

reporting to it of the actual discharge or the substantial threat of a discharge of oil so that it could undertake its proper role in respect of the removal of such a discharge (and its rules in respect of liability and compensation for that discharge) were unaffected by the decision.

The Coast Guard believes that reporting of discharges or of the substantial threat of a discharge of oil is within the ambit of State regulation contemplated by Section 1018 of OPA, because without such reports, State removal, liability and penalty actions could not commence. Therefore, while State regulation requiring reports of marine casualties that ultimately cause discharges of oil are preempted, State regulations requiring reports of the discharge itself, or the substantial threat of such a discharge, are not preempted. The Coast Guard proposes to revise the Federalism Statement for this rulemaking as follows:

#### *Revised Federalism Statement*

A rule has implications for Federalism under Executive Order 13132 if the rule has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 6101, 7101 and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel certification, manning and the reporting of marine casualties on vessels), and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000)). This proposed rule concerns the reporting of marine casualties, including the reporting of casualties causing significant harm to the marine environment. Because States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

However, the determination that States are precluded from regulating in the category of marine casualties does not impact the ability of a State to require reports of the discharge, or the substantial threat of a discharge of oil. Pursuant to Section 1018 of OPA 90, States retain their rights to impose additional requirements regarding

reports of the discharge or substantial threat of a discharge of oil for the purpose of responding to the discharge or substantial threat of a discharge and instituting liability and compensation proceedings, providing those requirements do not touch on preempted categories described in the Locke decision. Therefore, present and future State discharge reporting requirements that do not touch on the preemptive marine casualty reporting category are unaffected by the Locke decision and this proposed rule, so in that regard, this proposed rule likewise has no implications for Federalism.

#### *Requests for Public Meeting*

We also received comments stating that the Coast Guard should hold a public meeting to address the Federalism section in the NPRM. The Coast Guard believes that this SNPRM addresses these comments and clarifies the Federalism section and that a public meeting will not be necessary.

Dated: May 24, 2001.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 01-17384 Filed 7-11-01; 8:45 am]

**BILLING CODE 4910-15-U**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[TX-134-8-7507; FRL-7011-3]

#### **Approval and Promulgation of Implementation Plans; Texas; Control of Emissions of Nitrogen Oxides From Stationary Sources in the Houston/Galveston Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed approval.

**SUMMARY:** The EPA is proposing approval of rules into the Texas State Implementation Plan (SIP). This rulemaking covers six separate actions. First, we are proposing to approve revisions to the Texas Nitrogen Oxides (NO<sub>x</sub>) rules for point sources of NO<sub>x</sub> in the Houston/Galveston (H/GA) ozone nonattainment area of Texas as submitted to us by the State on December 22, 2000. These new limits for point sources of NO<sub>x</sub> in the H/GA will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the H/GA 1-hour ozone nonattainment area. Second, we are proposing to exclude Carbon monoxide (CO) and ammonia

emission limits ancillary to the NO<sub>x</sub> standards for post combustion controls found in Title 30 of the Texas Administrative Code (TAC), Chapter 117. Third, we are proposing to approve, by parallel processing, revisions to the Texas NO<sub>x</sub> rules for stationary diesel engines or stationary dual-fuel engines in the H/GA 1-hour ozone nonattainment area. Fourth, we are proposing to approve, through parallel processing, revisions made to the Texas SIP concerning compliance schedules for utility electric generation and Industrial, Commercial, and Institutional (ICI) sources in the H/GA area. Fifth, we are proposing to approve, through parallel processing, revisions made to the Texas SIP concerning lean-burn and rich-burn engines. Sixth, we are listing, not approving, the alternate NO<sub>x</sub> emissions specifications and reductions that the May 30, 2001, revision to the Texas SIP contains.

The EPA is proposing approval of SIP revisions described as actions number one, two, three, four, and five to regulate emissions of NO<sub>x</sub> as meeting the requirements of the Federal Clean Air Act (the Act).

**DATES:** Comments must be received on or before August 13, 2001.

**ADDRESSES:** Your comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents about this action including the Technical Support Document, are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,  
Region 6, 1445 Ross Avenue, Suite  
700, Dallas, Texas 75202-2733.  
Texas Natural Resource Conservation  
Commission, Office of Air Quality,  
12124 Park 35 Circle, Austin, Texas  
78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6691, and Shar.Alan@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

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24. What areas in Texas will the proposed May 30, 2001, SIP revision for point sources of NO<sub>x</sub> affect? Throughout this document "we," "us," and "our" means EPA.

**1. What Actions Are We Taking in This Document?**

On December 22, 2000, George W. Bush, then Governor of Texas, submitted rule revisions to 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the SIP for point sources in the H/GA. The State of Texas submitted this revision to us as a part of the NO<sub>x</sub> reductions needed for the H/GA area to attain the 1-hour ozone standard. These NO<sub>x</sub> reductions will assist H/GA to attain the 1-hour ozone standard.

The December 22, 2000, submittal required an 89 percent reduction in emissions of NO<sub>x</sub> from point sources in the H/GA area. In this document we are taking six separate actions:

(1) We are proposing to approve the December 22, 2000, rule revision to the Texas SIP.

(2) We are proposing to approve that the CO and ammonia emission limits found in 30 TAC Chapter 117 in conjunction with NO<sub>x</sub> emission limits, not be a part of the federally approved Texas SIP. In our 65 FR 64148 document published on October 26, 2000, and 65 FR 64914 document published on October 31, 2000, we included CO and ammonia emission limits, in addition to the NO<sub>x</sub> emission limits, as a part of the federally approved Texas SIP, by mistake. Texas did not originally request their inclusion and subsequently requested not to have these limits included as a part of the federally approved SIP. We are now correcting that error and are proposing that the limits on CO and ammonia emissions, resulting from use of post combustion controls, not be a part of the federally approved SIP for Texas.

