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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–119–1–7448a; FRL–6886–1]

Approval and Promulgation of Implementation Plans; Texas; Water Heaters, Small Boilers, and Process Heaters; Agreed Orders; Major Stationary Sources of Nitrogen Oxides in the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Texas State Implementation Plan (SIP). This rulemaking covers four separate actions. First, we are approving revisions to the Nitrogen Oxides (NO_X) SIP to add a rule for water heaters, small boilers, and process heaters sold and installed in Texas (the Texas Water Heater Rule). This rule will contribute to attainment of the 1-hour ozone standard in the Beaumont/Port Arthur (B/PA), Houston/Galveston (H/GA), and Dallas/Fort Worth (D/FW) nonattainment areas and will contribute to continued maintenance of the standard in the rest of the State of Texas. Second, we are approving revisions to the Texas NO_X SIP for certain major stationary point source categories in the B/PA ozone nonattainment area. These new limits for certain stationary point sources will contribute to attainment of the 1-hour ozone standard in the B/PA area. Third, we are approving revisions to the existing approved Texas NO_X Reasonably Available Control Technology (RACT) SIP because the changes are administrative in nature. Fourth, we are approving two Agreed Orders between the State of Texas and two companies in Northeast Texas. These Orders will contribute to attainment of the 1-hour ozone standard in the B/PA, H/GA, and D/FW nonattainment areas and will contribute to continued maintenance of the standard in the eastern half of the State of Texas.

The EPA is approving these SIP revisions to regulate emissions of NO_X as meeting the requirements of the Federal Clean Air Act (the Act).

DATES: This rule is effective on December 26, 2000, without further notice, unless EPA receives adverse comment by November 27, 2000. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action including the Technical Support Document (TSD) are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, 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, P.E., Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691.

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SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means EPA. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is independent of the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

1. What Action Are We Taking?

The EPA previously approved the Texas NO_X rules at 30 TAC, Chapter 117, ''Control of Air Pollution From Nitrogen Compounds'' as the Texas NO_X RACT SIP for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas on September 1, 2000 (65 FR 53172). On April 30, 2000, the Governor of Texas submitted rule revisions to the 30 TAC, Chapter 117, ''Control of Air Pollution From Nitrogen Compounds,'' as a revision to the Texas NO_X SIP for certain major stationary point source categories operating in the B/PA ozone nonattainment area. Texas submitted this SIP revision to us as a part of the additional local NO_X reductions needed for the B/PA area to attain the 1-hour ozone standard. These new rules set revised emission specifications in the B/PA area for electric utility boilers, industrial, commercial or institutional boilers, and certain process heaters. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, ''Control of Air Pollution From Nitrogen Compounds,'' as a revision to the Texas NO_X SIP adding controls for another source category—water heaters, small boilers, and process heaters sold and installed in Texas. Texas submitted this SIP revision to us as a part of the NO_X reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the rest of the State of Texas. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, ''Control of Air Pollution From Nitrogen Compounds,'' as a revision to the Texas NO_X RACT SIP that were purely administrative changes without any substantive effects.

On April 30, 2000, the Governor of Texas submitted to us two Agreed Orders entered into between the State and two companies in the eastern half of Texas. Texas submitted this SIP revision to us as a part of the additional emission reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the eastern half of the State of Texas.

In this rulemaking we are taking four separate actions. First, under part D of the Act, we are specifically approving a

