

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.*

[FR Doc. 03-19356 Filed 7-29-03; 8:45 am]

**BILLING CODE 6560-50-P**

**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<sub>x</sub>) 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](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

1. What Actions Are We Taking in This Document?
2. Why Are We Approving These SIP Revisions for Texas?
3. What Is NO<sub>x</sub>?
4. What Is a SIP?
5. What Are the Existing NO<sub>x</sub> Emissions Specifications in the Texas SIP?
6. What Do These Rule Revisions for Cement Kilns That We Are Approving Provide?
7. What Areas In Texas Will These Rules Affect?

8. General Information

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

**1. What Actions Are We Taking in This Document?**

On April 30, 2000, the Governor of Texas submitted to us rule revisions to 30 TAC, Chapter 117, Control of Air Pollution From Nitrogen Compounds concerning cement kilns operations (April 30, 2000 SIP submittal). The April 30, 2000 SIP submittal specifically addressed revisions to the following sections of Chapter 117.

**TABLE I.—AFFECTED SECTIONS OF THE RULE UNDER APRIL 30, 2000 SIP SUBMITTAL**

Section	Title
117.260 ....	Cement Kiln Definitions.
117.261 ....	Applicability.
117.265 ....	Emissions Specifications.
117.273 ....	Continuous Demonstration of Compliance.
117.279 ....	Notification, Recordkeeping, and Reporting Requirements.
117.283 ....	Source Cap.
117.524 ....	Compliance Schedule for Cement Kilns.

In CEMEX USA (CEMEX) and TXI Operations, LP (TXI) v. TCEQ, Case No. GN001480 (Travis Co. Dist. Ct. April 30, 2003), CEMEX and TXI challenged the State for adopting the above revision to Chapter 117. As a part of a negotiated settlement of the case, TCEQ issued a re-proposal to revise 30 TAC, Chapter 117, on October 24, 2002. The incorporation of the re-proposal into the SIP may result in better compliance by the regulated community and thus more certainty that the emission reductions will actually occur.

On December 9, 2002, EPA submitted comments to TCEQ concerning re-proposed revisions to Chapter 117.

On April 2, 2003, TCEQ submitted a revised Chapter 117, Control of Air Pollution from Nitrogen Compounds rule concerning cement kilns operations

as a revision to the SIP (April 2, 2003 SIP submittal). The April 2, 2003 SIP submittal specifically addressed revisions to the following sections of Chapter 117.

**TABLE II.—AFFECTED SECTIONS OF THE RULE UNDER APRIL 2, 2003 SIP SUBMITTAL**

Section	Title
117.260 ....	Cement Kiln Definitions.
117.265 ....	Emissions Specifications.
117.279 ....	Notification, Recordkeeping, and Reporting Requirements.
117.283 ....	Source Cap.
117.524 ....	Compliance Schedule for Cement Kilns.
117.570 ....	Use of Credits for Compliance.

See our TSD for additional details/ information and our evaluation of these submittals.

**2. Why Are We Approving These SIP Revisions for Texas?**

The April 30, 2000 and April 2, 2003 SIP submittals require the affected sources to reduce their NO<sub>x</sub> emissions from cement kilns by at least thirty percent from the 1996 baseline emissions levels. The April 30, 2000 and April 2, 2003 SIP submittals also offer operational flexibility to the affected sources to comply with the NO<sub>x</sub> emissions limitations. We are approving these revisions to the Texas SIP because they will contribute to attainment of the 1-hour ozone NAAQS, and as a measure to strengthen the SIP. We are approving these revisions to the Texas SIP as meeting the requirements of the Act.

**3. What Is NO<sub>x</sub>?**

Nitrogen oxides belong to the group of criteria air pollutants. NO<sub>x</sub> results 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.

**4. What Is a SIP?**

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

**5. What Are the Existing NO<sub>x</sub> Emissions Specifications in the Texas SIP?**

Currently, Texas SIP contains no federally-approved requirements for controlling NO<sub>x</sub> emissions from cement kilns. By approving the April 30, 2000 and April 2, 2003 SIP submittals we will be strengthening the Texas SIP compliance for enforcement purposes.

**6. What Do These Rule Revisions for Cement Kilns That We Are Approving Provide?**

These rule revisions require at least 30% reductions of NO<sub>x</sub> compared with the 1996 baseline emission inventory from cement kilns operating in Bexar, Comal, Ellis, Hays, and McLennan Counties (East and Central Texas). The following two tables contain a summary of these SIP revisions for cement kilns in East and Central Texas.

**TABLE III.—AFFECTED SOURCES, LOCATIONS, AND NO<sub>x</sub> EMISSIONS SPECIFICATIONS FOR CEMENT KILNS**

Source	County	NO <sub>x</sub> emission specification
Long wet kiln .....	Bexar, Comal, Hays, McLennan .....	6.0 lb NO <sub>x</sub> /ton of clinker produced.
Long wet kiln .....	Ellis .....	4.0 lb NO <sub>x</sub> /ton of clinker produced.
Long dry kiln .....	Bexar, Comal, Hays, McLennan, Ellis .....	5.1 lb NO <sub>x</sub> /ton clinker of produced.
Preheater kiln .....	Bexar, Comal, Hays, McLennan, Ellis .....	3.8 lb NO <sub>x</sub> /ton of clinker produced.
Precalciner or preheater-precaciner kiln .....	Bexar, Comal, Hays, McLennan, Ellis .....	2.8 lb NO <sub>x</sub> /ton of clinker produced.

TABLE IV.—AFFECTED SOURCES AND THEIR COMPLIANCE SCHEDULES

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

These emissions specifications meet and are in agreement with those found in our reference document EPA-453/R-94-004 for cement plants and are comparable or more stringent than emission specifications for cement kilns in a number of other federally approved State rules. See our TSD for additional information. We are of the opinion that the above listed compliance dates are practicable. We are approving the NO<sub>x</sub> 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<sub>x</sub> control measures to demonstrate attainment of the 1-hour ozone standard in the Dallas/Fort Worth area. We are also approving these rules under sections 110 and 116 of the Act because they contribute to continued maintenance of the standard in the eastern half of the State of Texas strengthen the existing Texas SIP.

#### 7. What Areas in Texas Will These Rules Affect?

The following table contains a list of Counties affected by today's rulemaking action.

TABLE V.—AFFECTED TEXAS COUNTIES BY THE CEMENT KILN PROVISIONS OF CHAPTER 117

Rule/source	Affected counties
Chapter 117/Cement Kilns.	Bexar, Comal, Ellis, Hays, and McLennan.

If you are in one of these Texas counties, you should refer to the Chapter 117 rules to determine if and how today's action will affect you.

#### Final Action

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on September 29, 2003 without further notice unless we

receive adverse comment by August 29, 2003. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### 8. General Information

##### *How Can I Get Copies of This Document and Other Related Information?*

A. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* The EPA has established an official public rulemaking file for this action under TX-164-1-7602. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Planning Section, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. The EPA requests that, if at all possible, you contact the rulemaking contact listed as the Further Information Contact to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal Holidays.

B. *Copies of the State submittal and EPA's Technical Support Document (TSD) are also available for public inspection during normal business hours, by appointment at the State Air Agency.* TCEQ, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

C. *Electronic Access.* You may access this Federal Register document electronically through the Regulations.gov web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as

EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

##### *How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, TX-164-1-7602, in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." The EPA is not required to consider these late comments.

A. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *Electronic Mail (e-mail).* Comments may be sent by e-mail to Mr. Alan Shar ([shar.alan@epa.gov](mailto:shar.alan@epa.gov)). The EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the

comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov*. Your use of *Regulations.gov* is an alternative method of submitting electronic comments to EPA. Go directly to *Regulations.gov* at <http://www.regulations.gov>, then select EPA at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section B, directly below. These electronic submissions will be accepted in WordPerfect, Word, or ASCII file format. Avoid the use of special characters and any form of encryption.

B. *By Mail*. Send your comments to: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733; Attention: TX-164-1-7602.

C. *By Hand Delivery or Courier*. Deliver your comments to: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal Holidays.

*How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, 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 CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any 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 official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information

not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 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, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 17, 2003.  
**Lawrence Starfield,**  
*Acting Regional Administrator, Region 6.*  
 Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subchapter E, by adding a new individual entry for section 117.524 and revising the entry for section 117.570.

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

**Subpart SS—Texas**

2. In § 52.2270 the table in paragraph (c) is amended under Chapter 117, Subchapter B, by adding a new entry heading as “Division 4—Cement Kilns”, adding new individual entries for sections “117.260, 117.261, 117.265, 117.273, 117.279, and 117.283”;

**§ 52.2270 Identification of plan.**

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 (c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
<b>Chapter 117 (Reg 7)—Control of Air Pollution From Nitrogen Compounds</b>				
* * *	* * *	* * *	* * *	* * *
Section 117.223	Source Cap	04/19/00	03/16/01, 66 FR 15200	(b)(1) Requires EPA's approval.
<b>Subchapter B—Division 4—Cement Kilns</b>				
Section 117.260	Cement Kiln Definitions	04/30/00, 04/02/03	July 30, 2003 and [FR page number].	
Section 117.261	Applicability	04/30/00	July 30, 2003 and [FR page number].	Also finalizes 65 FR 64914.
Section 117.265	Emission Specifications	04/30/00, 04/02/03	July 30, 2003 and [FR page number].	
Section 117.273	Continuous Demonstration of Compliance.	04/30/00	July 30, 2003 and [FR page number].	Also finalizes 65 FR 64914
Section 117.279	Notification, Record-keeping, and Reporting Requirements.	04/30/00, 04/02/03	July 30, 2003 and [FR page number].	
Section 117.283	Source Cap	04/30/00, 04/02/03	July 30, 2003 and [FR page number].	
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<b>Subchapter E—Administrative Provisions</b>				
* * *	* * *	* * *	* * *	* * *
Section 117.524	Compliance Schedule for Cement Kilns.	04/30/00, 04/02/03	July 30, 2003 and [FR page number].	
Section 117.570	Use of Emissions Credits for Compliance.	04/02/03	July 30, 2003 and [FR page number].	
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[FR Doc. 03-19279 Filed 7-29-03; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2003-0059; FRL-7309-8]

**Bacillus subtilis var. amyloliquefaciens strain FZB24; Exemption from the Requirement of a Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus subtilis* var. *amyloliquefaciens* strain FZB24 on all agricultural commodities when applied/used in accordance with good agricultural use practices for plant strengthening, growth enhancement, and plant disease suppression. Earth BioSciences submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from