

[Reserved for Group Description]
 International
 [Reserved for Group Description]
 International Priority Airlift (IPA)
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 International Surface Airlift (ISAL)
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 International Direct Sacks—M—Bags
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 Global Customized Shipping Services
 [Reserved for Product Description]
 International Money Transfer Service
 [Reserved for Product Description]
 Inbound Surface Parcel Post (at non-UPU rates)
 [Reserved for Product Description]
 International Ancillary Services
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 International Certificate of Mailing
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 International Registered Mail
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 International Return Receipt
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 International Restricted Delivery
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 International Insurance
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 Negotiated Service Agreements
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 Domestic
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 Outbound International
 [Reserved for Group Description]
 Part C—Glossary of Terms and Conditions
 [Reserved]
 Part D—Country Price Lists for International Mail [Reserved]
 [FR Doc. E9–18243 Filed 7–30–09; 8:45 am]
BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0214; FRL–8939–4]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Emissions of Nitrogen Oxides (NO_x)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking a direct final action to approve revisions to the Texas State Implementation Plan (SIP). We are approving revisions to 30 TAC Chapter 117, “Control of Air Pollution from Nitrogen Compounds,” that the State submitted on March 10, 2009. These revisions amend the Beaumont-Port Arthur (BPA) 8-Hour Ozone Nonattainment Area Major Source rules, the Houston-Galveston-Brazoria (HGB) 8-Hour Ozone Nonattainment Area Major Source rules, and the HGB 8-Hour Ozone Nonattainment Area Minor Source rules. These revisions add

flexibility and consistency to the current stationary reciprocating internal combustion engine and gas turbine monitoring specifications found in Chapter 117 by allowing for an additional option for monitoring nitrogen oxides (NO_x) emissions. These revisions are consistent with the Clean Air Act (CAA). Therefore, EPA is approving these revisions pursuant to section 110 of the CAA.

DATES: This direct final rule will be effective September 29, 2009 without further notice unless EPA receives relevant adverse comments by August 31, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2009–0214, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Please follow the online instructions for submitting comments.
- *EPA Region 6 “Contact Us” Web site:* <http://epa.gov/region6/r6comment.htm>. Please click on “6PD (Multimedia)” and select “Air” before submitting comments.
- *E-mail:* Mr. Guy Donaldson at donaldson.guy@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2009–0214. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT:

Dayana Medina, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-7241; fax number 214-665-7263; e-mail address medina.dayana@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” means EPA.

Outline

- I. Background
 - A. What Action Is EPA Taking?
 - B. What Are NO_x?
 - C. What Is Ozone, and Why Do We Regulate It?
 - D. What Is a SIP?
 - E. What Did the State Submit?
- 1. Beaumont-Port Arthur 8-Hour Ozone Nonattainment Area Major Sources
- 2. Houston-Galveston-Brazoria 8-Hour Ozone Nonattainment Area Major Sources
- 3. Houston-Galveston-Brazoria 8-Hour Ozone Nonattainment Area Minor Sources
- II. Final Action
- III. Statutory and Executive Order Reviews

I. Background*A. What Action Is EPA Taking?*

Today we are approving revisions to the Texas SIP that amend 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds. These revisions amend the BPA 8-Hour Ozone Nonattainment Area Major Source rules, the HGB 8-Hour Ozone Nonattainment Area Major Source rules, and the HGB 8-Hour Ozone Nonattainment Area Minor Source rules, as submitted by the TCEQ to EPA on March 10, 2009. These revisions are substantive in nature, allowing for an additional option for monitoring nitrogen oxides (NO_x) emissions. This will result in additional flexibility and consistency in the current stationary reciprocating internal combustion engine and gas turbine monitoring specifications found in Chapter 117. This additional option is expected to be equally effective as totalizing fuel flow meters in the monitoring of NO_x emissions at major stationary sources in the BPA 8-hour ozone nonattainment area and at both major and minor stationary sources in

the HGB 8-hour ozone nonattainment area. We are approving these revisions in accordance with section 110 of the CAA.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if relevant adverse comments are received. This rule will be effective on September 29, 2009 without further notice unless we receive relevant adverse comment by August 31, 2009. If we receive relevant 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 now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

B. What Are NO_x?

Nitrogen oxides (NO_x) belong to the group of criteria air pollutants. NO_x are produced from burning fuels, including gasoline and coal. Nitrogen oxides react with volatile organic compounds (VOC) to form ground-level ozone or smog, and are also major components of acid rain. For more information on NO_x see <http://www.epa.gov/air/urbanair/nox/>.

