

**List of Subjects in 20 CFR Part 655**

Administrative practice and procedure, Foreign workers, Employment, Employment and training, Enforcement, Forest and forest products, Fraud, Health professions, Immigration, Labor, Longshore and harbor work, Migrant labor, Passports and visas, Penalties, Reporting and recordkeeping requirements, Unemployment, Wages, Working conditions.

■ Accordingly, 20 CFR Part 655 is amended by making the following technical correction:

**PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES****Subpart H—Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models, and Labor Attestation Requirements for Employers Using Nonimmigrants on H-1B1 Visas in Specialty Occupations**

■ 1. The authority citation for part 655, Subpart H continues to read as follows:

8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n) and (t), and 1184(g) and (j); sec. 303(a)(8), Public Law 102-232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Public Law 105-277, 112 Stat. 2681; and 8 CFR 214.2(h).

■ 2. Amend § 655.731 by adding paragraph (a)(2)(ii)(C) to read as follows:

**§ 655.731 What is the first LCA requirement, regarding wages?**

- (a) \* \* \*  
(2) \* \* \*  
(ii) \* \* \*

(C) Another legitimate source of wage information. The employer may rely on other legitimate sources of wage data to obtain the prevailing wage. The other legitimate source survey must meet all the criteria set forth in paragraph (b)(3)(iii)(C) of this section. The employer will be required to demonstrate the legitimacy of the wage in the event of an investigation.

\* \* \* \* \*

Signed in Washington, DC, this 28th day of August 2009.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. E9-21274 Filed 9-2-09; 8:45 am]

**BILLING CODE 4510-FP-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R06-OAR-2007-1064; FRL-8952-5]

**Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Emissions Inventory; Baton Rouge Ozone Nonattainment Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Louisiana State Implementation Plan (SIP) to meet the Emissions Inventory (EI) requirements of the Clean Air Act (CAA) for the Baton Rouge ozone nonattainment area. EPA is approving the SIP revision because it satisfies the EI requirements for areas classified as nonattainment for the 1997 8-hour ozone national ambient air quality standard. EPA is approving the revisions pursuant to section 110 of the CAA.

**DATES:** This direct final rule will be effective November 2, 2009 without further notice unless EPA receives adverse comments by October 5, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2007-1064, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.

- Follow the online instructions for submitting comments.

- *EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD (Multimedia)" and select "Air" before submitting comments.

- *E-mail:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200,

Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket No. EPA-R06-OAR-2007-1064. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at

214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection, during official business hours by appointment, at the Louisiana Department of Environmental Quality, Air Quality Assessment Division, 602 North Fifth Street, P.O. Box 4314, Baton Rouge, Louisiana 70821-4314.

**FOR FURTHER INFORMATION CONTACT:**

Emad Shahin, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-6717; fax number 214-665-7263; e-mail address *shahin.emad@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

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

**Outline**

- I. What Action Is EPA Taking?
- II. What Is a SIP?
- III. What Is the Background for This Action?
- IV. What Is EPA’s Evaluation of the Revision?
- V. Statutory and Executive Order Reviews

**I. What Action Is EPA Taking?**

We are approving a revision to the Louisiana SIP submitted by the State to meet the EI requirements of the CAA for the Baton Rouge 8-hour ozone nonattainment area. The Baton Rouge area EI was submitted to EPA on September 29, 2007 and entitled the “2002 Base Year Emissions Inventory for the Baton Rouge Ozone Nonattainment Area”. We are approving the Baton Rouge area EI pursuant to section 110 of the CAA.

EPA is 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 November 2, 2009 without further notice unless we

receive relevant adverse comment by October 5, 2009. 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 a SIP?**

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the national ambient air quality standards (NAAQS) established by EPA. NAAQS are established under section 109 of the CAA, and currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

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 CAA. 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.

**III. What Is the Background for This Action?**

On July 18, 1997, EPA published the 8-hour ozone standard of 0.08 ppm (62 FR 38856). On April 30, 2004, EPA published designations for the 8-hour ozone standard (69 FR 23858). The Baton Rouge 8-hour ozone nonattainment area, consisting of the Parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West

Baton Rouge in Louisiana, was classified as a marginal nonattainment area with an attainment date of no later than June 15, 2007. The area did not attain the 8-hour ozone standard by June 15, 2007 and on March 21, 2008 was reclassified to a “moderate” 8-hour ozone nonattainment area (73 FR 15087).

The CAA (see section 182) and EPA’s 8-hour ozone regulations (see 40 CFR 51.915) require a state to submit an emissions inventory for each area designated as nonattainment for the standard. An emissions inventory is an estimation of actual emissions of air pollutants in an area. The emissions inventory consists of volatile organic compound (VOC) and oxides of nitrogen (NOx) emissions as they are “ozone precursors”. On September 29, 2007 the Louisiana Department of Environmental Quality submitted the “2002 Base Year Emissions Inventory for the Baton Rouge Ozone Nonattainment Area” to EPA.

**IV. What Is EPA’s Evaluation of the Revision?**

EPA has reviewed the revision for consistency with the requirements of EPA regulations. A summary of EPA’s analysis is provided below. For a full discussion of our evaluation, please refer to our Technical Support Document (TSD), found in the electronic docket.

Sections 172(c)(3) and 182(b)(1) of the CAA require that nonattainment plan provisions include an inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. EPA strongly recommended using 2002 as the base year for the emissions inventory (40 CFR 51.915). EPA determined that LDEQ has developed an inventory of actual emissions from all sources in the Baton Rouge nonattainment area in accordance with EPA guidelines. The 2002 base year inventory includes all point, area, non-road mobile, and on-road mobile source emissions. Table 1 lists the 2002 EI for the Baton Rouge area. For more detail on how emissions inventories were estimated, please see the TSD. Since this SIP revision consists of just the 2002 Base Year inventory, it fully complies with section 110(l) of the CAA.

TABLE 1—BATON ROUGE 2002 BASE YEAR EMISSIONS INVENTORY (TPD)

Source category	VOC	NO <sub>x</sub>	CO
Point .....	40.17	117.91	76.11
Non-Point .....	29.71	3.90	64.43

TABLE 1—BATON ROUGE 2002 BASE YEAR EMISSIONS INVENTORY (TPD)—Continued

Source category	VOC	NO <sub>x</sub>	CO
On-Road .....	22.97	43.59	331.23
Non-Road .....	14.99	34.01	121.56
County Total .....	107.84	199.41	593.33

**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 approves 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 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.

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 action 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 2, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality

of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: August 21, 2009.

**Lawrence E. Starfield,**  
*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart T—Louisiana**

- 2. The second table in § 52.970(e), entitled "EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures" is amended by adding a new entry to the end of the table for "2002 Emission Inventory", for the Baton Rouge, LA area to read as follows:

**§ 52.970 Identification of plan.**

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

EPA APPROVED LOUISIANA  
NONREGULATORY PROVISIONS AND  
QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
2002 Emission Inventory .....	Baton Rouge, LA .....	7/31/2007	9/3/2009, [Insert FR page number where document begins].	

[FR Doc. E9-21188 Filed 9-2-09; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 09100091344-9056-02]

RIN 0648-XR40

**Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the 2009 total allowable catch (TAC) of pollock for Statistical Area 610 in the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 31, 2009, through 1200 hrs, A.l.t., October 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-

Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The C season allowance of the 2009 TAC of pollock in Statistical Area 610 of the GOA is 4,391 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009). In accordance with § 679.20(a)(5)(iv)(B) the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the C season pollock allowance by 240 mt to reflect the total amount of pollock TAC that has been caught prior to the C season in Statistical Area 610. Therefore, the revised C season allowance of the pollock TAC in Statistical Area 610 is 4,151 mt (4,391 mt minus 240 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the C season allowance of the 2009 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,141 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 28, 2009.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2009.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-21297 Filed 8-31-09; 4:15 pm]

BILLING CODE 3510-22-S