

Dated: April 6, 2011.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2008-0635; FRL-9296-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and Fine Particulate Matter National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve submittals from the State of Louisiana pursuant to the Clean Air Act (CAA or Act) that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and 1997 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standards). We are proposing to find that the current Louisiana State Implementation Plan (SIP) meets the following infrastructure elements for the 1997 8-hour ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is also proposing to approve SIP revisions that modify Louisiana's PSD SIP for the 1997 8-hour ozone NAAQS to include nitrogen oxides (NO<sub>x</sub>) as an ozone precursor. This action is being taken under section 110 and part C of the Act.

**DATES:** Comments must be received on or before May 18, 2011.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2008-0635, by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6comment.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, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2008-0635. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 <http://www.regulations.gov> or e-mail. The <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 <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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the <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 at <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 fee of 15 cents per page 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 75202.

The State submittal is also available for public inspection during official business hours by appointment: Louisiana Department of Environmental Quality (LDEQ), Office of Environmental Quality Assessment, 602 N. Fifth Street, Baton Rouge, Louisiana 70802.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-6521; fax number 214-665-6762; e-mail address [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" means EPA.

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#### I. Background

##### A. What are the national ambient air quality standards?

Section 109 of the Act requires EPA to establish NAAQS for pollutants that

“may reasonably be anticipated to endanger public health and welfare,” and to develop a primary and secondary standard for each NAAQS. The primary standard is designed to protect human health with an adequate margin of safety, and the secondary standard is designed to protect public welfare and the environment. EPA has set NAAQS for six common air pollutants, referred to as criteria pollutants: Carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. These standards present State and local governments with the minimum air quality levels they must meet to comply with the Act. Also, these standards provide information to residents of the United States about the air quality in their communities.

#### B. What is a SIP?

The SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the State, to ensure that the State meets the NAAQS. The SIP is required by section 110 and other provisions of the Act. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each State must submit these regulations and control strategies to EPA 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.

#### C. What is the background for this rulemaking?

##### a. Section 110(a)(1) and (2)

On July 18, 1997, we promulgated new and revised NAAQS for ozone (62 FR 38856) and PM (62 FR 38652). For ozone we set an 8-hour standard of 0.08 parts per million (ppm) to replace the 1-hour standard of 0.12 ppm. For PM we set a new annual and a new 24-hour NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (denoted PM<sub>2.5</sub>). The annual PM<sub>2.5</sub> standard was set at 15 micrograms per cubic meter (µg/m<sup>3</sup>). The 24-hour PM<sub>2.5</sub> standard was set at 65 µg/m<sup>3</sup>. For more information on these standards please see the 1997 **Federal Register** notices (62 FR 38856 and 62 FR 38652).

Under sections 110(a)(1) and (2) of the Act, States are required to submit SIPs that provide for the implementation, maintenance, and enforcement (the infrastructure) of a new or revised NAAQS within three years following

the promulgation of the NAAQS, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the specific infrastructure elements that must be incorporated into the SIPs, including for example, requirements for air pollution control measures, and monitoring that are designed to assure attainment and maintenance of the NAAQS. A table listing all 14 infrastructure elements is included in Section D of this proposed rulemaking.<sup>1</sup> Thus States were required to submit such SIPs for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS to EPA no later than June 2000.<sup>2</sup> However, intervening litigation over the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS created uncertainty about how to proceed and many States did not provide the required “infrastructure” SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA’s failure to issue findings of failure to submit related to the infrastructure requirements for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA’s determinations pursuant to section 110(k)(1)(B) of the Act as to whether each State had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions

<sup>1</sup> Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (i) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA and (ii) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D Title I of the CAA. Therefore, this action does not cover these specific SIP elements. This action also does not pertain to section 110(a)(2)(D)(i). EPA previously approved the State’s 110(a)(2)(D)(i) submission (72 FR 55064, September 28, 2007).

<sup>2</sup> EPA issued a revised 8-hour ozone standard on March 27, 2008 (73 FR 16436). On September 16, 2009, the EPA Administrator announced that EPA would take rulemaking action to reconsider the 2008 primary and secondary ozone NAAQS. On January 19, 2010, EPA proposed to set different primary and secondary ozone standards than those set in 2008 to provide requisite protection of public health and welfare, respectively (75 FR 2938). The final reconsidered ozone NAAQS have yet to be promulgated. This rulemaking does not address the 2008 ozone standard.

made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each State based upon what the Agency received from each State as of January 7, 2008. With regard to the 1997 PM<sub>2.5</sub> NAAQS, EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA’s determinations pursuant to section 110(k)(1)(B) of the Act as to whether each State had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 PM<sub>2.5</sub> NAAQS by October 5, 2008.

On March 27, 2008, and October 22, 2008, we published findings concerning whether States had made the 110(a)(2) submissions for the 1997 ozone (73 FR 16205) and PM<sub>2.5</sub> standards (73 FR 62902). In the March 27, 2008 action, we found that Louisiana had made a complete submission that provides for the basic program elements specified in section 110(a)(2) of the Act necessary to implement the 1997 8-hour ozone NAAQS. In the October 22, 2008 action, we found that Louisiana had made a complete submission that provides for the basic program elements specified in section 110(a)(2) of the Act necessary to implement the 1997 PM<sub>2.5</sub> NAAQS.

On October 2, 2007, we issued “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards,” Memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards.<sup>3</sup> The guidance provides that to the extent that existing SIPs for ozone and PM already meet the requirements, States need only certify that fact to us.

On December 11, 2007, January 7, 2008, and March 24, 2011, the Louisiana Department of Environmental Quality (LDEQ) submitted letters certifying that Louisiana has addressed any potential infrastructure issues associated with ozone and PM<sub>2.5</sub> and fulfilled its infrastructure SIP obligations. The letters provided information on how the current Louisiana SIP provisions meet the 110(a)(2) requirements. These letters are in the docket for this rulemaking.

##### b. Revisions to Louisiana’s SIP

On December 20, 2005, the LDEQ submitted revisions to their New Source Review (NSR) program to meet the requirements of the “NSR Reform” published on December 31, 2002 (67 FR 80186). On November 9, 2007, the State

<sup>3</sup> This and any other guidance documents referenced in this action are in the docket for this rulemaking.

submitted their 2006 revisions (General Update) to the SIP. Among other revisions, the 2007 submission included revisions that provided for NO<sub>x</sub> to be treated as a precursor to ozone formation in the State's PSD program. We are proposing action on a limited number of revisions to the PSD program that implement the provisions for NO<sub>x</sub> as a precursor because EPA believes that this is a necessary provision for implementation of the 1997 ozone standard.

**c. Greenhouse Gas (GHG) Component of PSD Programs**

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's proposed action on the Louisiana SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,<sup>4</sup> the "Johnson Memo Reconsideration,"<sup>5</sup> the "Light-Duty Vehicle Rule,"<sup>6</sup> and the "Tailoring Rule."<sup>7</sup> Taken together and in conjunction with the CAA, these actions

established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources. In December 2010, EPA followed up on these actions by issuing the PSD SIP Narrowing Rule, in which EPA withdrew its previous approval of SIP PSD programs in 24 States, including Louisiana, that apply to GHG-emitting sources below the thresholds in the final Tailoring Rule. 75 FR 82536. The Tailoring Rule and PSD SIP Narrowing Rule both discuss the States' ability to provide assurances that they will have adequate resources to meet the new GHG PSD permitting requirements at statutory levels of emissions, and the PSD SIP Narrowing Rule affected EPA's prior approval of portions of a State's

SIP which do not incorporate thresholds established under the Tailoring Rule. The LDEQ submitted a supplemental certification letter to EPA dated March 24, 2011, certifying that the portions of the PSD program related to greenhouse gas permitting which remained approved after the promulgation of EPA's PSD SIP Narrowing Rule satisfy sections 110(a)(2)(C) and (J) of the Act. As we discuss further in this notice and in the TSD, Louisiana currently has adequate resources to carry out the GHG component of the currently approved PSD SIP program, which requires PSD permitting for sources emitting GHGs at or above the 75,000/100,000 tons per year (tpy) threshold specified by the Tailoring Rule.

*D. What elements are required under Section 110(a)(2)?*

The October 2, 2007, EPA guidance for addressing the SIP infrastructure elements required under sections 110(a)(1) and (2) for the 1997 ozone and PM<sub>2.5</sub> NAAQS, provides a list of 14 essential components that States must include in their SIPs. These are listed in Table 1 below.

**TABLE 1—SECTION 110(A)(2) ELEMENTS REQUIRED IN SIPs**

Clean Air Act citation	Brief description
Section 110(a)(2)(A)	Emission limits and other control measures.
Section 110(a)(2)(B)	Ambient air quality monitoring/data system.
Section 110(a)(2)(C)	Program for enforcement of control measures.
Section 110(a)(2)(D)(ii)	International and interstate pollution abatement.
Section 110(a)(2)(E)	Adequate resources.
Section 110(a)(2)(F)	Stationary source monitoring system.
Section 110(a)(2)(G)	Emergency power.
Section 110(a)(2)(H)	Future SIP revisions.
Section 110(a)(2)(J) <sup>8</sup>	Consultation with government officials.
Section 110(a)(2)(J)	Public notification.
Section 110(a)(2)(J)	Prevention of significant deterioration (PSD) and visibility protection.
Section 110(a)(2)(K)	Air quality modeling/data.
Section 110(a)(2)(L)	Permitting fees.
Section 110(a)(2)(M)	Consultation/participation by affected local entities.

**II. What action is EPA proposing?**

The EPA is proposing to approve the Louisiana SIP submittals that identify where and how the 14 basic infrastructure elements are in the EPA-approved SIP as specified in section 110(a)(2) of the Act. The Louisiana submittals do not include revisions to the SIP, but document how the current

Louisiana SIP already includes the required infrastructure elements. In today's action, we are proposing to find that the following section 110(a)(2) elements are contained in the current Louisiana SIP and provide the infrastructure for implementing the 1997 ozone and PM standards: emission limits and other control measures

(section 110(a)(2)(A)); ambient air quality monitoring/data system (section 110(a)(2)(B)); program for enforcement of control measures (section 110(a)(2)(C)); international and interstate pollution abatement (section 110(a)(2)(D)(ii)); adequate resources (section 110(a)(2)(E)); stationary source monitoring system (section 110(a)(2)(F));

<sup>4</sup> "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

<sup>5</sup> "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

<sup>6</sup> "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

<sup>7</sup> "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

<sup>8</sup> Section 110(a)(2)(I) pertains to the nonattainment planning requirements of part D, Title I of the Act. This section is not governed by

the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but are due at the time the nonattainment area plan requirements are due pursuant to section 172. Thus this action does not cover section 110(a)(2)(I).

emergency power (section 110(a)(2)(G)); future SIP revisions (section 110(a)(2)(H)); consultation with government officials (section 110(a)(2)(J)); public notification (section 110(a)(2)(I)); PSD and visibility protection (section 110(a)(2)(F)); air quality modeling/data (section 110(a)(2)(K)); permitting fees (section 110(a)(2)(L)); and consultation/participation by affected local entities (section 110(a)(2)(M)).

In conjunction with our proposed finding that the Louisiana SIP meets the section 110(a)(1) and (2) infrastructure SIP elements listed above, we are also proposing to fully approve four severable portions of two SIP revisions submitted by the LDEQ to EPA on December 20, 2005 and November 9, 2007. These portions contain rule revisions by LDEQ to (1) regulate NO<sub>x</sub> emissions in its PSD permit program as a precursor to ozone; (2) add NO<sub>x</sub> to the PSD definitions for *Major Modification and Major Stationary Source*; (3) under the PSD definition for *Significant*, add the emission rate for NO<sub>x</sub>, as a precursor to ozone, as 40 tpy; and (4) under the PSD requirements, allow for an exemption with respect to ambient air quality monitoring data for a source with a net emissions increase less than 100 tpy of NO<sub>x</sub>. The actions proposed herein are described in greater detail below and in the TSD. At this time, EPA is not taking action on other portions of the December 20, 2005 and November 9, 2007 SIP revisions submitted by LDEQ; EPA intends to act on the other revisions at a later time.

