The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§117.10, 117.200, 117.203, 117.205, 117.230, 117.235, 117.240, 117.245 and 117.9010.

If adopted, these rules would be submitted to the U.S. Environmental Protection Agency (EPA) as a state implementation plan (SIP) revision.

Background and Summary of the Factual Basis for the Proposed Rules

On June 20, 2024, EPA published the final reclassification of the Bexar County 2015 eight-hour ozone National Ambient Air Quality Standards (NAAQS) nonattainment area from moderate to serious, effective July 22, 2024 (89 *Federal Register* (FR) 51829). The attainment date for Bexar County under the serious classification is September 24, 2027, with a 2026 attainment year. TCEQ is required to submit serious classification attainment demonstration (AD) and reasonable further progress (RFP) SIP revisions to EPA by January 1, 2026, to comply with the serious ozone nonattainment area requirements, as outlined in federal Clean Air Act (FCAA), §§172(c), 182(c), and 182(f) for the Bexar County 2015 eight-hour ozone nonattainment area.

Nonattainment areas classified as moderate and above, including serious, are required to meet the mandates of the FCAA in §172(c)(1) and §182(c) and (f). FCAA, §172(c)(1) requires that the SIP incorporate all reasonably available control measures (RACM), including reasonably available control technology (RACT), as expeditiously as practicable and to provide for attainment of the NAAQS. FCAA, §182(c) addresses the

SIP requirements for demonstrating attainment and RFP for areas classified as serious.

FCAA, §172(c) mandates that the commission submit an AD SIP revision to demonstrate that the Bexar County area will meet the NAAQS by its attainment date. Photochemical modeling for future years indicates that the Bexar County area will meet the 2015 ozone NAAQS by the mandated deadline using existing control strategies. The commission is neither required to propose nor is it proposing any amendments to demonstrate attainment for the Bexar County area in this rulemaking because the AD modeling demonstrates attainment without the need for additional measures. A RACM analysis to identify additional potential control measures that could expedite attainment of the NAAQS earlier than the area's attainment date is provided in the concurrently proposed Bexar County 2015 Ozone NAAQS Serious AD SIP Revision (Non-Rule Project No. 2024-041-SIP-NR). The RACM analysis determined that no potential control measures met the criteria to be considered RACM. As a result, no rule revisions are proposed as RACM.

FCAA, §182(f) requires the state to submit a SIP revision that implements RACT for all major sources of nitrogen oxides (NO_x). 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). RACT requirements for moderate and higher classification ozone nonattainment areas are included in the FCAA to ensure that significant source categories at major sources of ozone precursor emissions are

controlled to a reasonable extent, but not necessarily to best available control technology levels expected of new sources or to maximum achievable control technology levels required for major sources of hazardous air pollutants. 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. As currently defined in 30 Texas Administrative Code (TAC) §117.10(29), 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 a specific amount of NO_X emissions based on the area's ozone nonattainment classification. For the Bexar County serious ozone nonattainment area, 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 at least 50 tons per year (tpy) of NO_X.

For the reclassification to serious ozone nonattainment, TCEQ reviewed the 2022 point source Emissions Inventory (EI) to identify all major sources of NO_X emissions in the Bexar County ozone nonattainment area. Since the point source EI database reports actual emissions rather than potential to emit, TCEQ reviewed sources that reported actual emissions as low as 10 tpy of NO_X to account for the difference between actual and potential emissions. TCEQ also reviewed air permits to further confirm which sites with low emissions in 2022 were major sources of NO_x due to authorized emissions of 50 or more tpy. Sites from the point source EI database with emissions of 10 tpy or more of NO_x that could not be verified as minor sources by other means were included

in the RACT analysis. To evaluate what rules would be necessary to fulfill RACT requirements, TCEQ considered other Chapter 117 rules that address other ozone nonattainment areas, rules in other states, and federal rules for the unit categories identified at the major NO_x sources in the serious ozone nonattainment area. As part of this proposed rulemaking, TCEQ determined that the proposed rule revisions for the affected major NO_x sources located in the Bexar County ozone nonattainment area would fulfill RACT requirements for those sources and be consistent with or more stringent than controls implemented in other ozone nonattainment areas within the state and outside the state. Because the Bexar County 2015 eight-hour ozone NAAQS nonattainment area was previously classified as moderate, sources that emit or have the potential to emit at least 100 tpy NO_x are already required to comply with Chapter 117 RACT rules. On April 24, 2024, the commission adopted NO_x RACT rules for sources in Bexar County under the moderate classification in a Chapter 117 rulemaking (Rule Project No. 2023-117-117-AI) that was part of the Bexar County 2015 Eight-Hour Ozone Standard Moderate Nonattainment Area RACT SIP Revision (Non-Rule Project No. 2023-132-SIP-NR). This proposed rulemaking would extend implementation of RACT to all major sources of NO_x in the area that emit or have the potential to emit at least 50 tpy of NO_x.

As required by FCAA, §172(c)(1) and §182(f), the proposed rulemaking would ensure that all major sources of NO_x in the Bexar County ozone nonattainment area are subject to RACT, either by being subject to requirements that meet or exceed the applicable RACT requirements, or by determining that further emission controls on the

sources in the area are either not economically feasible or not technologically feasible. Federally approved state rules and rule approval dates can be found in 40 Code of Federal Regulations (CFR) §52.2270(c), *EPA Approved Regulations in the Texas SIP*.

The commission proposes to revise Chapter 117, Subchapter B, Division 2 to change the requirements for major industrial, commercial, or institutional (ICI) sources of NO_x in the Bexar County ozone nonattainment area to address NO_x RACT requirements for serious ozone nonattainment areas. Proposed revisions would require some owners or operators of major ICI sources of NO_x in Bexar County to reduce NO_x emissions from certain stationary sources and source categories for the serious ozone nonattainment area. The proposed rulemaking would extend rule applicability of Subchapter B, Division 2 to stationary gas-fired engines fired on landfill gas, stationary diesel engines, ICI process heaters, natural gas-fired ovens, and incinerators. The proposed rulemaking would also include new emission standards for stationary gas-fired engines fired on landfill gas. Proposed rule revisions would further include new emission standards and exemptions for stationary diesel engines, process heaters, and natural gas-fired ovens. Proposed rule revisions would also include new exemptions for incinerators. The proposed rulemaking would also extend applicability of existing monitoring, testing, recordkeeping, and reporting requirements associated with Division 2 to the newly affected major sources of NO_x located in the Bexar County serious ozone nonattainment area. These monitoring, testing, recordkeeping, and reporting requirements would be necessary to ensure compliance with the new emission specifications, confirm eligibility for certain exemptions, and ensure that NO_x

emission reductions are achieved from the units that become subject to the requirements of Chapter 117, Subchapter B, Division 2.

Section by Section Discussion

In addition to the proposed amendments associated with implementing RACT for the Bexar County ozone nonattainment area and specific minor clarifications and corrections discussed in greater detail in this section, this 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.

Subchapter A, Definitions

Section 117.10, Definitions

The proposal would revise the definition of major source in §117.10(29)(B) to lower the major source threshold from 100 tpy to 50 tpy for NO_x for sources in the Bexar County ozone nonattainment area. The change is necessary to address the area's reclassification to serious nonattainment for the 2015 eight-hour ozone NAAQS. Major sources affected by the proposed rulemaking would be required to comply with all applicable Chapter 117 rules by March 1, 2026, as stated in the rule compliance schedule in proposed revised §117.9010.

The proposed rulemaking would also expand the definition of unit in §117.10(51)(G) to include the list of units that would be covered under §117.205 concerning RACT emissions specifications in Bexar County. The proposed changes to §117.10(51)(G) would add process heaters and any other stationary source of NO_x at a major source, as defined in §117.10. The proposed changes to §117.10(51)(G) would also replace the term "gas-fired lean-burn stationary reciprocating internal combustion engine" with the proposed new term "stationary internal combustion engine." As with the existing definition for stationary internal combustion engine, the proposed changes to §117.10(51)(G) would specify that stationary gas-fired lean-burn engines remain subject to the requirements of Subchapter B, Division 2 and that stationary diesel engines and stationary gas-fired engines fired on landfill gas would also become subject to the requirements of Subchapter B, Division 2. Because the emission reductions required by the RACT provisions necessitate further reductions from additional unit categories not previously covered, the proposed revisions broaden the applicability of the definition of unit to include any other stationary source of NO_x at a major source, including those units that may qualify for a proposed exemption.

Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas

Division 2, Bexar County Ozone Nonattainment Area Major Sources

Section 117.200, Applicability

The proposed rulemaking would expand the applicability of Subchapter B, Division 2 to include additional unit categories under §117.200. Section 117.200 currently applies to stationary gas turbines, duct burners used in turbine exhaust ducts, and gas-fired lean-burn stationary reciprocating internal combustion engines located at a major source of NO_x in the Bexar County ozone nonattainment area. Proposed changes would add ICI process heaters and natural gas-fired ovens, flares, and incinerators to the list of applicable units. The term "gas-fired lean-burn stationary reciprocating internal combustion engines" in §117.200(3) is proposed to be replaced with the new term, "stationary internal combustion engines." Considering that the existing definition of stationary internal combustion engines in §117.10(46) addresses any reciprocating engine that satisfies the time in residence requirement of the definition, revising §117.200(3) to apply to stationary internal combustion engines would cover not only gas-fired lean-burn stationary reciprocating internal combustion engines, but also stationary diesel engines and stationary gas-fired engines fired on landfill gas. All known diesel-fuel fired and gaseous-fuel fired stationary engines at major NO_x sources in the Bexar County ozone nonattainment area that are not identified as stationary turbines are reciprocating internal combustion engines.

The commission proposes to add new paragraphs (4) through (7) in §117.200 to expand applicability of the rule provisions of Subchapter B, Division 2 to ICI process heaters and natural gas-fired ovens, flares, and incinerators. These unit categories were identified in the 2022 point source EI at NO_x major sources in the Bexar County ozone

nonattainment area.

Section 117.203, Exemptions

Existing §117.203 lists the units that are exempt from the provisions of Chapter 117, Subchapter B, Division 2. The commission notes that the existing rule provision reference to §117.245(f)(9) in §117.203 is an error. Section 117.245(f) currently does not contain a paragraph (9). Therefore, the existing reference to §117.245(f)(9) in §117.203 is proposed to be deleted. Because the commission proposes a new §117.245(f)(7) to specify recordkeeping requirements concerning diesel engines and operating restrictions, the commission proposes a new rule provision reference to proposed new §117.245(f)(7) in §117.203. Because the commission further proposes a new §117.205(e) to specify operating restrictions for owners or operators of stationary diesel engines, the commission proposes a new rule provision reference to proposed new §117.205(e) in §117.203.