new part to the Texas NO_X SIP that goes beyond the approved Texas NO_X RACT SIP for the B/PA area. The new part is (1) the addition of new sections 117.104 concerning Gas-Fired Steam Generation, 117.106 concerning Emission Specifications for Attainment Demonstrations, 117.108 concerning System Cap, 117.116 concerning Final Control Plan Procedures for Attainment Demonstration Emission Specifications, 117.206 concerning Emission Specifications for Attainment Demonstrations, and 117.216 concerning Final Control Plan Procedures for Attainment Demonstration Emission Specifications as they relate to the B/PA ozone nonattainment area; and (2) the repeal of sections 117.109 and 117.601 as they relate to the B/PA ozone nonattainment area. We are approving this new part under part D of the Act because the State is relying upon these additional NO_X reductions to demonstrate attainment of the 1-hour ozone standard in the B/PA area. Secondly, we are approving another new part to the Texas NO_X SIP, the addition of new sections 117.460 concerning Definitions, 117.461 concerning Applicability, 117.463 concerning Exemptions, 117.465 concerning Emission Specifications, 117.467 concerning Certification Requirements, and 117.469 concerning Notification and Labeling Requirements. In this document we will refer to the new sections 117.460–117.469 as the ''Texas Water Heater Rule.'' We are approving the ''Texas Water Heater Rule'' as a part of the Texas NO_X SIP under part D of the Act because the State is relying upon this rule to demonstrate attainment for the H/GA, D/FW, and B/PA areas, and we are approving the rule under sections 110 and 116 of the Act because the State is relying upon the reductions to show continued maintenance of the standard in the rest of the State of Texas and as a strengthening of the existing Texas SIP. Third, we are specifically approving the administrative revisions to sections 117.101–117.121, 117.201–117.223, 117.510, 117.520, and 117.570. We are approving these administrative, non-substantive revisions to the existing approved Texas NO_X RACT SIP because they make no substantive changes to the approved RACT rules, and they add headings to distinguish between the RACT rules for the nonattainment areas and the rules relied upon by the State for attainment demonstration purposes. Fourth, we are approving two Agreed Orders between the TNRCC and Alcoa, Inc., and the TNRCC and Eastman Chemical Company, Texas Operations. We are approving these two Orders under part D of the Act because the State is relying upon the NO_X reductions from these two Orders to demonstrate attainment of the 1-hour ozone standard in the H/GA, D/FW, and B/PA areas, and under sections 110 and 116 of the Act because the State is relying upon the Orders for continued maintenance of the standard in the eastern half of the State of Texas and as a strengthening of the existing Texas SIP. For information about these two Agreed Orders, see sections 16 and 17 of this document.

Texas has other source specific Agreed Orders/ permits that we inadvertently did not include in the conversion of the previously-codified Texas SIP to the new Incorporation by Reference format. *See* 64 FR 36586, published on July 7, 1999. In this document we are not correcting the new tables to reflect those Texas' source specific Agreed Orders/ permits we approved and codified under the previous format. We will correct our tables for those Texas' source specific Agreed Orders/ permits in a future **Federal Register** notice.

For more information on the Texas NO_X SIP revision and our evaluation of these rules, please refer to our TSD dated September 2000.

2. What Are the April 30, 2000, SIP Revision Requirements for the ''Texas Water Heater Rule?''

The following two tables contain a summary of the April 30, 2000, ''Texas Water Heater Rule'' requirements for Water Heaters, Small Boilers, and Process Heaters sold and installed in Texas.

TABLE 1.—SIZE CLASSIFICATION FOR ''TEXAS WATER HEATER RULE''

Maximum rated capacity (Btu/Hr)	Type
Capacity ≤ 75,000	0
400,000 ≤ Capacity > 75,000	1
2,000,000 ≤ Capacity > 400,000	2

TABLE II.—TYPES, DATES AND NO_X EMISSION SPECIFICATIONS FOR THE ''TEXAS WATER HEATER RULE''

Type	Date	NO_x emission specification	Explanation
0	Manufactured on or after July 1, 2002	40 ng/joule of heat output or 55 ppmv at 3% oxygen dry basis.	No later than December 31, 2004.
0	Manufactured on or after January 1, 2005	10 ng/joule of heat output or 15 ppmv at 3% oxygen dry basis.	
1	Manufactured on or after July 1, 2002	40 ng/joule of heat output or 55 ppmv at 3% oxygen dry basis.	
2	Manufactured on or after July 1, 2002	30 ppmv at 3% oxygen dry basis or 0.037 lb/MMBtu/hr of heat input.	

We are approving the NO_X emission specifications of the ''Texas Water Heater Rule'' under part D of the Act because the State is relying upon them to demonstrate attainment in the B/PA, D/FW, and H/GA areas. We are also approving them under sections 110 and 116 because they strengthen the Texas SIP, and the State is relying upon them for continued maintenance of the standard in the rest of the State. The rules do not mandate use of a specific burner technology, and they do not require retrofitting of existing natural gas-fired water heaters, small boilers, and process heaters. For a comparison of this rule with the water heater rule of another state, please refer to our TSD dated September 2000.

3. What Source Categories Will the April 30, 2000, SIP Revision for the B/PA Area Affect?

These revisions will affect NO_X emissions from the following source categories in the B/PA ozone nonattainment area: (1) Utility boilers, steam generators, auxiliary steam boilers, and gas turbines used to generate electricity. *See* section 117.101 of this rule; and (2) commercial, institutional, or industrial boilers (non-utility boiler) and process heaters with a maximum rated capacity of 40 million British thermal units (Btu) per hour or greater.

4. What Are the Existing NO_X Emissions Specifications in the Texas NO_X RACT SIP?

The following table contains a summary of the type of affected sources, their corresponding emission limit, and relevant applicability information for these sources in the existing approved Texas NO_X RACT SIP.

TABLE III.—SUMMARY OF THE TEXAS NO_X RACT SIP'S RULES FOR SOURCES IN THE H/GA, B/PA, AND D/FW NONATTAINMENT AREAS

Source	NO_X limit	Additional information
Utility Boilers	0.26 lb/MMBtu	Natural gas or a combination of natural gas and waste oil, 24-hour rolling average.
Utility Boilers	0.20 lb/MMBtu	Natural gas or a combination of natural gas and waste oil, 30-day rolling average.
Utility Boilers	0.38 lb/MMBtu	Coal, tangentially-fired, 24-hour rolling average.
Utility Boilers	0.43 lb/MMBtu	Coal, wall-fired, 24-hour rolling average.
Utility Boilers	0.30 lb/MMBtu	Fuel oil only, 24-hour rolling average.
Utility Boilers	[a(0.26) + b(0.30)]/(a + b)	Oil and gas mixture, 24-hour rolling average, where a = percent natural gas heat input; b = percent fuel oil heat input.
Stationary Gas Turbines	42 parts per million volume dry (ppmvd) basis.	@ 15% O2, natural gas, ≥30 Mega Watt (mW) annual electric output ≥2500 hour × mW rating.
Stationary Gas Turbines	65 parts per million volume dry (ppmvd).	@ 15% O2, fuel oil.
Stationary Gas Turbines	0.20 lb/MMBtu	Natural gas, peaking units, annual electric output <2500 hour × mW rating.
Stationary Gas Turbines	0.30 lb/MMBtu	Fuel oil, peaking units, annual electric output <2500 hour × mW rating.
Non-Utility Boilers	0.10 lb/MMBtu	Natural gas, low heat release and T < 200 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.15 lb/MMBtu	Natural gas, low heat release, preheated air 200 ≤T < 400 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.20 lb/MMBtu	Natural gas, low heat release, preheated air T ≥ 400 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.20 lb/MMBtu	Natural gas, high heat release, without air or preheated air T < 250 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.24 lb/MMBtu	Natural gas, high heat release, preheated air 250 ≤ T < 500 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.28 lb/MMBtu	Natural gas, high heat release, preheated air T ≥ 500 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.10 lb/MMBtu	Natural gas, preheated air T ,< 200 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.13 lb/MMBtu	Natural gas, preheated air 200 ≤T < 400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.18 lb/MMBtu	Natural gas, low heat release, preheated air T ≥ 400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.10 lb/MMBtu	Natural gas, firebox T < 1400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.125 lb/MMBtu	Natural gas, firebox 1400 ≤ T < 1800 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.15 lb/MMBtu	Natural gas, firebox T ≥ 1800 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters and Non-Utility Boilers	0.30 lb/MMBtu	Liquid fuel, capacity ≥ 100 MMBtu/hr.
Process Heaters and Non-Utility Boilers	0.30 lb/MMBtu	Wood fuel, capacity ≥ 100 MMBtu/hr.
Stationary Gas Turbines	42 parts per million volume dry (ppmvd) basis.	@ 15% O2, rating ≥ 10 mW.
Reciprocating Internal Combustion Engines.	2.0 gram/hp-hr	Natural gas, rich burn, stationary, capacity ≥ 150 hp in H/GA, capacity ≥300 hp in B/PA.
Absorbers of Adipic Acid Production Units	2.5 lb/ton of acid produced	24-hr rolling average.
Absorbers of Nitric Acid Production Units.	2.0 lb/ton of acid produced	24-hr rolling average.
Reciprocating Internal Combustion Engines.	3.0 gram/hp-hr	Natural gas, lean burn, stationary, capacity ≥ 150 hp in H/GA, capacity ≥300 hp in B/PA or D/FW. Also includes a 3.0 gram/hp-hr limit for CO.

5. What Are the NO_X Emissions Specifications of the April 30, 2000, SIP Revision for the Particular Source Categories in the B/PA Area?

The following table contains a summary of the type of affected sources, their corresponding emission limit, and relevant applicability information for the major stationary point source categories that Texas has developed for attainment demonstration purposes, for the B/PA ozone nonattainment area.

The NO_X emission specifications that Texas has submitted to us, for attainment demonstration purposes for the B/PA area, are more stringent than the Texas NO_X SIP's RACT emission specifications in the B/PA area. We are approving these rules under part D of the Act because the State relies upon them for demonstrating attainment of the 1-hour ozone standard in the B/PA area.

TABLE IV.—SUMMARY OF THE TEXAS' NO_X EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE B/PA AREA

Source	NO_X limit	Additional Information
Utility Boilers	0.10 lb/MMBtu heat input	Daily average basis from any utility boiler. Unless provided in sections 117.108 or 117.570. Includes a 400 ppmv of CO limit at 3% oxygen dry basis (or 0.30 lb CO/MMBtu heat imput as alternate). Also 10 ppmv of ammonia limit on a one-hour averaging period.
Non-Utility Boilers	0.10 lb/MMBtu heat input	Natural gas, maximum rated heat capacity of 40 MMBtu/Hr or more. Rolling 30-day average period or one-hour average. Includes a 400 ppmv of CO limit at 3% oxygen dry basis. Also a 5 ppmv of ammonia limit on a one-hour averaging period.
Process Heaters	0.08 lb/MMBtu heat input	Natural gas, maximum rated heat capacity of 40 MMBtu/Hr or more. Includes a 400 ppmv of CO limit at 3% oxygen dry basis. Also 5 ppmv of ammonia limit on a one-hour averaging period.

We are also approving under section 110 of the Act, the emissions specifications for Carbon monoxide (CO) and ammonia on the basis that these emission specifications/parameters will strengthen the existing Texas SIP.

6. What Are Nitrogen Oxides?

Nitrogen oxides belong to the group of criteria air pollutants. The NO_X 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.

7. 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.

8. What Are the Clean Air Act's Requirements for Controlling NO_X Emissions?

Section 182(b)(2) requires States, with areas classified as moderate ozone nonattainment, to implement RACT with respect to all major sources of VOCs. Section 182(f) states that, ''the plan provisions required under this subpart for major stationary sources of VOCs shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen.'' This NO_X RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications.

On November 25, 1992 (57 FR 55620), we published a document of proposed rulemaking entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement). The NO_X Supplement describes and provides preliminary guidance on the requirements of section 182(f) of the Act. You should refer to the NO_X supplement for further information on the NO_X requirements. The EPA's mandatory Economic Incentive Program (EIP) rules for criteria pollutants appear in 40 CFR part 51, Subpart U (59 FR 16710). The EPA's discretionary EIP guidelines concerning emission trading appear in the 1994 EIP guidance document (59 FR 16690). In addition, other EPA guidance memoranda, such as those included in the ''NO_X Policy Document for the Clean Air Act of 1990,'' (EPA–452/R96–005, March 1996), could provide you with more information about NO_X requirements.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions not covered by either a pre- or post-enactment Control Techniques Guideline (CTG) document. There were no NO_X CTGs issued before enactment and we have not issued a CTG document for any NO_X sources since enactment of the Act. However, we published Alternative Control Technique (ACT) documents for several industrial categories. States can use the information contained in the ACTs to develop their NO_X RACT rules. Furthermore, NO_X emissions beyond RACT may be needed in a nonattainment area in order for that area to demonstrate attainment. Section 182(c)(2)(A) and section 172(c) require that the SIP include control measures, means, or techniques, as may be necessary or appropriate, to provide for attainment of the standard. Section 181(a)(1) requires that each area attain the ozone standard as expeditiously as practicable.

9. What Are Definitions of Major Sources for NO_X?

Section 302 of the Act generally defines ''major stationary source'' as a facility or source of air pollution which emits, when uncontrolled, 100 tpy or more of air pollution. This general definition applies unless another specific provision of the Act explicitly defines major source differently. Therefore, for NO_X, a major source is one which emits, when uncontrolled, 100 tpy or more of NO_X in marginal and moderate areas. According to section 182(c) of the Act, a major source in a serious nonattainment area is a source that emits, when uncontrolled, 50 tpy or more of NO_X.

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_X.

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. The B/PA area is a moderate ozone nonattainment area, so the major source size for the B/PA area is 100 tpy or more, when uncontrolled. The D/FW area is a serious ozone nonattainment area, so the major source size for the D/FW area is 50 tpy or more, when uncontrolled.

10. 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 National Ambient Air Quality Standards (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.

11. What Is the Federal Approval Process for a SIP?

When a state wants to incorporate its regulations into the federally enforceable SIP, the state must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process includes a public notice, a public hearing, a public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state adopts a rule, regulation, or control strategy, the state may submit the adopted provisions to us and request that we include these provisions in the federally enforceable SIP. We must then decide on an appropriate Federal action, provide public notice on this action, and seek additional public comment regarding this action. If we receive adverse comments, we must address them prior to a final action.

Under section 110 of the Act, when we approve all state regulations and supporting information, those state regulations and supporting information become a part of the federally approved SIP. You can find records of these SIP actions in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations that we approved are not reproduced in their entirety in the CFR but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

12. 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.

13. What Areas in Texas Will This Action Affect?

The rule revisions concerning major stationary sources that we are approving today affect the B/PA ozone nonattainment areas. The B/PA area includes the following counties: Hardin, Jefferson, and Orange. If you are in one of these counties, you should refer to the Texas NO_X rules to determine if and how today's action will affect you. The Texas Water Heater Rule that we are approving today affects the entire state of Texas. The administrative revisions that we are approving today should have no substantive effect upon the B/PA, H/GA, and D/FW ozone nonattainment areas. To find out about the effect of today's action approving the two Orders, see sections 14 and 15, below.

14. What Does the Agreed Order Between the TNRCC and Aloca, Inc., Require?

The former name of Alcoa, Inc., was Aluminum Company of America (the Company). Alcoa, is a producer of primary aluminum, fabricated aluminum, and alumina. The Company is near Rockdale, Milam County, Texas. The TNRCC and the Company have entered into this enforceable agreement to limit emissions of NO_X from this operation because the State is relying upon these NO_X reductions to demonstrate attainment of the 1-hour ozone standard in the B/PA, D/FW, and H/GA areas, and for continued maintenance of the standard in the eastern half of the State and as a strengthening of the existing Texas SIP.

The Agreed Order number is 2000–0032–SIP and has 21 stipulations. The TNRCC passed and approved this Agreed Order on April 19, 2000. As a result of this agreement the Company will have to reduce its NO_X emissions by a factor of 30%, calculated as a reduction of 5,838.2 tpy. The baseline for this calculated reduction is the TNRCC's 1997 Emission Inventory. The maximum allowable NO_X emissions from Alcoa under the Order is 13,622.4 tpy. Furthermore, no later than December 31, 2002, each boiler has a NO_X emissions limit of 1,168.0 pound per hour (lb/hr) and 5,115.8 tpy (stipulation number 10). We have included the supporting calculations for this Agreed Order with our TSD dated September 2000.

15. What Does the Agreed Order Between the TNRCC and Eastman Chemical Company, Texas Operations Require?

The Eastman Chemical Company, Texas Operations (the Company) owns and operates a chemical and plastics manufacturing plant at Highway 149, Kodak Boulevard, Longview, Harrison County, Texas. The TNRCC and the Company have entered into this enforceable agreement to limit emissions of NO_X and VOC from this operation because the State is relying upon these reductions to demonstrate attainment of the 1-hour ozone standard in the H/GA, D/FW, and B/PA areas, and to show continued maintenance of the standard in the eastern half of the State and as a strengthening of the existing Texas SIP.

The Agreed Order number is 2000–0033–SIP and has 29 stipulations. The TNRCC passed and approved this Agreed Order on April 19, 2000. As a result of this agreement the Company will have to reduce its NO_X emissions by 1671.5 tpy and its VOC emissions by 386 tpy. The baseline for calculating the reductions is the TNRCC's 1997 Emission Inventory. The maximum allowable NO_X and VOC emissions are 5,868 and 3,706 tpy, respectively. We have included the supporting calculations for this Agreed Order with our TSD dated September 2000.

Final Action

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on December 26, 2000, without further notice unless we receive adverse comment by November 27, 2000. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all

public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This 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 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 approves 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 (Pub. L. 104–4). For the same reason, this 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 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 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 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 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. 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'' issued under the executive order. This 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.*).

The Congressional Review Act, 5 U.S.C. section 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. EPA will submit a report containing this rule 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. section 804(2). This rule will be effective December 26, 2000 unless EPA receives adverse written comments by November 27, 2000.

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 December 26, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Ozone, and Reporting and recordkeeping requirements.

Dated: October 3, 2000.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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 the table in paragraph (c) is amended under Chapter 117 by:

a. Revising that section of the table entitled ''Subchapter B: Division 1—Utility Electric Generation'';

b. Revising that section of the table entitled ''Division 2—Commercial, Institutional and Industrial Sources'';

c. Revising the entries for sections 117.510, 117.520, 117.570, and 117.601.

d. Adding entries for new sections 117.460, 117.461, 117.463, 117.465, 117.467, and 117.469.

e. Revising the heading immediately above the entry for section 117.510 to read ''Subchapter E—Administrative Provisions.''

f. Revising the heading immediately above the entry for section 117.601 to read ''Subchapter F—Gas-Fired Steam Generation.''

g. Adding a new heading immediately above the entry for section 117.460 to read ''Subchapter D—Water Heaters, Small Boilers, and Process Heaters.''

h. Adding a paragraph (d).

The revisions and additions, read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State submittal/ approval date	EPA approval date	Explanation
*	*	*	*	*
Chapter 117 (Reg 7)—Control of Air Pollution From Nitrogen Compounds				
Subchapter A				
*	*	*	*	*
Subchapter B				
Division 1—Utility Electric Generation				
Section 117.101	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.103	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.104	Gas-fired Steam Generation	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.105	Emission Specifications	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(h) and (j) added for B/PA area.
Section 117.106	Emission Specifications for Attainment Demonstrations.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.107	Alternative System-Wide Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.108	System Cap	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan, EPA must approve decisions under (j).
Section 117.109	Initial Control Plan Procedures	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	Repealed for B/PA area only.
Section 117.111	Initial Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.113	Continuous Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.115	Final Control Plan Procedures	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.116	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.117	Revision of Final Control Plan	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.119	Notification, Recordkeeping, and Reporting Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.121	Alternative Case Specific Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Division 2—Commercial, Institutional, and Industrial Sources				
Section 117.201	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.203	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.205	Emission Specifications for Reasonably Available Control Technology.	04/19/2000	*[Insert publication date and Federal Register cite].*	(d)(2) and (e) for B/PA or D/FW.
Section 117.206	Emission Specifications for Attainment Demonstrations.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan only.
Section 117.207	Alternative Plant-Wide Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.208	Operating Requirements	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.209	Initial Control Plan Procedures	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.211	Initial Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.213	Continuous Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.215	Final Control Plan Procedures for Reasonably Available Control Technology.	04/19/2000	*[Insert publication date and Federal Register cite].*	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State submittal/ approval date	EPA approval date	Explanation
Section 117.216	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.217	Revision of Final Control Plan	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.219	Notification, Recordkeeping, and Reporting Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.221	Alternative Case Specific Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.223	Source Cap	10/27/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(b)(B) requires EPA's approval.
*	*	*	*	*	*	*
Subchapter D				
Water Heaters, Small Boilers, and Process Heaters				
Section 117.460	Definitions	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.461	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.463	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.465	Emission Specifications	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.467	Certification Requirements	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.469	Notification and Labeling Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
*	*	*	*	*	*	*
Subchapter E				
Administrative Provisions				
Section 117.510	Compliance Schedule for Utility Elecric Generation.	04/19/2000	*[Insert publication date and Federal Register cite].*	(a), and (a)(2) for B/PA area only.
Section 117.520	Compliance Schedule for Industrial, Commercial and Institutional Combustion Sources in Ozone Nonattainment Areas.	04/19/2000	*[Insert publication date and Federal Register cite].*	(a), (a)(2), and (a)(3) for B/PA area only.
*	*	*	*	*	*	*
Section 117.570	Trading	10/27/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(1)(A)(ii) for B/PA area only.
Subchapter F				
Gas-Fired Steam Generation				
Section 117.601	Gas-Fired Steam Generation	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	Repealed for B/PA area only.
*	*	*	*	*	*	*

(d) EPA-approved State Source Specific Requirements.

EPA APPROVED TEXAS SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State approval/ submittal date	EPA approval date	Explanation
Alcoa Inc., Rockdale, Milam County, Texas.	Agreed Order No. 2000–0032–SIP.	04/19/2000	*[Insert publication date and Federal Register cite].*	H/GA, D/FW, and B/PA, Texas 1-hour ozone standard attainment demonstrations.

EPA APPROVED TEXAS SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State approval/ submittal date	EPA approval date	Explanation
Eastman Chemical Company, Texas Operations, Longview, Harrison County, Texas.	Agreed Order No. 2000–0033–SIP.	04/19/2000	*[Insert publication date and Federal Register cite].*	H/GA, D/FW, and B/PA, Texas 1-hour ozone standard attainment demonstrations.

[FR Doc. 00–27029 Filed 10–25–00; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 108–1108; FRL–6890–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to a revision to a St. Louis city ordinance and to a revision and revocation of three St. Louis city issued incinerator permits. The effect of this action is to ensure Federal enforceability of the local agency's air program rules and to maintain consistency between the local agency adopted rules and the approved SIP.

DATES: This rule is effective on December 26, 2000, without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On May 22, 2000, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the SIP to approve revisions to a St. Louis city ordinance and incinerator permits.

On April 22, 1998, (63 FR 19823) EPA approved a revision to the Missouri SIP which incorporated two sections of St. Louis City air pollution control Ordinance No. 59270. These two sections pertained to open burning restrictions and related definitions. In the same action, EPA also approved three medical waste incinerator permits issued by the city of St. Louis.

In 1999, the city updated the provisions of this Ordinance by adopting replacement Ordinance No. 64749. A few of the revisions in the new Ordinance pertained to the SIP-approved sections mentioned above. SIP-approved revisions in the new Ordinance consist of renumbering of the definitions and the addition of a