

published as a partial overlay and replacement for V-33.

V-99: V-99 extends from LaGuardia, NY, to Hartford, CT. The FAA proposes to remove this route in its entirety. The route is no longer used by ATC and no overlay is required.

V-377: V-377 extends from Montebello, VA, to Harrisburg, PA. This action proposes to remove V-377 in its entirety. RNAV route T-299 will be amended as an overlay and replacement for V-377.

V-403: V-403 extends from Solberg, NJ, to the intersection of the Pottstown, PA 222° and the Baltimore, MD 034° radials. The FAA proposes to remove this route in its entirety. RNAV route T-443 will be published as an overlay and replacement for V-403.

V-405: V-405 extends from the intersection of the Pottstown, PA 222° and the Baltimore, MD 034° radials to Marthas Vinyard, MA. The FAA proposes to remove the route in its entirety. The route is no longer used by ATC and no overlay is required.

The full descriptions of the above routes are listed in the amendments to part 71 set forth below.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published and removed from FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

*Paragraph 6010(a) Domestic VOR Federal Airways*

\* \* \* \* \*

#### V-10 [Amended]

From Pueblo, CO; 18 miles, 48 miles, 60 MSL, Lamar, CO; Garden City, KS; Dodge City, KS; Hutchinson, KS; Emporia, KS; INT Emporia 063° and Napoleon, MO, 243° radials; Napoleon; Kirksville, MO; Burlington, IA; Bradford, IL; to INT Bradford 058° and Joliet, IL, 287° radials. From INT Chicago Heights, IL, 358° and Gipper, MI, 271° radials; Gipper; to Litchfield, MI.

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#### V-33 [Removed]

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#### V-99 [Removed]

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#### V-377 [Removed]

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#### V-403 [Removed]

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#### V-405 [Removed]

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Issued in Washington, DC, on July 18, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R06–OAR–2016–0688; FRL–9955–01–R6]

### Air Approval Plans; Louisiana; Repeal of Excess Emissions Related Provisions

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA, the Act), the Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), on November 20, 2016. The submittal is in response to the EPA’s national SIP call of June 12, 2015, concerning excess emissions during periods of Startup, Shutdown, and Malfunction (SSM). The submittal requests the removal of certain provisions identified in the 2015 SIP call from the Louisiana SIP. EPA is also proposing to determine that the removal of the substantially inadequate provisions from the SIP corrects certain deficiencies identified in the June 12, 2015 SIP call.

**DATES:** Comments must be received on or before August 22, 2022.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2016–0688 at <https://www.regulations.gov> or via email to [Shar.alan@epa.gov](mailto:Shar.alan@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary

submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact Mr. Alan Shar, (214) 665–6691, [Shar.alan@epa.gov](mailto:Shar.alan@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Regional Haze and SO<sub>2</sub> Section, EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270, (214) 665–6691, [Shar.Alan@epa.gov](mailto:Shar.Alan@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

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## I. Background

### A. EPA’s 2015 SSM SIP Action

On February 22, 2013, the EPA issued a **Federal Register** notice of proposed rulemaking outlining EPA’s policy at the time with respect to SIP provisions related to periods of SSM. EPA analyzed

specific SSM SIP provisions and explained how each one either did or did not comply with the CAA with regard to excess emission events.<sup>1</sup> For each SIP provision that the EPA determined to be inconsistent with the CAA, the EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus proposed to issue a SIP call under CAA section 110(k)(5). On September 17, 2014, the EPA issued a document supplementing and revising what the Agency had previously proposed on February 22, 2013, in light of a D.C. Circuit decision that determined the CAA precludes authority of the EPA to create affirmative defense provisions. EPA outlined its updated policy that affirmative defense SIP provisions are not consistent with CAA requirements. EPA proposed in the supplemental proposal document to apply its revised interpretation of the CAA to specific affirmative defense SIP provisions and proposed SIP calls for those provisions where appropriate (79 FR 55920, September 17, 2014).

On June 12, 2015, pursuant to CAA section 110(k)(5), the EPA finalized “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,” (80 FR 33839 June 12, 2015), hereafter referred to as the “2015 SSM SIP Action.” The 2015 SSM SIP Action clarified, restated, and updated the EPA’s interpretation that SSM exemption and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 states were substantially inadequate to meet CAA requirements and issued a SIP call to those states to submit SIP revisions to address the inadequacies. EPA established an 18-month deadline by which the affected states had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP calls by November 22, 2016.

EPA issued a Memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs could be viewed as consistent with CAA

requirements.<sup>2</sup> Importantly, the 2020 Memorandum stated that it “did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.” Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued to Louisiana in 2015. The 2020 Memorandum did, however, indicate the EPA’s intent at the time to review SIP calls that were issued in the 2015 SSM SIP Action to determine whether the EPA should maintain, modify, or withdraw particular SIP calls through future agency actions.

On September 30, 2021, EPA’s Deputy Administrator withdrew the 2020 Memorandum and announced EPA’s return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).<sup>3</sup> As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if contained in a SIP submission. This policy approach is intended to ensure that all communities and populations, including overburdened communities, receive the full health and environmental protections provided by the CAA.<sup>4</sup> The 2021 Memorandum also retracted the prior statement from the 2020 Memorandum of EPA’s plans to review and potentially modify or withdraw particular SIP calls. That statement no longer reflects the EPA’s intent. EPA intends to implement the principles laid out in the 2015 SSM SIP Action as the agency takes action on SIP submissions, including Louisiana’s SIP submittal provided in response to the 2015 SIP call.

### B. Louisiana’s Provisions Related to Excess Emissions

As a part of EPA’s June 12, 2015 SSM SIP Action, EPA made a finding that certain provisions in the Louisiana SIP are substantially inadequate to meet CAA requirements because they contain exemptions from otherwise applicable SIP emission limitations, and thus

<sup>2</sup> October 9, 2020, Memorandum “Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,” from Andrew R. Wheeler, Administrator.

<sup>3</sup> September 30, 2021, Memorandum “Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,” from Janet McCabe, Deputy Administrator.

<sup>4</sup> Section J, June 12, 2015 (80 FR 33985).

<sup>1</sup> State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, (78 FR 12460) Feb. 22, 2013.

issued a SIP call<sup>5</sup> with respect to these provisions. The SIP-called provisions included the following sections of the Louisiana Administrative Code (LAC), Title 33, Part III air rules that had been previously approved into the Louisiana SIP: 33:III.2153(B)(1)(i), LAC 33:III.2201(C)(8), LAC 33:III.1107(A), LAC 33:III.1507(A)(1), LAC 33:III.1507(B)(1), LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a).

On October 20, 2016, LDEQ repealed LAC 33:III.2153(B)(1)(i), LAC 33:III.1107(A), LAC 33:III.1507(A)(1), LAC 33:III.1507(B)(1), LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a) from State law. Then by letter dated November 22, 2016, LDEQ requested the removal of the aforementioned provisions from the Louisiana SIP, in response to EPA's 2015 SSM SIP Action.<sup>6</sup>

## II. Analysis of SIP Submission

### A. Removal of LAC 33:III.1507(A) and LAC 33:III.1507(B) Exemptions

LAC 33:III.1507(A) and LAC 33:III.1507(B) were approved by the EPA into the Louisiana SIP on July 15, 1993 (80 FR 33975–6). These provisions apply to sulfuric acid plants not subject to the requirements in 40 CFR 60.82 and 60.83 of 40 CFR part 60, subpart H. LAC 33:III.1507(A) states that “a four-hour (continuous) start-up exemption from the SO<sub>2</sub> and sulfuric acid mist emission limitations of LAC 33:III.1503(A) will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83.”<sup>7</sup> LAC 33:III.1507(B) provides a similar exemption from the SO<sub>2</sub> and sulfuric acid mist emission limitations in LAC 33:III.1503(A) “where upsets have caused excessive emissions and on-line operating changes will eliminate a

temporary condition.”<sup>8</sup> In its November 22, 2016 SIP submittal, LDEQ reports that no sulfuric acid plants are eligible for the aforementioned exemptions because 40 CFR part 60, subpart H (Standards of Performance for Sulfuric Acid Plants) applies to every sulfuric acid plant located within the State. If EPA approves the removal of these repealed provisions from the SIP, all sulfuric acid plants in Louisiana will be subject to the emission limitations in LAC 33:III.1503(A) of the Louisiana SIP and no longer be able to use the two exemptions that were provided by LAC 33:III.1507(A) and LAC 33:III.1507(B).<sup>9</sup> Furthermore, the removal of these two exemptions from the Louisiana SIP will not result in any emission increases and will not interfere with the attainment of the National Ambient Air Quality Standards (NAAQS), reasonable further progress, or any other requirement of the CAA. Therefore, the proposed approval to remove LAC 33:III.1507(A) and LAC 33:III.1507(B) from the Louisiana SIP is consistent with the requirements of CAA sections 110(l) and 193.

### B. Removal of LAC 33:III.1107(A) Exemption

LAC 33:III.1107(A) was originally approved by the EPA into the Louisiana SIP on March 8, 1989 (54 FR 9795), and later codified on July 5, 2011 (76 FR 38977). LAC 33:III.1107(A) allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 (establishing a 20% opacity limit during certain flaring events) “during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment.” If EPA approves the removal of these repealed provisions from the SIP, sources with flaring events covered by LAC 33:III.1105 will no longer be able to use the exemption that had been provided by LAC

33:III.1107(A).<sup>10</sup> Furthermore, the removal of this exemption from the Louisiana SIP will not result in any emission increases and will not interfere with the attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed approval to remove LAC 33:III.1107(A) from the Louisiana SIP is consistent with the requirements of CAA sections 110(l) and 193.

### C. Removal of LAC 33:III.2153(B)(1)(i) Exemption

LAC 33:III.2153(B)(1)(i) was originally approved by the EPA into the Louisiana SIP on June 20, 2002 (67 FR 41840), and later codified on July 5, 2011 (76 FR 38977). LAC 33:III.2153 (limiting volatile organic compound (VOC) emissions from industrial wastewater) requires “affected VOC wastewater streams” to be controlled. More specifically, LAC 33:III.2153(B)(1)(d)(i) requires vents on covers and on certain junction boxes to be “equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume.” LAC 33:III.2153(B)(1)(i) provides that the requisite control device or recovery device is “not . . . required to meet the 90 percent removal efficiency or 50 parts per million volume basis concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year.” If EPA approves the removal of these repealed provisions from the SIP, sources with affected VOC wastewater streams subject to LAC 33:III.2153 will no longer be able to use the exemption that had been provided by LAC 33:III.2153(b)(1)(i).<sup>11</sup> Furthermore, the removal of this exemption from the Louisiana SIP will not result in any emission increases and will not interfere with the attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed approval to remove LAC 33:III.2153(B)(1)(i) from the Louisiana SIP is consistent with the requirements of CAA sections 110(l) and 193.

<sup>5</sup> CAA section 110(k)(5).

<sup>6</sup> On June 9, 2017, LDEQ submitted a SIP revision related to LAC 33:III.2201(C)(8); however, we are not proposing to act on that SIP submittal at this time. We intend to take action on the revisions to LAC 33:III.2201(C)(8) separately in a future rulemaking action.

<sup>7</sup> EPA issued a SIP call for LAC 33:III.1507(A)(1) on June 12, 2015 (80 FR 33967). However, LDEQ's November 22, 2016 SIP submittal requests removal of LAC 33:III.1507(A) (comprised of (A)(1) and (A)(2)) from the Louisiana SIP. LAC 33:III.1507(A)(2) states, “[t]his provision is applicable to infrequent start-ups only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emission must be minimized and no ambient air quality standard may be jeopardized.” LAC 33:III.1507(A)(2) and LAC 33:III.1507(A)(1) are interrelated and the EPA is proposing to approve LDEQ's request to remove both provisions—LAC 33:III.1507(A)(1) and (A)(2)—from the Louisiana SIP.

<sup>8</sup> EPA issued a SIP call for LAC 33:III.1507(B)(1) on June 12, 2015 (80 FR 33967). However, LDEQ's November 22, 2016 SIP submittal requests removal of LAC 33:III.1507(B) (comprised of (B)(1) and (B)(2)) from the Louisiana SIP. LAC 33:III.1507(B)(2) states, “[t]his provision is applicable to infrequent on-line adjustments only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emissions must be minimized and no ambient air quality standard may be jeopardized.” LAC 33:III.1507(B)(2) and LAC 33:III.1507(B)(1) are interrelated and the EPA is proposing to approve LDEQ's request to remove both provisions—LAC 33:III.1507(B)(1) and (B)(2)—from the Louisiana SIP.

<sup>9</sup> As noted earlier, LDEQ repealed the exemptions in LAC 33:III.1507(A) and LAC 33:III.1507(B) as a matter of state law on October 20, 2016.

<sup>10</sup> As noted earlier, LDEQ repealed the exemption in LAC 33:III.1107(A) as a matter of state law on October 20, 2016.

<sup>11</sup> As noted earlier, LDEQ repealed the exemption in LAC 33:III.2153(B)(1)(i) as a matter of state law on October 20, 2016.

*D. Removal of LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a) Exemptions*

LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a) were originally approved by the EPA into the Louisiana SIP on March 8, 1989 (54 FR 9795), and later codified on July 5, 2011 (76 FR 38977). LAC 33:III.2307(C) applies to nitric acid plants that are not subject to 40 CFR part 60, subpart G (Standards of Performance for Nitric Acid Plants). LAC 33:III.2307(C)(1)(a) provides a four-hour start-up exemption from the NO<sub>x</sub> emission limitation of LAC 33:III.2307(D), while LAC 33:III.2307(C)(2)(a) provides a similar exemption where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. If EPA approves the removal of these repealed provisions from the SIP, nitric acid plants subject to the NO<sub>x</sub> emission limitation of LAC 33:III.2307(D) will no longer be able to use the exemptions that had been provided by LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a).<sup>12</sup> Furthermore, the removal of this exemption from the Louisiana SIP will not result in any emission increases and will not interfere with the attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed approval to remove LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a) from the Louisiana SIP is consistent with the requirements of CAA sections 110(l) and 193.

### III. Proposed Action

The EPA is proposing to approve a revision to the Louisiana SIP submitted by LDEQ on November 22, 2016, in response to EPA's national SIP call of June 12, 2015 concerning excess emissions during periods of SSM. We are proposing to approve the removal of LAC 33:III.1107(A), LAC 33:III.1507(A), LAC 33:III.1507(B), LAC 33:III.2153(B)(1)(i), LAC 33:III.2307(C)(1)(a), and LAC 33:III.2307(C)(2)(a) from the Louisiana SIP in accordance with section 110 of

the Act. The EPA is further proposing to determine that this SIP revision corrects the deficiencies identified in the June 12, 2015 SIP call related to the above-referenced provisions. EPA is not reopening the 2015 SSM SIP Action and is only taking comment on whether the proposed SIP revision is consistent with CAA requirements and whether it address the substantial inadequacies in the specific Louisiana SIP provisions identified in the 2015 SSM SIP Action.

### IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to Louisiana's regulations, as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the EPA Region 6 office.

### V. Environmental Justice Considerations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."<sup>13</sup> EPA is providing additional analysis of environmental justice associated with this action for the purpose of providing information to the public.

EPA reviewed demographic data, which provides an assessment of individual demographic groups of the

populations living within Louisiana.<sup>14</sup> The EPA then compared the data to the national average for each of the demographic groups.<sup>15</sup> The results of the demographic analysis indicate that, for populations within Louisiana, the percent people of color (persons who reported their race as a category other than White alone (not Hispanic or Latino)) is similar to the national average (41.6 percent of Louisiana's population compared to 39.9 percent nationally). The percent of persons who reported their race as Black or African American alone is significantly higher than the national average (32.8 percent versus 13.4 percent). The percentage of Louisiana's population living in poverty is 17.8 percent, which is higher than the national average of 11.4 percent. The percent of people over 25 with a high school diploma in Louisiana is similar to the national average (85.9 percent versus 88.5 percent), while the percent with a Bachelor's degree or higher is lower than the national average (24.9 percent versus 32.9 percent).

Communities in close proximity to industrial sources may be subject to disproportionate environmental impacts of excess emissions. Short- and/or long-term exposure to air pollution has been associated with a wide range of human health effects including increased respiratory symptoms, hospitalization for heart or lung diseases, and even premature death.<sup>16</sup> Excess emissions during startups, shutdowns, and malfunctions can be considerably higher than emissions under normal steady-state operations. As to all population groups within Louisiana, as explained below, we believe that this proposed action will be beneficial and may reduce impacts. Exemptions for excess emissions during periods of SSM undermine the ability of the SIP to attain and maintain the NAAQS, to protect Prevention of Significant Deterioration increments, to improve visibility and to meet other CAA requirements. Such exemption provisions have the potential to lessen the incentive for development of control strategies that are effective at reducing emissions during certain modes of sources' operations such as startups and shutdowns or to take prompt steps to rectify malfunctions. Removal of these exemption provisions from the

<sup>12</sup> As noted earlier, LDEQ repealed the exemptions in LAC 33:III.2307(C)(1)(a) and LAC 33:III.2307(C)(2)(a) as a matter of state law on October 20, 2016. In its November 22, 2016 SIP submittal, LDEQ notes that it identified only one nitric acid plant not subject to 40 CFR part 60, subpart G—namely, the Nitric Acid Train 4 (NNA4-1, EQT 0007) located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen & Phosphate Plant (Agency Interest No. 3732). LDEQ also noted that a Consent Decree between EPA, LDEQ, and PCS (Civil Action No. 14-707-BAJ-SCR), entered February 26, 2014, required PCS to install NO<sub>x</sub> control equipment (*i.e.*, selective catalytic reduction, or SCR) on Nitric Acid Train 4, and therefore the exemptions provided by LAC 33:III.2307(C) are no longer needed.

<sup>13</sup> <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

<sup>14</sup> See the United States Census Bureau's QuickFacts on Louisiana at <https://www.census.gov/quickfacts/fact/table/LA,US/PST045221>.

<sup>15</sup> *Id.*

<sup>16</sup> <https://www.epa.gov/air-quality-management-process/managing-air-quality-human-health-environmental-and-economic#what> (URL dated 03/16/2022).

Louisiana SIP will bring the treatment of excess emissions in the SIP into line with CAA requirements; thus, sources in the State will no longer be able to use the repealed exemptions and will have greater incentives to control their air emissions. This proposed action is intended to ensure that all communities and populations across Louisiana and downwind areas, including overburdened communities, receive the full human health and environmental protection provided by the CAA. We believe that this rule, if finalized, will not have disproportionately high or adverse human health or environmental effects on communities with environmental justice concerns.

## VI. Statutory and Executive Order Reviews

Under the 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 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) and 13563 (76 FR 3821, January 21, 2011);
- 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 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Sulfur dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 13, 2022.

**Eartha Nance,**

*Regional Administrator, Region 6.*

[FR Doc. 2022-15422 Filed 7-21-22; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2022-0525; FRL-9961-01-R9]

### Finding of Failure To Attain and Reclassification of Las Vegas Area as Moderate for the 2015 Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Las Vegas, Nevada nonattainment area ("Las Vegas") for the 2015 ozone National Ambient Air Quality Standard (NAAQS) failed to attain by its applicable "Marginal" area attainment date of August 3, 2021. The effect of failing to attain by the attainment date is that Las Vegas will be reclassified by operation of law to "Moderate" upon the effective date of the final reclassification notice.

Consequently, the Nevada Division of Environmental Protection (NDEP) must submit state implementation plan (SIP) revisions required to satisfy the statutory and regulatory requirements for Moderate areas for the 2015 ozone NAAQS. The EPA is proposing deadlines for submission of those SIP revisions and implementation of the related control requirements. This action, if finalized as proposed, will fulfill the EPA's statutory obligation to determine whether the Las Vegas ozone nonattainment area attained the NAAQS by the attainment date.

**DATES:** Comments must be received on or before August 22, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0525, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to our public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, Cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Karina O'Connor, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; By phone: (775) 434-8176 or by email at [oconnor.karina@epa.gov](mailto:oconnor.karina@epa.gov).

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

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### I. Background