C. What Is Ozone, and Why Do We Regulate It?

Ozone is a gas composed of three oxygen atoms. Ground-level ozone is generally not emitted directly from a vehicle's exhaust or an industrial smokestack, but is created by a chemical reaction between NO_x and VOCs in the presence of sunlight and high ambient temperatures. Thus, ozone is known primarily as a summertime air pollutant. NO_x and VOCs are precursors of ozone.

Motor vehicle exhaust and industrial emissions, gasoline vapors, chemical solvents and natural sources emit NO_x and VOCs. Urban areas tend to have high concentrations of ground-level ozone, but areas without significant industrial activity and with relatively low vehicular traffic are also subject to increased ozone levels because wind carries ozone and its precursors hundreds of miles from their sources.

Repeated exposure to ozone pollution may cause lung damage. Even at very low concentrations, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis. It can also have detrimental effects on plants and ecosystems.

D. What Is a SIP?

Section 110 of the CAA requires States to develop air pollution regulations and control strategies to ensure that air quality meets the National Ambient Air Quality Standards (NAAQS) established by EPA. The NAAQS are established under section 109 of the CAA and currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. A SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the State, to ensure that air quality in the State meets the NAAQS. A SIP protects air quality primarily by addressing air pollution at its point of origin. A SIP can be extensive, containing State regulations or other enforceable documents, and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each State must submit regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP.

E. What Did the State Submit?

Table A below contains a summary list of sections in 30 TAC Chapter 117 that we are approving into the Texas SIP with this rulemaking action.

TABLE A—30 TAC CHAPTER 117—SECTION NUMBERS AND SECTION DESCRIPTIONS AFFECTED BY THIS RULEMAKING

Section No.	Description
Section 117.140	Continuous Demonstration of Compliance.
Section 117.145	Notification, Recordkeeping, and Reporting Requirements.
Section 117.340	Continuous Demonstration of Compliance.
Section 117.345	Notification, Recordkeeping, and Reporting Requirements.
Section 117.2035	Monitoring and Testing Requirements.
Section 117.2045	Recordkeeping and Reporting Requirements.

For more information, see sections E(1), E(2), and E(3) of this document.

1. Beaumont-Port Arthur 8-Hour Ozone Nonattainment Area Major Sources

The BPA 8-Hour Ozone Nonattainment Area Major Source rules are found in 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds; Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas; Division 1, Beaumont-Port Arthur Ozone Nonattainment Area Major Sources. Revisions to the BPA 8-Hour Ozone Nonattainment Area Major Source rules were adopted by the State on February 11, 2009, and submitted to EPA for approval into the SIP on March 10, 2009. We provided comments to TCEQ concerning the SIP revision in a letter dated September 15, 2008. Our comment letter to TCEQ is a part of the docket for this rulemaking action and available for public inspection.

Section 117.140 (*Continuous Demonstration of Compliance*) currently requires stationary reciprocating internal combustion engines and stationary gas turbines located at major sources of NO_x in the BPA 8-hour ozone nonattainment area to have a fuel flow meter installed. The totalizing fuel flow meter is used to measure the activity rate of the engine, and the activity rate is used as an indirect indication of NO_x emissions from these sources. The revision to section 117.140(a)(2) that we are approving adds new subparagraph (D), providing an output-based monitoring alternative to the totalizing fuel flow meter requirement and thereby adding monitoring flexibility for owners and operators of the affected units. New subparagraph (D) reads as follows: "Stationary reciprocating internal combustion engines and stationary gas turbines equipped with a continuous monitoring system that continuously monitors horsepower and hours of operation are not required to install totalizing fuel flow meters. The continuous monitoring system must be installed, calibrated, maintained, and operated according to manufacturers' recommended procedures." The EPA is approving this revision because we consider continuous monitoring of horsepower output and hours of operation to be as effective as monitoring of fuel flow in the indirect indication of NO_x emissions. Both methods monitor the activity rate of the engine, and these measures are used to indirectly determine NO_x emissions. In addition, this revision is consistent with an option currently allowed under section 117.440(a)(2)(D) for engines in

the Dallas-Fort Worth (DFW) 8-hour ozone nonattainment area, which we approved on December 3, 2008 (73 FR 73562).