### III. How has Louisiana addressed the elements of Section 110(a)(2)?

The Louisiana submittals address the elements of Section 110(a)(2) as described below. We provide a more detailed review and analysis of the Louisiana infrastructure SIP elements in the Technical Support Document (TSD), located in the docket for this rulemaking.

*Enforceable emission limits and other control measures, pursuant to section 110(a)(2)(A):* Section 110(a)(2)(A) requires that all measures and other elements in the SIP be enforceable. This provision does not require the submittal of regulations or emission limits developed specifically for attaining the 1997 8-hour ozone and PM<sub>2.5</sub> standards. Those regulations are due later as part of attainment demonstrations.

The Louisiana Environmental Quality Act (LEQA) names the LDEQ as the State's air pollution control agency and provides enforcement authority to the LDEQ. The Louisiana legislature in Acts 1983, No. 97 amended and reenacted a

multitude of the State's statutes, including provisions which created and empowered the LDEQ. The SIP rule at Title 33 of the Louisiana Administrative Code (denoted 33 LAC), Chapter 1, section 101 describes the LDEQ as the State's air pollution control agency and its enforcement authority, referencing the 1983 LEQA (54 FR 9783, March 8, 1989).<sup>9</sup>

The LDEQ has promulgated rules to limit and control emissions of PM, sulfur dioxide (SO<sub>2</sub>), NO<sub>x</sub> and volatile organic compounds (VOCs).<sup>10</sup> These rules include emission limits, control measures, programs for banking and trading of emissions, permits, fees, and compliance schedules and are found in Titles 33 and 55 of the LAC.<sup>11</sup> 33 LAC chapters 1, 5–7, 9, 11, 13–15, and 21–23; and 55 LAC Chapter 8.

In this proposed action, EPA has not reviewed and is not proposing to take any action to approve or disapprove any existing Louisiana SIP provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of States have SSM SIP provisions which are contrary to the Act and inconsistent with existing EPA guidance<sup>12</sup> and the Agency plans to conduct a SIP call in the future to address such SIP regulations. In the meantime, EPA encourages any State having an SSM SIP provision which is contrary to the Act and inconsistent with EPA guidance to take steps to correct the deficiency as soon as possible before a SIP call is implemented. Similarly, this proposed action does not include a review of and also does not propose to take any action to approve or disapprove any existing SIP rules with regard to director's discretion or variance provisions. EPA believes that a number of SIPs have such provisions which are contrary to the Act and not consistent with existing EPA guidance (52 FR 45044, November

24, 1987)<sup>13</sup> and the Agency plans to take action in the future to address such SIP regulations. In the meantime, EPA encourages any State having a director's discretion or variance provision in its SIP which is contrary to the Act and inconsistent with EPA guidance to take steps to correct the deficiency as soon as possible.

A detailed list of the applicable 33 LAC and 55 LAC chapters, discussed above, are provided in the TSD. Louisiana's SIP clearly contains enforceable emission limits and other control measures, which are in the Federally enforceable SIP. EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(A) of the Act with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Ambient air quality monitoring/data analysis system, pursuant to section 110(a)(2)(B):* Section 110(a)(2)(B) requires SIPs to include provisions for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. The LDEQ operates and maintains a statewide network of air quality monitors; data are collected, results are quality assured, and the data are submitted to EPA's Air Quality System<sup>14</sup> on a regular basis. Louisiana's Statewide Air Quality Surveillance Network was approved by EPA on August 6, 1981 (46 FR 40005), and consists of stations that measure ambient concentrations of the six criteria pollutants, including ozone and PM<sub>2.5</sub>.<sup>15</sup> EPA also approved Chapter 7 into the SIP that requires air quality monitoring be conducted consistent with EPA guidelines (54 FR 9783, March 8, 1989). EPA also approved Louisiana's enhanced ambient air quality monitoring network of Photochemical Assessment Monitoring Stations (PAMS) on June 19, 1996 (61 FR 31035).<sup>16</sup> The LDEQ Web site provides the ozone and PM<sub>2.5</sub> monitor locations, and current and historical data including 8-hour ozone design

<sup>9</sup> Older references to this **Federal Register** (FR) notice are written as 54 FR 9795. We now identify a FR notice by the first page of the rulemaking, thus we refer to this rulemaking as 54 FR 9783.

<sup>10</sup> NO<sub>x</sub> and VOCs are precursors to ozone. PM can be emitted directly and secondarily formed; the latter is the result of NO<sub>x</sub> and SO<sub>2</sub> precursors combining with ammonia to form ammonium nitrate and ammonium sulfate.

<sup>11</sup> Title 33 addresses Environmental Quality and Title 55 addresses Motor Vehicles. Within 33 LAC, the State's rules are codified in Part III (Air).

<sup>12</sup> "State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," Memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, dated September 20, 1999.

<sup>13</sup> The section addressing exemptions and variances is found on p. 45109 of the 1987 rulemaking.

<sup>14</sup> The Air Quality System (AQS) is EPA's repository of ambient air quality data. AQS stores data from over 10,000 monitors, 5000 of which are currently active. State, Local and Tribal agencies collect the data and submit it to AQS on a periodic basis.

<sup>15</sup> The air quality surveillance network undergoes annual review and approval by EPA. A copy of the current approval, dated January 12, 2011, is available in the docket for this rulemaking.

<sup>16</sup> The PAMS network undergoes annual review and approval by EPA. A copy of the current approval, dated October 30, 2009, is in the docket for this rulemaking.

values for current<sup>17</sup> and past trienniums. On July 1, 2010, LDEQ submitted its 2010 Annual Air Monitoring Network Plan (AAMNP) that included the plans for the 1997 ozone and PM<sub>2.5</sub> NAAQS; EPA approved the AAMNP on January 12, 2011.<sup>18</sup>

In summary, Louisiana meets the requirement to establish, operate, and maintain an ambient air monitoring network, collect and analyze the monitoring data, and make the data available to EPA upon request. EPA is proposing to find that the current Louisiana SIP meets the requirements of section 110(a)(2)(B) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Program for enforcement of control measures and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program, as required by Parts C and D, pursuant to section 110(a)(2)(C).* Regarding a program for enforcement of control measures, as stated previously, the LEQA provides the LDEQ with authority to enforce the State's environmental quality rules. The LDEQ established rules governing emissions of the NAAQS and their precursors throughout the State and these rules are in the Federally enforceable SIP. The rules in 33 LAC 1, 5–7, 9, 11, 13–15, and 21–23 include allowable rates, compliance, control plan requirements, actual and allowable emissions, monitoring and testing requirements, recordkeeping and reporting requirements, and control schedules. These rules clarify the boundaries beyond which regulated entities in Louisiana can expect enforcement action.

To meet the requirement for having a program for the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required by Parts C and D, generally, the State is required to have SIP-approved PSD, Nonattainment, and Minor NSR permitting programs adequate to implement the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS. We are not evaluating nonattainment-related provisions, such as the Nonattainment NSR program required by part D in 110(a)(2)(C) and measures for attainment required by section

110(a)(2)(I), as part of the infrastructure SIPs for these two NAAQS because these submittals are required beyond the date (3 years from NAAQS promulgation) that section 110 infrastructure submittals are required.

PSD programs apply in areas that are meeting the NAAQS or are unclassifiable, referred to as areas in attainment. PSD applies to new major sources and major modifications at existing sources. Louisiana's PSD program was initially approved into the SIP on April 24, 1987 (52 FR 13671). Subsequent revisions to Louisiana's PSD program were approved into the SIP on June 15, 1989 (54 FR 25449), May 2, 1991 (56 FR 20137), and October 15, 1996 (61 FR 53639).

To meet the requirements of 110(a)(2)(C) for the 1997 ozone standard, EPA believes the State must have updated its PSD rules to treat NO<sub>x</sub> as a precursor for ozone (70 FR 71612). As part of this action we are proposing to approve a total of four severable portions from each of two SIP revisions to implement NO<sub>x</sub> as precursor. The LDEQ submitted SIP revisions to us on December 20, 2005 and November 9, 2007. EPA proposes to approve the following four portions of the December 20, 2005 and November 9, 2007 SIP revisions: (1) The 2005 non-substantive recodification of the definition of *Major Modification* at subsection 2 as subsection *b*, and the 2007 substantive change adding NO<sub>x</sub> to the definition of *Major Modification*; (2) the 2005 non-substantive recodification of the definition of *Major Stationary Source* at subsection 4 as subsection *d*, and the 2007 substantive change adding NO<sub>x</sub> to the definition of *Major Stationary Source*; (3) the 2005 non-substantive recodification of the first paragraph of subsection 1 to subsection *a* (thus taking no action on the substantive changes to the definition's table), and the 2007 substantive change adding NO<sub>x</sub> as a precursor to the table's criteria and other pollutants listing for ozone; and (4) the 2005 non-substantive recodification of the first paragraph of subsection I.8 to subsection I.5 (thus taking no action on the substantive changes to the table), and the 2007 substantive change allowing for an exemption with respect to ozone monitoring for a source with a net emissions increase less than 100 tpy of NO<sub>x</sub>.

For the 8-hour ozone NAAQS, the November 9, 2007 SIP revisions to the definitions in the Louisiana rules for *Major Modification* and *Major Stationary Source* meet the Federal definition in 40 CFR 51.166(b)(1) to

identify a major source of NO<sub>x</sub> as a major source for ozone. The November 9, 2007 revisions to the Louisiana rules also meet the Federal definition in 40 CFR 51.166(b)(49) for inclusion of NO<sub>x</sub> as an ozone precursor. The November 9, 2007 revisions to the emission rate for ozone under the definition for *Significant* in the Louisiana rules also meet the Federal requirements in 40 CFR 51.166(b)(23)(i). The November 9, 2007 revisions allowing for an exemption with respect to ozone monitoring for a source with a net emissions increase less than 100 tpy of NO<sub>x</sub> also meet the Federal requirement on monitoring exemptions under the footnote for 40 CFR 166(i)(5)(i)(e). Thus, the November 9, 2007 revisions would make the LA SIP more stringent and would not interfere with any applicable CAA requirement concerning attainment of the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS. EPA is proposing to approve these revisions as meeting the requirements of section 110 of the Act and 40 CFR 51.166 for establishing NO<sub>x</sub> emissions as a precursor for ozone.

The PSD revisions we are proposing to approve are limited to those specified in the preceding paragraphs and are severable from the portions of the December 20, 2005 and November 9, 2007 SIP submittals on which we are taking no action. By severable, we mean that the portions of the SIP revisions we are proposing to approve can be implemented independently of the portions on which we are not acting, without affecting the stringency of the submitted rules. In addition, the portions on which we are taking no action are not necessary for approval of the infrastructure SIP requirements addressed in this proposed action. EPA is not proposing to take action on any other portions of the December 20, 2005 and November 9, 2007 SIP revisions in this proposed rulemaking; we intend to act on those revisions in a future rulemaking.

To implement section 110(a)(2)(C) for the 1997 PM<sub>2.5</sub> standard, EPA believes that States should appropriately implement the interim policy for preconstruction (PSD) review as interpreted by legal rulings. States may follow this approach in the interim until they must provide revisions to implement the PM<sub>2.5</sub> standard due May 16, 2011 under 73 FR 28321.<sup>19</sup> During the transition to SIP-approved PSD requirements for PM<sub>2.5</sub>, LDEQ confirmed to EPA by letter that, should they rely on the EPA's PM<sub>10</sub> Surrogate Policy, the State would include an

<sup>19</sup>The Federal Register notice (73 FR 28321) was published May 16, 2008.

<sup>17</sup>The current design values for 2010 are preliminary, as the monitoring seasons have not ended and data has yet to be reviewed for quality assurance.

<sup>18</sup>A copy of our approval letter is in the docket for this rulemaking.

adequate rationale or demonstration to support the use of PM<sub>10</sub> as a surrogate based on the facts and circumstances of the specific permit action, consistent with relevant case law on the use of surrogate pollutant analyses.<sup>20</sup> See 75 FR 6827, 6831–32 (February 11, 2010) (discussion of case law relevant to the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub>). On February 18, 2011, the LDEQ proposed revisions to the Louisiana SIP to amend their PSD and nonattainment NSR programs for PM<sub>2.5</sub>. The State is planning to submit these changes as a SIP revision by May 16, 2011. EPA will act on this submission in a separate rulemaking.

Louisiana has the authority to issue permits under the SIP-approved PSD program to sources of GHG emissions (75 FR 82536, December 30, 2010; 75 FR 77698, December 13, 2010).<sup>21</sup> The Tailoring Rule established thresholds that phase in the applicability of PSD requirements to GHG sources, starting with the largest GHG emitters, and were designed to relieve the overwhelming administrative burdens and costs associated with the dramatic increase in permitting burden that would have resulted from applying PSD requirements to GHG emission increases at or above only the mass-based statutory thresholds of 100/250 tpy generally applicable to all PSD-regulated pollutants starting on January 2, 2011. However, EPA recognized that even after it finalized the Tailoring Rule, many SIPs with approved PSD programs would, until they were revised, continue to apply PSD at the statutory thresholds, even though the States would not have sufficient resources to implement the PSD program at those levels. EPA consequently implemented its “PSD SIP Narrowing Rule” and narrowed its approval of those provisions of previously approved SIPs that apply PSD to GHG emissions increases from sources emitting GHGs below the Tailoring Rule thresholds (75 FR 82536, December 30, 2010). Through the PSD SIP Narrowing Rule, EPA withdrew its previous approvals of those programs to the extent the SIPs apply PSD to increases in GHG emissions from GHG-emitting sources below the Tailoring Rule thresholds. The portions of the PSD programs regulating GHGs from GHG-emitting

sources with emission increases at or above the Tailoring Rule thresholds remained approved. The effect of EPA narrowing its approval in this manner is that the provisions of previously approved SIPs that apply PSD to GHG emissions increases from sources emitting GHGs below the Tailoring Rule thresholds have the status of having been submitted by the State but not yet acted upon by EPA (75 FR 82536, December 30, 2010).

Louisiana submitted to EPA a supplemental certification, dated March 24, 2011, certifying that the portion of the GHG PSD program in the State’s submittal under infrastructure SIP review is only the portion that remained approved after EPA’s promulgation of the PSD SIP Narrowing Rule, which is the portion that regulates GHG-emitting sources with GHG emissions at or above the Tailoring Rule thresholds. Therefore, we are proposing to find that the current Louisiana PSD SIP meets section 110(a)(2)(C) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

Section 110(a)(2)(C) creates “a general duty on States to include a program in their SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved” (70 FR 71612, 71677). EPA provides States with a “broad degree of discretion” in implementing their minor NSR programs (71 FR 48696, 48700). The “considerably less detailed” regulations for minor NSR are provided in 40 CFR 51.160 through 51.164. EPA has determined that Louisiana’s minor NSR program adopted pursuant to section 110(a)(2)(C) of the Act regulates emissions of ozone and its precursors and PM. Louisiana’s minor source permitting requirements are contained at 33 LAC 5–505 and were approved at 54 FR 9783.

In this action, EPA is proposing to approve Louisiana’s infrastructure SIP for the 1997 ozone and PM<sub>2.5</sub> NAAQS with respect to the general requirement of section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the State’s existing minor NSR program itself to the extent that it is inconsistent with EPA’s regulations governing this program. EPA believes that a number of States may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with States to reconcile State minor NSR programs with EPA’s regulatory provisions for the program. The statutory requirements of section

110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the States an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(C) for both the 1997 ozone and PM<sub>2.5</sub> standards.

*Interstate and international transport, pursuant to section 110(a)(2)(D)(ii):* EPA approved into the Louisiana SIP the Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Trading Programs on September 28, 2007 (72 FR 55064). The SIP revision at 72 FR 55064 contains provisions that address significant contribution, interference with maintenance, PSD, and protection of visibility. The provisions that address significant contribution and interference with maintenance will be re-evaluated after the EPA’s Transport Rule is finalized. The protection of visibility requirement will be further evaluated when EPA completes its review of the regional haze SIP revision submitted on June 13, 2008. For additional detail, please refer to the TSD. Because 110(a)(2)(D)(i) was addressed in other actions, EPA is not proposing action on this element here.

Section 110(a)(2)(D)(ii) of the Act requires compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. Section 115(a) addresses endangerment of public health or welfare in foreign countries from pollution emitted in the United States. Pursuant to section 115, the Administrator has neither received nor issued a formal notification that emissions from Louisiana are endangering public health or welfare in a foreign country. Section 126(a) of the Act requires new or modified sources to notify neighboring States of potential impacts from such sources. 33 LAC 503 requires that each major proposed new or modified source provide such notification and is in the Federally enforceable SIP (see 54 FR 9783). The State also has no pending obligations under section 126 of the Act.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(D)(ii) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Adequate personnel, funding, and authority, pursuant to section 110(a)(2)(E):* The duties, powers and structure of the LDEQ (described at RS

<sup>20</sup> December 16, 2010, letter from Cheryl Sonnier Nolan, Assistant Secretary, Environmental Services Division, Louisiana Department of Environmental Quality to Thomas Diggs, Associate Director for Air Programs, EPA Region 6. This letter is in the docket for this rulemaking.

<sup>21</sup> To view Louisiana’s letter, in which the State told EPA it had this authority, please see <http://www.epa.gov/nsr/2010letters/la.pdf>.

30:2011.F) provide that “the basic personnel [\* \* \*] shall be employed or provided by the department;” and the LDEQ may contract, employ, and compensate such assistance on a full or part-time basis as may be necessary to carry out the provisions of this Subtitle. In addition, the State has the Environmental Trust Fund, established at RS 30:2015, which is used, in part, to “defray the cost to the State of permitting, monitoring, \* \* \* maintaining and administering the programs provided for under the LEQA.”

