports must be postmarked or received by the 30th day following the end of each calendar semiannual period. Written reports must include the following information:

(1) the magnitude of excess emissions computed in accordance with 40 Code of Federal Regulations (CFR) §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 stationary gas turbines using steam-to-fuel or water-to-fuel ratio monitoring to demonstrate compliance in accordance with §117.1340 of this title, excess emissions are computed as each one-hour period that 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 test required by §117.1335 of this title;

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

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

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

(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 commission's *Guidance for Preparation of Summary, Excess Emission, and Continuous Monitoring System Reports*) must be submitted, unless otherwise requested by the executive director. If the total duration of excess emissions for the reporting period is greater than or equal to 1.0% of the total unit operating time for the reporting period or the CEMS, PEMS, 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 unit operating time for the reporting period, a summary report and an excess emission report must both be submitted.

(e) Recordkeeping. The owner or operator of a unit subject to the requirements of this division shall maintain records of the data specified in this subsection. Records must be kept for a period of at least five years and made available for inspection by the executive director, United States Environmental Protection Agency, or local air pollution control agencies having jurisdiction upon request. Operating records for each unit must be recorded and maintained at a frequency equal to the applicable emission specification averaging period, or for units claimed exempt from the emission specifications based on low annual capacity factor, monthly. Records must include:

(1) emission rates in units of the applicable standards;

(2) gross energy production in MW-hr (not applicable to auxiliary steam boilers), except as specified in paragraph (8) of this subsection;

(3) quantity and type of each fuel burned;

(4) the injection rate of reactant chemicals (if applicable); [and]

(5) emission monitoring data, in accordance with §117.1340 of this title, including:

(A) the date, time, and duration of any malfunction in the operation of the monitoring system, except for zero and span checks, if applicable, and a description of system repairs and adjustments undertaken during each period;

(B) the results of initial certification testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS, PEMS, or operating parameter monitoring systems; and

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

(6) the results of performance testing, including initial demonstration of compliance testing conducted in accordance with §117.1335 of this title;

(7) records of hours of operation;

(8) for any unit that the owner or operator elects to comply with the output-based emission specification in §117.1310(a)(1)(C) of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration):

(A) hourly records of the gross energy production in MW-hr;

(B) records of hourly and annual average nitrogen oxides (NO_X) [NO_X] emissions in pounds per megawatt-hour (lb/MW-hr); and

(C) the averaging period for the annual average NO_X emissions in lb/MW-hr, for demonstrating continuous compliance is from January 1 through December 31 of each calendar year, beginning on January 1, 2010; and

(9) for any unit that the owner or operator elects to comply with the system-wide heat input weighted average emission specification in §117.1310(a)(1)(D) of this title:

(A) hourly records of average NO_X emissions in pounds per million British thermal units (lb/MMBtu) for each utility boiler in the system;

(B) hourly records of average heat input in million British thermal units per hour (MMBtu/hr) for each utility boiler in the system;

(C) hourly records of system-wide heat input weighted [weight] average NO_X emissions in lb/MMBtu; and

(D) hourly records of the rolling 168-hour average of the system-wide heat input weighted average NO_X emissions in lb/MMBtu.

§117.1350. Initial Control Plan Procedures.

(a) The owner or operator of any unit at a major source of nitrogen oxides (NO_X) in the Dallas-Fort Worth eight-hour ozone nonattainment area that is subject to §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration) shall submit an initial control plan. The control plan must include:

(1) a list of all combustion units at the account that are listed in §117.1310 of this title. The list must include for each unit:

(A) the maximum rated capacity;

(B) anticipated annual capacity factor;

(C) estimated or measured NO_X emission data in the units associated with the category of equipment from §117.1310 of this title;

(D) the method of determination for the NO_X emission data required by subparagraph (C) of this paragraph;

(E) the facility identification number and emission point number as submitted to the [Industrial] Emissions Assessment Section of the commission; and

(F) the emission point number as listed on the Maximum Allowable Emissions Rate Table of any applicable commission permit;

(2) identification of all units with a claimed exemption from the emission specifications <u>of</u> §117.1310 of this title and the rule basis for the claimed exemption;

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

(4) for units required to install totalizing fuel flow meters in accordance with §117.1340 of this title (relating to Continuous Demonstration of Compliance), indication of whether the devices are currently in operation, and if so, whether they have been installed as a result of the requirements of this chapter; and

(5) for units required to install continuous emissions monitoring systems or predictive emissions monitoring systems in accordance with §117.1340 of this title, indication of whether the devices are currently in operation, and if so, whether they have been installed as a result of the requirements of this chapter.

