Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 2000.

Malcolm Ahrens,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 00–27919 Filed 10–30–00; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–119–2–7472; FRL–6893–5]

Approval and Promulgation of Implementation Plans; Texas; Electric Generating Facilities; Cement Kilns; and Major Stationary Sources of Nitrogen Oxides for the Dallas/Fort Worth 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 three separate actions.

First, we are proposing to approve revisions to the Texas Nitrogen Oxides (NO_X) rules for electric generating facilities in East and Central Texas. These new limits for electric generating facilities in East and Central Texas will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the Houston/Galveston (H/GA), Dallas/Fort Worth (D/FW), and Beaumont/Port Arthur (B/PA) 1-hour ozone nonattainment areas. They will also contribute to continued maintenance of the standard in the eastern half of Texas and will strengthen the existing Texas SIP.

Second, we are proposing to approve revisions to the Texas NO_X rules for cement kilns in East and Central Texas. These rule revisions will contribute to attainment of the 1-hour ozone standard in the D/FW area, will contribute to continued maintenance of the standard in the eastern half of the State of Texas, and will strengthen the existing Texas SIP.

Third, we are proposing to approve revisions to the Texas NO_X rules for major stationary sources in the D/FW 1-hour ozone nonattainment area. These new limits for stationary sources will contribute to attainment of the 1-hour ozone standard in the D/FW nonattainment area.

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

DATES: Comments must be received on or before November 30, 2000.

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

SUPPLEMENTARY INFORMATION:

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Throughout this document ''we,'' ''us,'' and ''our'' means EPA.

1. What Are We Proposing To Approve?

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 SIP for electric generating facilities in East and Central Texas. Texas submitted this revision to us as a part of the attainment plans for the D/FW, B/PA, and H/GA 1-hour ozone nonattainment areas. The revision also contributes to continued maintenance of the standard in the eastern half of the State of Texas, and it is a strengthening of the existing Texas SIP.

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 SIP for cement kilns in East and Central Texas. Texas submitted this revision to us as a part of the NO_X reductions needed for the continued maintenance of the 1-hour ozone standard in the eastern half of the State and for the D/FW area to attain the 1-hour ozone standard, and as a strengthening of the existing Texas SIP.

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 SIP for major stationary sources operating in the D/FW 1-hour ozone nonattainment area. Texas submitted this revision to us as a part of the NO_X reductions needed for the D/FW area to attain the 1-hour ozone standard.

We are proposing three separate actions:

(1) We are specifically proposing to approve new sections 117.131

concerning Applicability, 117.133 concerning Exemptions, 117.134 concerning Gas Fired Steam Generation, 117.135 concerning Emission Specification, 117.138 concerning System Cap, 117.141 concerning Initial Demonstration of Compliance, 117.143 concerning Continuous Demonstration of Compliance, 117.145 concerning Final Control Plan Procedures, 117.147 concerning Revision of Final Control Plan, 117.149 concerning Notification, Recordkeeping, and Reporting Requirements, 117.512 concerning Compliance Schedule for Utility Electric Generation in East and Central Texas, and a revision to the existing SIP-approved section 117.10 concerning Definitions. We are proposing approval of these rule revisions under part D of the Act because Texas is relying on these NO_X reductions to demonstrate attainment of the 1-hour ozone standard in the H/GA, B/PA, and D/FW 1-hour ozone nonattainment areas in the State of Texas. We are also proposing approval under sections 110 and 116 of the Act because the State is relying upon the NO_X reductions to show continued maintenance of the standard in the eastern half of the State of Texas and as a strengthening of the existing Texas SIP;

(2) We are specifically proposing to approve new sections 117.260 concerning Cement Kiln Definitions, 117.261 concerning Applicability, 117.265 concerning Emission Specifications, 117.273 concerning Continuous Demonstration of Compliance, 117.279 concerning Notification, Recordkeeping, and Reporting Requirements, 117.283 concerning Source Cap, and 117.524 concerning Compliance Schedule for Cement Kilns. We are proposing approval of these cement kiln rule revisions under part D of the Act because Texas is relying on these NO_X reductions to demonstrate attainment of the 1-hour ozone standard for the D/FW 1-hour ozone nonattainment area. We are also proposing to approve these rule revisions under sections 110 and 116 because they contribute to continued maintenance of the standard in the eastern half of the State and they strengthen the existing Texas SIP; and