(3) We are proposing to approve, through parallel processing, a procedure explained below, revisions made to sections of 30 TAC, Chapter 117 that Texas proposed on May 30, 2001, and submitted to us, concerning stationary diesel engines or stationary dual-fuel engines under Part D of the Act because Texas is relying on these NO<sub>x</sub> reductions to demonstrate attainment of

the 1-hour ozone standard in the H/GA 1-hr ozone nonattainment area.

(4) We are proposing to approve, through parallel processing, revisions made to sections of 30 TAC, Chapter 117 that Texas proposed on May 30, 2001, and submitted to us, concerning NO<sub>x</sub> emissions specifications and compliance schedules for utility electric generation and ICI sources in the H/GA area. Section 9, Table VI, section 14, Table XII, and section 16, Table XIV of this document contain more information about action number four.

(5) We are proposing to approve, through parallel processing, revisions made to sections of 30 TAC, Chapter 117 that Texas proposed on May 30, 2001, and submitted to us, concerning both the lean-burn and rich-burn reciprocating internal combustion engines. Section 10, Table VIII of this document contains more information about action number five.

We will explain action number six in section 3 of this document. To better understand action number six in this document we strongly recommend you read section 2, first.

The public comment period for this proposed State rule revision closes on July 2, 2001. If the State makes significant changes between the version we are parallel processing and the final adopted version, other than those changes resulting from issues discussed in this proposed rulemaking, we will issue an additional notice of proposed rulemaking before taking final action. If there are no significant changes and the State submits the final rule revision to us for approval, then we will go ahead with a final rulemaking.

In this document we are not proposing to approve the alternate or less stringent NO<sub>x</sub> emissions specifications and less stringent emissions reductions that are part of the proposed May 30, 2001, Texas SIP revision, at this time. Section 9, Table VII, section 11, Table IX, section 13, Table XI, section 15, Table XIII, and section 17, Table XV of this document contain more information about parts of the proposed May 31, 2001, Texas SIP revision that we are not proposing to approve in this rulemaking action.

Table I contains a summary list of the sections of 30 TAC, Chapter 117 that Texas proposed on May 30, 2001, for sources of NO<sub>x</sub> in the H/GA.

**TABLE I.—SECTION NUMBERS AND SECTION DESCRIPTIONS OF 30 TAC, CHAPTER 117 AFFECTED BY THE MAY 30, 2001, PROPOSED RULE REVISION**

Section	Description
117.10 .....	Definitions.

TABLE I.—SECTION NUMBERS AND SECTION DESCRIPTIONS OF 30 TAC, CHAPTER 117 AFFECTED BY THE MAY 30, 2001, PROPOSED RULE REVISION—Continued

Section	Description
117.101	Applicability.
117.103	Exemptions.
117.105	Emission Specifications for Reasonably Available Control Technology.
117.106	Emission Specifications for Attainment Demonstrations.
117.107	Alternative System-wide Emission Specifications.
117.108	System Cap.
117.110	System Cap.
117.111	Initial Demonstration of Compliance.
117.113	Continuous Demonstration of Compliance.
117.114	Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration.
117.116	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
117.119	Notification, Recordkeeping, and Reporting Requirements.
117.121	Alternative Case Specific Specifications.
117.138	System Cap.
117.201	Applicability.
117.203	Exemptions.
117.205	Emission Specifications for Reasonably Available Control Technology (RACT).
117.206	Emission Specifications for Attainment Demonstrations.
117.207	Alternative Plant-wide Emission Specifications.
117.208	Operating Requirements.
117.210	System Cap.
117.211	Initial Demonstration of Compliance.
117.213	Continuous Demonstration of Compliance.
117.214	Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration.
117.216	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.
117.219	Notification, Recordkeeping, and Reporting Requirements.
117.221	Alternative Case Specific Specifications.
117.471	Applicability.
117.473	Exemptions.
117.475	Emission Specifications.
117.478	Operating Requirements.
117.479	Monitoring, Recordkeeping, and Reporting Requirements.
117.510	Compliance Schedule for Utility Electric Generation in Ozone Nonattainment Areas.
117.520	Compliance Schedule for Industrial, Commercial, and Institutional Combustion Sources in Ozone Non-attainment areas.
117.534	Compliance Schedule for Boilers, Process Heaters, Stationary Engines, and Gas Turbines at Minor Sources.
117.570	Use of Emissions Credits for Compliance.

**2. What Happened to the Texas SIP Revision Between December 22, 2000, and May 30, 2001?**

On January 19, 2001, a coalition of industries known as the BCCA Appeal Group, joined by Enterprise Products Operating, L.P., Equistar Chemicals, L.P., Lyondell Chemical Company, Lyondell-Citgo Refining, L.P., and Reliant Energy, Incorporated (collectively, Plaintiffs) filed a law suit against the TNRCC, TNRCC's Commissioners, and its Executive Director (Defendants) in the District Court of Travis County of Texas. Among other issues, the suit challenged the requirements of the December 22, 2000, submittal concerning revisions to 30 TAC, Chapter 117 for point sources of NO<sub>x</sub> in the H/GA area. The Plaintiffs and Defendants arrived at a negotiated settlement on May 18, 2001. As a result of this settlement, the TNRCC proposed a revision to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen

Compounds," for point sources in the H/GA area, on May 30, 2001.

On June 15, 2001, Texas Governor Rick Perry submitted a request letter to us asking to process the May 30, 2001, proposed rule revisions to 30 TAC, Chapter 117, as a revision to the SIP from point sources in the H/GA, through parallel processing. The State of Texas submitted this revision to us as a part of the NO<sub>x</sub> reductions needed for the H/GA area to attain the 1-hour ozone standard.

Under the settlement agreement with BCCA, the TNRCC will conduct a scientific study (Study) examining the causes and possible solutions to the H/GA area's 1-hour ozone nonattainment problem. This Study will assess the impact of reducing emissions of the industrial based VOC due to episodic releases. If the Study shows that the area can reach attainment by 2007 with fewer NO<sub>x</sub> emission reductions from point sources of NO<sub>x</sub> concurrent with other emission reduction strategies and plans, then the alternate (less stringent

when compared with Table II) NO<sub>x</sub> emission specifications may take effect for attainment demonstration purposes in the H/GA area.

