

Amend **CSHB 2481** as follows:

(1) Insert the following appropriately numbered sections:

SECTION _____. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0173 to read as follows:

Sec. 382.0173. ADOPTION OF RULES REGARDING CERTAIN STATE IMPLEMENTATION PLAN REQUIREMENTS AND STANDARDS OF PERFORMANCE FOR CERTAIN SOURCES. (a) The commission shall adopt rules to comply with Sections 110(a)(2)(D) and 111(d) of the federal Clean Air Act (42 U.S.C. Sections 7410 and 7411). In adopting the rules, at a minimum the commission shall adopt and incorporate by reference 40 C.F.R. Subparts AA through II and Subparts AAA through III of Part 96 and 40 C.F.R. Subpart HHHH of Part 60. The commission shall adopt a state implementation plan in accordance with the rules and submit the plan to the United States Environmental Protection Agency for approval according to the schedules adopted by that agency.

(b) The commission may require emissions reductions in conjunction with implementation of the rules adopted under Subsection (a) only for electric generating units. The commission shall make permanent allocations that are reflective of the allocation requirements of 40 C.F.R. Subparts AA through HH and Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of Part 60, as applicable, at no cost to units as defined in 40 C.F.R. Section 51.123 and 60.4102 using the United States Environmental Protection Agency's allocation method as specified by Section 60.4142(a)(1)(i), as issued by that agency on May 12, 2005, or 40 C.F.R. Section 96.142(a)(1)(i), as issued by that agency on May 18, 2005, as applicable with the exception of nitrogen oxides which shall be allocated according to the additional requirements of subsection (c). The commission shall maintain a special reserve of allocations for new units commencing operation on or after January 1, 2001, as defined by 40 C.F.R. Subparts AA through HH and Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of Part 60, as applicable with the exception of nitrogen oxides which shall be allocated according to the additional requirements of subsection (c).

(c) Additional requirements regarding NOx allocations:

(1) the commission shall maintain a special reserve of allocations for nitrogen oxide of 9.5% for new units. Beginning with the 2015 control period, units shall be considered new for each control period in which they do not have 5 years of operating data reported to the commission prior to the date of allocation for a given control period. Prior to the 2015 control period, units that commenced operation on or after January 1, 2001, will receive NOx allocations from the special reserve only.

(2) Nitrogen oxide allowances shall be established for the 2009-2014 control periods for units commencing operation before January 1, 2001, using the average of the 3 highest amounts of the unit's adjusted control period heat input for 2000 through 2004, with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 90 percent;

(B) If the unit is natural gas-fired during the year, the unit's control period heat input for such year is multiplied by 50 percent; and

(C) If the unit is not subject to subparagraph (A) or (B) of this paragraph, the unit's control period heat input for such year is multiplied by 30 percent.

(3) Before the allocation date specified by EPA for the control period beginning January 1, 2016, and every five years thereafter, the commission shall adjust the baseline for all affected units using the average of the 3 highest amounts of the unit's adjusted control period heat input for periods 1 through 5 of the preceding 7 control periods, with the adjusted control period heat input for each year calculated as follows:

(A) For units commencing operation before January 1, 2001:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 90 percent;

(ii) If the unit is natural gas-fired during the year, the unit's control period heat input for such year

is multiplied by 50 percent; and

(iii) If the fossil fuel fired unit is not subject to (3)(A)(i) or (3)(A)(ii) of this subparagraph, the unit's control period heat input for such year is multiplied by 30 percent.

(B) For units commencing operation on or after January 1, 2001, in accordance with the formulas set forth by USEPA in 40CFR 96.142 with any corrections to this section that may be issued by USEPA prior to the allocation date.

(d) This section applies only while the federal rules cited in this section are enforceable and does not limit the authority of the commission to implement more stringent emissions control requirements.

(e) In adopting rules under Subsection (a), the commission shall incorporate any modifications to the federal rules cited in this section that result from a request for rehearing regarding those rules that is filed with the United States Environmental Protection Agency or from a petition for review of those rules that is filed with a court.

(f) The commission shall take all reasonable and appropriate steps to exclude the West Texas Region and El Paso Region, as defined by Sec. 39.264(g), Utilities Code, from any requirement under, derived from, or associated with 40 Code of Federal Sections 51.123, 51.124 and 51.125, including filing a petition for reconsideration with the United States Environmental Protection Agency requesting that it amend 40 Code of Federal Regulations Sections 51.123, 51.124 and 51.125 to exclude such regions. The commission shall promptly amend the rules it adopts under Subsection (a) of this section to incorporate any exclusions for such regions that result from the petition required under this subsection.