(3) We are specifically proposing to approve 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 D/FW 1-hour ozone nonattainment area, revisions to the existing SIP-approved sections 117.101—117.121, 117.201—117.223, 117.510, 117.520, and 117.570 as they relate to the D/FW 1-hour ozone nonattainment area, and the repeal of existing SIP-approved sections 117.109, and 117.601 for the nonattainment areas. We are proposing approval of these D/FW NO_X point source rule revisions under part D of the Act because Texas is relying on these NO_X control measures for major stationary sources in the D/FW area to demonstrate attainment of the 1-hour ozone standard in the D/FW ozone nonattainment area.

2. What Does the April 30, 2000, SIP Revision for Electric Generating Facilities in East and Central Texas Say?

This rule revision requires reductions of NO_X from electric utility power boilers and gas turbines in East and Central Texas. The following two tables contain a summary of the April 30, 2000, SIP revision for electric generating facilities and gas turbines in East and Central Texas.

TABLE I.—AFFECTED SOURCES AND NO_X EMISSION SPECIFICATIONS FOR UTILITY POWER BOILERS AND GAS TURBINES IN EAST AND CENTRAL TEXAS

Source	NO_X emission specification	Explanation
Electric power boilers	0.14 (lb/MMBtu)	Gas fired, annual (calendar) average.
Electric power boilers	0.165 (lb/MMBtu)	Coal fired, annual (calendar) average.
Stationary gas turbines	0.14 (lb/MMBtu)	If subject to Texas Utility Commission (TUC), Section 39.264.
Stationary gas turbines	0.15 (lb/MMBtu)	If not subject to TUC, Section 39.264, or 42 ppmv NO_X adjusted to 15% oxygen on a dry basis as an alternate specification. If subject to Texas Senate Bill 7 of 1997, then 0.14 (lb/MMBtu).

We are of the opinion that these emission specifications are in agreement with those of the Ozone Transport Assessment Group (OTAG). *See* 63 FR 49446, published on September 16, 1998.

TABLE II.—AFFECTED SOURCES AND THEIR COMPLIANCE SCHEDULES FOR UTILITY POWER BOILERS AND GAS TURBINES IN EAST AND CENTRAL TEXAS

Source	Compliance schedule
Electric generating units owned by utilities and subject to TUC 39.263(b).	May 1, 2003.
All other units	May 1, 2005.

We are of the opinion that the above listed compliance dates are as expeditious as practicable compared with the compliance dates for similar sources in serious and severe ozone nonattainment areas in the country.

We are proposing approval of the NO_X emission specifications and compliance dates for electric generating facilities in East and Central Texas as a part of the Texas 1-hour ozone SIP under part D of the Act because the State is relying on the NO_X control measures to demonstrate attainment of the 1-hour ozone standard in the H/GA, B/PA, and D/FW ozone nonattainment areas in the State of Texas. We are also proposing approval of these rules under sections 110 and 116 because they contribute to continued maintenance of the standard in the eastern half of the State of Texas and they strengthen the existing Texas SIP.

3. What Does the April 30, 2000, SIP Revision for Cement Kilns in East and Central Texas Say?

This rule revision requires reductions of NO_X from cement kilns operating in East and Central Texas. The following two tables contain a summary of the April 30, 2000, SIP revision for cement kilns operating in East and Central Texas.