The TNRCC will have to make its determination and decision in the form of a rulemaking on the Study no later than June 1, 2002. The State will then need to submit any resulting rulemaking to EPA for evaluation and review as a SIP revision.

The Study may also show that reducing VOCs emissions from episodic releases or other emission reduction strategies may not result in the area reaching attainment. In that case, the alternate NO<sub>x</sub> emission specifications and less stringent NO<sub>x</sub> emission reductions will not be appropriate choices to bring the H/GA area into attainment.

We want to make it clear that regardless of the findings of this Study, or its potential follow up study, the 2007 deadline for compliance with the federal 1-hr ozone standard in the H/GA area will remain unchanged. Any new

control strategy will have to achieve attainment with the federal 1-hr ozone standard by 2007.

We want to make it clear that our listing of the alternate NO<sub>x</sub> emissions specifications, alternate compliance schedules, and alternate overall point sources NO<sub>x</sub> reductions (May 30, 2001, revision) in this document is by no means indicative of EPA's approval of these listings for point sources of NO<sub>x</sub> in the H/GA area.

**3. What Is the Sixth Action That We Are Taking in This Document?**

(6) We are listing, not approving, the requirements of the May 30, 2001, revision to the Texas SIP, including its alternate (less stringent) NO<sub>x</sub> emission

specifications and reduction plans, in this document. By listing the requirements of the May 30, 2001, revision to the Texas SIP, including its alternate NO<sub>x</sub> emission specifications and reduction plans, we are not approving these requirements. We will evaluate the alternate emission specifications and requirements proposed in the May 30, 2001, revision to the Texas SIP under the following conditions: (1) the area can reach attainment by 2007 with fewer NO<sub>x</sub> emission reductions from point sources, and (2) the State renews the request to include the alternative specifications and requirements in the SIP, or (3) an evaluation is otherwise appropriate.

To find out more about the proposed May 30, 2001, revision to the Texas SIP, including its alternate NO<sub>x</sub> emission specifications and plans, see sections 9 through 17 of this document.

**4. What Does the Proposed December 22, 2000, SIP Revision for Point Sources of NO<sub>x</sub> in the H/GA Area Say?**

This rule revision requires reductions of NO<sub>x</sub> emissions from point sources in the H/GA ozone nonattainment area. The following table contains a summary of the NO<sub>x</sub> emission specifications for attainment demonstration purposes that the State adopted in the December 22, 2000, SIP revision for point sources in the H/GA.

TABLE II.—AFFECTED SOURCES AND NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE H/GA

Source	NO <sub>x</sub> emission specification for attainment demonstration
Utility boilers .....	0.010–0.060 lb/MMBtu.
Turbines and Duct Burners .....	0.015–0.150 lb/MMBtu.
Heaters and Furnaces .....	0.010–0.036 lb/MMBtu.
Internal Combustion Engines .....	0.045–0.133 lb/MMBtu or 0.17–0.50 gram/hp-hr.
Industrial Boilers .....	0.010–0.089 lb/MMBtu.

The proposed rulemaking will control/reduce NO<sub>x</sub> emissions in the H/GA area in two phases or Tiers. We will refer to these two emission reduction phases as Tier I and Tier II Reductions. The following Table contains a

summary of the 1997 NO<sub>x</sub> emissions and the proposed emission reductions for each point source category in the H/GA area. We are proposing approval of the above-listed NO<sub>x</sub> emissions specifications for point sources of NO<sub>x</sub>

in the H/GA as a part of the Texas 1-hour ozone SIP under Part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to demonstrate attainment of the 1-hour ozone standard in the H/GA nonattainment area.

TABLE III.—AFFECTED POINT SOURCES, 1997 EMISSIONS, AND PROPOSED EMISSION REDUCTIONS FOR THE H/GA

Sources	1997 NO <sub>x</sub> emissions, tons per day (tpd)	Tier I + Tier II reductions, (tpd)
Utility Boilers .....	196.44	184
Turbines and Duct Burners .....	155.65	141
Process Heaters and Furnaces .....	110.12	97
Internal Combustion Engines .....	86.37	75
Industrial Boilers .....	85.98	79
Other .....	32.99	19
Overall Point Sources .....	667.55	595

The combined NO<sub>x</sub> emission reductions of Tier I and Tier II in the proposed rulemaking will be 595 tpd or 89 percent, when compared to the 1997 emission levels. We are proposing approval of the overall NO<sub>x</sub> point sources reductions in the H/GA as a part of the Texas 1-hour ozone SIP under part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to

demonstrate attainment of the 1-hour ozone standard in the H/GA nonattainment area.

**5. What Is the Proposed Compliance Schedule for Point Sources of NO<sub>x</sub> in the H/GA Area Based Upon the December 22, 2000, SIP Revision?**

As stated before, this rule revision offers a phased-in approach concerning

the emission reductions and compliance schedule for point sources of NO<sub>x</sub> in the H/GA. The following table contains a summary of the time-table/compliance schedule for the affected point sources of NO<sub>x</sub> in the H/GA.

TABLE IV.—AFFECTED SOURCES OF NO<sub>x</sub> IN THE H/GA AND COMPLIANCE SCHEDULES

Sources	Compliance schedule	Additional information
Utility Electric Generation .....	March 31, 2003 .....	Investor-owned; first 46% of total required NO <sub>x</sub> reductions.

TABLE IV.—AFFECTED SOURCES OF NO<sub>x</sub> IN THE H/GA AND COMPLIANCE SCHEDULES—Continued

Sources	Compliance schedule	Additional information
Utility Electric Generation .....	March 31, 2004 .....	Investor-owned; the next 46% required NO <sub>x</sub> reductions.
Utility Electric Generation .....	March 31, 2007 .....	Investor-owned; final required NO <sub>x</sub> reductions.
Industrial, Commercial, and Institutional Combustion Sources.	March 31, 2004 .....	First 44% of required NO <sub>x</sub> reductions.
Industrial, Commercial, and Institutional Combustion Sources.	March 31, 2005 .....	Next 45% of required NO <sub>x</sub> reductions.
Industrial, Commercial, and Institutional Combustion Sources.	March 31, 2007 .....	Final NO <sub>x</sub> reductions.
Boilers, Process Heaters, and Stationary Engines at Minor Sources.	March 31, 2005 .....	In cap and trade program.
Boilers, Process Heaters, and Stationary Engines at Minor Sources.	March 31, 2005 .....	Not in cap and trade program.

We are of the opinion that the above listed compliance dates and time-table combined with the cap and trade provisions of the rule offer operational flexibility to the affected point sources in the H/GA. We are proposing approval of the above-listed compliance dates for point sources of NO<sub>x</sub> in the H/GA as a part of the Texas 1-hour ozone SIP under Part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to demonstrate attainment of the 1-hour

ozone standard in the H/GA nonattainment area.

**6. What Are the Existing NO<sub>x</sub> Emissions Specifications, for Stationary Diesel Engines or Stationary Dual-Fuel Engines, in the Approved Texas SIP?**

None. Prior to May 30, 2001, the TNRCC had not proposed regulations in the Texas SIP limiting NO<sub>x</sub> emissions from stationary diesel engines or stationary dual-fuel engines.

**7. What Does the Proposed May 30, 2001, SIP Revision for Stationary Diesel Engines in the H/GA Area Say?**

This proposed rule revision requires reductions of NO<sub>x</sub> emissions from stationary diesel engines in the H/GA area. The following table contains a summary of the proposed May 30, 2001, SIP revision for stationary diesel engines in the H/GA area.

TABLE V.—AFFECTED SOURCES AND NO<sub>x</sub> EMISSION SPECIFICATIONS FOR STATIONARY DIESEL ENGINES IN THE H/GA AREA

Source	NO <sub>x</sub> Emission specification
Diesel engines in service after October 1, 2001: not modified, reconstructed, or relocated on or after October 1, 2001 .....	11.0 gram/hp-hr.
Rated less than 11 hp: modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2004 .....	7.0 gram/hp-hr.
Rated less than 11 hp: modified, reconstructed, or relocated on or after October 1, 2004 .....	5.0 gram/hp-hr.
11 hp ≤ rated < 25 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2004.	6.3 gram/hp-hr.
11 hp ≤ rated < 25 hp: installed, modified, reconstructed, or relocated on or after October 1, 2004 .....	5.0 gram/hp-hr.
25 hp ≤ rated < 50 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2003.	6.3 gram/hp-hr.
25 hp ≤ rated < 50 hp: installed, modified, reconstructed, or relocated on or after October 1, 2003 .....	5.0 gram/hp-hr.
50 hp ≤ rated < 100 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2003.	6.9 gram/hp-hr.
50 hp ≤ rated < 100 hp: installed, modified, reconstructed, or relocated on or after October 1, 2003 .....	5.0 gram/hp-hr.
50 hp ≤ rated < 100 hp: installed, modified, reconstructed, or relocated on or after October 1, 2007 .....	3.3 gram/hp-hr.
100 hp ≤ rated < 175 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2002.	6.9 gram/hp-hr.
100 hp ≤ rated < 175 hp: installed, modified, reconstructed, or relocated on or after October 1, 2002, but before October 1, 2006.	4.5 gram/hp-hr.
100 hp ≤ rated < 175 hp: installed, modified, reconstructed, or relocated on or after October 1, 2006 .....	2.8 gram/hp-hr.
175 hp ≤ rated < 300 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2002.	6.9 gram/hp-hr.
175 hp ≤ rated < 300 hp: installed, modified, reconstructed, or relocated on or after October 1, 2002, but before October 1, 2005.	4.5 gram/hp-hr.
175 hp ≤ rated < 300 hp: installed, modified, reconstructed, or relocated on or after October 1, 2005 .....	2.8 gram/hp-hr.
300 hp ≤ rated < 600 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2005.	4.5 gram/hp-hr.
300 hp ≤ rated < 600 hp: installed, modified, reconstructed, or relocated on or after October 1, 2005 .....	2.8 gram/hp-hr.
600 hp ≤ rated < 750 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2005.	4.5 gram/hp-hr.
600 hp ≤ rated < 750 hp: installed, modified, reconstructed, or relocated on or after October 1, 2005 .....	2.8 gram/hp-hr.
Rated ≥ 750 hp: installed, modified, reconstructed, or relocated on or after October 1, 2001, but before October 1, 2005 .....	6.9 gram/hp-hr.
Rated ≥ 750 hp: installed, modified, reconstructed, or relocated on or after October 1, 2005 .....	4.5 gram/hp-hr.

We are of the opinion that these emission specifications are in agreement

with those found in Code of Federal Regulations (CFR), Title 40, § 89.112,

and EPA's Document Number 420-R-98-016 dated August 1998, entitled

“Final Regulatory Impact Analysis: Control of Emissions from Nonroad Diesel Engines.” We are also of the opinion that these NO<sub>x</sub> emission specifications will contribute to the attainment of the 1-hr ozone standard in the H/GA area. The estimated NO<sub>x</sub> emission reductions attributed to the stationary diesel engines or stationary dual-fuel engines provisions of this rule revision is 1.00 tpd.

We are proposing approval of these stationary diesel engines or stationary dual-fuel engines rule revisions under Part D of the Act because Texas is relying on these NO<sub>x</sub> reductions to demonstrate attainment of the 1-hour ozone standard in the H/GA 1-hr ozone nonattainment area.

**8. What Is the Proposed Compliance Schedule Date for Stationary Diesel Engines in the H/GA Area Based on the Proposed May 30, 2001, SIP Revision?**

Under the May 30, 2001, Texas SIP revision, the proposed compliance date for stationary diesel engines and stationary dual-fuel engines in the H/GA area is April 1, 2002. See sections 117.520 and 117.534 of the proposed rule. We consider the April 1, 2002, compliance date for stationary diesel engines and dual-fuel engines, in the H/GA area, as expeditious as practicable.

We are proposing approval of these stationary diesel engines or stationary dual-fuel engines compliance schedules under Part D of the Act because Texas

is relying on these NO<sub>x</sub> reductions to demonstrate attainment of the 1-hour ozone standard in the H/GA 1-hr ozone nonattainment area.

**9. What Does the Proposed May 30, 2001, SIP Revision for Point Sources of NO<sub>x</sub> in the H/GA Area Say?**

This rule revision requires reductions of NO<sub>x</sub> emissions from point sources in the H/GA ozone nonattainment area. The following table contains a summary of the NO<sub>x</sub> emission specifications for attainment demonstration purposes that the State has proposed to adopt in the SIP revision for point sources in the H/GA.

TABLE VI.—AFFECTED SOURCES AND NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE H/GA

Source	NO <sub>x</sub> emission specification for attainment demonstration
Utility boilers, gas fired .....	0.020 lb/MMBtu
Utility boilers, coal-fired or oil-fired .....	0.040 lb/MMBtu
Auxiliary steam boilers .....	0.010–0.036 lb/MMBtu
Stationary gas turbines + duct burners in turbine exhaust .....	0.015–0.150 lb/MMBtu

We are of the opinion that NO<sub>x</sub> emission specifications listed in Table VI will contribute to attainment of the 1-hr ozone standard in the H/GA area. We are proposing approval of the above-

listed NO<sub>x</sub> emissions specifications for affected point sources of NO<sub>x</sub> in the H/GA as a part of the Texas 1-hour ozone SIP under part D of the Act because Texas is relying on the NO<sub>x</sub> control

measures to demonstrate attainment of the 1-hour ozone standard in the H/GA nonattainment area.

TABLE VII.—AFFECTED SOURCES AND NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE H/GA UNDER ALTERNATE SCENARIO

Source	NO <sub>x</sub> emission specification for attainment demonstration
Utility boilers, gas fired .....	0.030 lb/MMBtu
Utility boilers, coal-fired or oil-fired: wall-fired .....	0.050 lb/MMBtu
Utility boilers, coal-fired or oil-fired: tangential-fired .....	0.045 lb/MMBtu
Auxiliary steam boilers .....	0.030 lb/MMBtu
Stationary gas turbines + duct burners in turbine exhaust .....	0.032 lb/MMBtu

We are not proposing to approve, through parallel processing, the alternate scenario listed in Table VII of this document.

Instead of adopting NO<sub>x</sub> emission specifications listed in Tables II or VII of this document for affected sources with an annual capacity factor of 0.0383 or less, a source or operator can use an emission specification of 0.060 lb NO<sub>x</sub>

per million Btu. This option will allow for operational flexibility in the rule.

**10. What Are the Proposed NO<sub>x</sub> Emissions Specifications in ICI Source Category for Attainment Demonstration Within the H/GA Area, Based on the Proposed May 30, 2001, SIP Revision?**

You can find proposed NO<sub>x</sub> emissions specifications for the ICI

source category within the H/GA for attainment demonstration purposes in the H/GA in the following table.

TABLE VIII.—AFFECTED INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL COMBUSTION SOURCES AND THEIR NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE H/GA

Source	NO <sub>x</sub> emission specification for attainment demonstration
Stationary, reciprocating internal combustion engines: gas-fired rich-burn firing landfill gas .....	0.60 gram/hp-hr.
Stationary, reciprocating internal combustion engines: gas-fired rich-burn not firing on landfill gas .....	0.17 gram/hp-hr.

TABLE VIII.—AFFECTED INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL COMBUSTION SOURCES AND THEIR NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE H/GA—Continued

Source	NO <sub>x</sub> emission specification for attainment demonstration
Stationary, reciprocating internal combustion engines: gas-fired lean-burn firing on landfill gas .....	0.60 gram/hp-hr.
Stationary, reciprocating internal combustion engines: gas-fired rich-burn not firing on landfill gas .....	0.50 gram/hp-hr.
Dual fuel engines with initial start of operation on or before December 31, 2000 .....	5.83 gram/hp-hr.
Dual fuel engines with initial start of operation after December 31, 2000 .....	0.50 gram/hp-hr.
Gas-fired boilers .....	0.010–0.036 lb/MMBtu.
Fluid catalytic cracking units. Includes CO boilers, CO furnaces, and catalyst regenerator vents .....	13 ppm @ zero percent O <sub>2</sub> , dry basis.
Boilers and industrial furnaces .....	0.015–0.030 lb/MMBtu.
Coke-fired boilers .....	0.057 lb/MMBtu.
Wood fuel-fired boilers .....	0.046 lb/MMBtu.
Rice hull-fired boilers .....	0.089 lb/MMBtu.
Oil-fired boilers .....	2.0 lb/1,000 gallons of oil burned.
Process heaters .....	0.010–0.036 lb/MMBtu.
Stationary gas turbines .....	0.015–0.15 lb/MMBtu.
Duct burners in turbine exhaust ducts .....	0.015 lb/MMBtu.
Pulping liquor recovery furnaces .....	0.050 lb/MMBtu or 1.08 lb/ADTP.
Lime kilns .....	0.66 lb/ton of CaO.
Lightweight aggregate kilns .....	0.76 lb/ton of product.
Metallurgical heat treat furnaces .....	0.087 lb/MMBtu.
Metallurgical reheat furnaces .....	0.062 lb/MMBtu.
Incinerators .....	0.030 lb/MMBtu.

We are proposing approval of the above-listed NO<sub>x</sub> emissions specifications for point sources of NO<sub>x</sub> in the H/GA as a part of the Texas 1-hour ozone SIP under part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to demonstrate attainment of the 1-hour ozone standard in the H/GA nonattainment area.

Instead of adopting NO<sub>x</sub> emission specifications listed in Table VIII of this

document for affected sources with an annual capacity factor of 0.0383 or less, a source or operator can use an emission specification of 0.060 lb NO<sub>x</sub> per million Btu. This option will allow for operational flexibility in the rule.

**11. What Are the Proposed Alternate NO<sub>x</sub> Emissions specifications in the ICI Source Category for Attainment Demonstration Within the H/GA Area, Based on the Proposed May 30, 2001, SIP Revision?**

You can find the proposed alternate NO<sub>x</sub> emissions specifications in the ICI source category for attainment demonstration within the H/GA area in the following table:

TABLE IX.—AFFECTED ICI SOURCES AND THEIR ALTERNATE NO<sub>x</sub> EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION WITHIN THE H/GA AREA

Source	NO <sub>x</sub> Emission specification for attainment demonstration
Stationary, reciprocating internal combustion engines: gas-fired rich-burn firing landfill gas .....	0.60 gram/hp-hr.
Stationary, reciprocating internal combustion engines: gas-fired rich-burn not firing on landfill gas .....	0.50 gram/hp-hr.
Stationary, reciprocating internal combustion engines: gas-fired lean-burn firing on landfill gas .....	0.60 gram/hp-hr.
Stationary, reciprocating internal combustion engines: gas-fired rich-burn not firing on landfill gas .....	0.50 gram/hp-hr.
Dual fuel engines with initial start of operation on or before December 31, 2000 .....	5.83 gram/hp-hr.
Dual fuel engines with initial start of operation after December 31, 2000 .....	0.50 gram/hp-hr.
Gas-fired boilers .....	0.020–0.036 lb/MMBtu.
Fluid catalytic cracking units. Includes CO boilers, CO furnaces, and catalyst regenerator vents .....	40 ppmv @ zero percent O <sub>2</sub> , dry basis.
Boilers and industrial furnaces .....	0.015–0.030 lb/MMBtu.
Coke-fired boilers .....	0.057 lb/MMBtu.
Wood fuel-fired boilers .....	0.046 lb/MMBtu.
Rice hull-fired boilers .....	0.089 lb/MMBtu.
Oil-fired boilers .....	2.0 lb/1,000 gallons of oil burned.
Process heaters except pyrolysis reactors .....	0.025–0.036 lb/MMBtu.
Pyrolysis reactors .....	0.036 lb/MMBtu.
Stationary gas turbines .....	0.032–0.26 lb/MMBtu.
Duct burners in turbine exhaust ducts .....	0.032–0.26 lb/MMBtu.
Pulping liquor recovery furnaces .....	0.050 lb/MMBtu or 1.08 lb/ADTP.
Lime kilns .....	0.66 lb/ton of CaO.
Lightweight aggregate kilns .....	0.76 lb/ton of product.
Metallurgical heat treat furnaces .....	0.087 lb/MMBtu.
Metallurgical reheat furnaces .....	0.062 lb/MMBtu.
Incinerators .....	0.030 lb/MMBtu.

We are not proposing to approve, through parallel processing, the alternate scenario information listed in Table IX of this document.

Instead of adopting NO<sub>x</sub> emission specifications listed in Table IX of this document for affected sources with an annual capacity factor of 0.0383 or less, a source or operator can use an emission

specification of 0.060 lb NO<sub>x</sub> per million Btu. This option will allow for operational flexibility in the rule.

**12. What Are the NO<sub>x</sub> Emissions Reductions Based on the Proposed May 30, 2001, SIP Revision?**

The proposed rulemaking will control/reduce NO<sub>x</sub> emissions in the H/

GA area in two phases or Tiers. As stated before, we will refer to these two emission reduction phases as Tier I and Tier II Reductions. The following Table contains a summary of the 1997 NO<sub>x</sub> emissions and the May 30, 2001, proposed emission reductions for each point source category in the H/GA area.

TABLE X.—AFFECTED POINT SOURCES, 1997 EMISSIONS, AND PROPOSED EMISSION REDUCTIONS FOR THE H/GA

Sources	1997 NO <sub>x</sub> emissions, tons per day (tpd)	Tier I + Tier II reductions, (tpd)
Utility Boilers .....	196.44	176
Turbines and Duct Burners .....	155.65	141
Process Heaters and Furnaces .....	110.12	97
Internal Combustion Engines .....	86.37	77
Industrial Boilers .....	85.98	79
Other .....	32.99	19
Overall Point Sources .....	667.55	588

The combined NO<sub>x</sub> emission reductions of Tier I and Tier II in this version of the proposed rulemaking will be 588 tpd or 88 percent, when compared to the 1997 emission levels. The change in overall point sources NO<sub>x</sub> reductions in Table X, as compared with that of Table III, is due to revisions

to the requirements of subsections 117.106(c)(1) and 117.206(c)(9)(D).

**13. What Are the NO<sub>x</sub> Emissions Reductions Based on the Future Adoption of the Alternate NO<sub>x</sub> Emission Specifications in the Proposed May 30, 2001, SIP Revision?**

If the State adopts the alternate NO<sub>x</sub> emission specifications of Tables VII

and IX in future, the expected emission reductions for each point source category in the H/GA area would be as follows:

TABLE XI.—AFFECTED POINT SOURCES, 1997 EMISSIONS, AND PROPOSED EMISSION REDUCTIONS FOR THE H/GA UNDER THE ALTERNATE SCENARIO

Sources	1997 NO <sub>x</sub> emissions, tons per day (tpd)	Tier I + Tier II reductions, (tpd)
Utility Boilers .....	196.44	169
Turbines and Duct Burners .....	155.65	122
Process Heaters and Furnaces .....	110.12	63–86
Internal Combustion Engines .....	86.37	76
Industrial Boilers .....	85.98	76
Other .....	32.99	16
Overall Point Sources .....	667.55	522–545

The combined NO<sub>x</sub> emission reductions of Tier I and Tier II under the alternate scenario of the proposed rulemaking would be 522–545 tpd or 78–82 percent, when compared to the 1997 emission levels. The change in overall point sources NO<sub>x</sub> reductions in Table XI, as compared with that of Table III, is due to revisions to the requirements of subsections 117.106(c)(1) and 117.206(c)(9)(D).

We are not proposing to approve, through parallel processing, the alternate scenario listed in Table XI of this document.

**14. What Is the Proposed Compliance Schedule for Utility Electric Generation Point Sources of NO<sub>x</sub> in the H/GA Area Based on the Proposed May 30, 2001, SIP Revision?**

As stated before, this rule revision introduces a phased-in approach

concerning the emission reductions and compliance schedule for point sources of NO<sub>x</sub> in the H/GA. The following table contains a summary of the time-table/compliance schedule for the affected utility electric generation point sources of NO<sub>x</sub> in the H/GA.

TABLE XII.—AFFECTED SOURCES OF NO<sub>x</sub> IN THE H/GA AND COMPLIANCE SCHEDULES

Sources	Compliance schedule	Additional information
Utility Electric Generation .....	March 31, 2003 .....	At least 47% of total required NO <sub>x</sub> reductions.
Utility Electric Generation .....	March 31, 2004 .....	At least 95% of total required NO <sub>x</sub> reductions.
Utility Electric Generation .....	March 31, 2007 .....	Demonstrate compliance with system cap limits of 117.108.

We are of the opinion that the above-listed compliance dates and time-table for affected sources offer operational flexibility to the rule. We are proposing approval of the above-listed compliance dates for affected point sources of NO<sub>x</sub> in the H/GA as a part of the Texas 1-hour ozone SIP under part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to demonstrate

attainment of the 1-hour ozone standard in the H/GA nonattainment area.

**15. What Is the Proposed Compliance Schedule for Utility Electric Generation Point Sources of NO<sub>x</sub> in the H/GA Area Under the Alternate Scenario in the Proposed May 30, 2001, SIP Revision?**

If the TNRCC adopts the alternate emissions specifications, the proposed

compliance schedule for ICI sources of NO<sub>x</sub> in the H/GA under the alternate scenario would be as follows:

TABLE XIII.—AFFECTED SOURCES OF NO<sub>x</sub> IN THE H/GA AND ALTERNATE COMPLIANCE SCHEDULES

Sources	Compliance schedule	Additional information
Utility Electric Generation .....	March 31, 2003 .....	At least 50% of total required NO <sub>x</sub> reductions. Demonstrate compliance with system cap limits of 117.108.
Utility Electric Generation .....	March 31, 2004 .....	

We are not proposing to approve, through parallel processing, the alternate scenario listed in Table XIII of this document.

**16. What Is the Proposed Compliance Schedule for Affected ICI Sources of NO<sub>x</sub> in the H/GA Area Based on the Proposed May 30, 2001, SIP Revision?**

As stated in section 10, this rule revision offers a phased-in approach

concerning the emission reductions and compliance schedule for point sources of NO<sub>x</sub> in the H/GA area. The following table contains a summary of the time-table/compliance schedule for the affected ICI sources of NO<sub>x</sub> in the H/GA area.

TABLE XIV.—AFFECTED ICI SOURCES OF NO<sub>x</sub> IN THE H/GA AREA AND COMPLIANCE SCHEDULES

Sources	Compliance schedule	Additional information
ICI sources .....	March 31, 2004 .....	At least 39% of total required NO <sub>x</sub> reductions. At least 67% of total required NO <sub>x</sub> reductions. At least 78% of total required NO <sub>x</sub> reductions. Demonstrate compliance with system cap limits of 117.210.
ICI sources .....	March 31, 2005 .....	
ICI sources .....	March 31, 2006 .....	
ICI sources .....	March 31, 2007 .....	

We are proposing approval of the above-listed compliance dates for affected ICI sources of NO<sub>x</sub> in the H/GA as a part of the Texas 1-hour ozone SIP under part D of the Act because Texas is relying on the NO<sub>x</sub> control measures to demonstrate attainment of the 1-hour ozone standard in the H/GA nonattainment area.

**17. What Is the Proposed Compliance Schedule for ICI Sources of NO<sub>x</sub> in the H/GA Area Under the Alternate Scenario Based on the Proposed May 30, 2001, SIP Revision?**

If the TNRCC adopts the alternate emissions specifications, the proposed compliance schedule for ICI sources of

NO<sub>x</sub> in the H/GA area under the alternate scenario would be as follows:

TABLE XV.—AFFECTED SOURCES OF NO<sub>x</sub> IN THE H/GA AREA AND ALTERNATE COMPLIANCE SCHEDULES

Sources	Compliance schedule	Additional information
ICI sources .....	March 31, 2004 .....	At least 47% of total required NO <sub>x</sub> reductions. At least 80% of total required NO <sub>x</sub> reductions. At least 93% of total required NO <sub>x</sub> reductions. Demonstrate compliance with system cap limits of 117.210.
ICI sources .....	March 31, 2005 .....	
ICI sources .....	March 31, 2006 .....	
ICI sources .....	March 31, 2007 .....	

We are not proposing to approve, through parallel processing, the alternate scenario listed in Table XV of this document.

**18. What Are NO<sub>x</sub>?**

Nitrogen oxides belong to the group of criteria air pollutants. The NO<sub>x</sub> result from burning fuels, including gasoline and coal. Nitrogen oxides react with

volatile organic compounds (VOC) to form ozone or smog, and are also major components of acid rain.

**19. What Is a Nonattainment Area?**

A nonattainment area is a geographic area in which the level of a criteria air pollutant is higher than the level allowed by Federal standards. A single geographic area may have acceptable

levels of one criteria air pollutant but unacceptable levels of one or more other criteria air pollutants; thus, a geographic area can be attainment for one criteria pollutant and nonattainment for another criteria pollutant at the same time.

## 20. What Are Definitions of Major Sources for NO<sub>x</sub>?

Section 302 of the Act generally defines "major stationary source" as a facility or source of air pollution which emits, when uncontrolled, 100 tons per year (tpy) or more of air pollution. This general definition applies unless another specific provision of the Act explicitly defines major source differently.

According to section 182(d) of the Act, a major source in a severe nonattainment area is a source that emits, when uncontrolled, 25 tpy or more of NO<sub>x</sub>. The H/GA area is a severe ozone nonattainment area, so the major source size for the H/GA area is 25 tpy or more, when uncontrolled. This rulemaking will regulate NO<sub>x</sub> emissions from major stationary sources in the H/GA area.

## 21. What Is a State Implementation Plan?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These criteria pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each State has a SIP designed to protect air quality. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

## 22. What Does Federal Approval of a SIP Mean to Me?

A State may enforce State regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

## 23. What Areas in Texas Will the Stationary Diesel Engines or Stationary Dual-Fuel Engines Rule Affect Based on the May 30, 2001, SIP Revision?

The following table contains a list of counties affected by the proposed rule revision of the stationary diesel engines or dual-fuel engines that we are parallel processing for approval.

TABLE XVI.—RULE LOG NUMBER AND AFFECTED AREAS FOR TEXAS NO<sub>x</sub> SIP

Rule log No.	Affected areas
2001-007B-117-AI Stationary diesel engines and dual-fuel engines provisions.	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties.

If you are in one of these Texas counties, you should refer to the Texas NO<sub>x</sub> rules to determine if and how today's action will affect you.

## 24. What Areas in Texas Will the May 30, 2001, SIP Revision for Point Sources of NO<sub>x</sub> Affect?

The following table contains a list of counties affected by the proposed rule revision of the point sources of NO<sub>x</sub> that we are parallel processing for approval.

TABLE XVII.—RULE LOG NUMBER AND AFFECTED AREAS FOR TEXAS NO<sub>x</sub> SIP

Rule log No.	Affected areas
2001-007B-117-AI ICI and electric utility sources.	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties.

## Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995

(Public Law 104-4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings." This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 3, 2001.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 01-17469 Filed 7-11-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-126-4-7475; FRL-7011-5]

#### Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Low Emission Diesel Fuel

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to fully approve a State Implementation Plan (SIP) revision for the State of Texas establishing a Low Emission Diesel (LED) fuel for the eastern half of the State. A portion of this revision was recently proposed by the State. EPA's proposal to approve is taken under section 110 of the Clean Air Act (the Act). This approval is also being proposed under the "parallel processing" provision of 40 CFR part 51. If there are significant changes between the version of the LED rule which is being "parallel processed" and the version of the LED rule which Texas finally adopts, the EPA will propose a new rulemaking. If there are no significant changes to the "parallel-processed" version, the EPA will proceed with final rulemaking on the version finally adopted by Texas and submitted to the EPA. Beginning April 1, 2005, aromatic hydrocarbon content, cetane number and sulfur content will be regulated for diesel fuel sold in 110 counties in eastern Texas for use in both motor vehicles and nonroad engines. We propose that the Texas LED fuel program requirements are necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Houston-Galveston (HGA) ozone nonattainment area, and are therefore exempt from preemption under Section 211(c)(4)(C) of the Clean Air Act (the Act).

**DATES:** Comments should be received on or before August 13, 2001.

**ADDRESSES:** Written comments on this action should be addressed to Mr.

Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

#### FOR FURTHER INFORMATION CONTACT:

Sandra Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7214.

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refers to EPA.

The Governor of Texas submitted an attainment demonstration SIP for the HGA 8-county nonattainment area on December 20, 2000. The SIP contained measures for reducing Nitrogen Oxides (NO<sub>x</sub>), the pollutant identified as controlling the formation of ozone in this area. The LED fuel program was submitted as part of the attainment demonstration. This LED rule was codified in Chapter 114 of the Texas Administrative Code (TAC)(sections 114.6, 114.312-114.317 and 114.319, December 6, 2000).

Numerous changes to State air pollution control laws occurred during Texas' 77th legislative session. One of these changes relates to the LED program. House Bill 2912 limits the State's authority to regulate fuel content. Unless the Governor vetoes the Bill by June 17, 2001, it will become law. The Bill bans the establishment of fuel control measures more stringent than EPA's between September 1, 2000 and January 1, 2004. The Bill specifically authorizes the LED program, but mandates that implementation be delayed until February 1, 2005. Finally, this Bill allows refiners flexibility in complying with the LED requirements. In anticipation of this legislation, the Texas Natural Resource Conservation Commission (TNRCC) proposed amendments to the LED rule on May 10, 2001.

In a letter to EPA dated June 15, 2001, the Governor requested "parallel processing" of the LED regulations with the proposed amendments, which reduce the covered area, change the

implementation date, and add a new section providing for an alternative means of compliance. See 30 TAC 114.314, 114.318, 114.319 (May 10, 2001). In today's action, we are proposing approval of the LED regulations with the proposed amendments as they apply to the HGA, Beaumont-Port Arthur, and Dallas Fort Worth nonattainment area counties as well as 95 attainment counties in east Texas.

#### What Does the State's LED Regulation Include?

The State's LED SIP submittal for the HGA non-attainment area requires that diesel fuel produced for delivery and ultimate sale within the affected counties have a maximum sulfur content of 500 ppm, have no more than 10% aromatic hydrocarbons by volume, and have a cetane number of 48 or greater. Alternative diesel fuel formulations that achieve equivalent emission reductions may also be used.

The regulations apply to diesel fuel sold in the HGA nonattainment counties of Harris, Galveston, Brazoria, Fort Bend, Montgomery, Liberty, Chambers, and Waller; Beaumont-Port Arthur nonattainment counties of Jefferson, Orange and Hardin; and Dallas-Fort Worth nonattainment counties of Dallas, Tarrant, Collin, and Denton; as well as 95 attainment counties in East Texas including Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood Counties in the attainment area.

The State regulations require compliance with the cetane, aromatic hydrocarbon, and 500 ppm sulfur components by April 1, 2005. Starting June 1, 2006, the sulfur level shall be reduced to 15 ppm.