(b) The initial control plan must be submitted to the Office of Compliance and Enforcement, the appropriate regional office, and the [Chief Engineer's] Office <u>of Air</u> by the applicable date specified for initial control plans in §117.9130 of this title (relating to Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).

[(c) For units located in Dallas, Denton, Collin, and Tarrant Counties subject to §117.1110 of this title (relating to Emission Specifications for Attainment Demonstration),

the owner or operator may elect to submit the most recent revision of the final control plan required by §117.1154 of this title (relating to Final Control Plan Procedures for Attainment Demonstration Emission Specifications) in lieu of the initial control plan required by subsection (a) of this section.]

§117.1354. Final Control Plan Procedures for Attainment Demonstration Emission Specifications.

(a) The owner or operator of utility boilers listed in §117.1300 of this title (relating to Applicability) at a major source of nitrogen oxides (NO_X) shall submit to the Office of Compliance and Enforcement, the appropriate regional office, and the [Chief Engineer's] Office of Air, a final control report to show compliance with the requirements of §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration). The report must include:

(1) the methods of NO_X control for each utility boiler;

(2) the emissions measured by testing required in §117.1335 of this title (relating to Initial Demonstration of Compliance);

(3) the submittal date, and whether sent to the central [Austin] or the regional office (or both), of any compliance stack test report or monitor certification [relative

accuracy test audit] report required by §117.1335 of this title that is not being submitted concurrently with the final compliance report; and

(4) the specific rule citation for any utility boiler with a claimed exemption from the emission specification of §117.1310 of this title.

(b) The report must be submitted by the applicable date specified for final control plans in §117.9130 of this title (relating to Compliance Schedule Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources).

SUBCHAPTER G: GENERAL MONITORING AND TESTING REQUIREMENTS

DIVISION 1: COMPLIANCE STACK TESTING AND REPORT REQUIREMENTS

§117.8000

Statutory Authority

The amended section is proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amended section is also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The amended section is also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions.

The amended section is also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The amended section implements THSC, §§ 382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

§117.8000. Stack Testing Requirements.

(a) When required by this chapter, the owner or operator of a unit subject to this chapter shall conduct testing according to the requirements of this section.

(b) The unit must be operated at the maximum rated capacity, or as near as practicable. Compliance must be determined by the average of three one-hour emission test runs. Shorter test times may be used if approved by the executive director.

(c) Testing must be performed using the following test methods:

(1) Test Method 7E or 20 (40 Code of Federal Regulations (CFR), Part 60, Appendix A) for nitrogen oxides (NO_X);

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

(3) Test Method 3A or 20 (40 CFR Part 60, Appendix A) for oxygen (O_2);

(4) for units that inject ammonia or urea to control NO_X emissions, the Phenol-Nitroprusside Method, the Indophenol Method, or the United States Environmental Protection Agency Conditional Test Method 27 for ammonia;

(5) Test Method 2 (40 CFR Part 60, Appendix A) for exhaust gas flow and following the measurement site criteria of Test Method 1, §11.1 (40 CFR Part 60, Appendix A), or Test Method 19 (40 CFR Part 60, Appendix A) for exhaust gas flow in conjunction with the measurement site criteria of Performance Specification 2, §8.1.3 (40 CFR Part 60, Appendix B); or

(6) American Society for Testing and Materials (ASTM) Method D1945-91 or ASTM Method D3588-93 for fuel composition; ASTM Method D1826-88 or ASTM Method D3588-91 for calorific value; or alternate methods as approved by the executive director and the United States Environmental Protection Agency.

(d) United States Environmental Protection Agency-approved alternate test methods or minor modifications to the test methods specified in subsection (c) of this section may be

used, as approved by the executive director, as long as the minor modifications meet the following conditions:

(1) the change does not affect the stringency of the applicable emission specification;

(2) the change affects only a single source or facility application.

(e) An owner or operator that chooses to install or relocate a boiler or process heater temporarily at an account for less than 60 consecutive calendar days may substitute the following in lieu of the requirements of subsections (b) - (d) of this section for stack testing required by this chapter. For the purposes of this subsection, the term "relocate" means to newly install at an account, as defined in §101.1 of this title (relating to Definitions), a boiler or process heater from anywhere outside of that account.

(1) The owner or operator may use the results of previous testing conducted on the same boiler or process heater conducted according to subsections (b) - (d) of this section or a manufacturer's guarantee of performance. If previous testing is used, the owner or operator of the site temporarily installing the boiler or process heater shall maintain a record of the previous test report as specified by the recordkeeping requirements under this chapter applicable to the site.

(2) The owner or operator shall physically remove the boiler or process heater from the account no later than 60 consecutive calendar days after the unit was installed at the account or comply with the testing requirements as specified in subsections (b) - (d) of this section.

(3) Extensions to the 60 consecutive calendar days limitation of this subsection will not be provided.

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS

DIVISION 1: COMPLIANCE SCHEDULES

[§117.9010 and §117.9110]

Statutory Authority

The repealed sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The repealed sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The repealed sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions.

The repealed sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The repealed sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

[§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.]

[§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.]

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS

DIVISION 1: COMPLIANCE SCHEDULES

§117.9030, §117.9130

Statutory Authority

The amended sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amended sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The amended sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions.

The amended sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The amended sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

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

(a) Reasonably available control technology emission specifications.

(1) 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 a major source of NO_X and is subject to §117.405(a) or (b) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) 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, 2016; and

(B) for units subject to the emission specifications of §117.405(a) or (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 January 1, 2017; and

(2) The owner or operator of any stationary source of NO_X that becomes subject to the requirements of §117.405 of this title 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.

(3) Upon the date the commission publishes notice in the *Texas Register* that Wise County is no longer designated nonattainment for the 2008 Eight-Hour Ozone National Ambient Air Quality Standard, the owner or operator of a unit located at a major stationary source of NO_X located in Wise County is not required to comply with the requirements of Subchapter B, Division 4 of this chapter.

[(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(a) [§117.410(b)] of this title (relating to Emission Specifications for Eight-Hour

Attainment Demonstration) 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(a) [§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(a)(1) [§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(a)(3) [§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(f) [§117.410(g)] of this title, and associated recordkeeping in §117.445(f)(9) of this title (relating to Notification, Recordkeeping, and Reporting Requirements), 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 (relating to Continous Demonstation of Compliance), 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.

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

(a) Except as specified in subsection (b) of this section, the [The] owner or operator of each electric utility in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County [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 each auxiliary steam boiler or stationary gas turbine placed into service after November 15, 1992 in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, or Tarrant County shall comply with the requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than as follows:

(1) submit the initial control plan required by §117.1350 of this title no later than June 1, 2016; and

(2) comply with all other requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than January 1, 2017.

(c) The owner or operator of each electric utility in Wise County shall comply with the requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than as follows:

(1) submit the initial control plan required by §117.1350 of this title no later than June 1, 2016; and

(2) comply with all other requirements of Subchapter C, Division 4 of this chapter as soon as practicable, but no later than January 1, 2017.

(d) [(b)] The owner or operator of each electric utility [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 the applicable compliance date specified in subsection (a), (b), or (c) of this section [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.

(e) Upon the date the commission publishes notice in the *Texas Register* that Wise County is no longer designated nonattainment for the 2008 Eight-Hour Ozone National Ambient Air Quality Standard, the owner or operator of an electric utility located in Wise County is not required to comply with the requirements of Subchapter C, Division 4 of this chapter.

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS

DIVISION 2: COMPLIANCE FLEXIBILITY

§117.9800, §117.9810

Statutory Authority

The amended sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amended sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The amended sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions.

The amended sections are also proposed under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the National Ambient Air Quality Standards will be achieved and maintained within each air quality control region of the state.

The amended sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017; and FCAA, 42 USC, §§7401 *et seq.*

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

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

(4) §117.115 [§§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 [§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 as figure appears in Texas Administrative Code)

§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) and (2) [(1) - (6)] of this subsection, by obtaining emission reductions generated from the TERP as specified in subsection (b) of this section:

(1) §117.405 [§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]

(2) [(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.