TABLE III.—AFFECTED SOURCES, LOCATIONS, AND NO_X EMISSION SPECIFICATIONS FOR CEMENT KILNS

Source	County	NO_X emission specification
Long wet kiln	Bexar, Comal, Hays, McLennan	6.0 lb/ton of clinker produced.
Long wet kiln	Ellis	4.0 lb/ton of clinker produced.
Long dry kiln	Bexar, Comal, Hays, McLennan, Ellis	5.1 lb/ton of clinker produced.
Preheater kiln	Bexar, Comal, Hays, McLennan, Ellis	3.8 lb/ton of clinker produced.
Precalciner or preheater-precalciner kiln.	Bexar, Comal, Hays, McLennan, Ellis	2.8 lb/ton of clinker produced.

TABLE IV.—AFFECTED SOURCES AND THEIR COMPLIANCE SCHEDULES FOR CEMENT KILNS

Source	Compliance schedule
Cement kilns in Ellis County.	May 1, 2003.
Cement kilns in Bexar, Comal, Hays, McLennan Counties.	May 1, 2005.

The proposed emission specifications meet and are in agreement with those found in our reference document EPA–453/R–94–004 for cement plants. We are of the opinion that the above listed compliance dates are as expeditious as practicable compared with the compliance dates for similar sources in serious and severe ozone nonattainment areas in the country. We are proposing approval of the NO_X emission specifications and compliance dates for cement kilns as a part of the Texas 1-hour ozone SIP under part D of the Act because the State is relying on these NO_X control measures to demonstrate attainment of the 1-hour ozone standard in the D/FW area. We are also proposing approval of these rules under sections 110 and 116 because they contribute to continued maintenance of the standard in the eastern half of the State of Texas and they strengthen the existing Texas SIP.

4. What Does the April 30, 2000, SIP Revision for Major Stationary Sources in the D/FW Area Say?

This rule revision requires reductions in emissions of NO_X from major stationary sources operating in the D/FW ozone nonattainment area. The following three tables contain a summary of the April 30, 2000, SIP revision for major stationary sources operating in the D/FW ozone nonattainment area. The proposed emission specifications, for the D/FW area, listed in Table V are more stringent than those Reasonably Available Control Technology (RACT) emission specifications found in Table VIII of this document. We published approval of the Texas NO_X RACT emission specifications in 65 FR 53172 on September 1, 2000.

TABLE V.—AFFECTED SOURCES, EMISSION SPECIFICATIONS, AND LOCATIONS FOR MAJOR STATIONARY SOURCES IN THE D/FW OZONE NONATTAINMENT AREA

Source	Emission specification	Location
Gas fired boilers ≥40 MMBtu, non-utility boilers	30 ppmv NO_X at 3% O2 dry basis	D/FW
Utility boilers—part of a large system in D/FW	0.033 lb NO_X/MMBtu	D/FW
Utility boilers—part of a small system in D/FW	0.06 lb NO_X/MMBtu	D/FW
Lean burn stationary engine ≥300 hp gas fired and gas/liquid-fired engines	2.0 g NO_X/hp-hr	D/FW
Lean burn stationary engine ≥300 hp gas fired and gas/liquid-fired engines	3.0 g CO/hp-hr	D/FW
Boiler or process heater ≥40 MMBtu	400 ppmv CO at 3% O2 dry basis	D/FW
Boiler or process heater ≥40 MMBtu	5 ppmv ammonia on a one-hour averaging basis	D/FW

We are proposing to approve the proposed rules under section 110 of the Act on the basis that these rules will strengthen the SIP.

TABLE VI.—AFFECTED SOURCES AND THEIR COMPLIANCE SCHEDULES FOR UTILITY ELECTRIC GENERATION UNITS IN D/FW OZONE NONATTAINMENT AREA

Source type	Compliance date
RACT	No later than November 15, 1999.
⅔ NO_X emission reductions	No later than May 1, 2003.
All NO_X reductions	No later than May 1, 2005.

TABLE VII.—AFFECTED SOURCES AND THEIR COMPLIANCE SCHEDULES FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL COMBUSTION SOURCES IN D/FW OZONE NONATTAINMENT AREA

Source type	Compliance date
RACT	No later than November 15, 1999.
Lean burn engines	No later than November 15, 2001.
⅔ NO_X emission reductions.	No later than May 1, 2003.
All NO_X reductions	No later than May 1, 2005..