The revision to section 117.145 (*Notification, Recordkeeping, and Reporting Requirements*) adds a new paragraph (10) to subsection (f), specifying recordkeeping requirements. Existing section 117.145(f) consists of the recordkeeping requirements for units subject to Division 1 (*Beaumont-Port Arthur Ozone Nonattainment Area Major Sources*). Existing subsection (f) directs owners or operators of subject units to maintain written or electronic records of specified data for a period of at least five years and make available upon request by authorized representatives of the executive director of the TCEQ, the EPA, or local air pollution control agencies having jurisdiction. New paragraph (10) in section 117.145(f), concerning the recordkeeping requirements of output-based monitoring data, reads that the records specified in subsection (f) must include "for each stationary reciprocating internal combustion engine and stationary gas turbine for which the owner or operator elects to use the alternative monitoring system allowed under section 117.140(a)(2)(D) of this title, records of the daily average horsepower and total daily hours of operation. Units that are monitored according to section 117.140(a)(2)(D) of this title are not required to keep records of annual fuel usage as required by paragraph (1) of this subsection." New paragraph (10) in section 117.145(f) will ensure that recordkeeping requirements are consistent with the horsepower and hours of operation data that would be collected by the output-based alternative monitoring provision found in new subparagraph (D) of section 117.140(a)(2). The EPA is approving this revision because it will provide for appropriate/accurate recordkeeping and reporting of records for each affected stationary reciprocating internal combustion engine and stationary gas turbine utilizing the output-based alternative monitoring system provision.

2. Houston-Galveston-Brazoria 8-Hour Ozone Nonattainment Area Major Sources

The HGB 8-Hour Ozone Nonattainment Area Major Source rules are found in 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds; Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas; Division 3, Houston-Galveston-Brazoria Ozone

Nonattainment Area Major Sources. Revisions to the HGB 8-Hour Ozone Nonattainment Area Major Source rules were adopted by the State on February 11, 2009 and submitted to EPA for approval into the SIP on March 10, 2009. We provided comments to TCEQ concerning the SIP revision in a letter dated September 15, 2008. Our comment letter to TCEQ is a part of the docket for this rulemaking action and available for public inspection.

Section 117.340 (*Continuous Demonstration of Compliance*) currently requires stationary reciprocating internal combustion engines and stationary gas turbines located at major sources of NO_x in the HGB 8-hour ozone nonattainment area to have a fuel flow meter installed. The totalizing fuel flow meter is used to measure the activity rate of the engine, and the activity rate is used as an indirect indication of NO_x emissions from these sources. The revision to section 117.340(a)(2) that we are approving adds new subparagraph (D), providing an output-based monitoring alternative to the totalizing fuel flow meter requirement and thereby adding monitoring flexibility for owners and operators of the affected units. New subparagraph (D) reads as follows: "Stationary reciprocating internal combustion engines and stationary gas turbines equipped with a continuous monitoring system that continuously monitors horsepower and hours of operation are not required to install totalizing fuel flow meters. The continuous monitoring system must be installed, calibrated, maintained, and operated according to manufacturers' recommended procedures." The EPA is approving this revision because we consider continuous monitoring of horsepower output and hours of operation to be as effective as a totalizing fuel flow meter in the indirect indication of NO_x emissions. Both methods monitor the activity rate of the engine, and these measures are used to indirectly determine NO_x emissions. The output-based monitoring alternative provides activity data equivalent with the existing monitoring specifications and can easily be converted into an annual mass emission rate for compliance with the MECT program.¹ In

¹ During the comment period, we provided comments to TCEQ concerning the SIP revision in a letter dated September 15, 2008. In the letter, EPA noted that NO_x emitting facilities in the HGB area are subject to the Mass Emissions Cap and Trade (MECT) program. We asked the TCEQ to explain how a source in the HGB area which elects to use the output-based monitoring alternative option would be able to determine its mass emissions to show compliance with the MECT. Our letter and the TCEQ's response can be found in the State's

addition, this revision is consistent with an option currently allowed under section 117.440(a)(2)(D) for engines in the DFW 8-hour ozone nonattainment area, which we approved on December 3, 2008 (73 FR 73562).

The revision to Section 117.345 (*Notification, Recordkeeping, and Reporting Requirements*) adds a new paragraph (12) to subsection (f), specifying recordkeeping requirements. Existing section 117.345(f) consists of the recordkeeping requirements for units subject to Division 3 (*Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources*). Existing subsection (f) directs owners or operators of subject units to maintain written or electronic records of specified data for a period of at least five years and make available upon request by authorized representatives of the executive director of the TCEQ, the EPA, or local air pollution control agencies having jurisdiction. New paragraph (12) in section 117.345(f), which specifies the recordkeeping requirements of output-based monitoring data, reads that the records specified in subsection (f) must include “for each stationary reciprocating internal combustion engine and stationary gas turbine for which the owner or operator elects to use the alternative monitoring system allowed under section 117.340(a)(2)(D) of this title, records of the daily average horsepower and total daily hours of operation. Units that are monitored according to section 117.340(a)(2)(D) of this title are not required to keep records of annual fuel usage as required by paragraph (1) of this subsection.” New paragraph (12) in section 117.345(f) will ensure that recordkeeping requirements are consistent with the horsepower and hours of operation data that would be collected by the output-based alternative monitoring provision found in new subparagraph (D) of section 117.340(a)(2). The EPA is approving this revision because it will provide for appropriate/accurate recordkeeping and reporting of records for each affected stationary reciprocating internal combustion engine and stationary gas turbine utilizing the output-based alternative monitoring system provision.

3. Houston-Galveston-Brazoria 8-Hour Ozone Nonattainment Area Minor Sources

The HGB 8-Hour Ozone Nonattainment Area Minor Source rules are found in 30 TAC Chapter 117,

Control of Air Pollution from Nitrogen Compounds; Subchapter D, Combustion Control at Minor Sources in Ozone Nonattainment Areas; Division 1, Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources. Revisions to the HGB 8-Hour Ozone Nonattainment Area Minor Source rules were adopted by the State on February 11, 2009 and submitted to EPA for approval into the SIP on March 10, 2009. We provided comments to TCEQ concerning the SIP revision in a letter dated September 15, 2008. Our comment letter to TCEQ is a part of the docket for this rulemaking action and available for public inspection.

Section 117.2035 (*Monitoring and Testing Requirements*) currently requires stationary reciprocating internal combustion engines and stationary gas turbines located at minor stationary sources of NO_x in the HGB 8-hour ozone nonattainment area to have a fuel flow meter installed. The totalizing fuel flow meter is used to measure the activity rate of the engine, which is used as an indirect indication of NO_x emissions from these sources. The revision to section 117.2035(a)(2) that we are approving adds a new subparagraph (G), providing an output-based monitoring alternative for stationary reciprocating internal combustion engines and stationary gas turbines and thereby adding monitoring flexibility for the owners and operators of the affected units. New subparagraph (G) reads as follows: “Stationary reciprocating internal combustion engines and stationary gas turbines equipped with a continuous monitoring system that continuously monitors horsepower and hours of operation are not required to install totalizing fuel flow meters. The continuous monitoring system must be installed, calibrated, maintained, and operated according to manufacturer’s procedures.” The EPA is approving this revision because we consider continuous monitoring of horsepower output and hours of operation to be as effective as a totalizing fuel flow meter in the indirect indication of NO_x emissions. Both methods monitor the activity rate of the engine, and these measures are used to indirectly determine NO_x emissions. The output-based monitoring alternative provides activity data equivalent with the existing monitoring specifications and can easily be converted into an annual mass emission rate for compliance with the MECT program. In addition, this revision is consistent with an option currently allowed under section 117.440(a)(2)(D) for engines in the DFW 8-hour ozone nonattainment

area, which we approved on December 3, 2008 (73 FR 73562).

Section 117.2045 concerns *Recordkeeping and Reporting Requirements*. The revision to subsection (a) in section 117.2045 adds new paragraph (7), specifying recordkeeping requirements. Existing section 117.2045(a) consists of the recordkeeping requirements for units subject to Division 1 (*Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources*). Existing subsection (a) directs owners or operators of subject units to maintain written or electronic records of specified data for a period of at least five years and make available upon request by authorized representatives of the executive director of the TCEQ, the EPA, or local air pollution control agencies having jurisdiction. New paragraph (7) in section 117.2045(a), which specifies the recordkeeping requirements of output-based monitoring data, reads that the records specified in subsection (a) must include “records of daily average horsepower and total daily hours of operation for each stationary reciprocating internal combustion engine or stationary gas turbine that the owner or operator elects to use the alternative monitoring system allowed under section 117.2035(a)(2)(G) of this title. Units that are monitored according to section 117.2035(a)(2)(G) of this title are not required to keep records of annual fuel usage as required by paragraph (1) of this subsection.” New paragraph (7) in section 117.2045(a) ensures that recordkeeping requirements are consistent with the horsepower and hours of operation data that would be collected by the output-based alternative monitoring provision found in new subparagraph (G) of section 117.2035(a)(2). The EPA is approving this revision because it is necessary to ensure the accurate recordkeeping and reporting for each stationary reciprocating internal combustion engine and stationary gas turbine for which the owner or operator elects to use the output-based alternative monitoring system allowed under section 117.2035(a)(2)(G). Accurate recordkeeping is essential for the proper monitoring and control of NO_x emissions, which in turn assists in the improvement of air quality.

