the public. As a result, the regulation does not affect the general public. Therefore, it would be helpful in avoiding confusion with the public if 32 CFR part 650, is removed.

List of Subjects in 32 CFR Part 650

Air pollution control, Environmental protection, Federal buildings and facilities, Hazardous substances, Historic preservation, Noise control, Waste treatment and disposal, Water pollution control.

PART 650—[REMOVED]

■ Accordingly, for reasons stated in the preamble, under the authority of 10 U.S.C. 3012, 32 CFR part 650, *Environmental Protection and Enhancement*, is removed in its entirely.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–3538 Filed 7–19–07; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0849; FRL–8442–8]

Approval and Promulgation of Implementation Plans; Louisiana; Clean Air Interstate Rule Sulfur Dioxide Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve a revision to the Louisiana State Implementation Plan (SIP) submitted on September 22, 2006, enacted at Louisiana Administrative Code, Title 33, Part III, Chapter 5, Section 506(C) (LAC 33:III.506(C)). This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) Sulfur Dioxide (SO_2) Trading Program, promulgated on May 12, 2005 and subsequently revised on April 28, 2006. EPA is approving the SIP revision as fully implementing the CAIR SO_2 requirements for Louisiana. Therefore, as a consequence of this SIP approval, EPA will also withdraw the CAIR Federal Implementation Plan (CAIR FIP) concerning SO_2 emissions for Louisiana. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006.

CAIR requires States to reduce emissions of SO_2 and nitrogen oxides (NO_X) that significantly contribute to, and interfere with maintenance of, the national ambient air quality standards for fine particulates and/or ozone in any downwind state. CAIR establishes State budgets for SO_2 and NO_X and requires States to submit SIP revisions that implement these budgets in States that EPA concluded did contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In this SIP revision that EPA is approving, EPA finds that Louisiana meets CAIR SO_2 requirements by participating in the EPA-administered cap-and-trade program addressing SO_2 emissions.

The intended effect of this action is to reduce SO_2 emissions from the State of Louisiana that are contributing to nonattainment of the $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS or standard) in downwind states. This action is being taken under section 110 of the Federal Clean Air Act (the Act or CAA).

DATES: This rule is effective on September 18, 2007 without further notice, unless EPA receives relevant adverse comment by August 20, 2007. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2006–0849, by one of the following methods:

(1) *www.regulations.gov:* Follow the on-line instructions for submitting comments.

(2) *E-mail:* Mr. Jeff Robinson at *robinson.jeffrey@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

(3) *U.S. EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.

(4) *Fax:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), at fax number 214–665–6762.

(5) *Mail:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(6) *Hand or Courier Delivery:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2006–0849. 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 the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should 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 the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), 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 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Louisiana Department of Environmental Quality, Office of Environmental Quality Assessment, 602 N. Fifth Street, Baton Rouge, Louisiana 70802.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's proposal, please contact Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever, any reference to ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What Action Is EPA Taking?

EPA is taking direct final action to approve a revision to Louisiana's SIP, submitted on September 22, 2006, enacted at Louisiana Administrative Code, Title 33, Part III, Chapter 5, Section 506(C) (LAC 33:III.506(C)). In its SIP revision, Louisiana would meet CAIR SO_2 requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered CAIR cap-and-trade program addressing SO_2 emissions. The SIP as revised that EPA is approving meets the applicable requirements of CAIR. Our detailed analysis of this SIP revision is in the Technical Support Document (TSD) for the Louisiana CAIR SO_2 Trading Program. The TSD is available as specified in the section of this document identified as **ADDRESSES**. As a consequence of the SIP approval, the Administrator of EPA will also issue a final rule to withdraw the FIP concerning SO_2 emissions for Louisiana. This action will delete and reserve 40 CFR 52.985 in part 52. The withdrawal of the CAIR FIP for Louisiana is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIP was premised on a deficiency in the SIP for Louisiana. Once the SIP is fully approved, EPA no longer has authority for the FIP. Thus, EPA will not have the option of maintaining the FIP following the full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIP.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on September 18, 2007 without further notice unless we receive relevant adverse comment by August 20, 2007. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What Is the Regulatory History of CAIR and the CAIR FIPs?

The Clean Air Interstate Rule (CAIR) was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the national ambient air quality standards (NAAQS) for fine particles ($PM_{2.5}$) and /or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_X for the ozone season (defined at 40 CFR 97.302 as May 1st to September 30th). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures. Louisiana was found to significantly contribute to nonattainment of the $PM_{2.5}$ standard in Alabama and the 8-hour ozone standard in Texas, resulting in Louisiana being subject to the SO_2, annual NO_X, and ozone season NO_X CAIR requirements.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, 3 years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These findings started a 2-year clock for EPA to promulgate a Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated CAIR FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. See 40 CFR 52.35 and 52.36. Each CAIR State is subject to the FIP until the State fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require certain EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone season trading programs, as appropriate, found at 40 CFR part 97. The CAIR FIPs' SO_2, NO_X annual, and NO_X ozone season trading programs impose essentially the

same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the CAIR FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all States covered by the CAIR FIPs' or SIPs' trading program for that pollutant. The CAIR FIPs also allow States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions, while the CAIR FIPs remain in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for $PM_{2.5}$ and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements. On December 13, 2006, EPA published minor, non-substantive revisions that serve to clarify CAIR and the CAIR FIPs.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs. The December 13, 2006, revisions to CAIR and the CAIR FIPs were non-substantive and, therefore, do not affect EPA's evaluation of a State's SIP revision.

With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs. Louisiana was not subject to the NO_X SIP Call requirements; therefore this exception is not available to the State.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA anticipates that most States will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the State's CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. The provisions in the abbreviated SIP revision, if approved into a State's SIP, will not replace that State's CAIR FIP; however, the requirements for the CAIR FIPs at 40 CFR part 52 incorporate the provisions of the Federal CAIR trading programs in 40 CFR part 97. The Federal CAIR trading programs in 40 CFR part 97 provide that whenever EPA approves an abbreviated SIP revision, the provisions in the abbreviated SIP revision will be used in place of or in conjunction with, as appropriate, the corresponding provisions in 40 CFR part 97 of the State's CAIR FIP.

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that States may only make limited changes to the model rules if the States want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

(1) Include NO_X SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_X Ozone Season Trading Program;

(2) Provide for State allocation of NO_X annual or ozone season allowances using a methodology chosen by the State;

(3) Provide for State allocation of NO_X annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or

(4) Allow units that are not otherwise CAIR units to opt individually into the CAIR SO_2, NO_X Annual, or NO_X Ozone Season Trading Programs under the opt-in provisions in the model rules.

EPA's authority to issue the CAIR FIPs was premised on the deficiency of each State's SIP in addressing the CAIR requirements. EPA will not have the option of maintaining the CAIR FIP following approval of a full CAIR SIP revision. Therefore, an approved CAIR full SIP revision will replace the CAIR FIP requirements for NO_X annual, NO_X ozone season, or SO_2 emissions, as applicable, for that State.

V. What Is EPA's Analysis of the Louisiana CAIR SO_2 SIP Submittal?

A. State Budget for SO_2 Allowance Allocations

The CAIR State SO_2 budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in Phase 1 of CAIR (2010 through 2014) authorizes 0.5 ton of SO_2 emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in Phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO_2 emissions in the CAIR trading program.

In today's action, EPA is approving Louisiana's SIP revision that incorporates by reference the SO_2 model trading rule as satisfying the budget requirements of 40 CFR 51.124(e). At 40 CFR 51.124(o)(1) we explain that any State that incorporates by reference the CAIR SO_2 trading program at subparts AAA through HHH of 40 CFR part 96, meets the budget obligation under 40 CFR 51.124(e). Therefore, Louisiana's SIP revision establishes the State CAIR SO_2 budgets as 59,948 tons of SO_2 emissions for 2010–2014 and 41,963 tons of SO_2 emissions in 2015 and thereafter. Louisiana's SIP revision sets these SO_2 budgets as the total amount of allowances available for allocation for a given year under the EPA-administered SO_2 cap-and-trade program.

B. CAIR SO_2 Cap-and-Trade Program

The provisions of the CAIR SO_2 model rule are similar to the provisions of the CAIR NO_X annual and ozone season model rules, which largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2

model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR SO_2 model trading rule as the basis for the SO_2 trading program in the CAIR FIPs. The CAIR FIPs' trading rules are virtually identical to the CAIR model trading rules, with changes made to account for federal rather than state implementation. The CAIR model SO_2 trading rules and the respective CAIR FIPs' trading rules are designed to work together as an integrated SO_2 trading program.

In the September 22, 2006, SIP revision, Louisiana chooses to implement its CAIR SO_2 budgets by requiring EGUs to participate in the EPA-administered cap-and-trade program for SO_2 emissions. Louisiana has adopted a full SIP revision that incorporates by reference the CAIR model cap-and-trade rule for SO_2 emissions as published at 40 CFR part 96, subparts AAA–HHH on July 1, 2005, and as revised at 70 FR 25162–25405, May 12, 2005, and 71 FR 25162–25405, April 28, 2006. This SIP revision does not include subpart III, CAIR SO_2 Opt-in Units, and any references to opt-in units. This SIP revision also does not include the December 13, 2006, revisions to the SO_2 trading rules in the CAIR and CAIR FIPs.

C. Individual Opt-In Units

The opt-in provisions of the CAIR model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and reporting requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to that CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions.

Louisiana has chosen not to allow non-EGUs to opt into the CAIR SO_2 trading program. Louisiana incorporated by reference the CAIR SO_2 Trading Program, published at 40 CFR part 96, subparts AAA–HHH on July 1, 2005, and as revised at 70 FR 25162–25405, May 12, 2005, and 71 FR 25162–25405, April 28, 2006. This SIP revision does not include subpart III, CAIR SO_2 Opt-in Units, and any references to opt-in units.

VI. Final Action

We are approving Louisiana's CAIR SO_2 SIP revision submitted on September 22, 2006, enacted at LAC 33:III.506(C). Under this SIP revision, Louisiana is choosing to participate in the EPA-administered cap-and-trade program for SO_2 emissions. Our technical analysis has shown that this SIP revision is consistent with the requirements of 40 CFR part 51, including the specific CAIR SO_2 requirements at 40 CFR 51.124 as published on May 12, 2005, and further revised on April 28, 2006; and all applicable requirements of the CAA. While we are approving the Louisiana CAIR SO_2 SIP as satisfying the CAIR SO_2 requirements, it is important to note that the Louisiana SIP revision does not incorporate EPA's latest revisions to CAIR made on December 13, 2006, and any future revisions. We understand that Louisiana will routinely update its SIP to reflect this change and any future EPA actions on the CAIR SO_2 Trading Program.

As a consequence of this SIP approval, the Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIP concerning SO_2 emissions for Louisiana. This action will delete and reserve 40 CFR 52.985 in part 52.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. The EPA interprets Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks such that the analysis required under section 5–501 of the Executive

Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a state program. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Because this rule merely approves a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 18, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 11, 2007.

Lawrence Starfield,

Acting Regional Administrator, EPA Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart T—Louisiana

■ 2. Section 52.970 is amended as follows:

■ a. In paragraph (c) the table entitled ''EPA Approved Louisiana Regulations in the Louisiana SIP'' is amended under Chapter 5—Permit Procedures, by adding in numerical order a new entry for ''Section 506(c)''.

■ b. In paragraph (e) the table entitled ''EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures'' is amended by adding a new entry for the ''Clean Air Interstate Rule Sulfur Dioxide Trading Program''.

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
* * *	*	*	* *	*
Chapter 5—Permit Procedures				
* * *	*	*	* *	*
Section 506(c)	Clean Air Interstate Rule Requirements—Annual Sulfur Dioxide.	09/20/06	07/20/07, [Insert *FR* page number where document begins].	Sections 506(A), (B), (D), and (E) NOT in SIP.
* * *	*	*	* *	*

* * * * *

(e) * * *

EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*	*	* *	*
Clean Air Interstate Rule Sulfur Dioxide Trading Program.	Statewide	09/22/06	07/20/07, [Insert *FR* page number where document begins]	Acid Rain Program Provisions NOT in SIP.

[FR Doc. E7–14068 Filed 7–19–07; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 402

[CMS–6146–F; CMS–6019–F]

RINS 0938–AM98; 0938–AN48

Medicare Program; Revised Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes the procedures for imposing exclusions for certain violations of the Medicare program and is based on the procedures that the Office of Inspector General has published for civil money penalties, assessments, and exclusions under their delegated authority. Implementation of this final rule protects beneficiaries from persons (that is, health care providers and entities) found in noncompliance with Medicare regulations, and otherwise improves the safeguard provisions under the Medicare statute. This final rule also establishes procedures that enable a person targeted for exclusion from the Medicare program to request the Centers for Medicare & Medicaid Services to act on its behalf to recommend to the Inspector General that the exclusion from Medicare be waived due to hardship that would be placed on Medicare beneficiaries as a result of the person's exclusion.

DATES: *Effective Date:* This final rule is effective on August 20, 2007.

FOR FURTHER INFORMATION CONTACT: Joel Cohen, (410) 786–3349. Joe Strazzire, (410) 786–2775.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory History

Section 2105 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) added section 1128A to the Social Security Act (the Act) to authorize the Secretary of Health and Human Services (HHS) to impose civil money penalties (CMPs), assessments, and exclusions from the Medicare program for certain persons (that is, health care facilities, practitioners, suppliers, or other entities) under certain circumstances. Exclusion provides the ultimate enforcement tool for agencies attempting to establish compliance with legal and program standards, and is used in addition to potential civil, criminal, and other administrative proceedings.

Since 1981, the Congress has significantly increased both the number and types of circumstances under which the Secretary may impose the exclusion of a person from the Medicare and State health care programs. The Secretary has delegated the authority for these provisions to either the Office of the Inspector General (OIG) or CMS (October 20, 1994 rule, 59 FR 52967). The exclusion authorities delegated to the OIG for the most part address fraud, misrepresentation, or falsification, while those that address noncompliance with programmatic or regulatory requirements are delegated to CMS. However, the OIG has the authority to impose exclusions and to prosecute cases involving exclusions that were delegated to CMS, if CMS and the OIG jointly determine it to be in the interest of economy, efficiency, or effective coordination of activities. The determination may be made either on a case-by-case basis, or for all cases brought under a particular listed authority.

In the December 14, 1998 **Federal Register** (63 FR 68687), we published a final rule entitled ''Medicare and Medicaid Program; Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures.'' That rule set forth the procedures for pursuing civil money penalties (CMPs) and assessments, and added a new part 402 to title 42, chapter IV of the Code of Federal Regulations (CFR) to incorporate our CMP and assessment authorities. However, we did not address exclusions in that final rule. Instead, we reserved subpart C for exclusions so that we could incorporate the relevant regulations at a future date.

In the December 14, 1998 final rule, we indicated that our procedures for imposing the CMPs and assessment authorities delegated to CMS were based on the procedures that the OIG had delineated in 42 CFR part 1003. We also made the OIG's hearing and appeal procedures set forth in 42 CFR part 1005 applicable to the CMP, assessment, and exclusion authorities delegated to us.

In the July 23, 2004 **Federal Register** (69 FR 43956), we published a proposed rule entitled ''Medicare Program; Revised Civil Money Penalties, Assessments, Exclusions, and Related Appeals Procedures.'' This proposed rule would amend subpart C by establishing the procedures for imposing exclusions for certain violations of the Medicare program. The proposed rule would incorporate the general requirements and procedures that are common to the imposition of an exclusion from the Medicare program.

In the August 4, 2005 **Federal Register** (70 FR 44879), we published a proposed rule entitled ''Medicare Program; Revised Civil Money Penalties, Assessments, Exclusions and Related Appeals Procedures'' that would implement section 949 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173). Section 949 of the MMA amended section 1128(c)(3)(B) of the Act to indicate that ''[s]ubject to