

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2007-1147; FRL-]

**Approval and Promulgation of Implementation Plans; Texas; Control of Emissions of
Nitrogen Oxides (NO_x) From Cement Kilns**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Approval.

SUMMARY: The EPA is proposing approval of revisions to the Texas State Implementation Plan (SIP). The State of Texas submitted this SIP revision to the 30 TAC Chapter 117 to us on May 30, 2007 (May 30, 2007 submittal) concerning control of emissions of NO_x from cement kilns operating in Bexar, Comal, Ellis, Hays, and McLennan Counties of Texas. We are proposing to approve the cement kilns provisions of the May 30, 2007 submittal for cement kilns operating in these five Texas Counties. We are also proposing to approve the May 30, 2007 submittal as meeting the Reasonably Available Control Technology (RACT) requirements for NO_x emissions from cement kilns operating in the Dallas Fort Worth (D/FW) 8-hour ozone nonattainment area. The NO_x emissions controls associated with this SIP revision will assist the D/FW area to attain the Federal 8-hour ozone National Ambient Air Quality Standards (NAAQS). We are proposing approval of this action as meeting Sections 110 and 182 of the Federal Clean Air Act (the Act).

DATE: Comments must be received on or before **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2007-1147, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- U.S. EPA Region 6 “Contact Us” web site: <http://epa.gov/region6/r6coment.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 email 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 8:00 a.m. and 4:00 p. m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2007-1147. The EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through www.regulations.gov or e-mail that you consider to be CBI or

otherwise protected from disclosure. The www.regulations.gov website 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 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 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 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 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee 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 75202-2733.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality (TCEQ), Office of Air Quality,
12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6691, fax (214) 665-7263, e-mail address shar.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

What Should I Consider as I Prepare My Comments for EPA?

A. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The agency may ask you to respond to specific questions or

organize comments by referencing a CFR part or section number.

- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

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

II. Background

1. What are we proposing to approve?

On May 30, 2007, TCEQ submitted rule revisions to 30 TAC, Chapter 117, “Control of Air Pollution from Nitrogen Compounds,” as a revision to the Texas SIP, identified by TCEQ as rule project No. 2006-004-117-EN, for cement kilns operating in Bexar, Comal, Ellis, Hays, and McLennan Counties. In this rulemaking, we are proposing to approve the NOx control requirements for cement kilns operating in these five Texas Counties. See sections 2, 3, 4, 8, and 9 of this document for more information. The NOx emissions controls associated with this SIP revision will assist the D/FW area to attain the Federal 8-hour ozone NAAQS, and will enhance the Texas SIP. We are also proposing to approve the cement kilns provisions of the May 30, 2007 submittal as meeting the RACT requirements for NOx emissions from cement kilns operating in the D/FW 8-hour ozone nonattainment area. By proposing to approve the cement kilns provisions of the May 30, 2007 submittal we are stating that Texas is meeting the NOx RACT requirements for cement kilns in the D/FW area.

The EPA has defined RACT as the lowest emission limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility. See 44 FR 53761, September 17, 1979. This requirement is established by sections 182(b)(2) and 182(f) of the Act. These two sections, taken together, establish the requirements for Texas to submit a NO_x RACT regulation for cement kilns (a major source of NO_x) in ozone nonattainment areas classified as moderate (such as D/FW) and above. A State may choose to develop its own RACT requirements on a case by case basis, considering the economic and technical circumstances of an individual source. In addition, section 183(c) of the Act provides that we will issue technical documents which identify alternative controls for stationary sources of NO_x. The EPA publishes the NO_x related Alternative Control Techniques documents (ACTs) for this purpose. The information in the ACT documents is generated from literature sources and contacts, control equipment vendors, EPA papers, engineering firms, and Federal, State, and local regulatory agencies. States can use information in the EPA ACTs to develop their RACT regulations. For a listing of EPA's ACT-related documents, including the ACT document for Cement Manufacturing, see http://www.epa.gov/ttn/naaqs/ozone/ctg_act/index.htm (URL dated April 22, 2008).

The Chapter 117 cement kilns provisions were last approved by EPA at 69 FR 15681 published on March 26, 2004.

