



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0513; FRL-9956-45-Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; State Boards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is approving revisions to the Louisiana State Implementation Plan (SIP) that address requirements in CAA Section 128 regarding State Board composition and Conflict of Interest and Disclosure requirements.

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-2014-0513, at <http://www.regulations.gov> or via email to donaldson.tracie@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 Tracie Donaldson, 214-665-6633,

Donaldson.tracie@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 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: Tracie Donaldson, 214-665-6633, Donaldson.tracie@epa.gov. To inspect the hard copy materials, please schedule an appointment with Tracie Donaldson or Mr. Bill Deese at 214-665-7253.

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

I. Background

A. CAA and Section 128: State Boards and Heads of Executive Agency, Conflicts of Interest

Section 128 of the CAA requires SIPs to comply with the requirements regarding State Boards. Section 110(a)(2)(E)(ii) of the CAA also references these requirements. Section 128(a) of the CAA requires SIPs to contain provisions that: (1) Any board or body which approves

permits or enforcement orders under the CAA have at least a majority of its members represent the public interest and not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA; and (2) any potential conflict of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

The requirements of CAA section 128(a)(1) are not applicable to Louisiana because it does not have any board or body which approves air quality permits or enforcement orders. The requirements of CAA section 128(a)(2), however, are applicable to Louisiana because LDEQ's cabinet level Secretary (i.e., the head of an executive agency) makes the referenced decisions. Under Louisiana Revised Statutes at Title 30; Subtitle 2. Environmental Quality; Chapter 2; Department of Environmental Quality, and Chapter 3; Louisiana Air Control Law, the Secretary of the Louisiana Department of Environmental Quality (LDEQ), has the power and duty to, among other things, grant or deny air quality related permits.

B. Louisiana's submittal

On April 30, 1997 Louisiana submitted a SIP revision that contains revisions to the Louisiana Revised Statutes for inclusion into the SIP. The revisions that are necessary for inclusion into the State's SIP address the requirements of CAA section 128 in relation to State Boards/Head of Executive Agency and Conflicts of Interest/Disclosure. The specific Louisiana statutes governing the relevant CAA section 128 requirements are found in Title 42, Chapter 15 Code of Governmental Ethics and Title 30 Minerals, Oil, Gas and Environmental Quality, Subtitle 2, Environmental Quality, as detailed below: The relevant provisions of those Titles in the Louisiana SIP to meet these CAA requirements are the following: Louisiana Revised Statutes at Title 30; Chapter 2 Sections 2014.1(A)-(D): Permit review; Prohibition; Title 42; Chapter 15:

Code of Governmental Ethics; Part 1, General Provisions, Section 1102 Definitions, Section 1102(3) “Agency Head;” Section 1102(13) “Immediate Family;” Section 1102(22)(a) “Thing of Economic Value;” Section 1102(19) “Public Servant;” Section 1102(23), “Transaction involving governmental entity;” Section 1112 “Participation in Certain Transaction Involving the Governmental Entity;” Sections 1114(A)(1)-(4) and (C) “Financial disclosure.”

II. The EPA’s Evaluation

CAA section 128 requires that each state’s SIP demonstrate how State Boards or the head of an executive agency who approves CAA permits or enforcement orders disclose any potential conflicts of interest. The LDEQ Secretary is subject to the requirements of the relevant conflict of interest and disclosure provisions as the head of an Executive Agency.

LDEQ approves all CAA permits and enforcement orders in Louisiana. LDEQ is an executive agency that acts through its Secretary. LDEQ submits that public disclosure of any potential conflict in the SIP as required by CAA sections 128 and 110(a)(2)(E)(ii) pursuant to the requirements that if such person derives anything of economic value that such person should be aware, he/she must disclose specified elements under Title 42; Chapter 15: Code of Governmental Ethics; Section 1114(A)(1)-(4) and (C) “Financial disclosure.” In addition, if the Secretary of LDEQ receives or had received, during the previous two years, a significant portion of income directly or indirectly from a permit applicant, among other specified prohibitions, such individual must be recused from the permit approval process for that permit under Title 30; Chapter 2, Sections 2014.1(A)-(D): Permit review; Prohibition. The SIP revision through submittal of these relevant revised statutes demonstrates that Louisiana complies with the requirements of CAA sections 128 and 110(a)(2)(E)(ii).

It is necessary to act on the above-cited provisions to meet the requirements of the CAA Section 128 which sets forth requirements for State Boards and Agency Head and Conflicts of Interest/Disclosure. We find that the cited provisions are approvable and meet the requirements of CAA Section 128. This submittal included other Louisiana Revised Statutes that are unnecessary for inclusion into the Louisiana SIP as they do not relate to the CAA 128 and the Conflict of Interest/Disclosure provisions and thus not relevant for inclusion into the SIP.

We are also approving a ministerial change to remove language from 40 CFR Part 52.2270(e) concerning Title 40: Chapter 12, EPA Approved Statutes in the Louisiana SIP. This will correct a citation that was included in the CFR when the format of Part 52 was converted and was not previously approved into the SIP.

III. Final Action

We are approving revisions to the Louisiana SIP that contain several provisions of the Louisiana Revised Statutes to update the federally approved Louisiana SIP. Those are the following: Louisiana Revised Statutes at Title 30; Chapter 2 Sections 2014.1(A)-(D): Permit review; Prohibition; Title 42; Chapter 15: Code of Governmental Ethics; Part 1, General Provisions, Section 1102 Definitions, Section 1102(3) “Agency Head;” Section 1102(13) “Immediate Family;” Section 1102(22)(a) “Thing of Economic Value;” Section 1102(19) “Public Servant;” Section 1102(23), “Transaction involving governmental entity;” Section 1112 “Participation in Certain Transaction Involving the Governmental Entity;” Sections 1114(A)(1)-(4) and (C) “Financial disclosure.” We are also approving a ministerial change to remove language from 40 CFR Part 52.2270(e).

The 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 **[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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 Orders 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 (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 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).

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 OF THIS DOCUMENT 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).)

Samuel Coleman was designated the Acting Regional Administrator on December 21, 2016 through the order of succession outlined in Regional Order R6-1110.1, a copy of which is included in the docket for this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Government employees.

Dated: December 21, 2016.

Samuel Coleman,
Acting 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(e), the table titled “EPA Approved Statutes in the Louisiana SIP” is amended by removing the centered heading and the entries for “LA of R.S. of 1950. Title 40, Chapter 12. The Louisiana Air Control Law, Part 1, Louisiana Air Control Commission” and adding centered headings and entries for “Louisiana Revised Statutes (La. R.S. of 1993) Title 30” and “Louisiana Revised Statutes (La. R.S. of 1972) Title 42” at the end of the table.

The amendments read as follows:

§52.970 Identification of plan.

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(e) * * *

EPA APPROVED STATUTES IN THE LOUISIANA SIP

State citation	Title/subject	State approval/ effective date	EPA approval date	Comments
* * * * *				
Louisiana Revised Statutes (La. R.S. of 1993). Title 30, Minerals, oil, gas and environmental quality, Subtitle II. Environmental Quality, Chapter 2. Department of Environment Quality; Permit Review; Prohibition				
Title 30: Subtitle II, Permit Review, Ch. 2, Permit Review; Prohibition, Section 2014.1(A) and (B)	Permit review; Prohibition	06/10/1993	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

Louisiana Revised Statutes (La. R.S. of 1972). Title 42, Public Officers and Employees, Chapter 15 Code of Governmental Ethics Part 1, General Provisions and Part 2 Ethical Standards for Public Servants				
Title 42 Part 1, General Provisions	Definitions	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
1102(3)	Agency Head	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
1102(13)	Immediate Family	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
1102(19)	Public Servant	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
1102(22)(a)	Thing of Economic Value	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
1102(23)	Transaction Involving Government Entity	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

Section 1112	Participation in Certain Transactions Involving the Governmental Entity	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Title 42 Part 2, Ethical Standards for Public Servants	Financial disclosure	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Section 1114(A)(1-4)	Financial Disclosures	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Section 1114(C)	Financial Disclosures	04/01/1980	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

[FR Doc. 2016-31332 Filed: 12/27/2016 8:45 am; Publication Date: 12/28/2016]