

next 5-year period is not resolved by the April 1 date, the share decision announced by the Responsible Official must be implemented. If an appeal decision results in a change in the shares, the revised total share of the Small Business Timber Sale Set-aside Program must be accomplished during the remaining portion of the 5-year period.

(l) *Timber sale set-aside policy changes.* Timber purchasers shall receive an opportunity, in accordance with all applicable laws and regulations, to review and comment on significant changes in the Small Business Timber Sale Set-aside Program or policy prior to adoption and implementation.

(m) *Information collection requirements.* The provisions of paragraph (f) of this section specify the information that appellants must provide when appealing decisions pertaining to recomputation of shares. As such, these rules contain information requirements as defined in 5 CFR Part 1320. These information requirements have been approved by the Office of Management and Budget and assigned control number 0596-0141.

Dated: December 29, 1998.

**Anne Kennedy,**

*Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. 99-68 Filed 1-4-99; 8:45 am]

BILLING CODE 3410-11-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[LA40-1-7338a; FRL-6207-8]

#### Approval and Promulgation of Implementation Plan Louisiana; Nonattainment Major Stationary Source Revision

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

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a revision to the Louisiana State Implementation Plan (SIP), Title 33 of the Louisiana Administrative Code Chapter 5 Section 504, "Nonattainment New Source Review Procedures." This revision was submitted on May 9, 1997, by the Governor of Louisiana to EPA for approval.

This revision allows major stationary sources emitting or having the potential to emit at least 100 tons per year of volatile organic compounds (VOC) to offset emissions within the source by an internal offset ratio of at least 1.3 to 1.

If the internal offset condition is met, then the requirement to apply the Lowest Achievable Emission Rate (LAER) shall be lifted. This rule making action is being taken under sections 110, 301, and part D of the 1990 Clean Air Act (Act).

**DATES:** This action is effective on March 8, 1999, unless adverse or critical comments are received by February 4, 1999. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** (FR) informing the public that this rule will not take effect.

**ADDRESSES:** Comments may be mailed to Ms. Jole Luehrs, Chief, Air Permits Section, Mailcode 6PD-R, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above location or at the:

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

**FOR FURTHER INFORMATION CONTACT:** Tommy S. Stogner of the EPA Region 6 Air Permits Section at (214) 665-8510.

#### SUPPLEMENTARY INFORMATION:

##### I. Background of Section 504

This regulation is a revision to Section 504 previously approved on October 10, 1997, by EPA (62 FR 52948). The Governor of Louisiana submitted a revision of Louisiana Administrative Code (LAC) 33:III.504 (Section 504) on May 9, 1997, for EPA approval. This revision was submitted to incorporate provisions to implement Section 182(c)(8) of the Act.

##### II. Section 504: Incorporation of the Provision of Section 182(c)(8) of the Act

The State of Louisiana adopted this revision to incorporate provisions to implement section 182(c)(8) of the Act which provides a special rule for modifications of sources emitting 100 tons or more of VOCs per year. Affected sources are any major stationary source of VOCs located in an ozone nonattainment area classified as serious, and which emits, or has the potential to emit, 100 tons or more of VOCs per year. Whenever there is any change in emissions of VOCs from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a). This Rule allows the owner or operator of the source to offset the increase by a greater

reduction in emissions of VOCs from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, in lieu of the requirements of section 173(a)(2) concerning the LAER.

##### III. Requirements of Section 182(f) of the Act

Section 182(f) sets forth the presumption that Nitrogen Oxides (NO<sub>x</sub>) are an ozone precursor unless the Administrator makes a finding of nonapplicability or grants a waiver pursuant to criteria contained in that subsection. Specifically, section 182(f) provides that requirements applicable for major stationary sources of VOC shall apply to major stationary sources of NO<sub>x</sub>, unless otherwise determined by the Administrator, based upon certain determinations related to the benefits or contribution of NO<sub>x</sub> control to air quality, ozone attainment, or ozone air quality. In the revised rule, NO<sub>x</sub> has been removed based on a demonstration that additional NO<sub>x</sub> reductions would not contribute to attainment of the National Ambient Air Quality Standard for ozone in the nonattainment area.<sup>1</sup>

##### IV. EPA Analysis

This regulation meets all requirements for major source modifications exempting sources complying with section 182(c)(8) of the Act from the requirements of section 173(a)(2) concerning LAER and is being approved by EPA. For further details regarding this rule, EPA has prepared a Technical Support Document for EPA actions on LAC 33:III.504 for this notice.

##### V. Final Action

The EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this FR publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective March 8, 1999, without further notice unless the Agency receives relevant adverse comments by February 4, 1999.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and

<sup>1</sup> The EPA previously approved the exemption (under section 182(f) of the Act) of NO<sub>x</sub> requirements for the serious ozone nonattainment area of Baton Rouge on January 18, 1996 (see 61 FR 2438) and approved the exemption of nitrogen oxide requirements for the marginal ozone nonattainment area of Lake Charles (Calcasieu Parish) on May 27, 1997 (See 62 FR 29072).

informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 8, 1999 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

## VI. Administrative Requirements

### A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O.

12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The environmental health or safety risks addressed by this action do not have a disproportionate effect on children.

### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

### E. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rule making requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under

section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66; 42 U.S.C. 7410(a)(2).

### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the FR. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective March 8, 1999 without further notice unless the Agency receives relevant adverse comments by February 4, 1999.

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 8, 1999. 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. (section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: December 8, 1998.  
**William N. Rhea,**  
*Acting Regional Administrator, Region 6.*  
 Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart T—Louisiana**

2. In § 52.970 (c), the table is amended under Chapter 5 by revising the entry for section 504 to read as follows:

**§ 52.970 Identification of plan.**

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

**EPA APPROVED REGULATIONS IN THE LOUISIANA SIP**

State citation	Title/subject	State approval date	EPA approval date	Comments
LAC Title 33. Environmental Quality Part III. Air				
*	*	*	*	*
Chapter 5—Permit Procedures				
*	*	*	*	*
Section 504 .....	Nonattainment New Source Review Procedures.	February 20, 1997	January 5, 1999.	
*	*	*	*	*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[KY98-9808a; FRL-6199-1]

**Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to Basic Motor Vehicle Inspection and Maintenance Program**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted on November 10, 1997, by the Commonwealth of Kentucky, through the Kentucky Natural Resources and Environmental Protection Cabinet. This revision modifies the implementation of a basic motor vehicle inspection and maintenance (I/M) program in Jefferson County, Kentucky, to require loaded mode testing of vehicles instead of the current idle testing.

**DATES:** This final rule is effective March 8, 1999 without further notice unless EPA receives relevant adverse comments by February 4, 1999. Should the EPA receive such comments, it will publish a timely document withdrawing this rule informing the public that the rule will not take effect.

**ADDRESSES:** Written comments on this action should be addressed to Dale Aspy at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file KY98-9808. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Dale Aspy, (404) 562-9041.

Kentucky Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403, (505) 573-3382.

Jefferson County Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky, (502) 574-6000.

**FOR FURTHER INFORMATION CONTACT:** Dale Aspy at 404/562-9041.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Clean Air Act as amended in 1990 (the Act) requires that many ozone nonattainment areas adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. The moderate ozone nonattainment areas, as well as marginal ozone areas with existing or previously required I/M programs, must adopt programs that meet the "basic" I/M requirements. Enhanced programs are required in