There are Federal sources of funding for the implementation of the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS, through, for example, the CAA sections 103 and 105 grant funds. The LDEQ receives Federal funds on an annual basis, under sections 103 and 105 of the Act, to support its air quality programs. Fees collected for motor vehicle inspections, the Title V and non-Title V permit programs, and other inspections, maintenance and renewals required of other air pollution sources<sup>22</sup> also provide necessary funds to help implement the State’s air programs. Information on permitting fees is provided in the discussion for 110(a)(2)(L) below. The secretary has the power and duty “to receive and budget duly appropriated monies and to accept, receive, and administer grants or other funds or gifts from public and private agencies, including the Federal government, to carry out the provisions and purposes of this Subtitle.” See RS 30:2011.D.10. For more detail on funding sources, please see the TSD.

The LEQA furthermore provides the secretary of the LDEQ adequate authority with the powers and duties, in part, “to adopt, amend, or repeal all rules, regulations, and standards for the protection of the environment.” See RS 30:2011.D.1. The SIP rule at 33 LAC, Chapter 1, section 101 describes the LDEQ as the State’s air pollution control agency and its enforcement authority, referencing the 1983 LEQA (54 FR 9783). Therefore, the State has demonstrated it has adequate authority under its rules and regulations to carry out its SIP obligations with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

As discussed previously in this rulemaking with regards to section 110(a)(2)(C), Louisiana submitted to EPA a supplemental certification, dated March 24, 2011, certifying that the portion of the GHG PSD program in the

State’s submittal under infrastructure SIP review is the portion that remained approved after EPA’s promulgation of the PSD SIP Narrowing Rule. LDEQ has the resources to implement its GHG PSD program for sources with emissions increases at or above the thresholds indicated by the PSD SIP Narrowing Rule.

EPA is proposing to find that the current Louisiana PSD SIP meets section 110(a)(2)(E) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Stationary source monitoring system, pursuant to section 110(a)(2)(F):* 33 LAC, chapters 7, 9, 13, 15, and 21–23 require source monitoring for compliance, recordkeeping and reporting, and provide for enforcement, with respect to all the NAAQS and their precursors. These source monitoring program requirements generate data for, among other pollutants, ozone, PM<sub>2.5</sub>, and precursors to these pollutants (VOCs, NO<sub>x</sub>, and SO<sub>2</sub>).

Under the Louisiana SIP rules, the LDEQ is required to analyze the emissions data from point, area, mobile, and biogenic (natural) sources. The LDEQ uses this data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with Louisiana and EPA requirements. The State’s emissions data are available on the LDEQ Web site (<http://www.deq.louisiana.gov>). These rules have been approved by EPA into the SIP. A list of the chapters and **Federal Register** citations are provided in the TSD.

There are two additional requirements that Louisiana must meet regarding emissions inventories (EIs): the EI requirement for nonattainment areas, and the requirement to submit annual EI data to EPA’s National Emissions Inventory (NEI) database. For the Baton Rouge ozone nonattainment area, the LDEQ submitted an EI SIP with a 2002 base year which included NO<sub>x</sub> and VOC data. EPA approved this EI SIP on September 3, 2009 (74 FR 45561). The NEI is EPA’s central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time States had to report emissions data from 17 to 12 months, giving States one calendar year to submit emissions data. All States are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA’s online Emissions

Inventory System (EIS). States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site <http://www.epa.gov/ttn/chieff/eiinformation.html>. The LDEQ is current with their submittals to the NEI database; the 2008 data was submitted to EPA in 2010. The State’s emissions data are also available on EPA’s AirData Web site (<http://www.epa.gov/air/data/index.html>).<sup>23</sup>

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(F) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Emergency power, pursuant to section 110(a)(2)(G):* Section 110(a)(2)(G) requires States to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. The LEQA, pursuant to RS 2011.D.15, provides the LDEQ with authority to address environmental emergencies, and the LDEQ has contingency plans to implement emergency episode provisions in the SIP. The LDEQ promulgated the “Prevention of Air Pollution Emergency Episodes,” which includes contingency measures, and these provisions were approved into the SIP on March 8, 1989 (54 FR 9783). The episode criteria and contingency measures are found in 33 LAC Chapter 56. The criteria for ozone are based on a 1-hour average ozone level. These episode criteria and contingency measures are adequate to address ozone emergency episodes and are in the Federally approved SIP.

The 2009 Infrastructure SIP Guidance for PM<sub>2.5</sub> recommends that a State with at least one monitored 24-hour PM<sub>2.5</sub> value exceeding 140.4 µg/m<sup>3</sup> since 2006 establish an emergency episode plan and contingency measures to be implemented should such level be exceeded again. The 2006–2010 ambient air quality monitoring data<sup>24</sup> for Louisiana do not exceed 140.4 µg/m<sup>3</sup>. The PM<sub>2.5</sub> levels have consistently remained below this level (140.4 µg/m<sup>3</sup>),

<sup>23</sup> The AirData Web site provides access to air pollution data for the entire United States and produces reports and maps of air pollution data based on criteria specified by the user.

<sup>24</sup> The ozone and PM data are available through AQS and the State Web site (<http://www.deq.louisiana.gov>). The AQS data for PM are provided in the docket for this rulemaking.

<sup>22</sup> For example, annual fees are collected for inspections of Stage II Vapor Recovery systems at gasoline dispensing stations.

and furthermore, the State has appropriate general emergency powers to address PM<sub>2.5</sub> related episodes to protect the environment and public health. Given the State's low monitored PM<sub>2.5</sub> levels, EPA is proposing the State is not required to submit an emergency episode plan and contingency measures at this time, for the 1997 PM<sub>2.5</sub> standard. Additional detail is provided in the TSD.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(G) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Future SIP revisions, pursuant to section 110(a)(2)(H):* The LEQA, codified at RS 30:2011.D.1, provides that the secretary of the LDEQ shall, in part, "adopt, amend or repeal all rules, regulations, and standards for the protection of the environment." In addition, the LEQA at RS 30:2011.D.7 requires the LDEQ to "cooperate with [\* \* \*] the Federal government [\* \* \*] in furtherance of the purposes of this Subtitle." Thus, Louisiana has the authority to revise its SIP from time to time as may be necessary to take into account revisions of primary or secondary NAAQS, or the availability of improved or more expeditious methods of attaining such standards. Furthermore, Louisiana also has the authority under these LEQA provisions to revise its SIP in the event the EPA pursuant to the Act finds the SIP to be substantially inadequate to attain the NAAQS.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(H) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Consultation with government officials, pursuant to section 110(a)(2)(I):*<sup>25</sup> The LEQA, as codified at RS 30:2011.D.1, provides that the secretary of the LDEQ "shall hold a public hearing to receive comments [\* \* \*] from all interested parties and the public" prior to the adoption of any rule or regulation. In addition, RS 30:2011.D.7 provides that the secretary shall have the power and duty "to advise, consult, and cooperate with other agencies of the State, the Federal government, other States, and interstate agencies and with affected groups, political subdivisions, interested agricultural, industrial, professional, and environmental groups and individuals in furtherance of the purposes of this Subtitle." Further, section 509 of 33 LAC Chapter 5

provides that the State shall provide written notice of any permit application for a proposed major stationary source or major modification the emissions from which may affect a Class I area to the Federal land manager (see 54 FR 9783). Section 1434 of 33 LAC Chapter 14 requires that interagency consultation be undertaken before making conformity determinations and before adopting applicable SIP revisions and public hearings shall be held to receive public comment on transportation-related SIPs.<sup>26</sup> These rules are in the Federally approved SIP. EPA is proposing to find that the Louisiana SIP meets the requirements of this portion of section 110(a)(2)(J) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Public notification if NAAQS are exceeded, pursuant to section 110(a)(2)(J):* Public notification begins with the air quality forecast, which advises the public of conditions capable of exceeding the NAAQS (see 54 FR 9783). A 3-day air quality forecast can be found on the LDEQ Web site for both ozone and PM<sub>2.5</sub> for each forecast area.<sup>27</sup> In addition, the State implements an Ozone Action Day (OAD) program and will issue an ozone alert in the afternoon on the day before an elevated level of ozone is expected to occur. Announcements for an OAD will be broadcast through television and other news media, and to employers participating in the OAD program. The OAD program includes examples of actions that can be implemented by individuals and organizations to reduce ozone levels and exposure to ozone. Also through the LDEQ Web site, the public can subscribe to Enviroflash, an electronic information system that provides a forecast of air quality information via e-mail, cell phone, or pager. Ozone data are posted on the LDEQ Web site; current, regional hourly and regional 8-hour ozone data are posted hourly (see <http://www.deq.louisiana.gov>). EPA is proposing to find that the Louisiana SIP meets this portion of section 110(a)(2)(J) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*PSD and visibility protection, pursuant to section 110(a)(2)(J):* This portion of section 110(a)(2)(J) in part requires that a State's SIP meet the applicable requirements of section 110(a)(2)(C) as relating to PSD programs. As detailed in the subsection titled

*"Program for enforcement of control measures and regulation of the modification and construction of any stationary source \* \* \* pursuant to section 110(a)(2)(C) of this rulemaking and in the TSD, the State's PSD program is in the SIP (52 FR 13671, 54 FR 25449, 56 FR 20137, and 61 FR 53639). In addition to the approved program and to meet the requirements of 110(a)(2)(C) for the 1997 ozone standard, EPA believes the State must have updated its PSD rules to treat NO<sub>x</sub> as a precursor for ozone. Thus, we are proposing to approve portions of two SIP revisions (submitted December 20, 2005 and November 9, 2007) to implement NO<sub>x</sub> as a precursor to ozone. These revisions are proposed for the definitions at 33 LAC 5-509, as described earlier. To implement section 110(a)(2)(C) for the 1997 PM<sub>2.5</sub> standard, EPA believes that States should appropriately implement the interim policy for preconstruction review, as described above. During the transition to SIP-approved PSD requirements for PM<sub>2.5</sub>, the State would include an adequate rationale or demonstration to support the use of PM<sub>10</sub> as a surrogate based on the facts and circumstances of the specific permit action, should they rely on the EPA's PM<sub>10</sub> Surrogate Policy.<sup>28</sup> The State's minor source permitting requirements were approved at 54 FR 9783. The portions of the State's PSD program related to permitting GHGs at or above the Tailoring Rule thresholds are approvable in light of the PSD SIP Narrowing Rule. EPA is proposing to find that the Louisiana SIP meets the PSD requirement of section 110(a)(2)(C). A more detailed discussion is provided in subsection 110(a)(2)(C) above and in the TSD. EPA is proposing to find that the Louisiana SIP meets this portion of section 110(a)(2)(J) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.*

EPA approved Louisiana's Visibility Protection Plan into the Louisiana SIP on June 10, 1986 (51 FR 20967). EPA approved revisions to Louisiana's Visibility Protection Plan and approved a Long-Term Strategy for Visibility Protection into the Louisiana SIP on December 19, 1988 (53 FR 50958). The State's most recent SIP revision of their Regional Haze program was submitted to EPA on June 13, 2008, and we will take action on it in a separate rulemaking. With regard to the applicable requirements for visibility protection, EPA recognizes that States are subject to visibility and regional haze program requirements under Part C

<sup>25</sup> Section 110(a)(2)(J) is divided into three segments: Consultation with government officials; public notification; and PSD and visibility protection.

<sup>26</sup> See 64 FR 72934, published December 29, 1999.

<sup>27</sup> There are eight forecast areas: Baton Rouge, Alexandria, Lake Charles, Lafayette, Monroe, New Orleans, Shreveport, and Thibodaux. Please see <http://www.deq.louisiana.gov>.

<sup>28</sup> See 75 FR 6827, 6831-32 (discussion of case law relevant to the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub>).



of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation “triggered” under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary PM<sub>2.5</sub> NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. EPA is therefore proposing to find that the Louisiana SIP meets this portion of section 110(a)(2)(J) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Air quality modeling and submission of data, pursuant to section 110(a)(2)(K):* The Secretary of the LDEQ has the power and duty, under RS 30:2011.D.26 to provide for the functions of environmental air quality assessment. As an example, Louisiana submitted modeling and control measures in a SIP revision to demonstrate attainment of the 1997 8-hour ozone standard.<sup>29</sup> The modeling and control measures in the SIP revision were approved by EPA and adopted into the SIP.