We are of the opinion that the above listed compliance dates in the Tables VI and VII are as expeditious as practicable compared with the compliance dates of similar sources in serious and severe ozone nonattainment areas in the country. We are proposing approval of the NO_X emission specifications and compliance dates for the affected major stationary sources in the D/FW area as a part of the Texas 1-hour ozone SIP under part D of the Act because the State is relying on the NO_X control measures to demonstrate attainment of the 1-hour ozone standard in the D/FW nonattainment area.

5. What Are the EAxisting NO_X Emissions Specifications in the Texas SIP?

The following table contains a summary of the type of affected sources, their corresponding emission limits, and relevant applicability information for NO_X sources in the existing Texas SIP-approved rules. We have determined that these emission specifications in the existing Texas SIP-approved rules are consistent with Federal guidelines, and we approved them as meeting the RACT requirements of the Act. *See* 65 FR 53172, published on September 1, 2000.

TABLE VIII.—SUMMARY OF THE TEXAS SIP-APPROVED 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% 02, 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 Non-utility and 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.

TABLE VIII.—SUMMARY OF THE TEXAS SIP-APPROVED RULES FOR SOURCES IN THE H/GA, B/PA, AND D/FW NONATTAINMENT AREAS—Continued

Source	NO_X limit	Additional information
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.

6. What Are NO_X?

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

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.

9. 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.

10. 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 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.

11. 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.

12. What Areas in Texas Will This Action Affect?

The following table contains list of affected counties and the rules revision we are proposing to approve.

TABLE IX.—RULES LOG NUMBER, RULES REVISION, AND AFFECTED AREAS FOR TEXAS NO_X SIP

Rule log No.	Rule revision	Affected areas
1999–046–117–AI	Electric generating facilities (East and Central Texas).	Atascosa, Bastrop, Bexar, Brazos, Brazoria, Chambers, Cherokee, Calhoun, Collin, Dallas, Denton, Fannin, Fayette, Fort Bend, Freestone, Galveston, Goliad, Gregg, Grimes, Hardin, Harris, Harrison, Henderson, Hood, Hunt, Jefferson, Lamar, Liberty, Limestone, Marion, McLennan, Milam, Montgomery, Morris, Nueces, Orange, Parker, Red River, Robertson, Rusk, Tarrant, Titus, Travis, Victoria, Waller, and Wharton counties.
1999–049–117–AI	Cement kilns	Bexar, Comal, Ellis, Hays, and McLennan counties.

TABLE IX.—RULES LOG NUMBER, RULES REVISION, AND AFFECTED AREAS FOR TEXAS NO_X SIP—Continued

Rule log No.	Rule revision	Affected areas
1999–055D–117–AI	Point sources in D/FW area	Collin, Dallas, Denton, and Tarrant counties.

If you are in one of these Texas counties, you should refer to the Texas NO_X rules to determine if and how today's action will affect you.

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. 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'' issued under the executive order. 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: October 16, 2000.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 00–27925 Filed 10–30–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[HCFA–2086–P]

RIN 0938–AK22

Medicaid Program; Change in Application of Federal Financial Participation Limits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the current requirement that limits on Federal Financial Participation (FFP) must be applied before States use less restrictive income methodologies than those used by related cash assistance programs in determining eligibility for Medicaid.

This regulatory change is necessary because the current regulatory interpretation of how the FFP limits apply to income methodologies under section 1902 (r)(2) of the Social Security Act (the Act) unnecessarily restricts States' ability to take advantage of the authority to use less restrictive income methodologies under that section of the statute. While the enactment of section 1902(r)(2) of the Act could be read in the limited manner embodied in current regulations the statute does not require such a reading, and subsequent State experience with implementing section 1902(r)(2) calls into question the current regulation's approach.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 30, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2086–P, P.O. Box 8010, Baltimore, MD 21244–8010.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: