APPENDIX B

DEQ LETTER AND FEDERAL REGISTER NOTICE REGARDING APPROVED 110(a)(2) SIP REQUIREMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO
GOVERNOR

MIKE D. McDANIEL, Ph.D.
SECRETARY

January 7, 2008

Mayor Richard E. Greene
US EPA Region 6 (6-RA))
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

RE: State Implementation Plan (SIP) infrastructure requirements under Section 110(a)(1) and (2) of the Clean Air Act (CAA)

Dear Mayor Greene;

Please accept this letter as certification that the state of Louisiana through the Department of Environmental Quality (LDEQ) has satisfied for its SIP the infrastructure requirements which are contained in Section 110 (a)(1) and (2) of the CAA.

The required Section 110 SIP elements are as follows: (See attachments for details)

- **Ambient Air quality monitoring/data system:** LDEQ meets the applicability requirements of Sec 110(a)(2)(B) through the operations of a statewide monitoring network, made up of stationary ambient air monitoring stations. The data collected from these monitors is reported to EPA on a regular basis.
- **Program for enforcement of control measures:** LDEQ has established rules governing emissions in nonattainment areas. These rules were submitted to EPA in various SIP revisions and have been approved in the Federal Register, thus satisfying the requirements of Sec. 110 (a)(2)(C).
- **Interstate Transport:** LDEQ has submitted and EPA has approved the Clean Air Interstate Rule (CAIR) SIPs for both SO2 and NOx. The SO2 CAIR SIP was approved on July 20, 2007 (72 FR 39741) and the NOx CAIR SIP was approved on September 28, 2007 (72 FR 55064). Both of these SIPs meet the requirements of Sec 110(a)(2)(D).
- **Adequate Resources:** Subtitle II of Title 30 of the Louisiana Revised Statutes provides that the LDEQ secretary shall "receive and budget duly appropriated monies ...to carry out the provisions and purposes of this Subtitle." (La. RS 30:2011.D.10)
- **Stationary source monitoring system:** The most current revision to the SIP concerning stationary source emissions monitoring was submitted to EPA on November 15, 1994 and was approved on February 6, 1995. (60 FR 02014). This SIP revision meets the requirements set forth in Sec 110(a)(2)(F).
- **Emergency Power:** The "Prevention of Air Pollution Emergency Episodes" provision was promulgated by LDEQ on December 20, 1987. Revisions were made to the SIP in January 1988, and approved on March 8, 1989. (54 FR 09795).

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- **Provisions for SIP revision due to NAAQS changes or findings of inadequacies:** Louisiana, through the LDEQ, has revised the SIP as necessary to comply with changes to NAAQS or findings of inadequacies. See 54 FR 25449 for revisions concerning PM NAAQS.
- **Section 121 consultations:** LDEQ, through the established public hearing process and laws governing public participation, meets the applicable requirements of section 121 relating to consultation as required by Sec. 110(a)(2)(J).
- **PSD and visibility protection:** Louisiana meets the applicability requirements of Sec. 110(a)(2)(J) through various SIP revisions.
    - The PSD SIP was first approved on October 28, 1990 (56 FR 20137) with subsequent revisions being approved on October 15, 1996 (61 FR 53639)
    - Visibility Protection requirements were met through the submittal of the Visibility Analysis and Long Term Strategy, submitted on October 26, 1987 and approved on December 19, 1988 (53 FR 50958). Furthermore, the proposed Regional Haze SIP revisions were submitted to EPA on November 20, 2007.
- **Air quality modeling/data:** Air quality modeling requirements are met through various SIP submittals through attainment demonstrations. The most recent submittal can be found in the Regional Haze submittal dated November 20, 2007.
- **Permitting Fees:** LDEQ's fee system was approved by EPA on July 7, 1982. See 47 FR 29535.
- **Consultation/participation by affected local entities:** LDEQ, through the established public hearing process and laws governing public participation, meets the applicable requirements of Section 110(a)(2)(M).

The State of Louisiana has adequate resources and the legal authority to carry out its SIP related issues. The state also has regulations for public notification and consultation/participation by affected local entities as well as governmental entities.

If you have any further questions pertaining to this matter, please contact Vivian H. Aucoin of the Air Quality Planning Division at 225-219-3575.

Sincerely,

Mike D. McDaniel

Mike D. McDaniel, Ph.D.
Secretary

C: Guy Donaldson, Air Planning Chief
Attachments

Louisiana State Implementation Plan List

SIP Title	Status		EPA Approval Date
New Source Review (NSR)	Final	12/20/2005	Pending
2005 General SIP	Final	5/20/2006	Pending
2006 General SIP	Final	11/9/2007	Pending
Grant Parish Maintenance Plan	Final	8/20/2006	11/06/07 72FR62579
Beauregard Parish Maintenance Plan	Final	8/23/2006	11/06/07 72FR62579
Vehicle Inspection/Maintenance Program	Final	5/5/2006	11/13/06 71FR66113
St. Mary Parish Maintenance Plan	Final	9/27/2006	11/06/07 72FR62579
Lafayette Parish Maintenance Plan	Final	10/10/2006	Pending
Pointe Coupee Parish Maintenance Plan	Final	2/28/2007	Pending
Lafourche Parish Maintenance Plan	Final	12/14/2006	Pending
Calcasieu Parish Maintenance Plan	Final	7/20/2007	Pending
New Orleans Parish Maintenance Plan	Final	6/29/2007	Pending
St. James Parish Maintenance Plan	Final	8/24/2007	Pending
Union Carbide "Bubble"	Final	7/20/2007	Pending
2002 Louisiana Base Year Emission Inventory	Final	7/20/2007	Pending
Clean Air Interstate Rule (CAIR) SO2 Trading Program	Final	9/22/2006	7/20/07 72FR39741
Clean Air Interstate Rule (CAIR) NOx Trading Program	Final	7/12/2007	9/28/07 72FR55064
111(d) Plan for Coal-Fired Electrical Steam Generating Units	Final	10/25/2006	8/17/07 72FR46161
111(d) Plan for Other Solid Waste Incineration Units	Final	11/29/2006	Pending
Regional Haze Program	Proposed	11/20/2007	Pending

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 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 May 27, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 OO—Rhode Island

■ 2. In § 52.2070 (c), the table entitled "EPA Approved Rhode Island Regulations," is amended by adding a new entry, "Air Pollution Control Regulation Number 45" in numerical order to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * *	*	*	* * *	*
Air Pollution Control Regulation Number 45.	Rhode Island Diesel Engine Anti-Idling Program.	July 19, 2007	March 27, 2008; [Insert **Federal Register** page number where the document begins].	Limits idling for diesel on-highway and non-road engines.
* * *	*	*	* * *	*

[FR Doc. E8–6183 Filed 3–26–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA–HQ–OAR–2007–1173, FRL–8545–6]

RIN 2060–APO3

Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is making a finding concerning whether or not each State has submitted a complete State Implementation Plan (SIP) that provides the basic program elements specified in Clean Air Act (Act or CAA) section 110(a)(2) necessary to implement the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). By this action, EPA is identifying those States that: Have failed to make a complete submission for all requirements; have failed to make a complete submission for specific requirements; or have made a complete submission. The findings of failure to submit for all or a portion of a State's SIP establish a 24-month deadline for EPA to promulgate Federal Implementation Plans (FIPs) to address the outstanding SIP elements unless, prior to that time, the affected States submit, and EPA approves, the required SIPs. The findings that all, or portions of a State's SIP submission, are complete establish a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k).

DATES: The effective date of this rule is April 28, 2008.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to Mr. Larry D. Wallace, PhD, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C504–2, 109 TW Alexander Drive, Research Triangle Park, NC 27709; telephone (919) 541–0906.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions, or incomplete submissions, to meet the requirement by the statutory date. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

For questions related to a specific State please contact the appropriate regional office:

Regional offices	States
Dave Conroy, Acting Branch Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02203–2211.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Raymond Werner, Chief, Air Programs Branch, EPA Region II, 290 Broadway, 21st Floor, New York, NY 10007–1866.	New Jersey, New York, Puerto Rico, and the Virgin Islands.
Christina Fernandez, Acting Branch Chief, Air Quality Planning Branch, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2187.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.
Dick A. Schutt, Chief, Regulatory Development Section, EPA Region IV, Sam Nunn, Atlanta Federal Center, 61 Forsyth Street, SW., 12th Floor, Atlanta, GA 30303.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Jay Bortzer, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Tom Diggs, Acting Associate Director Air Programs, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202–2733.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Joshua A. Tapp, Chief, Air Programs Branch, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101–2907.	Iowa, Kansas, Missouri, and Nebraska.
Cynthia Cody, Unit Leader, Air Quality Planning Unit, EPA Region VIII Air Program, 1595 Wynkoop St. (8P–AR), Denver, CO 80202–1129.	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Lisa Hanf, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.	Arizona, California, Guam, Hawaii, and Nevada.
Mahbubul Islam, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ–107, 1200 Sixth Avenue, Seattle, WA 98101.	Alaska, Idaho, Oregon, and Washington.

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I. Background

On July 18, 1997, EPA promulgated new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 ppm to 0.08 ppm (62 FR 38,856).

The CAA section 110(a) requires States to submit SIPs that provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within 3 years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon States to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the State develops and submits the SIP for a new or revised NAAQS necessarily affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the State's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, States typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone standards.

Section 110(a)(2) lists specific elements that States must meet in these SIP submissions. The requirements include SIP infrastructure elements such as requirements for modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this action are listed in EPA's October 2, 2007 memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and PM–2.5 National Ambient Air Quality Standards."

Two elements identified in section 110(a)(2) are not governed by the 3 year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (i) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (ii) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Therefore, this action does not cover these specific SIP elements. This action also does not pertain to section 110(a)(2)(D), because EPA has previously addressed that requirement.[1]

As of 2004, States had not submitted complete SIPs to satisfy all of the section 110(a)(2) requirements for the 1997 8-hour ozone NAAQS revision. On March 4, 2004, Earth Justice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to these requirements. Subsequently, EPA entered into a Consent Decree with Earth Justice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each State has made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon an

[1] EPA published a finding that all States had failed to submit SIPs addressing interstate transport for the 8-hour ozone and $PM_{2.5}$ NAAQS, as required by section 110(a)(2)(D)(i). *See* 70 FR 21,147 (April 25, 2005).

agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the Consent Decree, EPA is making completeness findings for each State based upon what the Agency received from each State as of January 7, 2008. This notice reflects EPA's determinations with respect to the section 110(a)(2) requirements, based upon the submissions made by the States, either certifying that they have already met the requirements, making a submission to meet any outstanding requirements, or both.

For those States that have not yet made a submittal, or that made a submittal that was not complete with respect to each element of section 110(a)(2), EPA is making a finding of failure to submit. For those States that did not make any submittal by January 7, 2008, EPA is making a finding with respect to all of the section 110(a)(2) SIP elements. For those States that did not make a submittal that addressed all of the section 110(a)(2) elements, EPA is making these findings only with respect to those specific section 110(a)(2) SIP elements which a State has not certified that it has met, or not made a SIP submission to meet, as of January 7, 2008. These findings establish a 24 month deadline for the promulgation by EPA of a FIP, in accordance with section 110(c)(1). These findings of failure to submit do not impose sanctions, or set deadlines for imposing sanctions as described in section 179 of the CAA, because these finding do not pertain to the elements of a Title I part D plan for nonattainment areas as required under section 110(a)(2)(I), and because this action is not a SIP call pursuant to section 110(k)(5).

With respect to the remaining section 110(a)(2) SIP elements in those States in which EPA has identified specific findings of failure to submit, EPA is by this action making a finding that the remainder of such SIPs are complete. Likewise, with respect to those States for which EPA has not made any finding of failure to submit concerning the section 110(a)(2) SIP elements, EPA is by this action making a finding that such SIPs are complete for all such elements. These full and partial completeness findings establish a 12-month deadline for EPA to take action upon such SIPs in accordance with section 110(k).

II. This Action

The EPA is making a finding concerning whether each State has submitted or failed to submit a complete SIP that provides the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. For those States that have not yet made a complete submission, or that have not made a submission that is complete for each element of section 110(a)(2), these findings establish a 24-month deadline for the promulgation by EPA of a FIP addressing these specific SIP elements, in accordance with section 110(c)(1). For those States that have submitted a complete SIP, and for those elements of SIPs in States for which EPA has identified only partial incompleteness, these findings establish a 12-month deadline for action upon the SIP, in accordance with section 110(k). This action will be effective on April 28, 2008.

A. Finding of Failure To Submit for States That Failed to Make a Submittal

The following States failed to make a complete submittal to satisfy the requirements of section 110(a)(2) by January 7, 2008. EPA is by this action starting a 24-month deadline by which time EPA must promulgate a FIP for the affected States to address section 110(a)(2) requirements, if the affected States fail to submit, and obtain EPA approval of, the SIP revisions necessary to address these requirements. The States and territories that are affected by this finding of failure to submit are the following:

Region I: Vermont
Region VI: Texas
Region VIII: North Dakota
Region IX: Arizona, Hawaii, Nevada,[2] Guam, American Samoa, Commonwealth of the Northern Mariana Islands.
Region X: Alaska, Idaho, Oregon, Washington.

B. Finding of Failure To Submit Specific Elements of Section 110(a)(2)

The following States made submissions that address some, but not all of the section 110(a)(2) requirements, by January 7, 2008. EPA is by this action identifying the specific elements for which States have not made a complete submission:

Region I:

Massachusetts: The State of Massachusetts has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Region II:

New York: The State of New York has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

New Jersey: The State of New Jersey has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Puerto Rico: The Commonwealth of Puerto Rico has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Virgin Islands: The Virgin Islands has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Region III:

Maryland: As required by sections 110(a)(2)(C) and (J), the State of Maryland has failed to submit a SIP addressing changes to its part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Pennsylvania: The Commonwealth of Pennsylvania has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program) for only the Allegheny County portion of the Commonwealth. However, this requirement has already been addressed by a FIP (Implementation of the Federal PSD program has been delegated to the Allegheny County Health Department) that remains in place, and therefore this action will not trigger any additional FIP obligation. All other areas of the Commonwealth, exclusive of Allegheny County, has a SIP approved PSD program in place.

Virginia: The Commonwealth of Virginia has failed to submit a SIP addressing the part C PSD permit program, which consists of changes required by the November 29, 2005 (70 FR 71612 page 71699) final rule that

[2] It should be noted that, while the State of Nevada did not make the submittal addressing the requirements of section 110(a)(2) by the January 7, 2008 timeframe specified in the amended Consent Decree with Earth Justice, the State has subsequently made a submittal to address these requirements on February 1, 2008 and EPA is currently reviewing the submittal for completeness and approvability.

made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Washington, DC: The District of Columbia has failed to submit a SIP addressing sections 110(a)(2)(B), (C) (the Part C PSD permit program), (E)(i), (F) (the public availability of reports), (H), and (J) (with respect to a part C Prevention of Significant Deterioration (PSD) permit program and to public notification under section 127).[3] The section 110(a)(2)(C) (the Part C PSD permit program) requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation with respect to this requirement.

West Virginia: The State of West Virginia has failed to make a submittal with respect to sections 110(a)(2)(B), (E)(i), (G) (with respect to authority comparable to section 303), (H) and (J) (relating to public notification under section 127) and (M). The State of West Virginia has also failed to submit a SIP addressing changes to the part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Delaware: As required by sections 110(a)(2)(C) and (J), the State of Delaware has failed to submit a SIP addressing changes to its part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Region IV:

Florida: The State of Florida has failed to submit a SIP addressing the emergency episode plan requirement of section 110(a)(2)(G).

