



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2016-0278 FRL-9948-60-Region 6]**

**Approval and Promulgation of Implementation Plans; Louisiana; Baton Rouge**

**Nonattainment Area; Base Year Emissions Inventory for the 2008 8-Hour Ozone Standard**

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

**ACTION:** Direct final rule

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the Louisiana Department of Environmental Quality (LDEQ) to address the emissions inventory (EI) requirement for the Baton Rouge ozone nonattainment area (BRNA) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). The Clean Air Act (CAA) requires an EI for all ozone nonattainment areas. The inventory includes emission data for Nitrogen Oxides (NO<sub>x</sub>) and Volatile Organic Compounds (VOCs). EPA is approving the revisions pursuant to section 110 and part D of the CAA and EPA's regulations.

**DATES:** This rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives such comment, the 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-2016-0278, at <http://www.regulations.gov> or via email to salem.nevine@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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. 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 Ms. Nevine Salem, 214-665-7222, salem.nevine@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. 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:** Ms. Nevine Salem, 214-665-7222, salem.nevine@epa.gov. To inspect the hard copy materials, please schedule an appointment with Ms. Salem or Mr. Bill Deese at 214-665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## **I. Background**

### *A. The 2008 Ozone National Ambient Air Quality Standards (NAAQS) and Emissions Inventory Requirements*

On March 12, 2008 EPA revised the eight-hour ozone NAAQS from 0.08 part per million (ppm) to 0.075 ppm. (73 FR 16436, March 27, 2008). In 2012, EPA designated nonattainment areas for the 2008 ozone NAAQS (2008 ozone nonattainment areas) (77 FR 30088, May 21, 2012).<sup>1</sup> The Baton Rouge area was designated as nonattainment areas for the 2008 ozone NAAQS. The BRNA consists of five parishes: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

CAA sections 172(c)(3) and 182(a)(1), require states to develop and submit, as a SIP revision, an EI for all areas designated as nonattainment for the ozone NAAQS. An EI is an estimation of actual emissions of air pollutants in an area. Ground-level ozone, O<sub>3</sub>, is a gas that is formed by the reaction of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) in the atmosphere in the presence of sunlight. (VOCs and NO<sub>x</sub> are referred to as ozone precursors). Therefore, an EI for ozone covers the emissions of VOC and NO<sub>x</sub>. These precursor emissions are emitted by many types of pollution sources, including power plants and industrial emissions sources, on-road and off-road motor vehicles and engines, smaller stationary sources,

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<sup>1</sup> On October 1, 2015, the EPA strengthened the ozone standard to 0.070 ppm (80 FR 65292, October 26, 2015). The EPA has not made area designations under this new standard and the emissions inventory under evaluation in this rulemaking does not address that standard.

collectively referred to as nonpoint sources, and biogenic sources.<sup>2</sup> The EI provides emissions data for a variety of air quality planning tasks including establishing baseline emission levels, calculating federally required emission reduction targets needed to attain the NAAQS, determining emission inputs for ozone air quality simulation models, and tracking emissions over time to determine progress toward achieving air quality and emission reduction goals.

As stated above, the CAA requires the states to submit EIs for areas designated as nonattainment for ozone. For the 2008 ozone NAAQS, EPA has recommended that states use 2011 as a base year for the emission estimates (78 FR 34178, 34190, June 6, 2013). However, EPA also allows states to submit base year emissions for other years during a recent ozone standard violation period. States are required to submit estimates of VOC and NO<sub>x</sub> emissions for four general classes of anthropogenic sources: stationary point sources; nonpoint sources; on-road mobile sources; and off-road mobile sources in their EIs.

#### *B. Louisiana's Submittal*

In a letter dated May 2, 2016, the LDEQ submitted the 2011 base year inventory to the EPA as part of the BRNA designation and maintenance plan. The EPA reviewed the 2011 base year inventory and determined that it was developed in accordance with EPA guidelines. Table 1 summarizes the 2011 VOC and NO<sub>x</sub> base year emission for the BRNA area for a typical summer day (reflective of the summer period, when the highest ozone concentrations are expected in these ozone nonattainment areas).

**Table 1. Baton Rouge Nonattainment Area 2011 VOC and NO<sub>x</sub> Baseline Emissions Inventory (Tons/Day)**

Source Type	NO <sub>x</sub>	VOC
Point	74.2	33.6

<sup>2</sup> Biogenic emissions are produced by living organisms and are typically not included in the base year emission inventories, but are considered in ozone modeling analyses, which must consider all emissions in a modeled area.

Nonpoint	17.1	82.6
Onroad Mobile	38.4	19.2
Nonroad Mobile	27.3	8.7
<b>Total</b>	<b>157.0</b>	<b>144.0</b>

### *C. CAA Requirements for the SIP Revision*

The primary CAA requirements pertaining to the SIP revision submitted by LDEQ are found in CAA sections 110(l), 172(c)(3) and 182(a)(1). CAA section 110(l) requires that a SIP revision submitted to EPA be adopted by the State after reasonable notice and public hearing. Section 110(l) also prevents us from approving a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA sections 172(c)(3) and 182(a) requires a SIP revision that is a comprehensive, accurate, current inventory of actual emissions from all sources.

## **II. EPA's Evaluation**

EPA has reviewed the revision for the consistency with the requirements of EPA regulations. A summary of EPA's analysis is provided below. For a full discussion of our evaluation, please see our TSD.

CAA sections 172 (c)(3) and 182(a)(1) require an inventory of actual emissions from all sources of relevant pollutants in the nonattainment areas. EPA specified in the 2008 ozone standard SIP requirements rule that the states should use 2011 as a base year for EI SIPs to address the EI requirements. LDEQ has developed a 2011 base year emissions inventory for the Baton Rouge nonattainment areas. The 2011 base year emissions includes all point, nonpoint, non-road mobile, and on-road mobile source emissions in BRNA. LDEQ utilized data from the US EPA 2011 National Emissions Inventory (NEI), Version 2 as the baseline emissions

inventory to identify the level of emissions in the area during the period of monitored attainment and satisfy the requirement of section 182(a)(1).

EPA reviewed the emission inventory and determined that it is approvable because it was developed in accordance with EPA guidance on emission inventory preparation. The inventory is a comprehensive, accurate, and current inventory of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1). Additionally we found that (1) LDEQ adopted after reasonable notice and public hearing and (2) approval would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. A technical support document (TSD) was prepared which details our evaluation. Our TSD may be accessed online at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2016-0278.

### **III. Final Action**

We are approving a Louisiana SIP revision submitted to address the emissions inventory requirement for the Baton Rouge 2008 ozone NAAQS nonattainment area. The inventory we are proposing to approve is listed in table 1 above.

We are 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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 relevant 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 CAA, 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 CAA. 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);
- 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 (Public Law 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 CAA; 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 22, 2016.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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 second table in paragraph (e) is amended by adding the entry “2011 Emissions Inventory for the 2008 Ozone NAAQS” at the end of the table to read as follows:

**§52.970 Identification of plan.**

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(e) \* \* \*

**EPA APPROVED LOUISIANA NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
* * * * *				
2011 Emissions Inventory for the 2008 Ozone NAAQS	Baton Rouge Ozone Nonattainment Area	5/2/16	<u>[Insert the date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	

[FR Doc. 2016-15748 Filed: 7/1/2016 8:45 am; Publication Date: 7/5/2016]