

discussed above, within one year from this conditional approval becoming final and effective, EPA will publish a subsequent notice in the **Federal Register** to acknowledge that Michigan has met the criteria of the conditional approval and to inform the public about the conversion of the conditional approval to a full approval.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2007-0603; FRL-8713-6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the New Orleans Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving this revision to the Louisiana State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for the New Orleans Ozone Maintenance Area. On June 29, 2007, the State of Louisiana submitted a maintenance plan for the New Orleans Ozone Maintenance Area, which includes the parishes of Jefferson, Orleans, St. Bernard and St. Charles, which ensures continued attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. This maintenance plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is approving the revision pursuant to section 110 of the Federal Clean Air Act (CAA). On March 12, 2008, EPA issued a revised ozone standard. Today's action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the New Orleans area under the 2008 standard will be addressed in future actions.

DATES: This rule is effective on November 17, 2008 without further notice, unless EPA receives relevant adverse comment by October 16, 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-2007-0603, 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. 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 am and 4 pm 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-2007-0603. 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The 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 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 am and 4:30 pm 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: Ellen Belk, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2164, fax number 214-665-7263; e-mail address belk.ellen@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 Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

Under section 107 of the 1977 CAA, Louisiana's New Orleans Ozone Maintenance Area, which includes the

parishes of Jefferson, Orleans, St. Bernard and St. Charles, was designated as a nonattainment area because it 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 New Orleans Ozone Maintenance Area was classified as a "transitional" ozone nonattainment area, and the nonattainment designation for the 1-hour ozone NAAQS continued by operation of law since Louisiana had not yet collected the required three years of data necessary to petition for redesignation to attainment.

On October 15, 1994, Louisiana submitted a request to redesignate the New Orleans Ozone Maintenance Area to attainment for the 1-hour ozone standard. At the same time, the State submitted the required ozone monitoring data and maintenance plan for the New Orleans Ozone Maintenance Area to ensure the area would remain in attainment for 1-hour ozone for a period of 10 years. At the time of the 1994 maintenance plan submission, the New Orleans Consolidated Metropolitan Statistical Area was comprised of six parishes including Jefferson, Orleans, St. Bernard, St. Charles, St. John the Baptist and St. Tammany. Maintenance and contingency plans were not included in the action for the parishes St. John the Baptist and St. Tammany as St. John the Baptist Parish was previously redesignated to attainment and St. Tammany Parish was never designated as nonattainment.

Under the CAA, nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. The submission met the maintenance plan and redesignation requirements set forth in the CAA, and EPA approved Louisiana's request to redesignate the New Orleans Ozone Maintenance Area to attainment for the 1-hour ozone standard and approved the New Orleans Ozone Maintenance Area maintenance plan on October 2, 1995 (60 FR 51354), with an effective date of December 1, 1995.

On April 30, 2004, EPA designated and classified areas for the new 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951). The New Orleans Ozone Maintenance Area was designated as unclassifiable/attainment for the 1997 ozone standard, effective

June 15, 2004. This designation included the parishes of Jefferson, Orleans, St. Bernard and St. Charles. The attainment area was consequently 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). This SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the New Orleans Ozone Maintenance Area.

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 1997 Ozone Standard. (*South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (DC 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 the 1997 8-hour ozone NAAQS 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 Submittal

On June 29, 2007, the State of Louisiana submitted a SIP revision containing a 1997 8-hour ozone maintenance plan for the New Orleans Ozone Maintenance Area, including the parishes of Jefferson, Orleans, St. Bernard and St. Charles. This June revision provides the maintenance plan for the 1997 8-hour ozone NAAQS for the maintenance area 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 this plan is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the New Orleans Ozone Maintenance Area, which includes the parishes of Jefferson, Orleans, St. Bernard and St. Charles.