Georgia: The State of Georgia has failed to submit a SIP addressing the emergency episode plan requirements of section 110(a)(2)(G).

North Carolina: As required by sections 110(a)(2)(C) and (J), the State of North Carolina has failed to submit a SIP addressing changes to its part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.[4]

Tennessee: As required by sections 110(a)(2)(C) and (J), the State of Tennessee has failed to submit a SIP addressing changes to its part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.[5]

Region V:

Illinois: The State of Illinois has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Minnesota: The State of Minnesota has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program). However, this requirement has already been addressed by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation.

Region VI:

Arkansas: As required by section 110(a)(2)(C) and (J), the State of Arkansas has failed to submit a SIP addressing changes to the part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

New Mexico: As required by section 110(a)(2)(C) and (J), the State of New Mexico has failed to submit a SIP addressing changes to the part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Oklahoma: As required by section 110(a)(2)(C) and (J), the State of Oklahoma has failed to submit a SIP addressing changes to the part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the part C regulations at 40 CFR 51.166 and in 40 CFR 52.21.

Region IX:

California: The State of California has failed to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program) that applies to some Air Districts within the State. However, this requirement has already been addressed for these Air Districts by a FIP that remains in place, and therefore this action will not trigger any additional FIP obligation. All other areas of the State, exclusive of these Air Districts have an approved PSD program in place.

C. List of States That Submitted Complete Submissions to Satisfy the Section 110(a)(2) Requirements

The following States have been determined by EPA to have made complete SIP submissions that address all of the section 110(a)(2) requirements by January 7, 2008:

Region I: Maine, Rhode Island, Connecticut, and New Hampshire.
Region IV: Alabama, Kentucky, Mississippi, and South Carolina.
Region V: Indiana, Ohio, Michigan, and Wisconsin.
Region VI: Louisiana.
Region VII: Iowa, Kansas, Nebraska, and Missouri.
Region VIII: Colorado, Montana, South Dakota, Utah, and Wyoming.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the

[3] While the District of Columbia did not make the submittal addressing the aforementioned requirements by the January 7, 2008 timeframe called for under the Consent Decree with Earth Justice, the District of Columbia subsequently made a submittal on January 11, 2008 that addresses the requirements related to sections 110(a)(2)(B), (E)(i), (F) (with respect to the public availability of reports), (H), and (J) (with respect to public notification under section 127). The EPA is currently reviewing the submittal for completeness. The District of Columbia has not submitted a part C PSD permit program required under sections 110(a)(2)(C) and (J). It should be noted, however, that the District of Columbia is already subject to a FIP for a PSD permit program pursuant to 40 CFR 52.499.

[4] The State of North Carolina is currently going through the rulemaking process to approve the requirements to meet this element of section 110(a)(2) and anticipates making the submittal to address the requirement by May 2008.

[5] The State of Tennessee is currently going through the rulemaking process to approve the requirements to meet this element of section 110(a)(2) and anticipates making the submittal to address the requirement by May 2008.

provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. This rule relates to the requirement in the CAA for States to submit SIPs under section 110(a) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. The present final rule does not establish any new information collection requirement apart from that already required by law. Burden means that total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in the CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act (APA) or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purpose of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration (SBA) size standards (*See* 13 CFR 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which independently owned and operated is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandate" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify, and consider, a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small government on compliance with regulatory requirements.

EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any 1 year. It does not create any additional requirements beyond those of the 1997 8-hour ozone NAAQS (62 FR 38652; 62 FR 38856, July 18, 1997). This rule responds to the requirement in the CAA for States to submit SIPs under section 110(a) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or shorter period as EPA may provide. The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate $100 million or more annually. Thus, this action is not subject to the requirements of section 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by

Tribal officials in the development of regulatory policies that have Tribal implications." This final rule does not have Tribal implications, as specified in Executive Order 13175. This rule responds to the requirement in the CAA for States to submit SIPs under section 110(a) to satisfy certain elements required under section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS. Section 110(a)(1) of the CAA requires that States submit SIPs that provide for implementation, maintenance, and enforcement of a new or revised NAAQS, and which satisfy the applicable requirements of section 110(a)(2), within 3 years of promulgation of such standard, or within shorter period as EPA may provide. The CAA provides for States and Tribes to develop plans to regulate emissions of air pollutants within their jurisdictions. The regulations clarify the statutory obligations of States and Tribes that develop plans to implement this rule. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs, but it leaves to the discretion of the Tribe whether to develop these programs and which programs, or appropriate elements of a program, the Tribe will adopt.

This rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, because no Tribe has implemented an air quality management program related to the 1997 8-hour ozone NAAQS. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is making findings concerning whether or not each State has submitted a complete SIP that provides the basic program elements specified in CAA section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. The findings of failure to submit for all or a portion of a State's SIP establish a 24-month deadline for EPA to promulgate FIPs to address the outstanding SIP elements unless, prior to that time, the affected States submit, and EPA approves, the required SIPs.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. At the time of proposal of the implementation rule for the 1997 8-hour ozone standard, information on the methodology and data regarding the assessment of potential energy impacts regarding implementation of the 1997 8-hour standard was addressed in Chapter 6 of U.S. EPA 2003, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 1997 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003. Subsequently, EPA issued an Addendum 1 to that analysis for the Phase 1 final rule (April 30, 2004 (69 FR 33951)) and designated nonattainment areas. By adopting the more flexible approaches while providing for attainment and maintenance of the 8-hour NAAQS as required by the CAA for the areas covered by this rulemaking, additional energy cost associated with more extensive use of less flexible approaches would be averted.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This notice is making a finding concerning whether each State has submitted or failed to submit a complete SIP that provides the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS.

K. Congressional Review Act

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 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). This rule will be effective April 28, 2008.

L. Judicial Review

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 District of Columbia Circuit Court within 60 days from the date final action is published in the **Federal Register**. Filing a petition for review 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 must be filed, and shall not postpone the effectiveness of such rule or action.

Thus, any petitions for review of this action related to a finding of failure to submit related to the requirements of section 110(a) to satisfy certain elements required under section 110(a)(2) of the CAA for the 1997 8-hour ozone NAAQS must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 52

Approval and promulgation of implementation plans, Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: March 17, 2008.

Robert J. Meyers,

Principal Deputy Assistant Administrator.

[FR Doc. E8–6176 Filed 3–26–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XG65

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by American Fisheries Act Catcher Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by American Fisheries Act (AFA) trawl catcher processors in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2008 Pacific cod total allowable catch (TAC) specified for AFA trawl catcher processors in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 24, 2008, though 1200 hrs, A.l.t., April 1, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2008 Pacific cod TAC allocated to AFA trawl catcher processors in the BSAI is 2,630 metric tons (mt) as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008). See § 679.20(c)(3)(iii), § 679.20(c)(5), § 679.20(a)(7)(ii)(A)(*7*), and § 679.20(a)(7)(iv)(A)(*1*)(*ii*).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the A season allowance of the 2008 Pacific cod TAC allocated to AFA trawl catcher processors in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by AFA trawl catcher processors in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by AFA trawl catcher processors in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 21, 2008.

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

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

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

Dated: March 24, 2008.

Emily H. Menashes,

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

[FR Doc. 08–1079 Filed 3–24–08; 3:51 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XG70

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels in the Amendment 80 Limited Access Fishery in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod for vessels participating in the Amendment 80 limited access fishery in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the B season allowance of the 2008 Pacific cod allowable catch (TAC) specified for vessels participating in the Amendment 80 limited access fishery in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 1, 2008, through 1200 hrs, A.l.t., June 10, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2008 Pacific cod TAC allocated to vessels