necessary to prepare a regulatory flexibility analysis in connection with this action under the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act of 1996. The regulatory change proposed here is expected to reduce regulatory burdens on small businesses, and will not have a significant impact on a substantial number of small entities. EPA certifies that the proposed amendment will not have a significant impact on a substantial number of small entities.

D. National Technology Transfer and Advancement Act

Under section 12 of the National Technology Transfer and Advancement Act of 1995, the EPA must consider the use of ''voluntary consensus standards,'' if available and applicable, when implementing policies and programs, unless it would be ''inconsistent with applicable law or otherwise impractical.'' The intent of the National Technology Transfer and Advancement Act is to reduce the costs to the private and public sectors by requiring federal agencies to draw upon any existing, suitable technical standards used in commerce or industry.

A ''voluntary consensus standard'' is a technical standard developed or adopted by a legitimate standards-developing organization. The Act defines ''technical standards'' as ''performance-based or design-specific technical specifications and related management systems practices.'' A legitimate standards-developing organization must produce standards by consensus and observe principles of due process, openness, and balance of interests. Examples of organizations that are regarded as legitimate standards-developing organizations include the American Society for Testing and Materials (ASTM), International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA) and Society of Automotive Engineers (SAE).

Since today's action does not involve the establishment or modification of technical standards, the requirements of the National Technology Transfer and Advancement Act do not apply.

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

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that (1) OMB determines is ''economically significant'' as defined under Executive Order 12866, and (2) EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety aspects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

These regulatory revisions are not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. These rule revisions impose no enforceable duties on these entities. Rather, these rule revisions reduce burdens associated with certain regulatory requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule changes do not create a mandate on State, local or tribal governments. The rule changes do not impose any enforceable duties on these entities. Rather, the rule changes reduce burden for certain regulatory requirements. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practices and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 12, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–9572 Filed 4–15–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX–81–1–7350; FRL–6324–3]

Clean Air Act Reclassification or Eligibility for Extension of Attainment Date, Texas; Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We propose to find that the Beaumont/Port Arthur moderate ozone nonattainment area has failed to attain the one-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed finding is based on the requirements of the Federal Clean Air Act (the Act), and our review of monitored air quality data from the area. If we take final action on this proposed finding, the area would be reclassified as a serious ozone nonattainment area. Alternatively, we are proposing to extend the area's attainment date, if Texas, by November 15, 1999, submits a SIP that meets EPA's July 1998 transport policy. If Texas submits a SIP meeting these requirements, we will issue a supplemental proposal to extend the area's attainment date, as appropriate.

DATES: We must receive comments on or before May 17, 1999.

ADDRESSES: All comments should be addressed to: Lt. Mick Cote, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of the Beaumont/Port Arthur monitored air quality data analyses, guidance on extension of attainment dates in downwind transport areas, our technical support document, and other relevant documents used in support of this proposal, are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning Section, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202; Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION: Lt. Mick Cote at (214) 665–7219.

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I. What Action Are We Taking Today?

We are proposing to find pursuant to section 181(b)(2) of the Clean Air Act that the Beaumont/Port Arthur area has failed to attain the ozone one-hour NAAQS by the date prescribed under the Act for moderate ozone nonattainment areas, or November 15, 1996. If we finalize this finding, the Beaumont/Port Arthur area will be reclassified from moderate nonattainment to serious nonattainment.

Alternatively, we are proposing to extend the attainment date, providing that Texas meets the criteria of our July 16, 1998 transport policy, *Guidance on Extension of Attainment Dates for Downwind Transport Areas.* If Texas submits a SIP by November 15, 1999, that meets the July 1998 transport policy, we will issue a supplemental proposal in a **Federal Register** notice to extend the Beaumont/Port Arthur area's attainment date as appropriate. If Texas does not submit by November 15, 1999, a SIP that meets the July 1998 transport policy, or fails to submit a SIP by this date, we would finalize this proposed finding of failure to attain, and the Beaumont/Port Arthur area would be reclassified as a serious ozone nonattainment area.

