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[FR Doc. E8–24054 Filed 10–8–08; 8:45 am]

**BILLING CODE 7710-FW-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2007–0659; FRL–8727–2]

#### Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of Section 110(a)(1) Maintenance Plans for the 1997 8-Hour Ozone Standard for the Parishes of Calcasieu and St. James

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Louisiana State Implementation Plan (SIP) concerning maintenance plans addressing the 1997 8-hour ozone standard for the parishes of Calcasieu and St. James. On July 20, 2007, and August 24, 2007, the State of Louisiana submitted separate SIP revisions containing maintenance plans for the 1997 ozone standard for Calcasieu and St. James Parishes, respectively. These plans ensure the continued attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. On March 12, 2008, EPA issued a revised ozone standard. Today's action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for these areas under the 2008 standard will be addressed in future actions. These maintenance plans meet the statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is approving the revisions pursuant to section 110 of the Federal Clean Air Act (CAA).

**DATES:** This rule is effective on *December 8, 2008* without further notice, unless EPA receives relevant adverse comment by November 10, 2008. 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 No. EPA–R06–OAR–2007–0659, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line 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 email 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 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–2007–0659. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 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 at the State Air Agency listed below during official business hours by appointment:

Louisiana Department of Environmental Quality, Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, Louisiana 70821.

**FOR FURTHER INFORMATION CONTACT:** Ellen Belk, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2164; fax number 214-665-7263; e-mail address [belk.ellen@epa.gov](mailto:belk.ellen@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

#### **Outline**

- I. Background
- II. Analysis of the State's Submittals
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### **I. Background**

Under section 107 of the 1977 CAA, Louisiana's Calcasieu and St. James Parishes were designated as nonattainment areas because they did not meet the National Ambient Air Quality Standards (NAAQS) for 1-hour ozone (40 CFR 81.319). Under the 1990 CAA Amendments, the Calcasieu and St. James Parish nonattainment areas continued to be designated nonattainment for the 1-hour ozone NAAQS by operation of law since Louisiana had not yet collected the required three years of data necessary to petition for redesignation to attainment.

In two separate submittals in the mid-1990's, Louisiana submitted requests to redesignate Calcasieu Parish and St.

James Parish to attainment for the 1-hour ozone standard. As part of each submittal, the State provided the required ozone monitoring data and maintenance plan for each parish (each area includes only the one Parish) to ensure the areas would remain in attainment for 1-hour ozone for a period of 10 years. EPA approved Louisiana's requests to redesignate these Parishes to attainment for the 1-hour ozone standard and approved the maintenance plan on May 2, 1997 (62 FR 24036), with an effective date of June 2, 1997.

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 rule for implementation of the 1997 ozone NAAQS (69 FR 23951). Calcasieu and St. James Parishes were designated as unclassifiable/attainment for the 1997 ozone standard, effective June 15, 2004. Consequently, both of these attainment areas were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 rule. On May 20, 2005, EPA issued guidance providing information regarding how a state might fulfill the maintenance plan obligation established by the Act and the Phase 1 rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005). This SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Calcasieu and St. James Parish unclassifiable/attainment areas.

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Implementation Rule for the 1997 8-Hour Ozone Standard. (*South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). Petitions for rehearing were filed with the Court, and on June 8, 2007, the Court modified the scope of the vacatur of the Phase 1 rule. See 489 F.3d 1245 (D.C. Cir. 2007), *cert. denied*, 128 S.Ct. 1065 (2008). The Court vacated those portions of the Rule that provide for regulation of the 1997 8-hour ozone NAAQS nonattainment areas under Subpart 1 in lieu of Subpart 2 and that allow backsliding with respect to new source review, penalties, milestones, contingency plans, and motor vehicle emission budgets. Consequently, the Court's modified ruling does not alter any requirements under the Phase 1 implementation rule

for the 1997 8-hour ozone NAAQS for maintenance plans.

#### **II. Analysis of the State's Submittals**

On July 20, 2007, and August 24, 2007, the State of Louisiana submitted separate SIP revisions containing maintenance plans for the 1997 ozone NAAQS for Calcasieu and St. James Parishes. These July and August revisions provide 1997 ozone NAAQS maintenance plans for the two parishes named above, as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Implementation Rule (*see* 40 CFR 51.905(a)(4)). The purpose of these plans is to ensure continued attainment and maintenance of the 1997 ozone NAAQS in Calcasieu and St. James Parishes.

