

during the calendar year. Under these facts, X is a common paymaster for S and X with respect to B. Assuming that the other requirements of this section are met, the amount of the tax liability under sections 3102 and 3111 is determined as if X were B's only employer for the calendar quarter.

\* \* \* \* \*

(c) \* \* \*  
(2) \* \* \*

(iii) [Reserved]. For further guidance, see § 31.3121(s)-1T(c)(2)(iii).

\* \* \* \* \*

[FR Doc. 08-55507 Filed 3-21-08; 8:45 am]

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2006-0871; FRL-8545-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of 8-Hour Ozone Section 110(a)(1) Maintenance Plans for the Parishes of Lafayette and Lafourche

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Louisiana State Implementation Plan (SIP) concerning the 8-hour ozone maintenance plans for the parishes of Lafayette and Lafourche. On October 13, 2006 and December 19, 2006, the State of Louisiana submitted maintenance plans for Lafayette and Lafourche Parishes, respectively, which ensure continued attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. These maintenance plans meet the statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is approving the revisions pursuant to section 110 of the Federal Clean Air Act (CAA).

**DATES:** This rule is effective on May 23, 2008 without further notice, unless EPA receives relevant adverse comment by April 23, 2008. 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:** Submit your comments, identified by Docket No. EPA-R06-OAR-2006-0871, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *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](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail 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 a.m. and 4 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-2006-0871. 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](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site 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](http://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](http://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](http://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 or Mr. Bill Deese at 214-665-7253 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.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Louisiana Department of Environmental Quality, Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, Louisiana 70821.

**FOR FURTHER INFORMATION CONTACT:** Paul Kaspar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7459; fax number 214-665-7263; e-mail address [kaspar.paul@epa.gov](mailto:kaspar.paul@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we" "us" or "our" is used, we mean the EPA.

#### Outline

- I. Background
- II. Analysis of the State's Submittals
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

Under section 107 of the 1977 CAA, Louisiana's Lafayette and Lafourche Parishes were designated as nonattainment areas because they did not meet the National Ambient Air Quality Standards (NAAQS) for 1-hour ozone (40 CFR 81.319). As required by section 110 of the CAA, the state of Louisiana submitted a SIP to EPA on December 10, 1979. EPA approved this SIP on October 29, 1981 (46 FR 53412). Under the 1990 CAA Amendments, the

Lafayette and Lafourche Parish nonattainment areas continued to be designated nonattainment for the 1-hour ozone NAAQS by operation of law since Louisiana had not yet collected the required three years of data necessary to petition for redesignation to attainment.

On May 25, 1993 and November 18, 1994, Louisiana submitted requests to redesignate Lafayette and Lafourche Parishes, respectively, to attainment for the 1-hour ozone standard. At the same time, the State submitted the required ozone monitoring data and maintenance plans for each parish (each area includes only the one Parish) to ensure the areas would remain in attainment for 1-hour ozone for a period of 10 years. The maintenance plans submitted by Louisiana followed EPA guidance for limited maintenance areas, which provides for 1-hour ozone areas that have design values less than 85% of the applicable standard. In this case, the applicable standard was the 1-hour ozone standard of 0.12 parts per million (ppm). At the time of the redesignation request, the design values for Lafayette and Lafourche Parishes were 0.102 ppm and 0.098 ppm, respectively, and below the 85% threshold of 0.106 ppm.

Due to several approvability issues that existed with the Lafayette Parish maintenance plan and redesignation request, the state submitted a revised maintenance plan and redesignation request to EPA on October 14, 1994. EPA approved Louisiana's request to redesignate Lafayette Parish to attainment for the 1-hour ozone standard and approved the Parish's maintenance plan on August 18, 1995 (60 FR 43020), with an effective date of October 17, 1995.

EPA originally approved Louisiana's request to redesignate Lafourche Parish to attainment for the 1-hour ozone standard and approved the Parish's maintenance plan on August 18, 1995 (60 FR 43020). However, before the redesignation to attainment was effective, a violation of the 1-hour ozone standard was recorded at a Lafourche Parish ozone monitoring station. On December 5, 1997, EPA corrected the designation for Lafourche Parish to nonattainment for the 1-hour ozone standard (62 FR 64284) but left the Parish's maintenance plan approved on August 18, 1995 in place. On August 9, 2000, the Louisiana Department of Environmental Quality (LDEQ) again requested to redesignate Lafourche Parish to attainment for the 1-hour ozone standard by submitting data indicating the 1-hour ozone standard had been achieved for the period of January 1, 1997 through December 31, 1999. EPA also evaluated the ozone data

from the years 2000 and 2001, and no violations of the 0.12 ppm 1-hour ozone standard occurred in these additional years. Since the data satisfied the regulatory requirements of no more than one exceedance per annual monitoring period, EPA approved Louisiana's request to redesignate Lafourche Parish to attainment on December 26, 2001 (66 FR 66317), with an effective date of February 25, 2002.

On April 30, 2004, EPA designated and classified areas for the new 8-hour ozone NAAQS (69 FR 23858), and published the final phase 1 rule for implementation of the 8-hour ozone NAAQS (69 FR 23951). Lafayette and Lafourche Parishes were designated as unclassifiable/attainment for the 8-hour ozone standard, effective June 15, 2004. The two attainment areas consequently were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 rule. On May 20, 2005, EPA issued guidance providing information regarding how a state might fulfill the maintenance plan obligation established by the Act and the Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-Hour Ozone Areas Under Section 110(a)(1) of Clean Air Act, May 20, 2005*). These SIP revisions satisfy the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 8-hour ozone NAAQS in the Lafayette and Lafourche Parish 8-hour ozone unclassifiable/attainment areas.

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (*South Coast Air Quality Management District. v. EPA*, 472 F.3d 882 (D.C.Cir. 2006)). Petitions for rehearing were filed with the Court, and on June 8, 2007, the Court modified the scope of the vacatur of the Phase 1 rule. The Court vacated those portions of the Rule that provide for regulation of 8-hour ozone nonattainment areas under Subpart 1 in lieu of Subpart 2 and that allow backsliding with respect to new source review, penalties, milestones, contingency plans, and motor vehicle emission budgets. Consequently, the Court's modified ruling does not alter any requirements under the Phase 1 8-hour ozone implementation rule for maintenance plans.

## II. Analysis of the State's Submittals

On October 13, 2006 and December 19, 2006, the State of Louisiana

submitted maintenance plans for the Parishes of Lafayette and Lafourche, respectively. These October and December revisions provide 8-hour ozone maintenance plans for the two parishes named above, as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Implementation Rule (*see* 40 CFR 51.905(a)(4)). The purpose of these plans is to ensure continued attainment and maintenance of the NAAQS for 8-hour ozone in Lafayette and Lafourche Parishes.

In this action, EPA is approving the State's 8-hour ozone maintenance plans for the Lafayette and Lafourche Parish areas because EPA finds that the LDEQ submittals meet the requirements of section 110(a)(1) of the CAA, EPA's rule, and is consistent with EPA's guidance. As required, these plans provide for continued attainment and maintenance of the 8-hour ozone NAAQS in these areas for 10 years from the effective date of the area's designation as unclassifiable/attainment for the 8-hour ozone NAAQS, and include components illustrating how each Parish will continue in attainment of the 8-hour ozone NAAQS and contingency measures. Each of the section 110(a)(1) plan components is discussed below.

(a) Attainment Inventory. The LDEQ developed comprehensive inventories of volatile organic compound (VOC) and nitrogen oxide (NO<sub>x</sub>) emissions from area, stationary, and mobile sources using 2002 as the base year to demonstrate maintenance of the 8-hour ozone NAAQS for Lafayette and Lafourche Parishes. The year 2002 is an appropriate year for the LDEQ to base attainment level emissions because States may select any one of the three years on which the 8-hour attainment designation was based (2001, 2002, and 2003). The State's submittals contain the detailed inventory data and summaries by source category. The 2002 base year inventory is a good choice. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values on which the 8-hour ozone designation decisions were based. It also is one of the years in the 2002–2004 period used to establish baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002

emissions inventory was established in the rule as June 2004. In accordance with these requirements, the State of Louisiana compiles a statewide emissions inventory for point sources on an annual basis. For stationary point sources in Lafayette and Lafourche Parishes, the LDEQ provided estimates for each commercial or industrial operation that emits 100 tons or more per year of VOC or 100 tons or more per year of NO<sub>x</sub> in Appendix A of each maintenance plan. Stationary non-point source data was provided by E.H. Pechan & Associates, Inc., through the Central Regional Air Planning Association (CENRAP) using the methodology in "Consolidation of Emissions Inventories", section C, page 26. On-road mobile emissions of VOC

and NO<sub>x</sub> were estimated using EPA's MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived from the "Emission Inventory Development For Mobile Sources and Agricultural Dust Sources for the Central States" produced by Sonoma Technology, Inc. for CENRAP in October 2004 using EPA's NONROAD 2004 non-road mobile emissions computer model. EPA finds that the LDEQ prepared the 2002 base year emissions inventories for the two Parishes consistent with EPA's long-established guidance memoranda.

In projecting data for the attainment year 2014 inventory, LDEQ used several methods to project data from the base year 2002 to the years 2008, 2011, and

2014. These projected inventories were developed using EPA-approved technologies and methodologies. Point source and non-point source projections were derived from the Emissions Growth Analysis System version 4.0 (EGAS 4.0). Non-road mobile projections were derived from EGAS 4.0, as well as from the National Mobile Inventory Model.

The following tables provide VOC and NO<sub>x</sub> emissions data for the 2002 base attainment year inventory, as well as projected VOC and NO<sub>x</sub> emission inventory data for the years 2008, 2011, and 2014. Please see the Technical Support Document (TSD) for additional emissions inventory data including projections by source category for each parish.

LAFAYETTE PARISH

[VOC and NO<sub>x</sub> Emissions Inventory Baseline (2002) and Projections (2008, 2011, and 2014)]

Emissions source	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC .....	27.23	22.24	20.79	19.75
Total NO <sub>x</sub> .....	29.38	24.18	22.74	21.22

As shown in the table above, total VOC and total NO<sub>x</sub> emissions for Lafayette Parish are projected to

decrease over the 10-year period of the maintenance plan.

LAFOURCHE PARISH

[VOC and NO<sub>x</sub> Emissions Inventory Baseline (2002) and Projections (2008, 2011, and 2014)]

Emissions source	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC .....	24.20	20.61	19.08	17.95
Total NO <sub>x</sub> .....	14.24	13.06	12.51	12.06

As shown in the table above, total VOC and total NO<sub>x</sub> emissions for Lafourche Parish are projected to decrease over the 10-year period of the maintenance plan.

Please see the TSD for more information on EPA's analysis and review of the State's methodologies, modeling data and performance, etc. for developing the base and attainment year inventories. As shown in the tables above, the State has demonstrated that the future year 8-hour ozone emissions will be less than the 2002 base attainment year's emissions. The attainment inventories submitted by the LDEQ for these areas are consistent with the criteria as discussed in the EPA Maintenance Plan Guidance memo dated May 20, 2005. EPA finds that the future emissions levels in 2008, 2011 and 2014 for total VOC and total NO<sub>x</sub> are expected to be less than the emissions levels in 2002.

(b) Maintenance Demonstration. The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 8-hour ozone standard for the 10-year period following the effective date of designation as unclassifiable/attainment. The end projection year is 10 years from the effective date of the attainment designation, which for Lafayette and Lafourche Parishes was June 15, 2004. Therefore, these plans must demonstrate attainment through 2014. As discussed in section (a) Attainment Inventory above, Louisiana has identified the level of ozone-forming emissions in Lafayette and Lafourche Parishes that were consistent with attainment of the NAAQS for ozone in 2002. Louisiana has projected VOC and NO<sub>x</sub> emissions for the years 2008, 2011, and 2014 in Lafayette and Lafourche Parishes and EPA finds that the future emissions levels for total VOC and total

NO<sub>x</sub> in those years are expected to be below the emissions levels in 2002. Please see the TSD for more information on EPA's review and evaluation of the State's 2008, 2011, and 2014 projected emissions inventories.

Louisiana relies on several air quality measures that will provide for additional 8-hour ozone emissions reductions in Lafayette and Lafourche Parishes. These measures include the following, among others: (1) Implementation of EPA's National Rule for VOC Emission Standards for Automobile Refinish Coatings (63 FR 48806), Consumer Products (63 FR 48819), and Architectural Coatings (63 FR 48848), (2) enacting of specific requirements from EPA's Tier 2 Motor Vehicle Emission Standards (65 FR 6697), EPA's Heavy-Duty Engine and Vehicle Standards (66 FR 5002), as well as EPA's gasoline and highway diesel fuel sulfur control requirements (66 FR

5002), (3) EPA's required control of emissions from non-road diesel engines and fuels (69 FR 38958), and (4) implementation of the Federal Clean Air Interstate Rule (CAIR) (70 FR 25162). The purpose of these control measures is to reduce levels of 8-hour ozone, including the areas of Lafayette and Lafourche Parishes.

As an additional demonstration of maintenance, Louisiana references the EPA modeling conducted for CAIR, in the maintenance plan submittals. Louisiana is a state that must implement CAIR, and the EPA CAIR modeling indicates that all Louisiana parishes will be in attainment with the 8-hour ozone standard by 2010, with continued attainment projected through 2015. This analysis is consistent with the projections discussed above in (a) Attainment Inventory.

(c) Ambient Air Quality Monitoring. The State of Louisiana has committed in its maintenance plans for Lafayette and Lafourche Parishes to continue operation of an appropriate, EPA-approved, ozone monitoring network and to work with EPA in compliance with 40 CFR Part 58 with regard to the continued adequacy of the network, if additional monitoring is needed, and when monitoring can be discontinued. The 8-hour ozone NAAQS is 0.08 ppm based on the three-year average of the fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area. The standard is considered to be attained at 84 parts per billion (ppb).

The Lafayette monitoring site has monitored attainment with the 8-hour ozone standard since 1998. The three most recent 8-hour ozone design values at the time of the October 2006 submission of the maintenance plan for Lafayette Parish were 78 ppb for 2003, 79 ppb for 2004, and 82 ppb for 2005. Due to issues with the lease agreement at the monitoring site location, the Lafayette monitoring site location was relocated to its current location on the campus of Louisiana State University. Sampling started at the current location on December 12, 2005, for the beginning of the 2006 ozone season. (The ozone season in the State of Louisiana is from January to December for the Parishes discussed in this notice.) Since the 8-hour ozone design value is based on a three-year average of the fourth-highest daily maximum 8-hour average ozone concentration, the first available design value for the current monitoring location will be available once three ozone monitoring seasons (2006, 2007 and 2008) have been completed. According to the most recent data available in EPA's Air Quality System

(AQS) for the current Lafayette monitoring site, the annual fourth highest daily maximum values are 84 ppb for 2006 and 73 ppb for 2007 based on preliminary data from the January 2007 through September 2007 timeframe. Based on the NAAQS standard discussed above, each of the design values for Lafayette Parish is considered to be in attainment of the 8-hour ozone NAAQS and demonstrates that Lafayette Parish is expected to continue attainment of the 8-hour ozone NAAQS.

The Lafourche monitoring site, which was relocated at the end of 1999 to its current location, has monitored attainment with the 8-hour ozone standard since 2001. The three most recent 8-hour ozone design values at the time of December 2006 submission of the maintenance plan for Lafourche Parish were 78 ppb for 2003, 76 ppb for 2004, and 79 ppb for 2005. Based upon the most recent data available in AQS for the Lafourche monitoring site, the design value for 2006 was 80 ppb and a preliminary design value for 2007 is 79 ppb based on data from the January 2007 through September 2007 timeframe. Based on the NAAQS standard discussed above, each of these design values for Lafourche Parish is considered to be in attainment of the 8-hour NAAQS and further demonstrates that Lafourche Parish is expected to continue attainment of the 8-hour ozone NAAQS.

(d) Contingency Plan. The section 110(a)(1) maintenance plans include contingency provisions to promptly correct any violation of the NAAQS that occurs. The contingency indicator for the Lafayette and Lafourche Parish maintenance plans is based upon monitoring. The triggering mechanism for activation of contingency measures is a monitoring violation of the 8-hour ozone standard and analysis of data to determine the cause of the violation. In these maintenance plans, if contingency measures are triggered, LDEQ is committing to implement the measures as expeditiously as practicable, but no longer than 24 months following the trigger.

The following contingency measures are identified for implementation: (1) Lowering VOC RACT applicability thresholds for Stage 1 gasoline controls, (2) NO<sub>x</sub> controls on major sources (100 tpy and greater), (3) Emission offsets for permits (1.10 ratio for VOC and NO<sub>x</sub>), and (4) Other measures deemed appropriate at the time as a result of advances in control technologies. These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements

of section 110(a)(1) for continued attainment. Continued attainment of the 8-hour ozone NAAQS in the areas of Lafayette and Lafourche Parishes will depend, in part, on the air quality measures discussed previously (see II (b) above). The State will continue to operate an appropriate, EPA-approved, ambient ozone monitoring site in Lafayette and Lafourche Parish to verify continued attainment of the 8-hour ozone NAAQS. The air monitoring results will reveal changes in the ambient air quality as well as assist the State in determining whether or not implementation of any contingency measures is necessary. The state will continue to work with the EPA through the air monitoring network review process, as required by 40 CFR Part 58, to determine: (1) The adequacy of the ozone monitoring network; (2) if additional monitoring is needed; and (3) when monitoring can be discontinued. Air monitoring data will continue to be quality assured according to federal requirements.

### III. Final Action

Pursuant to section 110 of the Act, EPA is approving the 8-hour ozone maintenance plans for Lafayette and Lafourche Parishes, which were submitted by LDEQ on October 13, 2006, and December 19, 2006, respectively, which ensure continued attainment of the 8-hour ozone NAAQS through the year 2014. We have evaluated the State's submittals and have determined that they meet the applicable requirements of the Clean Air Act and EPA regulations, and are consistent with EPA policy.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on May 23, 2008, without further notice unless we receive adverse comment by April 23, 2008. If we receive 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 now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be

severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**IV. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 23, 2008. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 6, 2008.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart T—Louisiana**

■ 2. In § 52.970, the table in paragraph (e) entitled, “EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES”, is amended by adding two new entries to the end of the table as follows:

**§ 52.970 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
8-Hour Ozone Maintenance Plan.	Lafayette Parish, LA .....	10/13/06	March 24, 2008 [Insert FR page number where document begins].	
8-Hour Ozone Maintenance Plan.	Lafourche Parish, LA .....	12/19/06	March 24, 2008 [Insert FR page number where document begins].	

■ 3. Section 52.975, entitled, “Redesignations and maintenance plans; ozone”, is amended by adding a new paragraph (i) as follows:

**§ 52.975 Redesignations and maintenance plans; ozone.**

\* \* \* \* \*

(i) Approval. The Louisiana Department of Environmental Quality (LDEQ) submitted 8-hour ozone maintenance plans for the Lafayette and Lafourche Parish areas on October 13, 2006 and December 19, 2006, respectively. The two areas are designated unclassifiable/attainment for the 8-hour ozone standard. EPA determined these requests for Lafayette and Lafourche Parishes were complete on November 30, 2006 and May 2, 2007, respectively. These maintenance plans meet the requirements of section 110(a)(1) of the Clean Air Act, and are consistent with EPA’s maintenance plan guidance document dated May 20, 2005. The EPA therefore approved the 8-hour ozone maintenance plans for the Lafayette and Lafourche Parish areas on *March 24, 2008*.

[FR Doc. E8-5800 Filed 3-21-08; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-HQ-OAR-2008-0072; FRL-8545-5]

**Finding of Failure To Submit State Implementation Plans Required for the 1997 8-Hour Ozone NAAQS**

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

**ACTION:** Final Rule.

**SUMMARY:** The EPA is taking a final action finding that several states have failed to submit State Implementation Plans (SIPs) to satisfy certain requirements of the Clean Air Act (CAA) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). Under the CAA and EPA’s implementing regulations, states with nonattainment areas classified as moderate, serious, severe or extreme were required to submit by June 15, 2007, SIPs: Demonstrating how each nonattainment area would attain the 1997 8-hour ozone standard as expeditiously as practicable but no later than the applicable dates established in the implementing regulations; and demonstrating reasonable further progress (RFP). Additionally, states were required by September 15, 2006, to submit for these same areas SIPs demonstrating that sources specified under the CAA were subject to reasonably available control technology requirements (RACT). States that are part of the Ozone Transport Region (OTR) were required to submit SIPs to meet the 1997 8-hour ozone RACT

requirement for the entire state by September 15, 2006. The RACT requirement applies to all areas within the Ozone Transport Region, regardless of the area’s designation for the 1997 8-hour ozone standard. Some states have not yet submitted SIPs to satisfy these requirements. The EPA is by this action making a finding of failure to submit for those nonattainment areas and OTR areas that have not made the required SIP submission(s). If EPA has not affirmatively found that the state has submitted the required plan or plans within 18 months, the offset sanction applies in the area. If within 6 additional months EPA has still not affirmatively determined that the state has submitted the required plan, the highway funding sanction applies in an area if it is designated nonattainment. No later than 2 years after EPA makes the finding, EPA must promulgate a Federal Implementation Plan if the state has not submitted and EPA has not approved the required SIP.

**DATES:** *Effective Date:* This action is effective on March 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this notice should be addressed to Mr. Butch Stackhouse, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code: C504-2, 109 TW Alexander Drive, Research Triangle Park, NC 27709; telephone (919) 541-5208.

**SUPPLEMENTARY INFORMATION:** For questions related to a specific state please contact the appropriate regional office:

Regional offices	States
Dave Conroy, Branch Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02203-2211.	Maine, New Hampshire, Rhode Island, and Vermont.
Raymond Werner, Chief, Air Programs Branch, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866.	New York.
Christina Fernandez, Acting Branch Chief, Air Quality Planning Branch, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187.	Virginia.
Jay Bortzer, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604.	Illinois, Indiana, Ohio, and Wisconsin.
Dave Jesson, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.	California.

**Table of Contents**

- I. Background
  - A. Statutory Requirements
  - B. Consequences of Findings of Failure to Submit
- II. This Action
  - A. Clean Air Determination Areas Receiving a Finding of Failure to Submit
  - B. OTR Attainment Areas Receiving a Finding of Failure to Submit
  - C. Finding of Failure to Submit RFP Plans in California
- III. Statutory and Executive Order Reviews

- A. Notice and Comment Under the Administrative Procedures Act
- B. Effective Date Under the Administrative Procedures Act
- C. Executive Order 12866: Regulatory Planning and Review
- D. Paperwork Reduction Act
- E. Regulatory Flexibility Act (RFA)
- F. Unfunded Mandates Reform Act
- G. Executive Order 13132: Federalism
- H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

- I. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
- J. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- L. National Technology Transfer Advancement Act
- M. Congressional Review Act