II. What Are the National Ambient Air Quality Standards?

We have set NAAQS for six air pollutants: Carbon Monoxide (CO), Lead (Pb), Nitrogen Dioxide (NO_2), Ozone (O_3), Particulate matter (PM), and Sulfur Dioxide (SO_2). The Act requires us to set these NAAQS at levels that protect public health and welfare with an adequate margin of safety. These NAAQS provide information to the American people about whether the air in their community is healthful. Also, the NAAQS present state and local governments with the minimum pollutant concentrations allowed to achieve clean air.

For several pollutants, there are two types of NAAQS—primary and secondary. Primary NAAQS protect against adverse health effects; secondary NAAQS protect against welfare effects, such as damage to farm crops and vegetation and damage to buildings. Because different pollutants have varying effects, the form of NAAQS also varies. Some pollutants have NAAQS for both long-term and short-term averaging times. The short-term NAAQS are designed to protect against acute, or short-term, health effects, while the long-term NAAQS were established to protect against chronic health effects.

III. What Is the NAAQS for Ozone?

The NAAQS for ozone is expressed in two forms, which are referred to as the one-hour and 8-hour standards. Table 1 summarizes the ozone NAAQS.

TABLE 1.—SUMMARY OF OZONE NAAQS

Standard	Value	Type	Method of compliance
One-hour	0.12 ppm	Primary and Secondary	Must not be exceeded on average more than one day per year over any three-year period.
8-hour	0.08 ppm	Primary and Secondary	The 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor within an area.

The one-hour ozone NAAQS of 0.12 parts per million has existed since 1979. The 8-hour ozone NAAQS was promulgated by EPA on July 18, 1997 (62 FR 38856). The one-hour ozone NAAQS continues to apply for existing nonattainment areas until these areas attain the one-hour ozone NAAQS (40 CFR 50.9(b)). It is the classification of the Beaumont/Port Arthur area relative to the one-hour ozone NAAQS that is addressed in this document.

IV. What Is the Beaumont/Port Arthur Ozone Nonattainment Area?

The Beaumont/Port Arthur moderate ozone nonattainment area is located in Southeast Texas, and consists of Hardin, Jefferson, and Orange Counties.

V. Why Is the Beaumont/Port Arthur Area Currently Classified as Moderate?

Each ozone area designated nonattainment for the one-hour ozone standard prior to enactment of the 1990 Act Amendments was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme,'' depending on the severity of the area's air quality problem. The design value for an area is represented by the fourth highest one-hour daily monitored ozone level in a given three-year period. Table 2 provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.138 and 0.160 parts per million (ppm), such as the Beaumont/Port Arthur area, were classified as moderate.[1] These nonattainment designations and classifications were codified in 40 CFR part 81 (see 56 FR 56694, November 6, 1991).

TABLE 2.—OZONE NONATTAINMENT CLASSIFICATIONS

Area class	Design value (ppm)	Attainment date
Marginal	0.121 up to 0.138	11/15/93
Moderate ...	0.138 up to 0.160	11/15/96
Serious	0.160 up to 0.180	11/15/99
Severe	0.180 up to 0.280	11/15/05
Extreme	0.280 and above	11/15/10

States containing areas that were classified as moderate nonattainment were required to submit SIPs which required control measures to reduce emissions, and to provide for attainment of the ozone standard no later than November 15, 1996. Moderate area SIP requirements are found primarily in section 182(b) of the Act.

VI. Why Is EPA Proposing To Reclassify the Beaumont/Port Arthur Area?

Section 181(b)(2) of the Act provides that we determine, within 6 months following the applicable attainment date, whether an ozone nonattainment area has attained the one-hour ozone standard. If we find that the nonattainment area has failed to attain the one-hour ozone standard by the applicable attainment date, then we are to publish a notice in the **Federal Register** identifying the area that we have determined has failed to attain, and the appropriate reclassification. In the case of Beaumont/Port Arthur, we have yet to make the determination as described above.

We make attainment determinations for ozone nonattainment areas using quality-assured air quality data. In the case of the Beaumont/Port Arthur area, the attainment determination is based on 1994–1996 air quality data. The data show that for 1994–1996 four monitoring sites averaged more than one exceedance day per year. We propose to determine that the Beaumont/Port Arthur area's air quality has not met the one-hour ozone NAAQS by November 15, 1996, based upon all quality-assured air quality data available to us for the years 1994–1996.

Our data includes all data available from the State and local/national air monitoring (SLAM/NAMS) network as submitted to our Aerometric Information Retrieval System, and all data available to us from special purpose monitoring (SPM) sites that meet our monitor siting criteria (40 CFR 58.13). Our policy on the use of ozone SPM data is described in the August 22, 1997, Memorandum from John Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, entitled, *Agency Policy on the Use of Ozone Special Purpose Monitoring Data.*

Table 3 lists the number of recorded exceedances of the one-hour ozone standard at each SLAMS/SPM monitoring site in the Beaumont/Port Arthur area for the period 1994 through 1998, and each monitor's design value for that period. A complete listing of the ozone exceedances at each monitor as well as EPA's calculations of the design values can be found in the technical support document.

Table 3: Ozone Exceedances in the Beaumont/Port Arthur Area

Site	Type	1994	1995	1996	1997	1998	Site Design Value (ppm)		
							94–96	95–97	96–98
Beaumont	SLAMS	1	5	0	3	3	0.128	0.133	0.133
Port Arthur	SLAMS	0	5	0	0	0	0.139	0.139	0.118
West Orange	SLAMS	1	0	0	2	1	0.12	0.121	0.122
Sabine	SPM	2	1	7	2	.....	0.157	0.157	.....
Mauriceville	SPM	0	0	0	2	.....	0.109	0.104	.....
Jefferson Co. Airport	SPM	2	6	0	2	.....	0.139	0.139	.....

—We do not have any data for 1998 from the three SPMs. However, data from the SLAMS sites alone indicates continued violation of the one-hour ozone NAAQS. Although our decision to propose reclassification does not depend on the SPM data for 1998, we have requested it from the State.

If we finalize this proposed action, the new classification will be the higher of the next higher classification or the classification appropriate to the design value at the time the notice of reclassification is published. The next highest classification for the Beaumont/Port Arthur area is serious. The design value of the Beaumont/Port Arthur area at the time of the proposed finding of failure to attain is based on air quality monitoring data from 1996 through 1998. This design value is .133 ppm. This design value correlates with a marginal classification, as taken from Table 2. Since the next higher classification is greater than what the current design value indicates, the correct classification would be serious nonattainment under the statutory scheme.

[1] The Beaumont/Port Arthur area (the area) was classified as a serious ozone nonattainment area by EPA on November 6, 1991 (56 FR 56694). However, we corrected the ozone design value from 0.160 ppm to 0.158 ppm. Pursuant to section 110(k)(6) of the Act, which allows us to correct our actions, we corrected the classification of the area from serious to moderate (61 FR 14496, April 2, 1996).

VII. Has Air Quality Improved in the Beaumont/Port Arthur Area in Recent Years?

The air quality in the Beaumont/Port Arthur area has not improved in recent years. Two of the three SLAMS monitors listed in Table 3 have design values that have increased since 1994. Likewise, two of the three SPM monitors listed in Table 3 have design values that have increased between 1994 and 1997.

VIII. What Would a Reclassification Mean for Beaumont/Port Arthur?

The Beaumont/Port Arthur area would need to reach the ozone NAAQS as expeditiously as practicable, but no later than November 15, 1999. Texas would also need to submit SIP revisions addressing the serious area requirements for the one-hour ozone standard in section 182(c) of the Act. The requirements for serious ozone nonattainment areas include, but are not limited to, the following:[2]

1. Attainment and Reasonable Further Progress demonstrations.
2. Clean-fuel vehicle programs.
3. A 50 ton-per-year major source threshold.
4. More stringent new source review requirements.
5. An enhanced monitoring program.
6. Transportation Control Measures.
7. Contingency provisions.

IX. Can an Extension of the Attainment Date Be Granted Based on 1996 Air Quality Data?

Two mechanisms exist for the Beaumont/Port Arthur area to obtain an extension of its attainment date. First, a State may request, and at our discretion we may grant, up to two one-year attainment date extensions. We may grant an extension under section 181(a)(5) of the Act only if:

1. The State has complied with the requirements and commitments pertaining to the applicable implementation plan for the area.
2. The area has measured no more than one exceedance of the ozone NAAQS at any monitoring site in the nonattainment area in the year in which attainment is required.

On January 9, 1997, the Governor of the State of Texas submitted a request for a one-year extension of the attainment date for the Beaumont/Port Arthur area. The request was based on the absence of exceedances from SLAMS data in the area in 1996. However, the area had more than one exceedance at the Sabine SPM monitor in 1996, and numerous exceedances at SLAMS and SPM sites in 1997. Since the 1996 and 1997 data show that the area failed to attain, and Texas has not submitted a plan providing for attainment, we are exercising our discretion to not grant a section 181(a)(5) extension. However, Texas has another mechanism available for obtaining an extension. This mechanism is discussed below.

X. What Is EPA's New Policy Regarding Extension of Attainment Dates for Downwind Transport Areas?

A number of areas in the country that have been classified as moderate or serious are affected by pollutants that have traveled downwind from other areas. For these downwind areas, transport of pollutants from upwind areas has interfered with their ability to meet the ozone standard by the dates prescribed by the Act. As a result, many of these areas, such as Beaumont/Port Arthur, find themselves facing the prospect of being reclassified, or ''bumped up,'' to a higher classification for failing to meet the ozone standard by the specified date.

On July 16, 1998, in consideration of these factors and the realization that many areas are unable to meet the mandated attainment dates due to transport[3], we issued a policy memorandum entitled *Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas.* This policy outlines the criteria by which the attainment date for an area may be extended.

Our July 1998 transport policy offers another opportunity for Texas to request an extension of the attainment date for the Beaumont/Port Arthur area. This policy draws on other provisions of the Act to authorize attainment date extensions for downwind transport areas.

XI. What Does the July 1998 Transport Policy Require Texas To Do?

This transport policy outlines the steps Texas will need to take in order for us to consider extending the Beaumont/Port Arthur area's attainment date. The steps we believe Texas will need to take include:

1. Demonstrate that the Beaumont/Port Arthur Area's air quality is affected by transport from (a) an upwind area in Texas with a later attainment date, or (b) an upwind area in another State, which significantly contributes to Beaumont/Port Arthur's continued ozone nonattainment.

2. Submit to us an approvable attainment demonstration by November 15, 1999. This demonstration must show that the Beaumont/Port Arthur area will attain as expeditiously as practicable, but no later than the attainment date of the upwind area.

3. Submit any additional local control measures needed for expeditious attainment. Any additional measures must be adopted prior to November 15, 1999.

4. Submit proof that all applicable local control measures required under the moderate classification have been adopted and implemented. In addition, submit any necessary changes to the State's existing rules for control of emissions from industrial wastewater and Synthetic Organic Chemical Industry batch processing operations. Some changes may be needed to ensure that these rules meet our Reasonably Available Control Technology requirements. Any necessary changes must be adopted prior to November 15, 1999.

5. Provide that all newly adopted control measures will be implemented as expeditiously as practical. All measures must be implemented no later than the date that the upwind reductions needed for attainment will be achieved.

We contemplate that when we act to approve an area's attainment demonstration, we will, as necessary, extend that area's attainment date to a date appropriate for that area in light of the schedule for achieving the necessary upwind reductions. The area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

[2] An enhanced vehicle Inspection and Maintenance (I/M) program would normally be listed as a requirement for a serious ozone nonattainment area. However, the Federal I/M Flexibility Amendments of 1995 determined that urbanized areas with populations less than 200,000 for 1990 (such as Beaumont/Port Arthur) are not mandated to participate in the I/M program (60 FR 48033, September 18, 1995).

[3] Through a two-year effort known as the Ozone Transport Assessment Group (OTAG), the EPA worked in partnership with the 37 easternmost states and the District of Columbia, industry representatives, academia, and environmental groups to develop recommended strategies to address transport of ozone-forming pollutants across state boundaries.

On November 7, 1997, the EPA acted on OTAG's recommendations and issued a proposal (the proposed NOx SIP call, 62 FR 60318) requiring 22 states and the District of Columbia to submit state plans addressing the regional transport of ozone. These state plans, or SIPS, will decrease the transport of ozone across state boundaries in the eastern half of the United States by reducing emissions of nitrogen oxides (a precursor to ozone formation known as NOx). The EPA took final action on the NOx SIP call on October 27, 1998 (63 FR 57356). The EPA expects the final NOx SIP call will assist many areas in attaining the 1-hour ozone standard.

XII. Can Beaumont/Port Arthur Qualify for an Attainment Date Extension Under the Transport Policy?

It is premature to say whether or not the Beaumont/Port Arthur area will qualify for an attainment date extension under the July 1998 transport policy. We believe that the area may be affected by upwind transport. However, before the Beaumont/Port Arthur area can qualify for an attainment date extension under the July 1998 transport policy, all the criteria specified in the transport policy must be met.

In October 1998, we notified the Governor of Texas of the availability of the July 1998 transport policy. We also requested that the Governor respond to us with a letter committing Texas to meet the requirements necessary to qualify for an attainment date extension under the July 1998 transport policy by November 15, 1999. We received the Governor's commitment letter on December 21, 1998.

We are aware that local representatives are working closely with the TNRCC to meet the requirements of the July 1998 transport policy, and to improve the area's air quality. Their efforts have already resulted in the implementation of rules for oxides of nitrogen in the Beaumont/Port Arthur area.

XIII. When Will EPA Make a Final Decision on Whether To Bump-Up or Grant an Extension for the Beaumont/Port Arthur area?

We will review Texas' proposed SIP submittal during the State's public comment period. If we receive it by November 15, 1999, we will publish a document in the **Federal Register** to address the approvability of the SIP submittal. If we propose approval, we would also propose to extend the attainment date for the Beaumont/Port Arthur area to an appropriate expeditious date. However, if Texas fails to meet the requirements of the extension policy by November 15, 1999, we will finalize the finding of failure to attain, and the Beaumont/Port Arthur area will be reclassified to Serious nonattainment.

XIV. If the Beaumont/Port Arthur Area Is Reclassified, What Would Its New Schedule Be?

If the Beaumont/Port Arthur area is reclassified, Texas would be required to submit a SIP that adopts the serious area requirements. Under section 181(a)(1) of the Act, the new attainment deadline for moderate ozone nonattainment areas reclassified to serious under section 181(b)(2) would be as expeditious as practicable but no later than the date applicable to the new classification, i.e., November 15, 1999. However, for the reasons given above, we do not expect to take final action on this proposed finding until after November 15, 1999. This will allow Texas adequate time to make a demonstration that an extension of the attainment date, instead of a reclassification, would be appropriate under the transport policy. As a practical matter, there would likely be insufficient time for Texas to submit a new attainment demonstration and actually demonstrate attainment of the one-hour ozone NAAQS by November 15, 1999.

If the Beaumont/Port Arthur area is reclassified, and if we do not act until after its November submittal, it will plainly be too late for the area to demonstrate attainment by a date that will have already passed. We believe that the impossibility of meeting the November 15, 1999, deadline for serious areas requires us to establish a new attainment date in the event that the area is reclassified to serious.

November 15, 1999, is a date that is impossible to set as a date for the area to attain and for Texas to have made a SIP submission. Since it is impossible, the principles underlying what we do for areas that must submit 15 percent plans after the deadline for submission has passed should apply here. Consistent with what we have done with respect to setting new applicable deadlines for those plans, we believe that a deadline that is expeditious as possible would be appropriate.

Section 182(i) states that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency for submission of the new requirements applicable to an area which has been reclassified. Where an attainment date has already passed or is otherwise impossible to meet, we believe that the Administrator may also adjust an attainment date to assure fair and equitable treatment consistent with the provisions in section 182(i), notwithstanding the parenthetical clause.

We also note another provision of the Act in section 110(k)(5) pertaining to findings of SIP inadequacy that allows the Administrator to adjust attainment dates when such have passed. Although this latter provision is not directly applicable to a reclassification, we believe that the provision illustrates a recognition by Congress of limited instances in which it becomes necessary to adjust attainment dates, particularly where it is otherwise impossible to meet the statutory date. For the Beaumont/Port Arthur area, we are proposing to construct a schedule consistent with recent reclassifications of other areas.

We have recently reclassified other moderate ozone nonattainment areas, including Santa Barbara, California; Phoenix, Arizona; and Dallas-Fort Worth, Texas. In these cases, the new attainment date is November 15, 1999. The most recent reclassification was for the Dallas-Fort Worth area. We published the notice reclassifying this area on February 18, 1998, thereby providing approximately 21 months for the area to attain the standard. We concluded that 21 months was an adequate period for a moderate attainment area to attain the standard where the new attainment date had not yet lapsed, but where there was less time remaining than the Act had contemplated. If we finalize this proposed reclassification, we suggest an attainment date with a similar time frame, and which would allow Texas an opportunity to make submissions to meet the serious area requirements and implement measures to attain the standard.

Applying this approach to the Beaumont/Port Arthur area would result in a new attainment date 21 months from publication of the final reclassification notice. We welcome any comments on the appropriateness of this proposed time frame, and whether a shorter or later attainment date would be more appropriate.

If we reclassify the Beaumont/Port Arthur area, we must also address the schedule by which Texas will be required to submit a SIP revision meeting the serious area requirements. We propose to have Texas submit this SIP within one year after a final action on the reclassification is taken. If the submission shows that the area can attain the ozone NAAQS sooner than the attainment date established in the final reclassification notice, we would adjust the attainment date to reflect the earlier date, consistent with the requirement in section 181(a)(1) that the NAAQS be attained as expeditiously as practicable. We solicit comments on this proposed schedule.

XIV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order (E.O.) 12866, entitled *Regulatory Planning and Review*.

B. Executive Order 12875

Under E.O. 12875, *Enhancing the Intergovernmental Partnership*, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposals would not create a mandate on State, local, or tribal governments. These proposals do not impose any enforceable rules on any of these entities. The SIP submission requirements are not judicially enforceable. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to these proposals.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. These proposals are not subject to E.O. 13045 because they are not economically significant regulatory actions as defined by E.O. 12866. These proposals are not subject to E.O. 13045 because they implement a previously promulgated health or safety-based Federal standard.

D. Executive Order 13084

Under Executive Order 13084, *Consultation and Coordination with Indian Tribal Governments*, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposals would not significantly or uniquely affect the communities of Indian tribal governments. These proposed actions would not impose any requirement that affects Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposals.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, 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 not-for-profit enterprises, and small governmental jurisdictions. The proposal to reclassify will not have a significant impact on a substantial number of small entities because a finding of failure to attain under section 182(b)(2) of the Act, and the establishment of a SIP submittal schedule for the reclassified area, do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. FERC, 773 F.2d 327 (D.C. Cir. 1985)(agency's certification need only consider the rule's impact on entities subject to requirements of the rule). Instead, this proposal to reclassify proposes to make a determination and to establish a schedule for States to submit SIP revisions, and does not propose to directly regulate any entities.

The alternative proposal to extend the attainment date if Texas meets the specified criteria does not directly impose any new requirements on small entities. To the extent that the area must adopt new regulations, we will review the effect of those actions at the time the State submits those regulations. Therefore, I certify that these proposed actions will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

Sections 202 and 205 do not apply to today's action because the proposed determination that the Beaumont/Port Arthur area failed to reach attainment does not, in-and-of-itself, constitute a Federal mandate because it does not impose an enforceable duty on any entity. In addition, the Act does not permit EPA to consider the types of analyses described in section 202, in determining whether an area has attained the ozone standard or qualifies for an extension. Finally, section 203 does not apply to today's proposal because the SIP submittal schedule and the extension of the attainment date would affect only the state of Texas, which is not a small government.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Area designations and

classifications, National parks, Wilderness areas.

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

Dated: April 6, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 99–9470 Filed 4–15–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–6327–2]

RIN 2060–AG85

Change in Dates of EPA Inspection of Transuranic Waste Characterization Systems and Processes at the Rocky Flats Environmental Technology Site Related to the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a change in the dates of a planned inspection of systems and processes for characterizing certain transuranic (TRU) radioactive waste at the Rocky Flats Environmental Technology Site (RFETS), as described in EPA's **Federal Register** document of March 25, 1999 (64 FR 14418). The original dates were April 12–16, as announced in the March 25 notice. The inspection will now be held the week of April 26, 1999. This will allow for the 30-day public comment period on Department of Energy (DOE) documents applicable to characterization of TRU waste at RFETS, which was announced in the March 25 notice, to occur in advance of the inspection. The documents available for comment are entitled: (1) ''Transuranic Waste Management Manual, Rev. 2,'' (2) ''RFETS TRU Waste Characterization Program Quality Assurance Project Plan,'' and (3) ''Salt Residue Stabilization, Building 707 Process Control/Qualification Plan.'' They are available for review in the public dockets listed in **ADDRESSES.** In accordance with EPA's WIPP Compliance Criteria at 40 CFR 194.8, EPA will conduct an inspection of waste characterization systems and processes at RFETS to verify that the proposed systems and processes at RFETS can characterize transuranic waste at issue properly, consistent with the Compliance Criteria. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: Comments must be received by EPA's official Air Docket on or before May 10, 1999.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington DC, Docket No. A–98–49, Category II–A–2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 am–9 pm, Friday–Saturday, 10 am–6 pm, and Sunday 1 pm–5 pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Monday–Thursday, 8 am–9 pm, Friday, 8 am–5 pm, Saturday–Sunday, 1 pm–5 pm; and in Santa Fe at the Fogelson Library, College of Santa Fe, Hours: Monday–Thursday, 8 am–12 am, Friday, 8 am–5 pm, Saturday, 9 am–5 pm, and Sunday, 1 pm–9 pm.

Copies of items in the docket may be requested by writing Docket A–98–49 at the address provided above, or by calling (202) 260–7548. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Scott Monroe, Office of Radiation and Indoor Air, (202) 564–9310, or call EPA's toll–free WIPP Information Line, 1–800–331–WIPP.

Dated: April 12, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–9602 Filed 4–15–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–6327–3]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste at the Idaho National Engineering and Environmental Laboratory Proposed for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents on waste characterization programs applicable to certain transuranic (TRU) radioactive waste at the Idaho National Engineering and Environmental Laboratory (INEEL) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are: ''Quality Assurance Project Plan for the Transuranic Waste Characterization Program (PLN–190), Revision 3 (April 1999),'' ''INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan (PLN–182), Revision 3 (April 1999),'' and ''Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste (INEL–96/0345), Revision 2 (April 1999).'' These documents are available for review in the public dockets listed in **ADDRESSES.** The EPA will use these documents to evaluate waste characterization systems and processes at INEEL that DOE described as applicable to waste streams containing homogeneous solids, debris, and soils and gravels. In accordance with EPA's WIPP Compliance Criteria at 40 CFR 194.8, EPA will conduct an inspection of waste characterization systems and processes at INEEL to verify that the proposed systems and processes at INEEL can characterize transuranic waste at issue properly, consistent with the Compliance Criteria. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: The EPA is requesting public comment on these documents. Comments must be received by EPA's official Air Docket on or before May 17, 1999.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

The DOE documents ''Quality Assurance Project Plan for the Transuranic Waste Characterization Program (PLN–190), Revision 3 (April 1999),'' ''INEEL TRU Waste Characterization, Transportation, and Certification Quality Program Plan (PLN–182), Revision 3 (April 1999),'' and ''Program Plan for Certification of INEEL Contact-Handled Stored Transuranic Waste (INEL–96/0345), Revision 2 (April 1999),'' are available for review in the official EPA Air Docket in Washington, D.C., Docket No. A–98–49, Category II–A–2, and at the