Proposed revised paragraph (1) would replace the term gas-fired lean-burn stationary reciprocating internal combustion engines with the term stationary internal combustion engines. This proposed change would coincide with the proposed change to §117.200(3) to list stationary internal combustion engines as applicable units subject to the provisions of Subchapter B, Division 2. With this proposed change, owners or operators of gas-fired lean-burn stationary reciprocating internal combustion engines, stationary diesel engines, and stationary gas-fired engines fired on landfill gas would be able to claim an exemption based on dedicated use. The

allowed dedicated uses eligible for an exemption are listed in subparagraphs (A) through (E) of paragraph (1).

Existing §117.203(1)(D) provides for an exemption for owners or operators of stationary gas turbines and gas-fired lean-burn stationary reciprocating internal combustion engines that are used exclusively in emergency situations, as defined in §117.10(15), except that operation of the unit for testing or maintenance purposes of the unit is allowed for up to 100 hours per year, on a rolling 12-month basis. For an owner or operator of a stationary diesel engine used exclusively in emergency situations, as defined in §117.10(15), to claim this exemption, proposed revisions to subparagraph (D) would specify that a stationary diesel engine would have to be placed into service before March 1, 2026. The proposed change would make clear that any new stationary diesel engine and any modified, reconstructed, or relocated existing stationary diesel engine placed into service on or after March 1, 2026, would be ineligible for the exemption under proposed revised subparagraph (D). For the purposes of this exemption, the terms “modification” and “reconstruction” have the meanings defined in 30 TAC §116.10 and 40 CFR §60.15 (December 16, 1975), respectively, and the term “relocated” means to newly install at an account, as defined in 30 TAC §101.1, a used engine from anywhere outside that account.

This proposed change would mirror similar provisions in other parts of Chapter 117 for other ozone nonattainment areas for owners or operators of stationary diesel engines claiming an exemption based on dedicated emergency use. The proposed

change to subparagraph (D) provides owners or operators of existing stationary diesel engines that are used solely for emergency reasons the opportunity to continue to rely on such units without having to modify an engine, install post-combustion controls, or replace a unit to meet proposed NO_x emission specifications so long as the existing unit is never modified or reconstructed, nor is an existing unit ever relocated from outside the area to a major source of NO_x in the Bexar County ozone nonattainment area, on or after the proposed threshold date. These changes to the existing exemption are proposed due to the relatively small NO_x emissions contribution in the area from these sources due to their limited, dedicated use or the impracticality of using NO_x emissions controls during such limited operating times. A threshold date is proposed in §117.203(1)(D) to ensure the net effect is that existing stationary diesel engines, if used exclusively in emergency situations and placed into service before the proposed threshold date, would be exempt from the new emission specifications in proposed new §117.205(a)(3)(B), whereas new, modified, reconstructed, or relocated stationary diesel engines placed into service on or after March 1, 2026, would be required to be cleaner diesel engines. New, modified, reconstructed, or relocated stationary diesel engines placed into service on or after March 1, 2026, would be required to meet federal Tier 4 emission standards for non-road diesel engines in effect at the time of installation, modification, reconstruction, or relocation. These proposed measures would leverage the natural replacement cycle of equipment and ensure that as older stationary diesel engines reach the end of their operational life, and turnover of older, higher-emitting stationary diesel engines occurs, the replacement units would be cleaner diesel engines. The gradual modernization of stationary diesel engines in the

Bexar County area would lead to consistent decreases in NO_X emissions, helping the area comply with more stringent NAAQS.

The proposed changes to §117.203 would also add a new §117.203(2) to exempt existing stationary diesel engines located at major sources of NO_X in the Bexar County ozone nonattainment area that are placed into service before March 1, 2026, and operate less than 100 hours per calendar year on a rolling 12-month basis. The proposed new §117.203(2) would not exempt any modified, reconstructed, or relocated stationary diesel engine placed into service on or after March 1, 2026. For the purposes of this exemption, the terms “modification” and “reconstruction” have the meanings defined in 30 TAC §116.10 and 40 CFR §60.15 (December 16, 1975), respectively, and the term “relocated” means to newly install at an account, as defined in 30 TAC §101.1, a used engine from anywhere outside that account. This exemption in proposed new §117.203(2) would be similar in effect to the proposed revisions to §117.203(1)(D) in that an owner or operator of an existing stationary diesel engine could continue to operate the unit provided the unit would not be altered on or after the rule compliance date. This would help to ensure that the same NO_x emissions profile from the existing unit could be expected in the future. This would also help to ensure that all NO_X emissions from any existing unit already located in the nonattainment area and any existing unit that may be moved into the area, thus considered new, are accounted for during SIP development. Based on reported information in the 2022 point source EI, the commission does not anticipate owners or operators of existing stationary diesel engines placed into service before the proposed

threshold date of March 1, 2026, would be unable to meet the proposed operating hour requirement of less than 100 hours per calendar year based on a rolling 12-month basis.

The proposed changes to §117.203 would further add a new §117.203(3) to exempt new, modified, reconstructed, or relocated stationary diesel engines located at major sources of NO_x in the Bexar County ozone nonattainment area if the new, modified, reconstructed, or relocated stationary diesel engine is placed into service on or after March 1, 2026, operates less than 100 hours per calendar year on a rolling 12-month basis and meets the corresponding NO_x emission standard for non-road engines listed in 40 CFR §1039.101, Table 1 (effective July 29, 2021), and in effect at the time of installation, modification, reconstruction, or relocation. Operating time during emergency situations, as defined in §117.10(15), would be excluded from the limit on operating hours under proposed new §117.203(3). For the purposes of this exemption, the terms “modification” and “reconstruction” have the meanings defined in 30 TAC §116.10 and 40 CFR §60.15 (December 16, 1975), respectively, and the term “relocated” means to newly install at an account, as defined in 30 TAC §101.1, a used engine from anywhere outside that account. Similar to the proposed revisions to §117.203(1)(D) and proposed new §117.203(2), owners or operators of existing units could continue to operate their existing units as they previously had provided the units would not be altered on or after the proposed threshold date of March 1, 2026. Furthermore, these and the other proposed new requirements for stationary diesel engines would ensure that as turnover of older, higher-emitting stationary diesel

engines occurs, the replacement units would be cleaner diesel engines.

Existing paragraphs (2) and (3) in §117.203 are proposed to be renumbered to paragraphs (4) and (5), respectively. Existing paragraph (2), renumbered as paragraph (4), concerning exempt units, continues to apply to gas-fired lean-burn stationary internal combustion engines rated less than 50 horsepower (hp) and fired on any type of gaseous fuel other than landfill gas. The commission also proposes to remove the word "reciprocating" from the term "gas-fired lean-burn stationary reciprocating internal combustion engines" in existing paragraph (2), renumbered as paragraph (4), because, for purposes of Chapter 117, the concept of a reciprocating engine is implied with stationary engines as opposed to rotary engines. For purposes of Chapter 117, rotary engines are considered stationary turbines, and the existing definition for stationary internal combustion engine in §117.10 already includes the term "reciprocating." Existing paragraph (3), renumbered as paragraph (5), concerning exempt units, continues to apply to stationary gas turbines with a maximum rated capacity less than 10.0 million British thermal units per hour (MMBtu/hr). Existing paragraph (3), renumbered as paragraph (5), would further include the new acronym "MMBtu/hr" for "million British thermal units per hour."

The commission proposes new §117.203(6) to specify that ICI process heaters with a maximum rated capacity equal to or less than 5.0 MMBtu/hr are exempt from the provisions of Subchapter B, Division 2. The commission identified nine process heaters in the 2022 point source EI, with all nine units located at the same major source of NO_x

in the Bexar County ozone nonattainment area. Because three units had reported heat input equal to or less than 5.0 MMBtu/hr, the commission anticipates that these three units would qualify for exemption from the proposed rulemaking. Because the remaining six units had reported heat inputs equal to or greater than the proposed exemption threshold of 5.0 MMBtu/hr, these six units are anticipated to require NO_x emission reductions to meet the proposed NO_x emission specification requirements for ICI process heaters in proposed revised §117.205. This exemption level is proposed in §117.203 due to the relatively small contribution of NO_x emissions from units that are equal to or less than 5.0 MMBtu/hr and the impracticality of installing and maintaining NO_x controls on such units for this proposed rulemaking.

The proposed rulemaking would specify in new §117.203(7) that natural gas-fired ovens with a maximum rated capacity equal to or less than 5.0 MMBtu/hr are exempt from the provisions of Subchapter B, Division 2. The commission identified seven ovens in the 2022 point source EI, with all seven units located at the same major source of NO_x in the Bexar County ozone nonattainment area. Because three units had reported heat input equal to or less than 5.0 MMBtu/hr, the commission anticipates that these three units would qualify for exemption from the proposed rulemaking. Because the remaining four units had reported heat inputs equal to or greater than the proposed exemption threshold of 5.0 MMBtu/hr, these four units are anticipated to require NO_x emission reductions to meet the proposed NO_x emission specification requirements for natural gas-fired ovens in proposed revised §117.205. Similar to the exemption proposed for ICI process heaters, this exemption level for natural gas-fired

ovens is proposed due to the relatively small contribution of NO_X emissions from units that are equal to or less than 5.0 MMBtu/hr and the impracticality of installing and maintaining NO_X controls on such units for this proposed rulemaking.

Proposed new §117.203(8) would add an exemption for flares from the provisions of Subchapter B, Division 2. Proposed new §117.203(9) would exempt incinerators with a maximum rated capacity less than 40 MMBtu/hr from the provisions of Subchapter B, Division 2. The proposed exemptions for these unit types located at major sources of NO_X in the Bexar County ozone nonattainment area are consistent with existing exemptions for the Dallas-Fort Worth (DFW) eight-hour ozone nonattainment area major sources, in existing §117.403(a)(3), and for the Houston-Galveston-Brazoria (HGB) ozone nonattainment area major sources, in existing §117.303(a)(4). The commission identified four incinerators in the 2022 point source EI at major sources of NO_X in the Bexar County ozone nonattainment area, with all four units expected to qualify for exemption under proposed new §117.203(9). Existing §117.203(4) is proposed to be renumbered as §117.203(10).

Section 117.205, Emission Specifications for Reasonably Available Control Technology (RACT)

The commission proposes to revise §117.205(a)(3) as part of a broader effort to include additional types of stationary internal combustion engines located at major sources of NO_X. Currently, §117.205(a)(3) specifies NO_X emission limits for only gas-fired lean-burn engines not fired on landfill gas. The proposed revision would expand

these specifications to include two additional engine types: gas-fired lean-burn engines fired on landfill gas and diesel engines. Proposed new §117.205(a)(3)(A)(i) would specify that gas-fired lean-burn engines fired on landfill gas would be subject to a NO_x emission standard of 0.60 grams per horsepower-hour (g/hp-hr). The landfill gas fired in these stationary engines is a byproduct of the decomposition of organic waste in a nearby municipal solid waste landfill, with methane composing much of the waste gas. The proposed Bexar County NO_x emission specification for stationary engines that are fired on landfill gas is based on the NO_x emission specification for similar units located at NO_x major sources in the DFW eight-hour ozone nonattainment area, §117.410(a)(4)(B)(ii)(I), and in the HGB ozone nonattainment area, §117.310(a)(9)(B)(i), respectively. The proposed emission specification of 0.60 g/hp-hr in §117.205(a)(3)(A)(i) is expected to be achievable through combustion modifications. The existing NO_x emission standard of 0.50 g/hp-hr in §117.205(a)(3), for gas-fired lean-burn stationary reciprocating internal combustion engines, is proposed to be moved to new §117.205(a)(3)(A)(ii).

The proposed changes to §117.205(a)(3) further add a new subparagraph (B) that would establish NO_x emission standards for stationary diesel engines based on the size of the stationary diesel engine and the date the engine was installed, modified, reconstructed, or relocated in the Bexar County ozone nonattainment area. The proposed NO_x standards in new §117.205(a)(3)(B) are based on EPA's Tier 4 emission standards for non-road diesel engines listed in 40 CFR §1039.101, Table 1 (effective July 29, 2021). While EPA's Tier 4 emission standards are also based on engine size,

they differ from TCEQ's standards in proposed new §117.205(a)(3)(B) in that they are also based on the engine model year and the dedicated end-use for larger diesel engines.

With promulgation of the new Tier 4 diesel emission standards in 40 CFR Part 1039, EPA established another comprehensive, new program to phase in more stringent Tier 4 emission standards for all diesel engine sizes, similar to its earlier rulemaking efforts for the Tier 2 and Tier 3 emission standards. The Tier 4 emission standards were phased in beginning with model year 2008, requiring lower standards for certain engine sizes and model years 2011 and 2012, and being fully implemented by 2015. Some of the Tier 4 NO_X emission standards for certain engine sizes and model years overlap with some of EPA's prior tier emission standards.

Because some of EPA's Tier 4 exhaust emission standards for diesel engines are expressed in terms of nonmethane hydrocarbons (NMHC) + NO_X, the commission used Table 7: *Tier 2 and Tier 3 Combined and Estimated Pollutant-Specific Emissions Standards for Nonroad Diesel Engines* from EPA's *Exhaust and Crankcase Emission Factors for Nonroad Engine Modeling--Compression-Ignition, Report No. NR-009C* (EPA420-P-04-009, revised April 2004) to split the combined NMHC + NO_X Tier 4 standards into single pollutant emission standards for NO_X, where necessary.

Proposed new §117.205(a)(3)(B)(i) – (iv) would establish NO_X emissions performance standards for stationary diesel engines rated less than 25 hp and through 750 hp and

that are installed, modified, reconstructed, or relocated on or after March 1, 2026. Proposed new §117.205(a)(3)(B)(v) would establish a NO_x emission specification for stationary diesel engines rated greater than 750 hp that are electric generator sets and are installed, modified, reconstructed, or relocated on or after March 1, 2026. Proposed new §117.205(a)(3)(B)(vi) would establish a NO_x emission specification for stationary diesel engines rated greater than 750 hp that exclude electric generator sets and are installed, modified, reconstructed, or relocated on or after March 1, 2026.

Proposed revisions to §117.205(a) include a new paragraph (4) to specify new NO_x emission specifications for process heaters located at NO_x major sources in the Bexar County ozone nonattainment area. Proposed new §117.205(a)(4)(A) would include a NO_x emission specification of 0.025 pounds per million British thermal units (lb/MMBtu) for process heaters with a maximum rated capacity equal to or greater than 40 million British thermal units per hour (MMBtu/hr). Proposed new §117.205(a)(4)(B) would include a NO_x emission limit of 0.036 lb/MMBtu (or alternatively, 30 parts per million by volume (ppmv), at 3.0% oxygen (O_2), dry basis) for process heaters with a maximum rated capacity less than 40 MMBtu/hr. Post-combustion NO_x control such as selective catalytic reduction (SCR) may be necessary for some gas-fired process heaters with a maximum rated capacity equal to or greater than 40 MMBtu/hr to comply with the proposed 0.025 lb/MMBtu emission specification. Given advancements in burner technology to produce the same output with fewer NO_x emissions, some units of this size category may be able to meet the proposed limit of 0.025 lb/MMBtu through combustion modifications such as low-NO_x burners (LNB), or more specifically the next

generation of LNB or ultra low-NO_x burners (ULNB). Owners or operators of gas-fired process heaters with maximum rated capacities less than 40 MMBtu/hr may be required to install LNB, ULNB, or make other combustion modifications to comply with the proposed 0.036 lb/MMBtu (or 30 ppmv, at 3.0% O_2, dry) emission specification. No liquid-fired process heaters were identified in the 2022 point source EI in the Bexar County ozone nonattainment area; however, SCR may be necessary for a liquid-fired process heater to comply with the proposed emission specifications. The NO_x emission standards for units located in Bexar County are proposed at the same NO_x performance level for ICI process heaters located at major NO_x sources in the DFW eight-hour ozone nonattainment area, §117.410(a)(3), and in the HGB ozone nonattainment area, §117.310(a)(8)(A), respectively.

Proposed new §117.205(a)(5) would establish a 0.036 lb/MMBtu NO_x emission specification for natural gas-fired ovens used in industrial, commercial, or institutional processes. This proposed new emission specification is anticipated to be achievable through combustion modifications, such as burner modifications or installation of LNB or possibly ULNB. The proposed emission limit in new §117.205(a)(5) aligns with the NO_x emission specification for natural gas-fired ovens subject to §117.410(a)(12) for the DFW eight-hour ozone nonattainment area. The commission did not identify in the 2022 point source EI for the Bexar County ozone nonattainment area any ovens using fuels other than natural gas. However, for ovens using fuels other than natural gas, particularly liquid fuels, NO_x emissions controls in addition to or beyond burner modifications, LNB, or ULNB may be necessary.

The commission further proposes a new §117.205(a)(6) to establish a NO_x emission specification for incinerators that would not qualify for the proposed exemption under proposed new §117.203(9). Owners or operators of these units would be required to comply with a 0.030 lb/MMBtu emission specification. While this proposed emission specification for incinerators may be achievable through installation of LNB or through other combustion modifications, SCR may be necessary to achieve the 0.030 lb/MMBtu emission specification. This proposed new NO_x limit for incinerators in the Bexar County ozone nonattainment area is set at the same NO_x performance level as for incinerators subject to the provisions of Subchapter B, Divisions 3 and 4 for the HGB and DFW areas (§117.310(a)(16)(B) and §117.410(a)(9)(B)), respectively.

Proposed revisions to §117.205(b), concerning NO_x averaging times for units subject to a NO_x emission specification under §117.205(a), include repealing existing §117.205(b)(1) and proposing it as new §117.205(b)(2), with amendments. Proposed new §117.205(b)(2) would specify that compliance with the NO_x emission specifications in §117.205(a) must be determined on a block one-hour averaging time, in the units of the applicable NO_x emission specification, for units that do not operate with a NO_x continuous emission monitoring system (CEMS) or predictive emission monitoring system (PEMS) under §117.240 of Subchapter B, Division 2. Proposed new §117.205(b)(2) would provide for the same requirements as existing §117.205(b)(1) and further specify that the block one-hour averaging time would apply to owners or operators of units that do not operate with a NO_x CEMS or PEMS. Proposed new

§117.205(b)(2) further includes a new provision for owners or operators of process heaters in the Bexar County ozone nonattainment area by providing an alternative NO_x averaging time for demonstrating compliance with the NO_x limits in §117.205(a). If a process heater that is subject to §117.205(a) is not operated with a NO_x CEMS or PEMS under §117.240, under proposed new §117.205(b)(2) the owner or operator may choose to calculate the actual NO_x emissions rate from the unit on a pounds per hour basis by multiplying the unit's maximum rated capacity by the unit's applicable NO_x emission specification in lb/MMBtu and using this calculated result to show compliance with the applicable specifications in Subchapter B, Division 2. Under this alternative NO_x averaging time, where the owner or operator shows compliance on a block one-hour average in pounds per hour as opposed to on a block one-hour average in the units of the applicable NO_x emission specification, the calculated value for the process heater would be compared to the performance evaluation result obtained through the emissions stack testing that would be required by the initial demonstration of compliance provisions under §117.235 of Subchapter B, Division 2. This alternative would allow for a direct comparison between the calculated theoretical emissions and the measured actual emissions, providing an alternative method to verify compliance with the applicable NO_x standard.

Existing §117.205(b)(2) is proposed to be renumbered as §117.205(b)(1), and three new subparagraphs would also be added. For units, except process heaters, that operate with a NO_x CEMS or PEMS under §117.240, the owner or operator would be able to choose between two different NO_x averaging times to show compliance with the NO_x

emission specifications in §117.205(a). Proposed new §117.205(b)(1)(A) offers flexibility to comply with the specifications in §117.205(a) on a 30-day rolling average in the units of the applicable emission standard. Proposed new §117.205(b)(1)(B) offers flexibility to comply with the specifications in §117.205(a) on a block one-hour average in the units of the applicable emission standard. The owner or operator of a process heater in the Bexar County ozone nonattainment area would have an additional option in proposed new §117.205(b)(1)(C). As an alternative to the 30-day rolling average in the units of the applicable emission standard in proposed new §117.205(b)(1)(A) and to the block one-hour average in the units of the applicable emission standard in proposed new §117.205(b)(1)(B), proposed new §117.205(b)(1)(C) for process heaters would offer flexibility to comply with the specifications in §117.205(a) on a block one-hour average in pounds per hour. Like the alternative for process heaters under proposed new §117.205(b)(2), with amendments, the owner or operator may choose to calculate the actual NO_X emissions rate from the unit on a pounds per hour basis by multiplying the unit's maximum rated capacity by the unit's applicable NO_X emission specification in lb/MMBtu and using this calculated result to show compliance with the applicable NO_X emission specifications in Subchapter B, Division 2. The commission further proposes to rearrange the wording of the NO_X averaging time for 30 days from "rolling 30-day average" to "30-day rolling average," to keep use of this term within the chapter consistent with how the term is worded within its definition in §117.10.

The reclassification of the Bexar County ozone nonattainment area to serious resulted in the identification of additional major source NO_X emissions units, including flares

and incinerators. For purposes of ozone attainment, it is necessary to prevent circumvention due to the transfer of NO_x emissions associated with chemical-bound nitrogen from a unit under which these emissions would be controlled to a unit that is not subject to the NO_x emission specifications in §117.205(a), and therefore uncontrolled. Proposed changes to §117.205(d) add a new paragraph (3) that would prohibit changes to a unit subject to a NO_x emission specification in §117.205(a) that would result in increased NO_x emissions from a unit that is not subject to the NO_x emission specifications in §117.205(a). An example of this type of change that would be prohibited under proposed new §117.205(d)(3) would be redirecting one or more fuel or waste streams containing chemical-bound nitrogen to an incinerator with a maximum rated capacity less than 40 MMBtu/hr, or a flare. The redirection of the fuel or waste stream would result in increased NO_x emissions from the unit not subject to a NO_x emission specification in §117.205(a). Consequently, these additional NO_x emissions would not have been accounted for in the SIP revision for the ozone nonattainment area and either deemed insignificant or not needing additional NO_x emissions control. The proposed prohibition threshold date of December 19, 2019, was the modeling base year for the attainment demonstration SIP revision required at the time that the Bexar County ozone nonattainment area was classified as moderate. The 2019 base year was also used in the concurrent proposed Bexar County 2015 ozone NAAQS serious attainment demonstration SIP revision, thus the December 19, 2019, date remains appropriate for the prohibition threshold. Therefore, any changes after December 19, 2019, to a unit subject to §117.205(a) that would result in increased NO_x emissions from another unit not subject to §117.205(a) would be prohibited, unless

certain criteria are met, as explained below.

An owner or operator would be allowed to make such changes that would otherwise be prohibited under proposed new §117.205(d)(3) only if both of the conditions under proposed new §117.205(d)(3)(A) and (B) were satisfied. Under proposed new §117.205(d)(3)(A), the increase in NO_X emissions from the unit not subject to the NO_X emission specifications in §117.205(a) must be determined either using a NO_X CEMS or PEMS that meets the requirements in §117.240 of Subchapter B, Division 2 or through emissions stack testing that meets the requirements in §117.235 of Subchapter B, Division 2. Under proposed new §117.205(d)(3)(B), emission credits that are equal to the increase in NO_X emissions from the unit not subject to the NO_X emission specifications in §117.205(a) must be obtained and used in accordance with §117.9800 of Subchapter H, Division 2. Any change to a unit subject to §117.205(a) that resulted in increased NO_X emissions from another unit not subject to §117.205(a) after December 19, 2019, and before the effective date of this proposed rulemaking, if adopted, would still be prohibited. Existing §117.205(d)(3) is proposed as renumbered §117.205(d)(4).

Proposed revisions to §117.205 further include a new subsection (e) that would prohibit an owner or operator of a stationary diesel engine in the Bexar County ozone nonattainment area from starting or operating the stationary diesel engine between the hours of 6:00 a.m. and noon for testing or maintenance of the engine itself, with three specified exceptions to the prohibition. This proposed new requirement on starting or

operating restrictions for stationary diesel engines would delay the emissions of NO_x, a key ozone precursor, until after noon (12:00 pm) to limit ozone formation. Proposed new §117.205(e)(1) would allow the starting or operation of the stationary diesel engine between the hours of 6:00 a.m. and noon if it is for a manufacturer's specific recommended testing requiring a run of over 18 consecutive hours. Proposed new §117.205(e)(2) would allow the starting or operation of the stationary diesel engine between the hours of 6:00 a.m. and noon if it is 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 since it can be scheduled outside the 6:00 a.m. to noon time period. Finally, proposed new §117.205(e)(3) would allow the starting or operation of the stationary diesel engine between the hours of 6:00 a.m. and noon if it is for the purpose of using firewater pumps that are used for emergency response training conducted between April 1 and October 31 of a calendar year.

Section 117.230, Operating Requirements

The commission proposes a new subsection (a) in existing §117.230 to require that the owner or operator of any unit subject to the NO_x emission specifications in §117.205(a) must operate the unit in compliance with those limitations. The existing introductory rule text in §117.230 is moved to new subsection (b) in §117.230. The commission further proposes in new paragraphs (1) – (2) of proposed renumbered §117.230(b) operational requirements for owners or operators of process heaters that use forced draft flue gas recirculation (FGR) or induced draft FGR for control of NO_x emissions.

Proposed new §117.230(b)(3) would specify operational requirements for owners or operators of units that use steam or water injection for control of NO_x emissions. Existing §117.230(1) is proposed to be renumbered as §117.230(b)(4). Existing §117.230(2) is proposed to be renumbered as §117.230(b)(5). Similar to the existing provisions under §117.230(1) and (2), before proposed changes, for operational requirements for post-combustion NO_x control techniques and gas-fired lean-burn stationary engines, the purpose of proposed new §117.230(b)(1) – (3) is to require that equipment be operated in such a manner as to reduce NO_x emissions over the entire operating range. These proposed new requirements would ensure that NO_x reductions are achieved, particularly for units that operate without a NO_x emissions monitor, i.e. a NO_x CEMS or PEMS. Finally, the commission proposes in renumbered §117.230(b)(5) to replace the term "gas-fired lean-burn stationary reciprocating internal combustion engine" with the new term "stationary internal combustion engine." This proposed change in existing §117.230(2), renumbered as §117.230(b)(5), would require that all stationary internal combustion engines covered under Subchapter B, Division 2, and not only gas-fired lean-burn stationary engines, must be checked for proper engine operation according to §117.8140(b) of Subchapter G, Division 2. This change would be necessary to be consistent with the proposed changes for new §117.205(a)(3) as part of this proposed rulemaking.

Section 117.235, Initial Demonstration of Compliance

The commission proposes in revised §117.235(a) that the owner or operator of any NO_x emissions unit that does not qualify for an exemption from the NO_x emission

specifications in Subchapter B, Division 2 is required to conduct emissions performance testing for each unit that is subject to a NO_x emission specification of the division.

The commission proposes in revised §117.235(e) to specify that for units operating without a NO_x emissions monitor, the initial demonstration of compliance with the NO_x emission specifications of Subchapter B, Division 2 must be performed according to the requirements in §117.8000 of Subchapter G, Division 1. The word "initially" was previously not part of the rule provision language for §117.235(e). Proposed revisions to §117.235(e) would follow the same intent as existing requirements in §117.235(f).

Proposed revisions to §117.235(f) include minor rewording to the subsection to make clear that if an owner or operator of a unit subject to the emission specifications in §117.205(a) is required or otherwise elects to use a NO_x CEMS or PEMS, which must be installed, calibrated, maintained, and operated in accordance with §117.240 of Subchapter B, Division 2, the NO_x monitor must undergo monitor certification testing first before being used to monitor NO_x emissions from the unit for both the initial compliance demonstration required under §117.235 and ongoing compliance demonstrations required under §117.240. Requirements for a NO_x specification on a block one-hour average are deleted from §117.235(f) and moved to new §117.235(f)(2), as described below.

The commission proposes a new §117.235(f)(1) to specify how an owner or operator

demonstrating compliance with proposed revised §117.235(f) must determine the NO_X emissions from the unit to demonstrate initial compliance with the emission specifications of §117.205(a) for an emission specification expressed in units of lb/MMBtu and based on a 30-day rolling average. Proposed new §117.235(f)(2) would specify how an owner or operator demonstrating compliance with proposed revised §117.235(f) must determine the NO_X emissions from the unit to demonstrate initial compliance with the emission specifications of §117.205(a) for an emission specification on a block one-hour average. These rule provisions for demonstrating initial compliance with the applicable NO_X emission specifications for owners or operators of units operating with a NO_X monitor align with other similar provisions that exist in other parts of Chapter 117, specifically in §117.435(e)(1) and (2) for the DFW eight-hour ozone nonattainment area and in §117.335(f)(1) and (2) for the HGB ozone nonattainment area, respectively. To be consistent with the two options for the NO_X averaging time provided in proposed renumbered §117.205(b)(1), notwithstanding the third option specific to owners or operators of process heaters choosing compliance in units of pounds per hour, proposed new subsection (f)(1) and (2) are necessary for owners or operators of units operating with a NO_X monitor to show compliance depending on the averaging time chosen by the owner or operator. If a 30-day rolling average is chosen under proposed new §117.205(b)(1)(A), the owner or operator is required to comply with proposed new §117.235(f)(1). If a block one-hour average is chosen under proposed new §117.205(b)(1)(B), the owner or operator is required to comply with proposed new §117.235(f)(2).

Proposed new §117.235(f)(1) would specify that the calculated initial 30-day average emission rate must be used to show initial compliance with the applicable NO_x emission specification in §117.205(a). The 30-day average emission rate is calculated as the total NO_x emissions from a unit, in pounds, during a 30-day test period divided by the total heat input to the unit, in MMBtu, during the same 30-day test period. Any 30-day test period may be chosen by the owner or operator so long as the unit operates for 30 successive days for the NO_x emissions monitoring to occur. Proposed new §117.235(f)(2) would specify that any one-hour period of NO_x emissions monitoring using the certified NO_x monitor, while the unit operates at its maximum rated capacity, or as near thereto as practicable, must be used to show initial compliance with the applicable NO_x emission specification in §117.205(a). Any one-hour period may be used by the owner or operator of the unit since a NO_x emissions monitor used in compliance with Chapter 117 must be able to show compliance with EPA's regulations under 40 CFR Part 60 or Part 75, EPA-compliant NO_x emissions monitors provide hourly averages of NO_x emissions, and the averaging time for the initial compliance demonstration is on an hourly basis.

Section 117.240, Continuous Demonstration of Compliance

Existing §117.240(a)(2) provides alternatives to the requirements of §117.240(a)(1). The commission proposes to revise §117.240(a)(2)(C) by replacing the term "gas-fired lean-burn stationary reciprocating internal combustion engines" with the new term, "stationary internal combustion engines." This change would be necessary because the commission is proposing to expand the applicability of the rule provisions of

Subchapter B, Division 2 to additional types of stationary engines. Proposed revised §117.240(a)(2)(C) would therefore specify that the alternative in existing §117.240(a)(2)(C) to the totalizing fuel flow metering requirement in §117.240(a)(1) would be available to an owner or operator of any stationary internal combustion engine that triggers applicability under proposed revised §117.200.

Existing §117.240(b)(2) specifies that units subject to the NO_x CEMS requirements of 40 CFR Part 75 are not required to install a NO_x CEMS or PEMS under §117.240(b). The commission proposes to expand §117.240(b)(2) to incorporate new provisions for stationary diesel engines. The commission proposes to move the existing exception provided to units subject to 40 CFR Part 75 to a proposed new §117.240(b)(2)(A). Proposed new §117.240(b)(2)(B) would provide an exception for owners or operators of stationary diesel engines with SCR systems from the requirement to install a NO_x CEMS or PEMS. To qualify for the exception, the stationary diesel engine must operate with an SCR emissions control system for NO_x and meet all the criteria in proposed new §117.240(b)(2)(B)(i) - (vi). Stationary diesel engines operated in this manner are expected to be newer diesel engines that would already be certified to EPA's Tier 4 emission standards in 40 CFR §1039.101, Table 1 (effective July 29, 2021). Currently, most diesel engine manufacturers incorporate SCR emissions control systems to produce engines that can be certified to EPA's Tier 4 emission standards for NO_x. The SCR emissions control system built into the operational design of the diesel engine makes the operation of the diesel engine without the SCR practically impossible. The criteria specified in proposed new §117.240(b)(2)(B)(i) - (iv) are from 40 CFR Part 1039,

Subpart B for monitoring reductant use and unit and control system diagnostic functions. Consequently, an owner or operator of a stationary diesel engine operating with an SCR system and according to the conditions in proposed new §117.240(b)(2)(B) would not need to monitor exhaust NO_x with a NO_x CEMS or PEMS under §117.240(b). The proposed rule provisions for stationary diesel engines under §117.240(b)(2)(B) do not waive the requirement for an owner or operator to demonstrate initial compliance with the NO_x emission specifications of Subchapter B, Division 2 according to §117.235, ongoing compliance with the engine monitoring requirements in §117.240(e), or ongoing compliance with the retesting provisions in §117.240(h)(2), if retesting is triggered.

Similar to the proposed revision to §117.240(a)(2)(C), proposed revisions to §117.240(e) include replacing the term, gas-fired lean-burn stationary reciprocating internal combustion engine, with the new term, stationary internal combustion engine. Like other changes proposed in this rulemaking for stationary engines, this change would be necessary to extend existing engine monitoring requirements to all stationary engines that would trigger applicability to the rule provisions of Subchapter B, Division 2 through proposed revised §117.200. The commission also proposes to add language to §117.240(e) to make clear that the requirement to stack test is for engines that are not equipped with a NO_x CEMS or PEMS. For stationary engines not required to operate with a NO_x monitor, or for those units for which the owner or operator elects not to use a NO_x monitor, owners or operators of stationary engines that trigger the engine emissions monitoring requirement under §117.240(e) would be required to conduct

periodic emissions testing in accordance with the provisions in §117.8140(a). This requirement to conduct periodic emissions testing for stationary engines exists in §117.440(h) for stationary gas engines in the DFW eight-hour ozone nonattainment area and in §117.340(h) for all stationary engines in the HGB ozone nonattainment area.

Section §117.240(f) requires owners or operators of stationary gas turbines or gas-fired lean-burn stationary reciprocating internal combustion engines to record the unit's operating time with a non-resettable elapsed run time meter if the unit is claimed exempt using the exemption in §117.203(1)(D). Proposed revised §117.240(f) would extend the existing run time meter and operating time recording requirement to owners or operators of units claimed exempt using the exemptions in proposed new §117.203(2) or in proposed new §117.203(3). Like other proposed changes for stationary engines in this proposed rulemaking, the commission proposes to also replace the term gas-fired lean-burn stationary reciprocating internal combustion engine with the new term stationary internal combustion engine in proposed revised §117.240(f). These proposed new inclusions for §117.240(f) would mirror, as necessary, existing rule provision requirements for stationary gas turbines and stationary internal combustion engines for units claimed exempt in the DFW eight-hour ozone nonattainment area, in §117.440(i), and in the HGB ozone nonattainment area, in §117.340(j).

To be consistent with the proposed clarification in §117.240(e) concerning stationary

engines that do not operate with a NO_x emissions monitor, either a CEMS or PEMS, the commission proposes to clarify in §117.240(h)(2) that for units not operating with a NO_x monitor, owners or operators of such units must retest their units, as specified in §117.235, within 60 days after any modification to a unit that could reasonably be expected to increase the NO_x emissions rate from the modified unit. The NO_x emissions retesting would be conducted according to §117.235(a), (e), and (g) of Subchapter B, Division 2. The emissions retesting provision in §117.240(h)(2) applies to any unit subject to a NO_x emission specification in §117.205(a) that does not use a NO_x monitor and for which a modification occurs that could reasonably be expected to increase the NO_x emissions rate from the unit.

Section 117.245, Notification, Recordkeeping, and Reporting Requirements

The commission proposes to move the existing notification requirements for owners or operators of units subject to the NO_x emission specifications in §117.205(a) from §117.245(b) to new paragraphs (1) and (2) within the subsection. The purpose is to make clearer, by separating into two new paragraphs, the existing notification requirements for emissions testing conducted under §117.235, in proposed new §117.245(b)(1), and the existing notification requirements for NO_x monitor performance evaluations conducted under §117.240, in proposed new §117.245(b)(2).

Proposed revisions to §117.245(e) include replacing the existing term, “gas-fired engine,” with the new term, “stationary internal combustion engine.” This change would be necessary to be consistent with the other changes proposed in this

rulemaking to extend the applicability of the rule provisions of Subchapter B, Division 2 to additional stationary engine types. Therefore, owners or operators of stationary gas-fired lean-burn engines not fired on landfill gas, stationary gas-fired engines fired on landfill gas, and stationary diesel engines, subject to the NO_x emission specifications of §117.205(a), would be required to report in writing to the commission on a semiannual basis any excess emissions and air-fuel ratio monitoring system performance, as applicable.

The current rule provision reference to §117.230(a)(2) in §117.245(e)(1) is proposed to be revised to new §117.230(b)(5) to be consistent with the proposed changes to §117.230. The commission further notes that the current rule provision reference to §117.230(a)(2) is incorrect; the correct current rule provision reference is §117.230(2).

The commission proposes to remove the word “daily” from existing §117.245(f)(2)(B) because current rule provisions under Subchapter B, Division 2 do not specify any NO_x emission specifications on a daily basis. Current rule provisions under §117.205 and §117.235 specify compliance only on either a one-hour or a 30-day basis for units that operate with a NO_x CEMS or PEMS. Proposed changes to §117.245(f)(3)(A)(i) would include revising the current rule provision reference from §117.230(2) to new §117.230(b)(5). This change would be necessary pursuant to the changes proposed to §117.230 of Subchapter B, Division 2. Section §117.245(f)(3)(A) specifies requirements for owners or operators of stationary internal combustion engines, subject to the NO_x emission specifications of Subchapter B, Division 2, to maintain records of emissions

measurements required by new §117.230(b)(5) and §117.240(e) of the division.

Proposed changes to §117.245(f)(4) would include adding rule provision references to new §117.203(2) and (3) to include the proposed new exemptions for stationary diesel engines that operate less than 100 hours per year based on a rolling 12-month basis. Section §117.245(f)(4) specifies requirements for owners or operators of units claimed exempt from the emission specifications of Subchapter B, Division 2. For exemptions based on hours per year of operation, maintaining records of monthly hours of operation is required. For exemptions based on dedicated use, keeping records of the unit's purpose of use is required. Furthermore, the commission proposes to add to §117.245(f)(4) a rule provision reference to the definition of emergency situation in §117.10(15). The term itself already exists within the rule provision text of §117.245(f)(4). The purpose is to remind owners or operators of potentially affected units that the term is defined for purposes of Chapter 117, and not all situations that may occur may qualify as an emergency situation for purposes of Chapter 117.

Proposed revisions to §117.245(f) concerning recordkeeping requirements include a new paragraph (7) for owners or operators of stationary diesel engines subject to the operating restrictions in proposed new §117.205(e). Similar to existing provisions for owners or operators of stationary diesel engine in the DFW eight-hour ozone nonattainment area, in §117.445(f)(9), and in the HGB ozone nonattainment area, in §117.345(f)(10), proposed new §117.245(f)(7) would require owners or operators to maintain records of each time a stationary diesel engine is operated for testing and

maintenance of the engine itself, including the date(s) of engine operation; the start and end times of engine operation; the identification of the engine; and the total hours of engine operation for each month and for the most recent 12 consecutive months. This proposed new recordkeeping requirement would apply for each stationary diesel engine that is subject to the operating restrictions of §117.240(e) to ensure compliance with the proposed restriction on operating hours for testing and maintenance of a stationary diesel engine.

Subchapter H, Administrative Provisions

Division 1, Compliance Schedules

Section 117.9010, Compliance Schedule for Bexar County Ozone Nonattainment Major Sources

Proposed revisions to §117.9010(a) include new paragraphs (1) and (2) to specify when owners or operators of units subject to the requirements of Subchapter B, Division 2 are required to demonstrate compliance with those requirements. Proposed new §117.9010(a)(1) would preserve prior compliance deadlines for submittal of the control plan and all other requirements of Chapter 117, Subchapter B, Division 2 for units subject to the NO_x emission specifications in §117.205(a) that were subject to the prior definition of "Major source" for the Bexar County ozone nonattainment in §117.10(29)(B) before the effective date of this current rulemaking – those that emit or have the potential to emit equal to or greater than 100 tpy of NO_x. The prior compliance deadline of January 1, 2025, for control plans is proposed in new

§117.9010(a)(1)(A). The prior compliance deadline of January 1, 2025, for all other requirements of Subchapter B, Division 2, when the area was classified as moderate ozone nonattainment, is proposed in new §117.9010(a)(1)(B). Proposed new §117.9010(a)(1)(B) further specifies that units that were required to demonstrate compliance by January 1, 2025, must continue to demonstrate compliance with the requirements of Subchapter B Division 2. Finally, the commission proposes in new §117.9010(a)(1)(C) that for units that became subject to the NO_x emission specifications in §117.205(a) after January 1, 2025, compliance with the requirements of Subchapter B, Division 2 is required as soon as practicable but no later than 60 days after becoming subject. These changes are intended to provide clarity and distinguish between the prior compliance deadline of January 1, 2025, in proposed new §117.9010(a)(1)(A) - (C) relating to the compliance date for the Bexar County ozone nonattainment area under a moderate classification and the proposed new deadlines in new §117.9010(a)(2). These proposed changes in §117.9010(a) are not intended to change the existing requirements for those units that had a rule provision compliance deadline of January 1, 2025.

Proposed new §117.9010(a)(2)(A) - (B) would specify the compliance deadlines for units subject to the NO_x emission specifications of §117.205(a) that become subject to the proposed revised definition of “Major Source” for the Bexar County ozone nonattainment area in proposed revised §117.10(29)(B). The commission proposes a compliance deadline of February 1, 2026, in proposed new §117.9010(a)(2)(A) for submission of the control plan required by §117.252 and March 1, 2026, in proposed

new §117.9010(a)(2)(B) for demonstrating compliance with all other applicable requirements of Chapter 117, Subchapter B, Division 2. The compliance date assures that NO_x reductions would occur by the start of ozone season in Bexar County in 2026, the year used to determine attainment with the 2015 eight-hour ozone NAAQS.

The commission does not propose any changes to existing §117.9010(b), which specifies that the owner or operator of any stationary source of NO_x that becomes subject to the requirements of Chapter 117, Subchapter B, Division 2 on or after the applicable compliance date specified in subsection (a) of the section must comply with the requirements of the division as soon as practicable, but no later than 60 days after becoming subject to the requirements of the division. Considering the reclassification of the Bexar County ozone nonattainment area and the new NO_x major source threshold, an owner or operator of any stationary source of NO_x that becomes subject to the requirements of proposed revised Subchapter B, Division 2 on or after March 1, 2026, must comply with the requirements of Chapter 117, Subchapter B, Division 2 as soon as practicable, but no later than 60 days after becoming subject. For example, owners or operators of new units placed into service on or after March 1, 2026, would be required to demonstrate compliance with the requirements of the division within 60 days after startup of the unit. Owners or operators of existing units previously claimed exempt from the rule provisions but no longer qualifying for exemption after March 1, 2026, would be required to demonstrate compliance with the requirements of the division by no later than 60 days after the unit no longer qualifies for the previously claimed exemption.

Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for TCEQ during implementation of the proposed rule. No fiscal implications are anticipated for other state or local government entities.

Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated will be compliance with federal law and continued protection of the environment and public health and safety combined with efficient and fair administration of NO_x emission standards for Bexar County. Corrections of errors and other non-substantive changes within the rule would also benefit the public.

Costs would be incurred for affected businesses operating in Bexar County for implementation of requirements appliable to RACT. Revisions to §117.10 would lower the threshold for major sources from 100 tpy to 50 tpy NO_x in Bexar County, so any sources emitting or with the potential to emit 50-100 tpy NO_x in Bexar County would be impacted by this rulemaking. Additionally, revisions to Subchapter B, Division 2 would expand the applicability of RACT requirements as applicable to NO_x to include gas engines fired on landfill gas, diesel engines, boilers, process heaters, ovens, and incinerators, so any applicable requirements in Chapter 117 would apply to all major

sources with these technologies.

It is estimated that four businesses would be affected by this rulemaking. This includes one landfill/waste-to-gas management plant with five stationary diesel engines and four flares (subject to federal new source review requirements); one waste-to-gas energy production plant with six stationary gas-fired, lean-burn engines; one petroleum refinery with nine process heaters, four stationary diesel engines, two incinerators, and two flares (subject to federal new source review requirements); and one vehicle automative manufacturer plant with two incinerators and seven ovens.

For the landfill/waste-to-gas management plant, total costs are estimated at $24,000-$39,000 for the first, third, and fifth year after the rulemaking is in effect, and $9,400-$18,400 in years two and four. Capital purchases were assumed to be annualized over 15 years with an 8.25% rate on the loan. Costs include purchase of new Tier 2, Tier 3, and Tier 4 diesel engines and other equipment, operating and maintenance costs, the purchase and operation of flow meters, and costs associated with stack testing.

For the waste-to-gas energy production plant, total costs are estimated at $35,000 in years one, three, and five and $5,800 in years two and four. Capital purchases were assumed to be annualized over 15 years with an 8.25% rate on the loan. Costs include the purchase of flow meters, annual operating and maintenance costs, stack testing costs, and costs associated with recordkeeping and reporting. None of the six engines at this site are anticipated to need to implement additional controls to meet proposed

emissions specifications for stationary gas-fired, lean burn engines fired on landfill gas.

For the petroleum refinery, total costs are estimated at $199,000 in year one and $154,600 in years two through five. Capital purchases were assumed to be annualized over 15 years with an 8.25% rate on the loan. Costs include the purchase of ultra-low-NO_x burners for six process heaters, tests of the burners, the purchase of flow meters, the purchase of non-resettable run time meters for four stationary diesel engines, stack testing costs, and costs associated with recordkeeping and reporting. It is assumed that four stationary diesel engines would qualify for an exemption, either based on dedicated use or low operational use; and two incinerators would qualify for an exemption based on unit size.

For the vehicle automotive manufacturer, total costs are estimated at $22,000 in year one and $2,200 in years two through five. Capital purchases were assumed to be annualized over 15 years with an 8.25% rate on the loan. Costs include the purchase of flow meters, operating and maintenance costs, stack testing costs, and costs associated with recordkeeping and reporting. It is assumed that two incinerators and three of the gas-fired ovens would qualify for an exemption from requirements based on unit size. The remaining four ovens are not anticipated to require additional control measures.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking is not anticipated to adversely affect a local economy in a significant way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. This rulemaking applies to Bexar County, which has a large population; therefore, rural communities are not significantly impacted.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect. No small businesses have been identified that would be affected by this rulemaking.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years

the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

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 does not meet the definition of a major environmental rule as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirement to prepare a regulatory impact analysis. 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. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Tex. Gov't Code Ann., §2001.0225(a). Section 2001.0225 of the Texas Government Code 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 specific intent of these proposed rules is to comply with federal requirements for the implementation of control strategies necessary to attain and maintain the NAAQS for ozone mandated by 42 United States Code (USC), 7410, FCAA, §110 and required to be included in operating permits by 42 USC, §7661a, FCAA, §502, as specified elsewhere in this preamble. The proposed rulemaking addresses RACT requirements for the Bexar County 2015 eight-hour ozone nonattainment area as discussed elsewhere in this preamble. States are required to adopt SIPs with enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the FCAA. As discussed in the FISCAL NOTE portion of this preamble, the proposed rules are not anticipated to add any significant additional costs to affected individuals or businesses beyond what is necessary to attain the ozone

NAAQS on 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.

If a state does not comply with its obligations under 42 USC, §7410, FCAA, §110 to submit SIPs, states are subject to discretionary sanctions under 42 USC, §7410(m) or mandatory sanctions under 42 USC, §7509, FCAA, §179; as well as the imposition of a federal implementation plan (FIP) under 42 USC, §7410, FCAA, §110(c). Under 42 USC, §7661a, FCAA, §502, states are required to have federal operating permit programs that provide authority to issue permits and assure compliance with each applicable standard, regulation, or requirement under the FCAA, including enforceable emission limitations and other control measures, means, or techniques, which are required under 42 USC, §7410, FCAA, §110. Similar to requirements in 42 USC, §7410, FCAA, §110, states are not free to ignore requirements in 42 USC, §7661a, FCAA, §502 and must develop and submit programs to provide for operating permits for major sources that include all applicable requirements of the FCAA. Lastly, states are also subject to the imposition of sanctions under 42 USC, §7661a(d) and (i), FCAA, §502(d) and (i) for failure to submit an operating permits program, the disapproval of any operating permits program, or failure to adequately administer and enforce the approved operating permits program.

The requirement to provide a fiscal analysis of regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th legislative session in 1997. The intent of 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 that concluded "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 rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law. Because of the ongoing need to meet federal requirements, the commission routinely proposes and adopts rules incorporating or designed to satisfy specific federal requirements. The legislature is presumed to understand this federal scheme. If each rule proposed by the commission to meet a federal requirement was considered to be a major environmental rule that exceeds federal law, then each of those rules would require the full regulatory impact analysis (RIA) contemplated by SB 633. Requiring a full RIA for all federally required rules 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 that the intent of SB 633 was only to require the full RIA for rules that are extraordinary in nature. While the proposed rules

may have a broad impact, that impact is no greater than is necessary or appropriate to meet the requirements of the FCAA, and in fact creates no additional impacts since the proposed rules do not impose burdens greater than required to demonstrate attainment of the ozone NAAQS as discussed elsewhere in this preamble. For these reasons, the proposed rules fall under the exception in Texas Government Code, §2001.0225(a), because they are required by, and do not exceed, 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 RIA 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" (Texas Government Code, §2001.035). The legislature specifically identified Texas Government Code, §2001.0225 as falling under this standard.

As discussed in this analysis and elsewhere in this preamble, the commission has substantially complied with the requirements of Texas Government Code, §2001.0225. The proposed rulemaking implements the requirements of the FCAA as discussed in this analysis and elsewhere in this preamble. The proposed rules were determined to be necessary to attain the ozone NAAQS and are required to be included in permits under 42 USC, §7661a, FCAA, §502 and will not exceed any standard set by state or federal law. These proposed rules are not an express requirement of state law. The proposed rules do not exceed a requirement of a delegation agreement or a contract between state and federal government, as the proposed rules, if adopted by the commission and approved by EPA, will become federal law as part of the approved SIP required by 42 U.S.C. §7410, FCAA, §110. The proposed rules were not developed solely under the general powers of the agency but are authorized by specific sections of Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act), and the Texas Water Code, which are cited in the Statutory Authority section of this preamble, including Texas Health and Safety Code, §§382.011, 382.012, and 382.017. Therefore, this proposed rulemaking action is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

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

Under Texas Government Code, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. The commission completed a takings impact analysis for the proposed rulemaking action under the Texas Government Code, §2007.043.

The primary purpose of this proposed rulemaking action, as discussed elsewhere in

this preamble, is to meet federal requirements for the implementation of control strategies necessary to attain and maintain the NAAQS for ozone mandated by 42 United States Code (USC), 7410, FCAA, §110 and required to be included in operating permits by 42 USC, §7661a, FCAA, §502. The proposed rulemaking addresses RACT requirements for the Bexar County 2015 eight-hour ozone nonattainment area as discussed elsewhere in this preamble.

States are required to adopt SIPs with enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the FCAA. If a state does not comply with its obligations under 42 USC, §7410, FCAA, §110 to submit SIPs, states are subject to discretionary sanctions under 42 USC, §7410(m) or mandatory sanctions under 42 USC, §7509, FCAA, §179; as well as the imposition of a FIP under 42 USC, §7410, FCAA, §110(c). Under 42 USC, §7661a, FCAA, §502, states are required to have federal operating permit programs that provide authority to issue permits and assure compliance with each applicable standard, regulation, or requirement under the FCAA, including enforceable emission limitations and other control measures, means, or techniques, which are required under 42 USC, §7410, FCAA, §110. Similar to requirements in 42 USC, §7410, FCAA, §110, regarding the requirement to adopt and implement plans to attain and maintain the national ambient air quality standards, states are not free to ignore requirements in 42 USC, §7661a, FCAA, §502 and must develop and submit programs to provide for operating permits for major sources that include all applicable requirements of the FCAA. Lastly,

states are also subject to the imposition of sanctions under 42 USC, §7661a(d) and (i), FCAA, §502(d) and (i) for failure to submit an operating permits program, the disapproval of any operating permits program, or failure to adequately administer and enforce the approved operating permits program.

The proposed rules will not create any additional burden on private real property beyond what is required under federal law, as the proposed rules, if adopted by the commission and approved by EPA, will become federal law as part of the approved SIP required by 42 U.S.C. §7410, FCAA, §110. The proposed rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

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 §29.11(b)(2) (or §29.11(b)(4), whichever is applicable) 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. Note: §29.11(b)(2) applies only to air pollutant emissions, on-site sewage

disposal systems, and underground storage tanks. §29.11(b)(4) applies to all other actions.

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. Once adopted, owners or operators of affected sites 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 offer a public hearing on this proposal in San Antonio on August 19, 2025, at 7:00 p.m. Central Daylight Time at the Alamo Area Council of

Governments at 2700 NE Loop 410, Suite 101. The hearing is 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 hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing. Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: *https://tceq.commentinput.com/comment/search*. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-007-117-AI. The comment period closes on August 25, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html*. For further information, please contact Javier Galván, Air Quality Planning Section, at javier.galvan@tceq.texas.gov.

SUBCHAPTER A: DEFINITIONS

§117.10

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, concerning general powers; §5.103, concerning Rules; TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §7.002, concerning Enforcement Authority, which authorizes the commission to enforce the provisions of the Water Code and the Health and Safety Code within the commission's jurisdiction; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act.

The amendments are also proposed under Texas Healthy and Safety Code (THSC), §382.002, concerning Policy and Purpose, which 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, which authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air.

The proposed amendments implement Texas Water Code, §§5.102, 5.103, 5.105 and

7.002; and Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.017.

§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) Bexar County ozone nonattainment area-An area consisting of Bexar County.

(C) Dallas-Fort Worth eight-hour ozone nonattainment area--An area consisting of:

(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.

(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, 2, and 4 of this chapter (relating to Beaumont-Port Arthur Ozone Nonattainment Area Utility Electric Generation Sources; Bexar County Ozone Nonattainment Area Utility Electric Generation Sources; and Dallas-Fort Worth Eight-Hour 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 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;

(ii) Bexar County; or

(iii) Dallas-Fort Worth eight-hour;

(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;

(C) for the purposes of Subchapter B, Division 3 of this chapter (relating to Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources), all units in the Houston-Galveston-Brazoria ozone nonattainment area that generate

electricity but do not meet the conditions specified in subparagraph (B) 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, 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 in Bexar County until December 31, 2024.

(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) and issued as specified in ERCOT *Nodal Protocols, Section 6*: *Adjustment Period and Real-Time Operations* (August 13, 2014)) 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)) 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 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 [100] tpy of NO_x and is located in the Bexar County ozone nonattainment area;

(C) at least 25 tpy of NO_x and is located in the Dallas-Fort Worth eight-hour ozone nonattainment area;

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

(E) 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, 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 or in Bexar County until December 31, 2024.

(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)

(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 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, 117.305, 117.405, 117.1005, 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, 117.305, 117.405, 117.1005, 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, 117.310, 117.1010, and 117.1210 of this title (relating to Emission Specifications for Attainment Demonstration) and each requirement of this chapter associated with §§117.110, 117.310, 117.1010, 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;

(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;

(G) for the purposes of §117.205 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) and each requirement of this chapter associated with §117.205 of this title, any process heater,

stationary gas turbine (including any duct burner used in the turbine exhaust duct), or [gas-fired lean-burn] stationary [reciprocating] 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; or

(H) for the purposes of §117.1105 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) and each requirement of this chapter associated with §117.1105 of this title, any utility boiler, auxiliary steam boiler, or stationary gas turbine (including any duct burner used in turbine exhaust ducts), 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: BEXAR COUNTY OZONE NONATTAINMENT AREA MAJOR SOURCES

§117.200, §117.203, §117.205, §117.230, §117.235, §117.240, §117.245

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, concerning general powers; §5.103, concerning Rules; TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §7.002, concerning Enforcement Authority, which authorizes the commission to enforce the provisions of the Water Code and the Health and Safety Code within the commission's jurisdiction; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act.

The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which 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, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which

authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and THSC, §382.021, concerning Sampling Methods and Procedures.

The proposed amendments implement TWC, §§5.102, 5.103, and 7.002; and THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.021.

§117.200. Applicability.

This division applies to the following units located at any major stationary source of nitrogen oxides located in the Bexar County ozone nonattainment area:

(1) stationary gas turbines;

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

(3) [gas-fired lean-burn] stationary [reciprocating] internal combustion engines; [.]

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

(5) natural gas-fired ovens;

(6) flares; and

(7) incinerators.

§117.203. Exemptions.

The following units are exempt from the provisions of this division, except as specified in §§117.205(e), 117.240(f), 117.245(f)(4) and (7) [(9)], and 117.252 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT); Continuous Demonstration of Compliance; Notification, Recordkeeping, and Reporting Requirements; and Control Plan Procedures for Reasonably Available Control Technology [(RACT)]):

(1) stationary gas turbines and [gas-fired lean-burn] stationary [reciprocating] 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 gas turbines or engines 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. Any new, modified, reconstructed, or relocated stationary diesel engine placed into service on or after March 1, 2026, is ineligible for this exemption. For 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; or

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

(2) any stationary diesel engine placed into service before March 1, 2026, that:

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

(B) has not been modified, reconstructed, or relocated on or after March 1, 2026. 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;

(3) any new, modified, reconstructed, or relocated stationary diesel engine placed into service on or after March 1, 2026, that:

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

(B) meets the corresponding emission standard for non-road engines listed in 40 CFR §1039.101, Table 1 (effective July 29, 2021), 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;

(4) [(2)] gas-fired lean-burn stationary [reciprocating] internal combustion engines with a horsepower (hp) rating less than 50 hp;

(5) [(3)] stationary gas turbines with a maximum rated capacity less than 10.0 million British thermal units per hour (MMBtu/hr); [and]

(6) industrial, commercial, or institutional process heaters with a maximum rated capacity equal to or less than 5.0 MMBtu/hr;

(7) natural gas-fired ovens with a maximum rated capacity equal to or less than 5.0 MMBtu/hr;

(8) flares;

(9) incinerators with a maximum rated capacity less than 40 MMBtu/hr; and

(10) [(4)] units located at a major source that is subject to Subchapter C, Division 2 of this chapter (related to Bexar County Ozone Nonattainment Area Utility Electric Generation Sources).

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

(a) Emission specifications. No person shall allow the discharge into the atmosphere nitrogen oxides (NO_x) [(NOx)] emissions in excess of the following emission specifications, in accordance with the applicable schedule in §117.9010 of this title (relating to Compliance Schedule for Bexar County Ozone Nonattainment Area Major Sources), except as provided in subsection (c) of this section:

(1) stationary gas turbines, 0.55 pounds [pound] per million British thermal units [unit] (lb/MMBtu);

(2) duct burners used in turbine exhaust ducts, 0.55 lb/MMBtu; [and]

(3) [gas-fired lean-burn] stationary [reciprocating] internal combustion engines: [, 0.5 gram per horsepower-hour.]

(A) gas-fired lean-burn engines:

(i) fired on landfill gas, 0.60 grams per horsepower-hour (g/hp-hr); and

(ii) all others, 0.50 g/hp-hr; and

(B) diesel engines:

(i) with a horsepower (hp) rating of less than 25 hp that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 5.0 g/hp-hr;

(ii) with a hp rating of 25 hp or greater, but less than 75 hp, that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 3.3 g/hp-hr;

(iii) with a hp rating of 75 hp or greater, but less than 175 hp, that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 0.30 g/hp-hr;

(iv) with a hp rating of 175 hp or greater, but less than or equal to 750 hp, that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 0.30 g/hp-hr;

(v) with a hp rating greater than 750 hp, that are electric generator sets, and that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 0.50 g/hp-hr; and

(vi) with a hp rating greater than 750 hp, for all others that are not electric generator sets, and that are installed, modified, reconstructed, or relocated on or after March 1, 2026, 2.6 g/hp-hr;

(4) process heaters:

(A) with a maximum rated capacity equal to or greater than 40 million British thermal units per hour (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 parts per million by volume (ppmv) NO_x, at 3.0% oxygen (O_2), dry basis);

(5) natural gas-fired ovens, 0.036 lb/MMBtu; and

(6) incinerators, 0.030 lb/MMBtu.

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

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

(1) [(2)] If [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 rolling 30-day average, in the units of the applicable standard.]

(A) a 30-day rolling 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 process heaters, calculated as the product of the process heater's maximum rated capacity and its applicable emission specification in lb/MMBtu.

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

(c) Compliance flexibility. 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.

(d) 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 control plan requirements in §§117.235, 117.240, and 117.252 of this title (relating to Initial Demonstration of Compliance; Continuous Demonstration of Compliance; and Control Plan Procedures for Reasonably Available Control Technology) must be the greater of the following:

(A) the maximum rated capacity as of December 31, 2019;

(B) the maximum rated capacity after December 31, 2019; 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, 2019.

(2) A unit's classification is determined by the most specific classification applicable to the unit as of December 31, 2019. For example, a unit that is classified as a gas-fired lean-burn stationary reciprocating internal combustion engine as of December 31, 2019, but subsequently is authorized to operate as a dual-fuel engine, is classified as a gas-fired lean-burn stationary reciprocating internal combustion engine for the purposes of this chapter.

(3) After December 31, 2019, changes to a unit subject to an emission specification in this section that would result in increased NO_x emissions from a unit not subject to an emission specification in this section, are only allowed if:

(A) the increase in NO_x emissions at the unit not subject to this section is determined:

(i) using a CEMS or PEMS that meets the requirements in §117.240 of this title, or

(ii) through stack testing that meets the requirements in §117.235 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.

(4) [(3)] A source that met the definition of major source on December 31, 2019, 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, 2019, but becomes a major source at any time after December 31, 2019, is from that time forward always classified as a major source for purposes of this chapter.

(e) Operating restrictions. No person may start or operate any stationary diesel engine for testing or maintenance of the engine between the hours of 6:00 a.m. and noon, except:

(1) to comply with 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 is not considered to be an unforeseen repair; or

(3) for firewater pumps used for emergency response training conducted from April 1 through October 31.

§117.230. Operating Requirements.

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

(b) All units subject to the emission specifications in §117.205 of this title [(relating to Emission Specifications for Reasonably Available Control Technology (RACT))] must be operated to minimize nitrogen oxides (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 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.

(2) Each 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.

(3) 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% oxygen on a dry basis for stationary gas turbines).

(4) [(1)] 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.

(5) [(2)] Each [gas-fired lean-burn] stationary [reciprocating] 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 any unit subject to the emission specifications in §117.205(a) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) shall test each [the] unit for nitrogen oxides (NO_x) and oxygen [(O_2)] emissions while firing gaseous fuel or, as applicable, liquid and solid fuel.

(b) 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 Bexar County Ozone Nonattainment Area Major Sources).

(c) 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 (relating to Bexar County Ozone Nonattainment Area Major Sources). Test results must be reported in the units of the applicable emission specifications and averaging periods.

(d) 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 monitor certification and the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device or system.

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

(f) For units operating with a CEMS or PEMS in accordance with §117.240 of this title, after monitor certification testing of the CEMS or PEMS in accordance with subsection (d) of this section, initial compliance with the emission specifications of this division must be demonstrated [after monitor certification testing] using the CEMS or PEMS as follows. [For units complying with a NO_x emission specification on a block one-hour average, every 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.]

(1) For units demonstrating compliance using a NO_x emission specification in pounds per million British thermal units (lb/MMBtu) on a 30-day rolling 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 total NO_x emissions (in pounds) from the unit for the 30-day test period divided by the total heat input (in MMBtu) for the unit during the same 30-day test period.

(2) For units demonstrating compliance using 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.

(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.

(1) The owner or operator of units subject to this division (relating to Bexar County Ozone Nonattainment Area Major Sources) 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 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.

(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 (c) 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 (c) of this section may use a single totalizing fuel flow meter.

(C) [Gas-fired lean-burn] Stationary [stationary reciprocating] internal combustion engines and stationary 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) NO_x monitors.

(1) The owner or operator of the following units shall install, calibrate, maintain, and operate a CEMS or predictive emissions monitoring system (PEMS) to monitor exhaust NO_x [NOx]:

(A) units with a rated heat input greater than or equal to 100 million British thermal units (MMBtu) per hour;

(B) stationary gas turbines with a megawatt (MW) rating greater than or equal to 30 MW and operated more than 850 hours per year;

(C) units that use a chemical reagent for reduction of NO_x; and

(D) units that the owner or operator elects to comply with the NO_x emission specifications in [of] §117.205(a) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) using a pound per MMBtu limit on a 30-day rolling average.

(2) The owner or operator of the following units is not required to install a CEMS or PEMS under this subsection: [Units subject to the NO_x CEMS requirements of 40 CFR Part 75 are not required to install CEMS or PEMS under this subsection.]

(A) units subject to the NO_x CEMS requirements of 40 CFR Part 75; and

(B) stationary diesel engines equipped with selective catalytic reduction (SCR) systems that meet all of the following criteria.

(i) The SCR system must use a reductant other than the engine's fuel.

(ii) The SCR system must operate with a diagnostic system that monitors reductant quality and tank levels.

(iii) The diagnostic system must alert owners or operators to the need to refill the reductant tank before it is empty or to replace the reductant if the reductant does not meet applicable concentration specifications.

(iv) If the SCR system uses input from an exhaust NO_x sensor (or other sensor) to alert owners or operators when the reductant quality is inadequate, the reductant quality does not need to be monitored separately by the diagnostic system.

(v) The reductant tank level must be monitored in accordance with the manufacturer's design to demonstrate compliance with this subparagraph.

(vi) The method of alerting an owner or operator must be a visual or audible alarm.

(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) 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);

(C) 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

(D) use the maximum block one-hour emission rate as measured during the initial demonstration of compliance required in §117.235(e) of this title (relating to Initial Demonstration of Compliance).

(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 in [of] §117.8100(a) of this title (relating to Emission Monitoring System Requirements for Industrial, Commercial, and Institutional Sources).

(d) 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.

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

(e) Engine monitoring. The owner or operator of any [gas-fired lean-burn] stationary [reciprocating] internal combustion engine subject to the emission specifications of this division that is not equipped with a NO_x CEMS or PEMS shall stack test engine NO_x emissions as specified in §117.8140(a) of this title (relating to Emission Monitoring for Engines).

(f) Run time meters. The owner or operator of any stationary gas turbine or [gas-fired lean-burn] stationary [reciprocating] internal combustion engine claimed exempt using the exemption in [of] §117.203(1)(D), (2), or (3) of this title (relating to Exemptions) shall record the operating time with a non-resettable elapsed run time meter.

(g) 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(a) of this title. For enforcement purposes, the executive director may also use other commission compliance methods to determine whether the unit is in compliance with applicable emission specifications.

(h) Testing requirements.

(1) The owner or operator of units that are subject to the emission specifications in [of] §117.205(a) of this title shall test the units as specified in

§117.235 of this title in accordance with the applicable schedule specified in §117.9010 of this title (relating to Compliance Schedule for Bexar County [Eight-Hour] Ozone Nonattainment Area Major Sources).

(2) The owner or operator of any unit [not equipped with CEMS or PEMS that are] subject to the emission specifications in [of] §117.205(a) of this title that is not equipped with a NO_x CEMS or PEMS shall retest the unit as specified in §117.235 of this title within 60 days after any modification that could reasonably be expected to increase the NO_x emission rate.

§117.245. Notification, Recordkeeping, and Reporting Requirements.

(a) Startup and shutdown records. For units subject to the startup and/or shutdown provisions in [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 in [of] §117.205(a) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) shall submit [written] notification to

the appropriate regional office and any local air pollution control agency having jurisdiction as follows: [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) or any testing conducted under §117.235 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.]

(1) written 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; and

(2) written 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.

(c) Reporting of test results. The owner or operator of a unit subject to the emission specifications in [of] §117.205(a) of this title shall furnish the Office of Compliance and Enforcement, the appropriate regional office, and any local air pollution control agency having jurisdiction a copy of the results 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 Bexar County [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 §117.240 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 Bexar County 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 (i.e., July 30 and January 30). 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;

(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 stationary internal combustion [gas-fired] engine subject to the emission specifications in §117.205(a) 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 (i.e., July 30 and January 30). Written reports must include the following information:

(1) the magnitude of excess emissions (based on the quarterly emission checks in[of] §117.230(b)(5) [§117.230(a)(2)] of this title (relating to Operating Requirements) and the biennial emission testing required for demonstration of emissions compliance in accordance with §117.240(e) 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 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) §117.230(b)(5) [§117.230(2)] of this title; and

(ii) §117.240(e) 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 §117.240(a)(2)(C) of this title;

(4) for units claimed exempt from emission specifications using the exemption in[of] §117.203(1)(D), (2), or (3) 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 §117.203(1)(D) or (E) of this title, written records must be maintained of the purpose of turbine or engine operation and, if operation was for an emergency situation, as defined in §117.10(15) of this title (relating to Definitions), identification of the type of emergency situation and the start and end times and date(s) of the emergency situation;

(5) records of the results of initial certification testing, evaluations, calibrations, checks, adjustments, and maintenance of CEMS or PEMS; [and]

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

(7) for each stationary diesel engine subject to the operating restrictions of §117.205(e) of this title, 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.

SUBCHAPTER H: ADMINISTRATIVE PROVISIONS

DIVISION 1: COMPLIANCE SCHEDULES

§117.9010

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, concerning general powers; §5.103, concerning Rules; TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §7.002, concerning Enforcement Authority, which authorizes the commission to enforce the provisions of the Water Code and the Health and Safety Code within the commission's jurisdiction; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act.

The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which 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, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and

monitoring the emissions of air contaminants; and THSC, §382.021, concerning Sampling Methods and Procedures.

The proposed amendments implement TWC, §§5.102, 5.103, and 7.002; and THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.021.

§117.9010. Compliance Schedule for Bexar County Ozone Nonattainment Area Major Sources.

(a) The owner or operator of any stationary source of nitrogen oxides (NO_x) in the Bexar County ozone nonattainment area that is a major source of NO_x and is subject to §117.205(a) of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT)) shall comply with the requirements of Subchapter B, Division 2 of this chapter (relating to Bexar County Ozone Nonattainment Area Major Sources) as follows: [shall comply with the requirements of Subchapter B, Division 2 of this chapter as soon as practicable, but no later than January 1, 2025.]

(1) for units subject to the emission specifications in §117.205(a) of this title that emit or have the potential to emit equal to or greater than 100 tons per year (tpy) of NO_x:

(A) submission of the control plan required by §117.252 of this title (relating to Control Plan Procedures for Reasonably Available Control Technology) was required by January 1, 2025;

(B) for units subject to the emission specifications in §117.205(a) of this title as of January 1, 2025, compliance with all other requirements of Subchapter B, Division 2 of this chapter was required by January 1, 2025, and these units must continue to comply with the requirements of Subchapter B, Division 2 of this chapter; and

(C) for units that became subject to the emission specifications in §117.205(a) of this title after January 1, 2025, compliance is required as specified in subsection (b) of this section.

(2) for units subject to the emission specifications in §117.205(a) of this title that emit or have the potential to emit equal to or greater than 50 tpy but less than 100 tpy of NO_x:

(A) submission of the control plan required by §117.252 of this title is required no later than February 1, 2026; and

(B) compliance with all other requirements of Subchapter B, Division 2 of this chapter is required as soon as practicable but no later than March 1, 2026.

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