2. What sections of the May 30, 2007 submittal will become part of Texas SIP?

Table 1 below contains a summary list of the sections of 30 TAC, Chapter 117 that Texas proposed on May 30, 2007, for cement kilns to become part of the Texas SIP.

Table 1 - Section Numbers and Section Descriptions of 30 TAC, Chapter 117 Affected by the Cement Kilns Rule

Section Number	Description
Section 117.3100	Applicability.
Section 117.3101	Cement Kilns Definitions.
Section 117.3103	Exemptions.
Section 117.3110	Emission Specifications.
Section 117.3120	Source Cap.
Section 117.3123	Dallas-Fort Worth Eight-Hour Ozone Attainment Demonstration Control Requirements.
Section 117.3140	Continuous Demonstration of Compliance.
Section 117.3142	Emission Testing and Monitoring for Eight-Hour Attainment Demonstration.
Section 117.3145	Notification, Recordkeeping, and Reporting Requirements.
Section 117.9320	Compliance Schedule for Cement Kilns.

You can find complete TCEQ's rules and regulations at

<http://www.tceq.state.tx.us/rules/indxpdf.html>.

3. What sections of the May 30, 2007 submittal will not become a part of Texas SIP?

Per TCEQ's request the following sections, listed in Table 2 below, of the cement kilns rule will not become a part of EPA-approved Texas SIP. These sections mainly pertain to the control of ammonia, that is not a precursor to ozone, and are not required to be a part of the SIP.

Table 2 – Sections of Chapter 117 Not in EPA-approved Texas SIP

Section Number	Explanation
117.3123(f), and 117.3125	Not a part of EPA-approved Texas SIP.

Although the above sections of 30 TAC Chapter 117 are not to become a part of Texas SIP, they will continue to remain enforceable at the State level.

4. What Texas Counties will this rulemaking affect?

Table 3 below lists the five Texas Counties that will be affected by the cement kilns rule.

Table 3 – Texas Counties Affected by Cement Kiln Rulemaking of 2007

Texas Counties	Explanation
Bexar, Comal, Ellis, Hays, and McLennan	See section 117.3101

5. What are NO_x?

Nitrogen oxides 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 ozone or smog, and are also major components of acid rain.

Also see <http://www.epa.gov/air/urbanair/nox/>.

6. 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.

7. What is a State Implementation Plan?

The SIP is a set of air pollution regulations, control strategies, other means or techniques and technical analyses developed by the state, to ensure that the state meets the NAAQS. The SIP is required by Section 110 and other provisions of the Act. These SIPs 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 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.

8. What are the NO_x control emissions requirements that we approved for Texas under the 1-hour ozone SIP?

We approved the NO_x control emission requirements for cement kilns at 69 FR 15681 published on March 26, 2004. See Table III of that document. We have included that Table in our TSD prepared for this rulemaking action.

9. What are the NO_x control emissions requirements that we are proposing to approve for Texas under the 8-hour ozone SIP?

Under today's rulemaking action, the NO_x control requirements that we approved on March 26, 2004 (69 FR 15681) for cement kilns operating in Texas Counties of Bexar, Comal, Hays, and McLennan still will continue to remain in effect.

Ellis County is located within the D/FW 8-hour ozone nonattainment area. The ozone season for the D/FW area is March 1 through October 31 of each calendar year. See 40 CFR 58, Appendix D, Table D-3, and 40 CFR 81.39. For Ellis County, during the non-ozone season (November 1 through end-of-February of each calendar year), the cement kilns NO_x control requirements that we approved at 69 FR 15681 will continue to remain in effect. However, during the ozone season, March 1 through October 31 of each calendar year, the cement kilns in Ellis County must comply with a source cap formula calculated and expressed in Tons Per Day (TPD) of actual NO_x emissions, per site, on a 30-day rolling average basis. See equation 117.3123(b). The following Table 5 contains a summary list of NO_x control requirements for cement kilns under the 8-hour ozone SIP.

Table 5 – NOx Control Requirements for Cement Kilns Under the 8-Hour Ozone SIP

Source	County	NOx emission Requirement	Citation
Long wet kiln	Bexar, Comal, Hays, McLennan	6.0 lb NOx/ton of clinker produced	117.3110(a)(1)(A)
Long dry kiln	Bexar, Comal, Hays, McLennan	5.1 lb NOx/ton clinker of produced.	117.3110(a)(2)
Preheater kiln	Bexar, Comal, Hays, McLennan	3.8 lb NOx/ton of clinker produced.	117.3110(a)(3)
Precalciner or preheater-precalciner kiln	Bexar, Comal, Hays, McLennan	2.8 lb NOx/ton of clinker produced.	117.3110(a)(4)
Long wet kiln	Ellis	4.0 lb NOx/ton of clinker produced, outside D/FW ozone season.	117.3110(a)(1)(B)
Preheater kiln	Ellis	3.8 lb NOx/ton of clinker produced, outside D/FW ozone season.	117.3110(a)(3)
Long dry kiln	Ellis	5.1 lb NOx/ton clinker of produced, outside D/FW ozone season.	117.3110(a)(2)
Precalciner or preheater-precalciner kiln	Ellis	2.8 lb NOx/ton of clinker produced, outside D/FW ozone season.	117.3110(a)(4)
Portland cement kiln	Ellis	During D/FW ozone season, 30-day rolling average, source cap equation 117.3123(b), with the 2003-2005 reported average annual clinker production, limit is equivalent to 1.7 lb NOx/ton of clinker produced for dry preheater-precalciner or precalciner kilns, or 3.4 lb NOx/ton of clinker produced for long wet kilns.	117.3123(b)

The cement kilns rule does not require or endorse a specific post combustion NOx control technology, and allows the owners or operators to choose their preferred method of compliance

as long as the source cap limit, per site, is being met. These NOx control requirements will result in a 9.7 TPD of NOx reduction from cement kilns in Ellis County, and will enhance the Texas SIP. We contend that the above NOx control requirements for existing cement kilns in the D/FW area are more stringent than those found in our reference documents "Alternative Control Techniques Document -- NOx Emissions from Cement Manufacturing" EPA-453/R-94-004, and "NOx Control Technologies for the Cement Industry" Final Report, EPA Contract No. 68-D98-026, dated September 19, 2000, and are comparable to or more stringent than controls to be implemented in other parts of the country for RACT purposes. Therefore, we are proposing their approval into Texas SIP, and as meeting the RACT requirement for the D/FW 8-hour ozone nonattainment area. See our TSD prepared in conjunction with this rulemaking action for more information.

10. What are the compliance schedules for NOx emissions from cement kilns that we are proposing to approve?

The compliance schedule for cement kilns located in Texas Counties of Bexar, Comal, Hays, and McLennan will continue to remain in effect as we approved them at 69 FR 15681. See Table IV of that document. We have included that Table in our TSD prepared for this rulemaking action.

The following Table 6 contains summary of the NOx compliance schedule-related information for cement kilns in Ellis County. See section 117.9320(c) for more information.

Table 6 – NO_x Compliance Schedules for Cement Kilns in Ellis County Under Chapter 117

Source	Compliance Date	Additional Information	Citation
Cement Kilns – Ellis County	Comply with testing, monitoring, notification, recordkeeping, and reporting requirements as soon as practicable but no later than March 1, 2009.	8-hour attainment demonstration requirement	117.9320

We believe that including the compliance dates in the rule provides for enforceability and practicability of the NO_x rule, and enhances the Texas SIP. The March 1, 2009 compliance date for cement kilns in Ellis County is consistent with the implementation requirement set forth in 40 CFR 51.912(a)(3). Therefore, we are proposing their approval into Texas SIP, and as meeting the RACT requirement for the D/FW 8-hour ozone nonattainment area.

III. Proposed Action

Today, we are proposing to approve revisions to the 30 TAC Chapter 117 into Texas SIP. In this rulemaking we are proposing to approve the cement kilns provisions of the May 30, 2007 submittal for cement kilns operating in Bexar, Comal, Ellis, Hays, and McLennan Counties of Texas. We are also proposing to approve the May 30, 2007 submittal as meeting the RACT requirements for NO_x emissions from cement kilns operating in the D/FW 8-hour ozone nonattainment area. These NO_x reductions will assist the D/FW area to attain the 8-hour ozone NAAQS, and enhance the Texas SIP.

IV. 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 proposes to approve 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 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule 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.

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, Volatile organic compounds.

JUL 01 2008

Dated: ,2008



Richard E. Greene,
Regional Administrator,
Region 6.