II. Final Action

Today we are approving revisions to 30 TAC Chapter 117 into the Texas SIP. We are approving revisions to the BPA 8-Hour Ozone Nonattainment Area Major Source rules, the HGB 8-Hour Ozone Nonattainment Area Major Source rules, and the HGB 8-Hour

submittal, which is in the docket for this rulemaking action.

Ozone Nonattainment Area Minor Source rules. We are approving these SIP revisions, which add flexibility and consistency to the current stationary reciprocating internal combustion engine and gas turbine monitoring specifications found in Chapter 117 by allowing for an additional option for monitoring NO_x emissions. We are approving these revisions pursuant to section 110 of the CAA because the revisions provide an additional effective monitoring method that will provide flexibility while maintaining the enforceability of the rules.

V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- Does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by September 29, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Dated: July 21, 2009.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 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. The table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" is amended under "Chapter 117—Control of Air Pollution From Nitrogen Compounds" as follows:

- a. Under Subchapter B, Division 1, by revising the entries for Sections 117.140 and 117.145;
- b. Under Subchapter B, Division 3, by revising the entries for Sections 117.340 and 117.345;
- c. Under Subchapter D, Division 1, by revising the entries for Sections 117.2035 and 117.2045.

The revisions read as follows:

§ 52.2270 Identification of plan

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 117—Control of Air Pollution From Nitrogen Compounds				

EPA-APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Subchapter B—Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas Division 1—Beaumont-Port Arthur Ozone Nonattainment Area Major Sources				
*	*	*	*	*
Section 117.140	Continuous Demonstration of Compliance.	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
Section 117.145	Notification, Recordkeeping, and Reporting Requirements.	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
*	*	*	*	*
Division 3—Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources				
*	*	*	*	*
Section 117.340	Continuous Demonstration of Compliance.	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
Section 117.345	Notification, Recordkeeping, and Reporting Requirements.	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
*	*	*	*	*
Subchapter D—Combustion Control at Minor Sources in Ozone Nonattainment Areas Division 1—Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources				
*	*	*	*	*
Section 117.2035	Monitoring and Testing Requirements ...	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
Section 117.2045	Recordkeeping and Reporting Requirements.	2/11/2009	7/31/2009	[Insert <i>FR</i> page number where document begins].
*	*	*	*	*

[FR Doc. E9-18345 Filed 7-30-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261****[FRL-8937-9]****Autoliv ASP Inc. Facility in Promontory, UT, Under Project XL****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing a final rule published on May 9, 2001 which modified the regulations under the Resource, Conservation and Recovery Act (RCRA) to enable the implementation of the Autoliv XL project that was developed under EPA's Project eXcellence in Leadership (Project XL) program. Project XL was a national pilot program that allowed State and local governments, businesses

and Federal facilities to work with EPA to develop more cost-effective ways of achieving environmental and public health protection. In exchange, EPA provided regulatory, policy or procedural flexibilities to conduct the pilot experiments.

DATES: The final rule is effective August 31, 2009.

FOR FURTHER INFORMATION CONTACT: Sandra Panetta, Mail Code 1870T, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Ms. Panetta's telephone number is (202) 566-2184 and her e-mail address is panetta.sandra@epa.gov. Further information on today's action may also be obtained on the Internet at <http://www.epa.gov/projectxl/autoliv/index.htm>.

SUPPLEMENTARY INFORMATION: EPA is withdrawing the final rule which was published on May 9, 2001 (66 FR 23617) in response to Autoliv's request in a letter to the State of Utah dated October 7, 2003 to withdraw the XL project. The

final rule granted Autoliv an exemption under Project XL from the definition of hazardous waste for treatment of waste in an on-site Metals Recovery Furnace (MFR) at the Promontory Facility instead of sending the materials off-site to be treated. Prior to implementation of the project, new criteria were set forth by the Utah Division of Air Quality in the MACT standard for dioxins. The project became economically impracticable given the added cost to upgrade Autoliv's facility to meet the new requirement and the project was not implemented. Discontinuing the XL project will have no environmental impact. All reporting requirements in 40 CFR 261.4(b)(18) are discontinued.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause