



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0497; FRL-9944-71-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution
from Nitrogen Compounds State Implementation Plan**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) submitted by the State of Texas through the Texas Commission on Environmental Quality (TCEQ) on July 10, 2015. The Texas SIP submission revises 30 Texas Administrative Code (TAC) Chapter 117 rules for control of nitrogen compounds to assist the Dallas-Fort Worth (DFW) moderate nonattainment area (NAA) in attaining the 2008 eight-hour ozone (O₃) National Ambient Air Quality Standards (NAAQS).

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2015-0497. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Grady, (214) 665-6745; grady.james@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “our,” or “us” each mean “the EPA.”

I. Background

The background for this action is discussed in detail in the December 21, 2015 proposal (80 FR 79279). In that document, the EPA proposed to approve the submitted 30 TAC Chapter 117 SIP revision (submitted on July 10, 2015) as assisting the DFW area into attainment of the 2008 8-Hour O₃ NAAQS.

The Proposal and the technical support documents (TSDs) that accompanied the proposed rule provide detailed descriptions of the revisions and the rationale for the proposed decisions. Please see the docket for these and other documents regarding the Proposal. The public comment period for the Proposal closed on January 20, 2016.

The EPA received one comment email dated December 30, 2015, from TCEQ. The EPA’s response to the comment is below.

II. Response to Comments

Comment: There is an error on page 79282 of the Federal Register publication in Table 6. The horsepower (hp) rating for turbines under the *Capacity* column should be “hp rating <10,000 hp” and “hp rating ≥10,000 hp” instead of “hp rating ≤10,000 hp” and “hp rating ≥10,000 hp” as is currently printed.

Response: The EPA agrees with the mathematical operator change and notes that the adopted rule submitted to the EPA on July 10, 2015 under §117.405(b) should read as follows:

(3) Stationary gas turbines:

(A) with a horsepower (hp) rating of less than 10,000 hp, 0.55 lb/MMBtu;

and

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

Please refer to Table 1 below for a list of NO_x emissions specifications for major sources in newly designated Wise County including a change in response to the above comment..

Table 1: NO_x Emission Limits for 2008 DFW 8-Hour O₃ NAA for Major Sources in Wise County

Source	Type	Capacity	NO _x Limit	Citation
Process Heaters:	-	Max Rated Capacity ≥ 40 MMBtu/hr	0.10 lb/MMBtu;	117.405(b)(1)
		An option	or 82 ppm _v NO _x at 3% O ₂ dry basis	117.405(b)(1)
Stationary, Reciprocating Internal Combustion Engines	Gas-Fired Rich-Burn	-	0.50 g/hp-hr	117.405(b)(2)(A)
	Gas-Fired Lean-Burn	White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015	12.0 g/hp-hr	117.405(b)(2)(B)(i)(I)
		White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015	2.0 g/hp-hr	117.405(b)(2)(B)(i)(II)
		Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015.	12.0 g/hp-hr	117.405(b)(2)(B)(ii)(I)
		Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015.	2.0 g/hp-hr	117.405(b)(2)(B)(ii)(II)
		Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015.	4.0 g/hp-hr	117.405(b)(2)(B)(iii)(I)
		Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015.	2.0 g/hp-hr	117.405(b)(2)(B)(iii)(II)
		All others	2.0 g/hp-hr	117.405(b)(2)(B)(iv)
Turbines:	Stationary Gas	hp rating <10,000 hp	0.55 lb/MMBtu	117.405(b)(3)(A)
		hp rating ≥ 10,000 hp	0.15 lb/MMBtu	117.405(b)(3)(B)

III. Final Action

With one exception the EPA is approving all modified, repealed and new sections of 30 TAC Chapter 117 submitted by Texas on July 10, 2015 as part of the SIP revision.¹ The EPA is not taking action on the revision to 30 TAC 117.9810. The EPA intends to act on this revision in a later action. Table 2 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with approved modifications associated with the July 10, 2015 DFW 2008 eight-hour O₃ SIP submittal.

Table 2: Description and Sections of 30 TAC, Chapter 117 Approved for Modification

Description	Section
Subchapter A: Definitions	§117.10
Subchapter B, Division 4, DFW Eight-Hour O ₃ NAA Major Sources	§§117.400, 117.403, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.454, and 117.456
Subchapter C, Division 4, DFW Eight-Hour O ₃ NAA Utility Electric Generation Sources	§§117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, and 117.1354
Subchapter G, Division 1, General Monitoring and Testing Requirements	§117.8000
Subchapter H, Division 1, Compliance Schedules and Division 2, Compliance Flexibility	§117.9030 and §117.9130, §117.9800

Table 3 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with approved new requirements associated with the July 10, 2015 DFW 2008 eight-hour O₃ SIP submittal.

Table 3: Description and Sections of 30 TAC, Chapter 117 Approved New Requirements

Description	Section
Subchapter B, Division 4, DFW Eight-Hour O ₃ NAA Major Sources	§§117.405, 117.452

Per TCEQ's request, the following sections listed in Table 4 below will not become a part of the EPA-approved Texas SIP. These rules pertain mainly to the control of carbon monoxide and ammonia emissions, which are not O₃ precursors and, therefore, not necessary components of the DFW SIP. The EPA concurs that these rules can remain outside of the SIP.

¹ The EPA did not make a determination that the TCEQ rules included in the revision would meet the RACT requirements of the CAA §182(b) for the 2008 O₃ NAAQS. Instead, the EPA intended for the rule changes to enhance the SIP by achieving NO_x reductions in the DFW NAA. The EPA will make a RACT determination in a separate action.

Table 4: Description and Sections of 30 TAC, Chapter 117 Not in Texas SIP

Description	Sections
Previously excluded and the TCEQ continues to ask that these remain outside the SIP.	§§117.210(c), 117.225, 117.410(d), 117.425, 117.1110(b), 117.1125, 117.1310(b), and 117.1325
Adopted new and will not be submitted as a SIP revision.	§117.405(d)

Table 5 contains subchapters, divisions, and key sections approved for repeal from the SIP by the TCEQ. The TCEQ adopts the repeal of existing Subchapters B and C in Division 2 as well as sections §117.9010 and 117.9110 of Subchapter H in Division 1 because compliance dates for sources of NO_x subject to these sections have passed and are now obsolete. Furthermore, sources previously subject are now required to comply with more stringent rules in existing Subchapter B and C, Division 4 and in revised sections §§117.9030, 117.9130.

Table 5: Description and Sections of 30 TAC, Chapter 117 Approved for Repeal

Description	Section
Subchapter B, Division 2, DFW O ₃ NAA Major Sources	§§117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256
Subchapter C, Division 2, DFW O ₃ NAA Utility Electric Generation Sources	§§117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1125, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156,
Subchapter H, Division 1, Compliance Schedules	§§117.9010, 117.9110

A complete summary along with all non-substantive changes pertaining to reformatting, restructuring, reorganizing, and administrative revisions are referenced in the Technical Support Document (TSD), “30 Texas Administrative Code (TAC) Chapter 117 Control of Air Pollution from Nitrogen Compounds,” a copy of which is posted in the docket of this rule.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above.

The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air Pollution control, Hydrocarbons, Incorporation by Reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reasonably available control technology, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2016.

Ron Curry,

Regional Administrator, Region 6.

PART 52–APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. In §52.2270(c), the table titled “EPA Approved Regulations in the Texas SIP” is amended by:

a. Removing the entries for Sections 117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256, 117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156, 117.1300, 117.1356, 117.9010, and 117.9110 under Chapter 117– Control of Air Pollution from Nitrogen Compounds; and

b. Adding the entries for Sections 117.405 and 117.452 in numerical order under Chapter 117– Control of Air Pollution from Nitrogen Compounds; and

c. Revising the entries for Sections 117.10, 117.400, 117.403, 117.410, 117.423, 117.430, 117.435, 117.440, 117.445, 117.450, 117.454, 117.456, 117.1303, 117.1310, 117.1335, 117.1340, 117.1345, 117.1350, 117.1354, 117.8000, 117.9030, 117.9130, and 117.9800 under Chapter 117– Control of Air Pollution from Nitrogen Compounds.

The amendments read as follows:

§52.2270 Identification of plan.

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(c) * * *

EPA Approved Regulations in the Texas SIP

State Citation	Title/Subject	State approval/Submittal Date	EPA approval date	Explanation
Chapter 117 – Control of Air Pollution from Nitrogen Compounds				
Subchapter A: Definitions				
Section 117.10	Definitions	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Subchapter B: Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas				
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Division 4: Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources				
Section 117.400	Applicability	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.403	Exemptions	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.405	Emission Specifications for Reasonably Available Control Technology (RACT)	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	117.405(d) Not in SIP
Section 117.410	Emission Specifications for Eight-Hour Attainment Demonstration	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	117.410(d) Not in SIP
Section 117.423	Source Cap	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.430	Operating Requirements	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.435	Initial Demonstration of Compliance	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.440	Continuous Demonstration of Compliance	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.445	Notification, Recordkeeping, and Reporting Requirements	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.450	Initial Control Plan Procedures	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.452	Final Control Plan Procedures for Reasonably Available Control Technology	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.454	Final Control Plan Procedures for Attainment Demonstration	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	

State Citation	Title/Subject	State approval/Submittal Date	EPA approval date	Explanation
Chapter 117 – Control of Air Pollution from Nitrogen Compounds				
	Emission Specifications			
Section 117.456	Revision of Final Control Plan	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Subchapter C: Combustion Control At Major Utility Electric Generation Sources In Ozone Nonattainment Areas				
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Division 4: Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources				
Section 117.1303	Exemptions	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.1310	Emission Specifications for Eight-Hour Attainment Demonstration	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	117.1310(b) Not in SIP
Section 117.1335	Initial Demonstration of Compliance	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.1340	Continuous Demonstration of Compliance	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.1345	Notification, Recordkeeping, and Reporting Requirements	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.1350	Initial Control Plan Procedures	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
Section 117.1354	Final Control Plan Procedures for Attainment Demonstration Emission Specifications	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
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Subchapter G: General Monitoring and Testing Requirements				
Division 1: Compliance Stack Testing and Report Requirements				
Section 117.8000	Stack Testing Requirements	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
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Subchapter H: Administrative Provisions				
Division 1: Compliance Schedules				
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Section 117.9030	Compliance Schedule for Dallas-Fort Worth Eight-Hour Ozone	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	

State Citation	Title/Subject	State approval/Submittal Date	EPA approval date	Explanation
Chapter 117 – Control of Air Pollution from Nitrogen Compounds				
	Nonattainment Area Major Sources			
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Section 117.9130	Compliance Schedule For Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Utility Electric Generation Sources	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
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Division 2: Compliance Flexibility				
Section 117.9800	Use of Emission Credits For Compliance	6/3/2015	[Insert Federal Register date of publication] [Insert Federal Register citation]	
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