In this action, EPA is approving the State's maintenance plan for the 1997 8-hour ozone NAAQS for the New Orleans Ozone Maintenance Area because EPA finds that the LDEQ submittal meets the requirements of section 110(a)(1) of the CAA, EPA's rule, and is consistent with EPA's guidance. As required, this plan provides for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in this area for 10 years from the effective date of the area's designation as unclassifiable/attainment for the 1997 ozone NAAQS, includes components illustrating how the New Orleans Ozone Maintenance Area will continue in attainment of the 1997 8-hour ozone NAAQS and provides 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_x) emissions from area, stationary, and mobile sources using 2002 as the base year to demonstrate maintenance of the 1997 ozone NAAQS for the New Orleans Ozone Maintenance Area. 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 for the 1997 ozone NAAQS was based (2001, 2002, and 2003). The State's submittal contains 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 for the 1997 ozone NAAQS 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 the New Orleans Ozone Maintenance Area, 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_x in Appendix A.1 of the 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_x 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 New Orleans Ozone Maintenance Area 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 table provides VOC and NO_x emissions data for the 2002 base attainment year inventory, as well as projected VOC and NO_x emission inventory data for the years 2008, 2011, and 2014 for the New Orleans Ozone Maintenance Area. Please see the Technical Support Document (TSD) for additional emissions inventory data including projections by source category.

NEW ORLEANS OZONE MAINTENANCE AREA VOC AND NO_x EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)

Emissions	2002 tons per day	2008 tons per day	2011 tons per day	2014 tons per day
Total VOC	161.83	140.44	133.08	129.71
Total NO _x	384.83	377.43	381.43	388.83

As shown in the table above, total VOC emissions are projected to decrease and total NO_x emissions are projected to increase slightly for the New Orleans Ozone Maintenance Area over the 10-year period of the maintenance plan. Emission projections for future years in the New Orleans Ozone Maintenance Area indicate a downward trend in VOC emissions through 2014 as VOC emissions are projected to decrease by 32.12 tpd, or approximately 20% (from 161.83 tpd to 129.71 tpd). NO_x emission projections through 2014 initially show a downward trend in emissions, but then reflect an increase of 4 tons per day by the year 2014, or approximately 1% (from 384.83 tpd to 388.83 tpd). This projected increase (1%) is relatively small considering that it occurs over a period of approximately twelve years (as from the 2002 baseline). The slight upward trend in NO_x emissions results from projected increases for the point and non-point source emission categories. Emissions from non-road mobile and on-road mobile sources are projected to decrease.

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 table 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 projected 20% reduction (32.12 tpd) in VOC emissions is expected to sufficiently offset the projected 1%

increase (4 tpd) in NO_x emissions, enabling the area to continue to maintain the 1997 ozone standard. The attainment inventory submitted by the LDEQ for the New Orleans Ozone Maintenance Area is consistent with the criteria discussed in the EPA Maintenance Plan Guidance memo dated May 20, 2005. EPA finds that the future emissions levels in 2008, 2011 and 2014 are expected to be similar to or less than the emissions levels in 2002.

In the event that a future 8-hour ozone monitoring reading in the New Orleans Ozone Maintenance Area is found to violate the 1997 ozone NAAQS, the Contingency Plan section of Louisiana's maintenance plan includes contingency measures that will be promptly implemented to ensure that the area returns to maintenance of the 1997 ozone standard. Please see section (d) Contingency Plan, below, for additional information related to contingency measures.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 1997 ozone NAAQS 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 for the 1997 ozone NAAQS, which for the New Orleans Ozone Maintenance Area was June 15, 2004. Therefore, the plan must demonstrate attainment through 2014. As discussed in section (a) Attainment

Inventory above, Louisiana has identified the level of ozone-forming emissions in the New Orleans Ozone Maintenance Area; Louisiana has projected VOC and NO_x emissions for the years 2008, 2011, and 2014 in the New Orleans Ozone Maintenance Area; and EPA finds that the future emissions levels in those years are expected to be similar to or 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 the New Orleans Ozone Maintenance Area. *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), and (3) EPA's required control of emissions from non-road diesel engines and fuels (69 FR 38958). The purpose of these control measures is to reduce levels of 8-hour ozone, including the New Orleans Ozone Maintenance Area.