In this action, EPA is approving the State's maintenance plans for the 1997 ozone NAAQS for the areas of Calcasieu and St. James Parishes because EPA finds that the LDEQ submittal meets the requirements of section 110(a)(1) of the CAA, EPA's rule, and is consistent with EPA's guidance. As required, these plans provide for continued attainment and maintenance of the 1997 ozone NAAQS in the area for 10 years from the effective date of the area's designation as unclassifiable/attainment for the 1997 ozone NAAQS, and include components illustrating how each Parish will continue in attainment of the 1997 ozone NAAQS and contingency measures. Each of the section 110(a)(1) plan components is discussed below.

(a) Attainment Inventory. The LDEQ developed comprehensive inventories of VOC and NO<sub>x</sub> emissions from area, stationary, and mobile sources using 2002 as the base year to demonstrate maintenance of the 1997 ozone NAAQS for Calcasieu and St. James Parishes. The year 2002 is an appropriate year for the LDEQ to base attainment level emissions because States may select any one of the three years on which the 8-hour attainment designation for the 1997 ozone NAAQS was based (2001, 2002, and 2003). The State's submittals contain the detailed inventory data and summaries by source category. The 2002 base year inventory is a good choice. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values on which the 8-hour ozone designation decisions were based. It also is one of the years in the 2002-2004 period used to establish baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002)

require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the rule as June 2004. In accordance with these requirements, the State of Louisiana compiles a statewide EI for point sources on an annual basis. For stationary point sources, for Calcasieu and St. James Parishes, the LDEQ provided estimates for each commercial or industrial operation that emits 100 tons or more per year of VOC or NO<sub>x</sub> in Appendix A of each maintenance plan. Stationary non-point source data was provided by E.H. Pechan & Associates, Inc., through the Central Regional Air Planning Association (CENRAP) using the methodology in

“Consolidation of Emissions Inventories”, section C, page 26. On-road mobile emissions of VOC and NO<sub>x</sub> were estimated using EPA’s MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived from the “Emission Inventory Development For Mobile Sources and Agricultural Dust Sources for the Central States” produced by Sonoma Technology, Inc. for CENRAP in October 2004 using EPA’s NONROAD 2004 non-road mobile emissions computer model. EPA finds that the LDEQ prepared the 2002 base year emissions inventories for the two Parishes consistent with EPA’s long-established guidance memoranda.

In projecting data for the attainment year 2014 inventory, LDEQ used several methods to project data from the base

year 2002 to the years 2008, 2011, and 2014. These projected inventories were developed using EPA-approved technologies and methodologies. Point source and non-point source projections were derived from the Emissions Growth Analysis System version 4.0 (EGAS 4.0). Non-road mobile projections were derived from EGAS 4.0, as well as from the National Mobile Inventory Model.

The following tables provide VOC and NO<sub>x</sub> emissions data for the 2002 base attainment year inventory, as well as projected VOC and NO<sub>x</sub> emission inventory data for the years 2008, 2011, and 2014. Please see the Technical Support Document (TSD) for additional emissions inventory data including projections by source category for each parish.

**CALCASIEU PARISH VOC AND NO<sub>x</sub> EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)**  
[Tons per day]

Emissions	2002	2008	2011	2014
Total VOC .....	49.59	48.40	48.56	48.93
Total NO <sub>x</sub> .....	133.35	133.18	135.99	138.94

As shown in the Table, total VOC and total NO<sub>x</sub> emissions for Calcasieu Parish are projected to decrease slightly, and increase slightly, respectively, over the 10-year period of the maintenance plan. While emission projections for VOC indicate a downward trend through 2014, NO<sub>x</sub> emission projections through 2014 show an increase of 5.59 tons per day, or approximately 4 percent (from 133.35 to 138.94 tpd). This projected increase is relatively small considering that it occurs over a period of approximately twelve (as from the 2002

baseline) years. The slightly upward trend in NO<sub>x</sub> emissions results from projected increases in emissions for the point and non-point source categories. The EGAS system for projecting emissions tends to overstate future emissions since the system relies principally on economic growth for the projections. Specifically, the projected future emissions from NO<sub>x</sub> point sources is overstated because the projections do not include reductions from regulatory or permit controls, or account for reductions from consent

decrees. The control measures contained in rules for point and non-point stationary sources, which were not included in the EGAS program, which was used to project emissions for Calcasieu Parish, are expected to fully offset the slight increase in NO<sub>x</sub> in Calcasieu Parish which was projected without the controls. Emissions of NO<sub>x</sub> from non-road mobile and on-road mobile sources are projected to decrease.

**ST. JAMES PARISH VOC AND NO<sub>x</sub> EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2008, 2011, AND 2014)**  
[Tons per day]

Emissions	2002	2008	2011	2014
Total VOC .....	7.81	7.90	8.09	8.28
Total NO <sub>x</sub> .....	38.83	40.74	42.02	42.98

As shown in the table above, total VOC and total NO<sub>x</sub> emissions for St. James Parish are both projected to increase slightly over the 10-year period of the maintenance plan. Emission projections for VOC indicate an increase of 0.47 tons through 2014, which is an increase of approximately 6 percent (from 7.81 to 8.28 tpd). The slightly upward trend in VOC emissions results primarily from the point source category, although there is also projected to be a very small increase

from the nonpoint source category. VOC emissions from nonroad mobile and onroad mobile sources are projected to decrease. For NO<sub>x</sub>, emission projections through 2014 show an increase of 4.15 tons per day, or approximately 10 percent (from 38.83 to 42.98 tpd). These projected increases are relatively small considering that they occur over a period of approximately twelve (as from the 2002 baseline) years. The slightly upward trend in NO<sub>x</sub> emissions results from projected increases in emissions

for the point and non-road mobile source categories. One will note that the absolute number of tons per day for both VOC and NO<sub>x</sub> is very small, making any change (either an increase or a decrease) appear more pronounced when it is calculated as a percentage. In absolute terms, these are de minimis increases. Additionally, Louisiana’s projections for the total NO<sub>x</sub> emissions in 2014 did not

take into account regulatory controls which will reduce actual VOC and NO<sub>x</sub> emissions from point and stationary non-point (area) sources, as well as non-road mobile sources. National rules which were not included in the growth estimates include EPA's rules for VOC emission standards for Consumer and Commercial Products and EPA's Locomotive and Marine Compression-Ignition Engines rule. Also, a consent decree which includes a large refinery in the area that was not accounted for in the projections is expected to further reduce actual VOC and NO<sub>x</sub> emissions.

EPA is aware that a company has applied for a permit with the LDEQ to construct a large facility in St. James. We do not want to prejudge whether the permit will be issued, but the proposed emissions in the company's permit application for this facility: (1) Are large relative to this rural area's emissions (as noted above, the absolute number of tons per day for both VOC and NO<sub>x</sub> is very small in this area), (2) ordinarily would not be accounted for using the EPA's methodologies for growth estimates in a maintenance plan, and (3) could potentially impact the Baton Rouge ozone nonattainment area. The company, however, will have to satisfy the Prevention of Significant Deterioration (PSD) SIP permitting requirements by demonstrating that this facility will not interfere with maintenance in St. James and will not contribute to nonattainment in the Baton Rouge area. With this safeguard, we believe continued maintenance in the St. James Parish will be protected.

Please see the TSD for more information on EPA's analysis and review of the State's methodologies, modeling data and performance, etc. for developing the base and attainment year inventories for the two areas. As shown in the tables and discussion above, the State has demonstrated that the future year ozone precursor emissions will be less than or similar to the 2002 base attainment year's emissions. The attainment inventories submitted by the LDEQ for these areas are consistent with the criteria as discussed in the EPA Maintenance Plan Guidance memo dated May 20, 2005 and in other guidance documents (please see the docket for additional information). Considering emissions projections together with reductions from measures not accounted for in the state's projections, EPA finds that the future emissions levels in 2008, 2011 and 2014 are expected to be less than or similar to emissions levels in 2002.

(b) Maintenance Demonstration. The primary purpose of a maintenance plan is to demonstrate how an area will

continue to remain in compliance with the 1997 ozone standard for the 10-year period following the effective date of designation as unclassifiable/attainment. The end projection year is 10 years from the effective date of the attainment designation for the 1997 ozone NAAQS, which for Calcasieu and St. James Parishes was June 15, 2004. Therefore, these plans must demonstrate attainment through 2014. As discussed in section (a) Attainment Inventory above, Louisiana has identified the level of ozone-forming emissions in Calcasieu and St. James Parishes that were consistent with attainment of the NAAQS for ozone in 2002. Louisiana has projected VOC and NO<sub>x</sub> emissions for the years 2008, 2011, and 2014 in Calcasieu and St. James Parishes and EPA finds that the future emissions levels in those years are expected to be similar to or below the emissions levels in 2002. Please see the TSD for more information on EPA's review and evaluation of the State's 2008, 2011, and 2014 projected emissions inventories.

Louisiana relies on several air quality measures that will provide for additional 8-hour ozone emissions reductions in Calcasieu and St. James Parishes. These measures include the following, among others: (1) Implementation of EPA's National Rules for VOC Emission Standards: For Automobile Refinish Coatings (63 FR 48806), for Consumer Products (63 FR 48819), and Architectural Coatings (63 FR 48848), for Consumer and Commercial Products Group II (Flexible Packaging Printing Materials, Lithographic Printing Materials, Letterpress Printing Materials) (71 FR 58745), for Consumer and Commercial Products Group III (Paper, Film, and Foil Coatings, Metal Furniture Coatings, and Large Appliance Coatings) (72 FR 57215), and for Consumer and Commercial Products Group IV (to be published in the fall of 2008); (2) enacting of specific requirements from EPA's Tier 2 Motor Vehicle Emission Standards (65 FR 6697), EPA's Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (66 FR 5001), as well as EPA's Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control requirements (65 FR 6697); (3) EPA's required control of emissions from Non-road Diesel Engines and Fuels (69 FR 38958); and (4) EPA's Locomotive and Marine Compression-Ignition Engines rule (73 FR 16435). The purpose of these control measures is to reduce levels of 8-hour ozone, including the areas of Calcasieu and St. James Parishes.

(c) Ambient Air Quality Monitoring. The State of Louisiana has committed in

its maintenance plans for Calcasieu and St. James Parishes to provide operation of an appropriate ozone monitoring network and to work with EPA in compliance with 40 CFR part 58 with regard to the continued adequacy of such a network.

The Convent monitoring site in St. James Parish has monitored attainment with the 1997 ozone standard from 2002 through 2007. The 1997 ozone NAAQS is 0.08 parts per million based on the three-year average of the fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area. The 1997 ozone standard is considered to be attained at 84 parts per billion (ppb). At the time the maintenance plan was submitted by LDEQ, the three most recent 8-hour ozone design values for the Convent site in St. James Parish are 73 ppb for 2003, 73 ppb for 2004, and 76 ppb for 2005. Also, the design value for St. James Parish for 2006 is 76 ppb, and the design value for 2007 is 77 ppb.

In Calcasieu Parish there are three monitoring sites, each of which has monitored attainment with the 1997 ozone standard from 2002 through 2005. At the time the maintenance plan was submitted by LDEQ, the three most recent 8-hour ozone design values for Calcasieu Parish are 78 ppb for 2003, 80 ppb for 2004, and 83 ppb for 2005. Also, the design value for Calcasieu Parish for 2006 is 82 ppb, and the design value for 2007 is 81 ppb.

(d) Contingency Plan. The section 110(a)(1) maintenance plans include contingency provisions to correct promptly any violation of the 1997 ozone NAAQS that occurs. The contingency indicator for the Calcasieu and St. James Parish maintenance plans is based upon monitoring data. The triggering mechanism for activation of contingency measures is a monitoring violation of the 1997 ozone standard. In these maintenance plans, if contingency measures are triggered, LDEQ is committing to implement the measures as expeditiously as practicable, but no longer than 24 months following the trigger.

The following contingency measures are identified for implementation: (1) Lowering VOC RACT applicability thresholds for Stage 1 gasoline controls, (2) NO<sub>x</sub> controls on major sources (100 tpy and greater), (3) Emission offsets for permits (1.10 ratio for VOC and NO<sub>x</sub>), and (4) Other measures deemed appropriate at the time as a result of advances in control technologies. These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of continued

attainment. Continued attainment of the 1997 ozone NAAQS in the areas of Calcasieu and St. James Parishes will depend, in part, on the air quality measures discussed previously (see II.(b) above). In addition, Louisiana commits to verify the 8-hour ozone status in each maintenance plan through appropriate ambient air quality monitoring, and to quality assure air quality monitoring data according to federal requirements.

### III. Final Action

Pursuant to section 110 of the Act, EPA is approving the 1997 8-hour ozone maintenance plans for Calcasieu and St. James Parishes, which were submitted by LDEQ on July 20, 2007 and August 24, 2007, respectively, which ensure continued attainment of the 1997 8-hour ozone NAAQS through the year 2014. We have evaluated the State's submittals and have determined that they meet the applicable requirements of the Clean Air Act and EPA regulations, and is consistent with EPA policy.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no 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 *December 8, 2008* without further notice unless we receive adverse comment by *November 10, 2008*. If we receive 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.

### IV. 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 December 8, 2008. 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, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2008.

**Richard E. Greene,**  
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. In § 52.970, the table in paragraph (e) entitled, "EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES", is amended by adding two new entries to the end of the table 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 submittal date/effective date	EPA approval date	Explanation
1997 8-Hour Ozone Section 110 Maintenance Plan.	Calcasieu Parish (Lake Charles Area), LA.	7/20/07	10/09/08 [Insert FR page number where document begins].	
1997 8-Hour Ozone Section 110 Maintenance Plan.	St. James Parish, LA .....	8/24/07	10/09/08 [Insert FR page number where document begins].	

■ 3. Section 52.975, entitled, "Redesignations and maintenance plans; ozone", is amended by adding a new paragraph (j) as follows:

**§ 52.975 Redesignations and maintenance plans; ozone.**

(j) Approval. The Louisiana Department of Environmental Quality (LDEQ) submitted 1997 8-hour ozone NAAQS maintenance plans for the areas of Calcasieu and St. James Parishes on July 20, 2007, and August 24, 2007, respectively. The two areas are designated unclassifiable/attainment for the 1997 8-hour ozone standard. EPA determined these requests for Calcasieu and St. James Parishes were complete on October 5, 2007, and October 16, 2007, respectively. The maintenance plans meet the requirements of section 110(a)(1) of the Clean Air Act, and are consistent with EPA's maintenance plan guidance document dated May 20, 2005. The EPA therefore approved the 1997 8-hour ozone NAAQS maintenance plans for the areas of Calcasieu and St. James Parishes on *October 9, 2008*.

[FR Doc. E8-23867 Filed 10-8-08; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

[EPA-R06-RCRA-2008-0418; SW-FRL-8727-8]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is granting a petition submitted by Lockheed Martin Aeronautics Company to exclude (or delist) the sludge from its wastewater

treatment plant generated by Lockheed Martin Aeronautics Company in Fort Worth, Texas from the lists of hazardous wastes. This final rule responds to the petition submitted by Lockheed Martin Aeronautics Company to delist F019 sludge generated from the facility's wastewater treatment plant.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 90 cubic yards per year of the F019 sludge. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when it is disposed in a Subtitle D Landfill.

**DATES:** *Effective Date:* October 9, 2008.

**ADDRESSES:** The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA Freedom of Information Act review room on the 7th floor from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The reference number for this docket is EPA-R06-RCRA-2008-0418. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

For technical information concerning this notice, contact Wendy Jacques, Environmental Protection Agency Region 6, 1445 Ross Avenue, (6PD-F), Dallas, Texas 75202, at (214) 665-7395, or [jacques.wendy@epa.gov](mailto:jacques.wendy@epa.gov).

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

- I. Overview Information
  - A. What action is EPA finalizing?
  - B. Why is EPA approving this action?
  - C. What are the limits of this exclusion?
  - D. How will Lockheed Martin Aeronautics Company manage the waste if it is delisted?
  - E. When is the final delisting exclusion effective?
  - F. How does this final rule affect states?
- II. Background
  - A. What is a delisting?
  - B. What regulations allow facilities to delist a waste?
  - C. What information must the generator supply?
- III. EPA's Evaluation of the Waste Information and Data
  - A. What waste did Lockheed Martin Aeronautics Company petition EPA to delist?
  - B. How much waste did Lockheed Martin Aeronautics Company propose to delist?
  - C. How did Lockheed Martin Aeronautics Company sample and analyze the waste data in this petition?
- IV. Public Comments Received on the proposed exclusion
 

Who submitted comments on the proposed rule?
- V. Statutory and Executive Order Reviews

**I. Overview Information**

**A. What action is EPA finalizing?**

After evaluating the petition, EPA proposed, on May 19, 2008, to exclude the wastewater treatment plant sludge from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 70 FR 41358). EPA is finalizing the decision to grant Lockheed Martin Aeronautics Company's delisting petition to have its waste water treatment sludge managed and disposed as non-hazardous waste provided certain verification and monitoring conditions are met.

**B. Why is EPA approving this action?**

Lockheed Martin Aeronautics Company's petition requests a delisting from the F019 waste listing under 40 CFR 260.20 and 260.22. Lockheed Martin Aeronautics Company does not