This section of the Act also requires that a SIP provide for the submission of data related to such air quality modeling to the EPA upon request. RS 30:2011.D.7 authorizes LDEQ to cooperate with the Federal government, allowing it to make this submission to the EPA.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(K) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Permitting fees, pursuant to section 110(a)(2)(L):* LEQA as codified in RS 30:2014 provides legal authority for establishing a fee schedule to recover the reasonable costs of acting on permit applications, implementing, and enforcing permits. Louisiana’s Permit Fee System was approved by EPA on July 7, 1982 (47 FR 29535) and revisions were approved by EPA into the Louisiana SIP on May 3, 1984 (49 FR 18825) and March 8, 1989 (54 FR 9783). The annual maintenance fee, new application fee, major modified permit fee, and minor modified permit fee were approved by EPA at 54 FR 9783 and on March 25, 1994 (59 FR 14112). The Title V program and associated fees legally are not part of the SIP, but were approved by EPA on September 12, 1995 (60 FR 47296) as part of the

Louisiana Title V Program. EPA is reviewing the Louisiana Title V program, including the Title V fee structure, separate from this action. Because the Title V program and associated fees legally are not part of the SIP, the infrastructure SIP action we are proposing today does not preclude EPA from taking future action regarding Louisiana’s Title V program.

EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(L) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

*Consultation/participation by affected local entities, pursuant to section 110(a)(2)(M):* As indicated above, the Louisiana statute under RS 30:2011.D.1 provides that the secretary of the LDEQ “shall hold a public hearing to receive comments [\* \* \*] from all interested parties and the public” prior to the adoption of any rule or regulation. In addition, RS 30:2011.D.7 provides that the secretary shall have the power and duty “to advise, consult, and cooperate with other agencies of the State, the Federal government, other States, and interstate agencies and with affected groups, political subdivisions, interested agricultural, industrial, professional, and environmental groups and individuals in furtherance of the purposes of this Subtitle.” EPA is proposing to find that the Louisiana SIP meets the requirements of section 110(a)(2)(M) with respect to the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS.

#### IV. Proposed Action

We are proposing to approve the submittals provided by the State of Louisiana to demonstrate that the Louisiana SIP meets the requirements of Section 110(a)(1) and (2) of the Act for the 1997 ozone and PM<sub>2.5</sub> NAAQS. We are proposing to find that the current Louisiana SIP meets the infrastructure elements listed below:

Emission limits and other control measures (110(a)(2)(A) of the Act);  
 Ambient air quality monitoring/data system (110(a)(2)(B) of the Act);  
 Program for enforcement of control measures (110(a)(2)(C) of the Act);  
 Interstate Transport (110(a)(2)(D)(ii) of the Act);  
 Adequate resources (110(a)(2)(E) of the Act);  
 Stationary source monitoring system (110(a)(2)(F) of the Act);  
 Emergency power (110(a)(2)(G) of the Act);  
 Future SIP revisions (110(a)(2)(H) of the Act);  
 Consultation with government officials (110(a)(2)(I) of the Act);  
 Public notification (110(a)(2)(J) of the Act);  
 Prevention of significant deterioration and visibility protection (110(a)(2)(J) of the Act);  
 Air quality modeling data (110(a)(2)(K) of the Act);

Permitting fees (110(a)(2)(L) of the Act); and  
 Consultation/participation by affected local entities (110(a)(2)(M) of the Act).

EPA is also proposing to approve the following revisions to 33 LAC 5–509, submitted by LDEQ on December 20, 2005 and November 9, 2007:

1. The 2005 non-substantive recodification of the definition for *Major Modification* subsection 2 to subsection *b*, and the 2007 substantive change adding NO<sub>x</sub> to the definition of *Major Modification*.

2. The 2005 non-substantive recodification of the definition for *Major Stationary Source* at subsection 4 to subsection *d*, and the 2007 substantive change adding NO<sub>x</sub> to the definition of *Major Stationary Source*.

3. The 2005 non-substantive recodification of the first paragraph of the definition for *Significant* at subsection 1 to subsection *a*, and the 2007 substantive change adding NO<sub>x</sub> as a precursor to the table’s criteria and other pollutants listing for ozone.

4. The 2005 non-substantive recodification of the first paragraph of subsection I.8 to subsection *I.5*, and the 2007 substantive change allowing for an exemption with respect to ozone monitoring for a source with a net emissions increase less than 100 tpy of NO<sub>x</sub>.

EPA is proposing these actions in accordance with section 110 and part C of the Act and EPA’s regulations and consistent with EPA guidance.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

<sup>29</sup> See the Attainment Demonstration for the Shreveport-Bossier City Early Action Compact Area, approved by EPA and adopted into the SIP on August 22, 2005 (70 FR 48880).

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 7, 2011.

**Al Armendariz,**

*Regional Administrator, Region 6.*

[FR Doc. 2011-9286 Filed 4-15-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2011-0315, FRL-9296-8]

#### Approval and Promulgation of Implementation Plans; Washington: Extension of Comment Period

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** EPA is extending the public comment period on EPA's notice of proposed rulemaking "Approval and Promulgation of Implementation Plans; Washington: Correction" published on March 23, 2011 at 76 FR 16365. A commenter requested additional time to review the proposal and prepare comments. In response to this request, EPA is extending the original 30-day comment period for an additional 30 days. The extended comment period will close on May 23, 2011.

**DATES:** Comments must be received on or before May 23, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2011-0315, by any of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- *E-mail:* R10-Public.Comments@epa.gov.

- *Mail:* Kristin Hall, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Kristin Hall, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2011-0315. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 <http://www.regulations.gov> or e-mail. The

<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 <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 <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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at telephone number: (206) 553-6357, e-mail address: [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** On March 23, 2011, EPA published a proposed rulemaking to correct errors in the State Implementation Plan (SIP) for the State of Washington regarding the scope of certain regulations incorporated by reference into the SIP. 76 FR 16365. This correction would limit the applicability of certain regulations to pollutants for which National Ambient Air Quality Standards (NAAQS) have been established and precursors to those NAAQS pollutants. EPA received a request that the public comment period be extended to allow more time to review the proposal and prepare comments. In response to this request, EPA is extending the original 30-day comment period for an additional 30 days. The extended comment period will close on May 23, 2011.