(c) *Ambient Air Quality Monitoring.* The State of Louisiana has committed in its maintenance plan for the New

Orleans Ozone Maintenance Area to continue operation of an appropriate 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. There are four (4) monitoring sites in the New Orleans Ozone Maintenance Area that have operated in accordance with the requirements of 40 CFR Part 58 and the EPA-approved Quality Assurance Program Plan. Based on the June 2007 maintenance plan submission, each of the four (4) monitoring sites have recently monitored attainment with the 1997 ozone standard. The 1997 ozone NAAQS is 0.08 parts per million (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 1997 ozone standard is considered to be attained at 84 parts per billion (ppb).

As identified in the June 2007 maintenance plan submission, the Jefferson Parish ozone monitor has monitored attainment with the 1997 ozone standard for the latest three complete three-year periods. The three most recent 8-hour ozone design values for the Jefferson Parish monitor, as reported in the June 2007 maintenance plan submission, are 82 ppb for 2003, 82 ppb for 2004 and 84 ppb for 2005. Based upon the most recent data available in EPA's Air Quality System (AQS) for the Jefferson Parish monitoring site, the design value for 2006 was 82 ppb, and the design value for 2007 was 83 ppb.

As identified in the June 2007 maintenance plan submission, the Orleans Parish ozone monitor has monitored attainment with the 1997 ozone standard for the latest six complete three-year periods. The three most recent 8-hour ozone design values for the Orleans Parish monitor, as reported in the June 2007 maintenance plan submission, are 69 ppb for 2003, 69 ppb for 2004 and 70 ppb for 2005. Hurricane Katrina disabled the Orleans Parish monitoring site in August 2005; this monitoring site went back into operation in January, 2008, at the same location. As a result, no additional monitoring data is available at the Orleans Parish monitor site between August 2005 and January 2008. The Orleans Parish monitor is back in operation for the 2008 ozone season at the same location. 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 next available design value for this monitoring location will be when three ozone monitoring seasons

(2008, 2009 and 2010) have been completed.

As identified in the June 2007 maintenance plan submission, the St. Bernard Parish ozone monitor has also monitored attainment with the 1997 ozone monitor for the latest six complete three-year periods. The three most recent 8-hour ozone design values for the St. Bernard Parish monitor, as reported in the June 2007 maintenance plan submission, are 78 ppb for 2003, 77 ppb for 2004 and 78 ppb for 2005. As with the Orleans Parish monitor, this monitoring site was also disabled by Hurricane Katrina in August 2005. A new St. Bernard Parish ozone monitor began operation at a new location in early 2007, and the summer of 2007 was the first full summer of data at the new location since Hurricane Katrina. 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 new monitoring location will be available once three ozone monitoring seasons (2007, 2008 and 2009) have been completed.

As identified in the June 2007 maintenance plan submission, the St. Charles Parish ozone monitor has monitored attainment with the 1997 ozone standard for the latest four complete three-year periods. The three most recent 8-hour ozone design values for the St. Charles Parish monitor, as reported in the June 2007 maintenance plan submission, are 78 ppb for 2003, 77 ppb for 2004 and 78 ppb for 2005. Based upon the most recent data available in EPA's AQS for the St. Charles Parish monitoring site, the design value for 2006 was 77 ppb, and the design value for 2007 was also 77 ppb.

Based on the NAAQS discussed above, each of the available design values identified is considered to be in attainment of the 1997 ozone NAAQS and demonstrates that the New Orleans Ozone Maintenance Area is expected to continue attainment of the 1997 ozone NAAQS. However, in the event that a design value at one of the New Orleans Ozone Maintenance Area monitoring sites exceed the 1997 ozone standard of 84 ppb, the Contingency Plan included in Louisiana's maintenance plan submittal includes contingency measures which will be promptly implemented to ensure that the area returns to maintenance of the 1997 ozone standard. Additional information regarding contingency measures is included in section (d) Contingency Plan, below.

(d) *Contingency Plan.* The section 110(a)(1) maintenance plan includes contingency provisions to promptly

correct any violation of the 1997 ozone NAAQS that occurs. The contingency indicator for the New Orleans Ozone Maintenance Area maintenance plan is based upon monitoring. The triggering mechanism for activation of contingency measures is a monitoring violation of the 1997 ozone standard and analysis of data to determine the cause of the violation. In this maintenance plan, 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_x controls on major sources (100 tpy and greater), (3) Emission offsets for permits (1.10 ratio for VOC and NO_x), 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 1997 ozone NAAQS in the New Orleans Ozone Maintenance Area will depend, in part, on the air quality measures discussed previously (see II. (b) above). The State will continue to operate appropriate ambient ozone monitoring sites in the New Orleans Ozone Maintenance Area to verify continued attainment of the 1997 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 maintenance plan addressing the 1997 8-hour ozone standard for the New Orleans Ozone Maintenance Area including the parishes of Jefferson, Orleans, St. Bernard and St. Charles, which was submitted by LDEQ on June 29, 2007, which ensures continued attainment of the 1997 ozone NAAQS through the year 2014. We have evaluated the State's submittal and have determined that it

meets the applicable requirements of the Clean Air Act and EPA regulations, and is 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 November 17, 2008 without further notice unless we receive adverse comment by October 16, 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) 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. section 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. section 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 November 17, 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: August 29, 2008.

Richard E. Greene,
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 section § 52.970, the table in paragraph (e) entitled, “EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES”, is amended by adding the new entry 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
1997 8-Hour Ozone Section 110 Maintenance Plan.	New Orleans Ozone Maintenance Area (including Jefferson, Orleans, St. Bernard and St. Charles Parishes), LA.	6/29/07	9/16/08. [Insert FR page number where document begins].	

3. Section § 52.975, entitled, "Redesignations and maintenance plans; ozone", is amended by adding a new paragraph (k) as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

(k) *Approval.* The LDEQ submitted a maintenance plan addressing the 1997 8-hour ozone standard for the New Orleans Ozone Maintenance Area on June 29, 2007. This area is designated unclassifiable/attainment for the 1997 ozone standard. EPA determined this request for the New Orleans Ozone Maintenance Area was complete on August 8, 2007. This maintenance plan meets the requirements of section 110(a)(1) of the CAA, and is consistent with EPA's maintenance plan guidance document dated May 20, 2005. The EPA therefore approved the 1997 8-hour ozone NAAQS maintenance plan for the New Orleans Ozone Maintenance Area including the parishes of Jefferson, Orleans, St. Bernard and St. Charles on September 16, 2008.

[FR Doc. E8-21196 Filed 9-15-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-0836-200739(a); FRL-8714-8]

Approval and Promulgation of Implementation Plans; Florida; Removal of Gasoline Vapor Recovery From Southeast Florida Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Florida (Florida) on May 31, 2007, for the purpose of removing Stage II vapor control requirements for new and upgraded gasoline dispensing facilities

in Dade, Broward, and Palm Beach Counties (hereafter refer to as the "Southeast Florida Area"), and to phase out Stage II requirements for existing facilities in those counties. In addition, EPA is approving this SIP revision which requires new and upgraded gasoline dispensing facilities and new bulk gasoline plants statewide to employ Stage I vapor control systems, and phases in Stage I vapor control requirements statewide for existing gasoline dispensing facilities.

DATES: This direct final rule is effective November 17, 2008 without further notice, unless EPA receives adverse comment by October 16, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2007-0836, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail:* lesane.heidi@epa.gov.
3. *Fax:* (404) 562-9019.
4. *Mail:* "EPA-R04-OAR-2007-0836," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Heidi LeSane, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. 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.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2007-0836. 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 whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The 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, 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. For additional information about EPA's public docket visit the EPA Docket Center home page at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning