

the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's action is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. We believe that the December 31, 2002 final rule as a whole will result in equal or better environmental protection than provided by earlier regulations, and do so in a more streamlined and effective manner. Similarly, today's notice is not expected to change substantially the level of environmental protection provided by the December 31, 2002 final rule, and as a result, it is not expected to present a disproportionate environmental health or safety risk for children.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Today's notice is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The December 31, 2002 final rule improves the ability of sources to undertake pollution prevention or energy efficiency projects, switch to less polluting fuels or raw materials, maintain the reliability of production facilities, and effectively utilize and improve existing capacity. That rule also includes a number of provisions to streamline administrative and permitting processes so that facilities can quickly accommodate changes in supply and demand. It provides several alternatives that are specifically designed to reduce administrative burden for sources that use pollution prevention or energy efficient projects. We do not expect that today's action would result in changes to the final rules that are so substantial as to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus

standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's notice does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

VI. Statutory Authority

The statutory authority for this action is provided by sections 307(d)(7)(B), 101, 111, 114, 116, and 301 of the CAA as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601). This notice is also subject to section 307(d) of the CAA (42 U.S.C. 7407(d)).

List of Subjects in 40 CFR Parts 51 and 52

Environmental protection, Administrative practice and procedure, Air pollution control, BACT, Baseline emissions, Carbon monoxide, Clean Units, Hydrocarbons, Intergovernmental relations, LAER, Lead, Major modifications, Nitrogen oxides, Ozone, Particulate matter, Plantwide applicability limitations, Pollution control projects, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 25, 2003.

Jeffrey Holmstead,

Assistant Administrator, Office of Air and Radiation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX-164-1-7602a; FRL-7536-8]

Approval and Promulgation of Implementation Plans; Texas; Control of Emission of Oxides of Nitrogen From Cement Kilns

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Texas State Implementation Plan (SIP). These

revisions concern Control of Air Pollution from Nitrogen Compounds, Cement Kilns. The EPA is approving these SIP revisions for cement kilns as they will contribute to attainment of the 1-hour ozone National Ambient Air quality Standards (NAAQS). The EPA is approving emissions of Oxides of Nitrogen (NO_x) for cement kilns in accordance with the requirements of the Federal Clean Air Act (the Act).

DATES: This rule is effective on September 29, 2003 without further notice, unless EPA receives adverse comment by August 29, 2003. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Electronic comments should be sent either to Diggs.Thomas@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Final Action part of this document. Copies of the Technical Support Document (TSD) and other documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

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

Texas 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), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6691, and shar.alan@epa.gov.

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