SUMMARY: EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia. The revision makes the oxygenated gasoline program a contingency measure for the District of Columbia (the District), which means that the oxygenated gasoline program would only be required to be implemented in the District if there is a violation of the carbon monoxide (CO) national ambient air quality standard (NAAQS). The District's revision also makes technical amendments to its oxygenated gasoline regulations which correct the deficiencies previously identified by EPA in a January 26, 1995 final rule granting limited approval/limited disapproval of those regulations. Therefore, the limited approval/limited disapproval is being converted to a full approval. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If EPA receives no adverse comments, EPA will not take further action. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 8, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch , Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Kelly L. Bunker, (215) 814–2177, at the EPA Region III address above, or by e-mail at bunker.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: April 24, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–10987 Filed 5–8–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6975–9]

Clean Air Act Reclassification and Notice of Potential Eligibility for Extension of Attainment Date, Louisiana; Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the Baton Rouge serious ozone nonattainment area (hereinafter referred to as the Baton Rouge area) has failed to attain the one-hour ozone National Ambient Air Quality Standard (NAAQS) by November 15, 1999, the date set forth in the Clean Air Act (CAA or Act) for serious nonattainment areas. If EPA takes final action on this proposed finding, the area would be reclassified as a severe ozone nonattainment area.

Alternatively, EPA is also issuing a notice of the Baton Rouge area's potential eligibility for an attainment date extension, pursuant to EPA's ''Guidance on Extension of Attainment Dates for Downwind Transport Areas'' (hereinafter referred to as the extension policy) (Richard D. Wilson, Acting Assistant Administrator for Air and Radiation) issued July 16, 1998. The extension policy provides that a nonattainment area, such as the Baton Rouge area, may be eligible for an attainment date extension if it meets certain conditions. The extension policy applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the one-hour ozone standard by the dates prescribed in the Act. Louisiana is working to comply with the conditions for receiving an extension. If Louisiana makes a submittal in response to the extension policy, we will address the adequacy of the submittal in a subsequent supplemental proposal. If the submittal meets the criteria for an extension, the attainment date for the Baton Rouge area will be extended, and the area will not be reclassified. We do not intend to take final action on reclassification of the Baton Rouge area prior to allowing Louisiana an opportunity to qualify for an attainment date extension under the extension policy.

DATES: Comments must be received on or before June 8, 2001.

ADDRESSES: All comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Copies of the Baton Rouge area monitored air quality data analyses, guidance on extension of attainment dates in downwind transport areas, State submittal requesting consideration for an attainment date extension, and other relevant documents used in support of this proposal are contained in the docket file, which is available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency Region 6, Air Planning Section, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202; Louisiana Department of Environmental Quality, 7920 Bluebonnet Boulevard, Baton Rouge, Louisiana 70884. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Schulze, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

SUPPLEMENTARY INFORMATION: The use of ''we,'' ''us,'' or ''our'' in this document refers to EPA.

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I. What Action Are We Taking Today?

We are proposing to find that the Baton Rouge area has failed to attain the one-hour ozone NAAQS by the November 15, 1999, attainment deadline prescribed under the CAA for serious ozone nonattainment areas. EPA's authority to make this finding is discussed under section 181(b)(2) of the CAA. Section 181(b)(2) explains the process for determining whether an area has attained the one-hour ozone standard and reclassification of the area if necessary. If we finalize this finding, the Baton Rouge area will be reclassified by operation of law from serious nonattainment to severe nonattainment.

Alternatively, we are considering an extension of the Baton Rouge area's attainment date, provided that Louisiana submits, by August 31, 2001, a State Implementation Plan (SIP) that qualifies for an extension pursuant to EPA's extension policy. If the State meets the extension policy criteria and we propose to approve the State's submittal, then a specific extended attainment date will be proposed in the same notice. We will take final action on the new attainment date at the time we take final action on the submittal. However, if Louisiana's SIP submittal fails to meet the criteria of the extension policy, we will finalize this proposed finding of failure to attain, and the Baton Rouge area will be reclassified to a severe ozone nonattainment area.[1]

II. What Are the National Ambient Air Quality Standards?

Since the CAA's inception in 1970, EPA has set NAAQS for six common pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. For most of these common air pollutants, there are two types of pollution limits referred to as the primary and secondary standards.[2] The primary standard is based on health effects; the secondary standard is based on environmental effects such as damage to property, plants, and visibility. The CAA requires these standards to be set at levels that protect public health and welfare with an adequate margin of safety. These standards present state and local governments with the air quality levels they must meet to achieve clean air. Also, these standards allow the American people to assess whether the air quality in their communities is healthful.

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 eight-hour standards. Table 1 summarizes the ozone standards.

TABLE 1.—SUMMARY OF OZONE STANDARDS

Standard	Value (parts per million)	Type	Method of compliance
1-hour	0.12	Primary and secondary	Must not be exceeded, on average, more than one day per year over any 3-year period.
8-hour	0.08	Primary and secondary	The 3-year average of the annual fourth-highest maxima 8-hour average ozone concentrations measured at secondary each monitor within an area.

The 1-hour ozone standard of 0.12 ppm has existed since 1979. On July 18, 1997, EPA adopted the 8-hour ozone standard, which was intended to replace the one-hour standard in areas that were attaining the one-hour standard, (62 FR 38856).[3] The one-hour ozone standard continues to apply to all areas, notwithstanding promulgation of the 8-hour standard (40 CFR § 50.9(b)). This document addresses the classification of the Baton Rouge area relative to the one-hour ozone standard.

IV. What Is the Baton Rouge Ozone Nonattainment Area?

The Baton Rouge serious ozone nonattainment area, located in southern Louisiana, consists of East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Livingston Parishes.

V. Why Is the Baton Rouge Area Currently Classified as a Serious Nonattainment Area?

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the one-hour standard prior to enactment of the 1990 CAA amendments, such as the Baton Rouge area, was designated nonattainment by operation of law upon enactment of the 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, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual

[1] On November 22, 2000, the Louisiana Environmental Action Network (LEAN) filed a complaint in the United States District Court for the Middle District of Louisiana regarding the attainment status and classification of the Baton Rouge area. If EPA needs to take any action as a result of this litigation, we will publish further notice in the **Federal Register**.

[2] EPA has established only a primary standard for carbon monoxide.

[3] EPA revoked the one-hour standard in areas that were attaining the standard on June 5, 1998 (63 FR 31051). However, on May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the 8-hour ozone standard could not be enforced by EPA. Although the Court of Appeals determined that the 8-hour standard could not be enforced, it did not vacate the standard. Hence, the 8-hour standard remained in effect. While appealing this decision to the United States Supreme Court, EPA reinstated the one-hour standard in areas where it had been revoked. (65 FR 45181, dated July 20, 2000). On February 27, 2001, the Supreme Court upheld the 8-hour standard and instructed EPA to develop an implementation plan for the 8 hour standard that is consistent with the Supreme Court's opinion. *Whitman* v. *American Trucking Assoc., Inc.,* 531 U.S. ____ (2001), Nos. 99–1257 and 99–1426.

ozone monitoring site (i.e., the highest of the fourth highest one-hour daily maximum monitored ozone levels in a given three-year period with complete monitoring data). Table 2 provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 and 0.180 ppm, such as the Baton Rouge area (which had a design value of 0.164 ppm in 1989), were classified as serious. 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	November 15, 1993.
Moderate	0.138 up to 0.160	November 15, 1996.
Serious	0.160 up to 0.180	November 15, 1999.
Severe	0.180 up to 0.280	November 15, 2005.
Extreme	0.280 and above	November 15, 2010.

In addition, states containing areas that were classified as serious nonattainment were required to submit SIPs to provide for certain controls, to show progress toward attainment, and to provide for attainment as expeditiously as practicable, but not later than November 15, 1999. Serious area SIP requirements are found primarily in section 182(c) of the CAA.

VI. Why Are We Proposing To Reclassify the Baton Rouge Area?

Regarding reclassification for failure to attain, section 181(b)(2)(A) of the Act provides that:

Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date) whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of—

(i) The next higher classification for the area, or

(ii) The classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

Furthermore, section 181(b)(2)(B) of the Act provides that:

The Administrator shall publish a notice in the **Federal Register** no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

Table 3 lists the average number of days when ambient ozone concentrations exceeded the one-hour ozone standard at each monitoring site in the Baton Rouge area for the period 1997–1999. The ozone design value for each monitor is also listed for the same period. A complete listing of the ozone exceedances for each monitoring site, as well as EPA's calculations of the design values, can be found in the docket file. The data in Table 3 show that, for 1997–1999, two monitoring sites in the Baton Rouge area averaged more than one exceedance day per year. Therefore, pursuant to section 181(b)(2)(B) of the CAA, we propose to find that the Baton Rouge area did not attain the one-hour standard by the November 15, 1999, deadline.

TABLE 3.—AIR QUALITY DATA FOR THE BATON ROUGE AREA (1997–1999)

Site	Number of days over standard (1997–1999)	Number of expected days over standard (1997–1999)	Average number of expected exceedance days per year	Site design value (ppm)
Site (Parish):				
Pride (East Baton Rouge)	1	1.1	0.4	0.116
Baker (East Baton Rouge)	3	3.0	1.0	0.123
Capitol (East Baton Rouge)	3	3.1	1.0	0.122
LSU (East Baton Rouge)	4	[a] 4.1	[a] 1.4	[b] 0.126
Carville (Iberville)	2	2.0	0.7	0.120
Plaquemine (Iberville)	2	2.0	0.7	0.120
Grosse Tete (Iberville)	5	[a] 5.3	[a] 1.8	[b] 0.126
Port Allen (West Baton Rouge)	3	3.0	1.0	0.119
Dutchtown (Ascension)	3	3.0	1.0	0.123
French Settlement (Livingston)	3	3.0	1.0	0.123

[a] A violation occurs when the number of expected exceedances is greater than 3.1 over a 3-year (rolling) period (or a 3-year (rolling) average greater than 1.04). The statistical term ''expected exceedances'' is an arithmetic average explained at 40 CFR Part 50, Appendix H.
[b] Represents the 1997–1999 design value for the Baton Rouge area.
Raw data source: U.S. EPA Aerometric Information Retrieval System (AIRS) database.

As discussed later in this document, because the EPA interprets the CAA to allow for an extension of the attainment date based on EPA's findings on the effects of ozone transport, we believe it is fair to allow Louisiana an opportunity to apply and qualify for an attainment date extension before we finalize our finding and the area is reclassified.

This proposal details the following reasons which support our decision to proceed in this manner:

1. EPA has concluded that this is the best way to reconcile the Act's

requirements under section 110(a)(2)(D)(i)(I) as applied to ozone transport with the attainment dates and graduated control scheme in sections 181 and 182 of the Act. EPA's extension policy represents a reasonable effort to avoid thwarting Congressional intent that upwind areas be responsible for preventing interference with timely downwind attainment and that downwind areas not be unfairly burdened. The Act shows Congressional intent that transport be considered when EPA acts to reclassify an area and a reluctance to subject an area to more burdensome controls than necessary to bring local sources into compliance.

2. Louisiana has submitted analyses indicating that Baton Rouge may be affected by ozone transport from an upwind area.

3. Based on current monitored air quality, if the Baton Rouge area was newly designated ozone nonattainment today, it would be classified as a marginal nonattainment area. However, if the area were to be reclassified, it would be required to impose the controls which are normally demanded only for an area with severe levels of air pollution.

4. By a letter from the Governor, dated May 10, 2000, Louisiana has committed to submit by August 31, 2001, a SIP that meets the criteria of the extension policy.

Furthermore, in this proposal, our recognition that the area should be given an opportunity to qualify for an extension is balanced by our action in moving forward with the process of reclassification in the event that the state is unsuccessful in demonstrating that it can satisfy the criteria for an extension.

VII. Has Air Quality Improved in the Baton Rouge Area in Recent Years?

The air quality in the Baton Rouge area has improved significantly since the area was designated nonattainment following enactment of the 1990 CAA amendments, when the area's (1987–1989) ozone design value was 0.164 ppm. The most recent (i.e. 1997–1999) areawide ozone design values had shown a continued downward trend measuring 0.139, 0.127, and 0.126 ppm, respectively [4]—very closely approaching the one-hour NAAQS design value of 0.124 ppm. However, based on exceedances registered in the Baton Rouge area in 2000, the area's preliminary (1998–2000) ozone design value has now risen to 0.135 ppm.[5]

VIII. What Would a Reclassification Mean for the Baton Rouge Area?

If reclassified, the Baton Rouge area would need to attain the one-hour ozone NAAQS as expeditiously as practicable, but no later than November 15, 2005. Louisiana would also need to submit SIP revisions addressing the severe area requirements for the one-hour standard in section 182(d) of the Act. The requirements for severe ozone nonattainment areas include, but are not limited to, the following:

1. Attainment and reasonable further progress demonstrations.

2. A 25 ton-per-year major source threshold for volatile organic compounds.

3. More stringent new source review requirements.

4. Enforceable transportation control strategies and measures to offset projected growth in vehicle miles traveled or number of vehicle trips.

5. Contingency provisions.

6. A plan for assessing fees to major stationary sources in the event the Baton Rouge area fails to meet the severe attainment date.

7. On-road mobile emissions budget for transportation conformity purposes.

IX. Can an Extension of the Serious Area Attainment Date Be Granted for the Baton Rouge Area?

The attainment date specified in the Act for serious nonattainment areas, such as Baton Rouge, is November 15, 1999. Two separate mechanisms exist for an area to obtain an extension of this date. First, pursuant to section 181(a)(5) of the CAA, the state may request, and EPA may grant, up to two one-year attainment date extensions. EPA may grant an extension if: (1) The state has complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the ozone standard at any monitoring site in the nonattainment area in the year in which attainment is required.

As indicated in Table 4, one or fewer actual exceedances occurred at any given monitoring site in the area in 1999. However, because a significant amount of air quality data was invalidated due to malfunctioning equipment at the Grosse Tete site in 1999,[6] the number of expected exceedances for that monitor in 1999 was greater than 1.04 (i.e., 1.3). Louisiana did not submit a request for a one-year extension of the attainment date under section 181(a)(5) of the CAA based on these 1999 monitoring results.

TABLE 4.—OZONE EXCEEDANCES IN THE BATON ROUGE AREA (1999)

Site	Number of days over standard (1999)	Number of expected days over standard (1999)
Site (Parish):		
Pride (East Baton Rouge)	0	0.0
Baker (East Baton Rouge)	1	1.0
Capitol (East Baton Rouge)	0	0.0
LSU (East Baton Rouge)	0	0.0
Carville (Iberville)	0	0.0
Plaquemine (Iberville)	1	1.0
Grosse Tete (Iberville)	1	1.3
Port Allen (West Baton Rouge)	1	1.0
Dutchtown (Ascension)	0	0.0
French Settlement (Livingston)	0	0.0

Raw data source: U.S. EPA Aerometric Information Retrieval System (AIRS) database.

[4] A listing of the ozone exceedances (1995–1999) and 3-year design values (95–97, 96–98, 98–00) by monitoring site can be found in the docket file for this proposed rulemaking.

[5] A listing of the preliminary ozone exceedances and design values can be found in the docket file for this proposed rulemaking.

[6] ''Review of the Grosse Tete Ozone Monitor and Data in Iberville Parish: May 12, 1999—August 6, 1999,'' U.S. EPA Region 6, Multimedia Planning and Permitting Division, final report dated June 29, 2000.

Instead, Louisiana is seeking an extension of its attainment date under the second mechanism for obtaining an extension of the attainment date: EPA's extension policy for areas which are affected by downwind transport of ozone and ozone precursors. This extension policy reconciles section 181(b)(2) with other provisions of the CAA to authorize attainment date extensions for downwind transport areas that can make appropriate showings. The section that follows discusses the extension policy in detail.

X. What Is EPA's 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 Baton Rouge, 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.

In consideration of these factors and the realization that many areas are unable to meet the mandated attainment dates due to transport [7], on July 16, 1998, EPA 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.

The extension policy offers an opportunity for Louisiana to request an extension of the attainment date for the Baton Rouge area. This policy draws on other provisions of the Act (beyond CAA section 181(a)(5)) to authorize attainment date extensions for downwind transport areas.

Under the policy, EPA may extend the attainment date for an area that: (1) Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind nonattainment (by ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain); (2) has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows that it will attain the one-hour standard no later than the date that the reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind reductions; (3) has adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas; and (4) has provided that it will implement all adopted measures as expeditiously as practicable, but not later than the date by which the upwind reductions needed for attainment will be achieved.

XI. Is the Baton Rouge Area Eligible for an Attainment Date Extension Under the Extension Policy?

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

On May 10, 2000, the Governor of Louisiana submitted a letter to EPA committing to meet the requirements of the extension policy by August 31, 2001.[8] (The Governor's commitment letter and EPA's response to the letter are included in the docket for this proposed rulemaking.) The steps we believe Louisiana will need to take in order for us to consider extending the Baton Rouge area attainment date under the extension policy include:

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

2. Submit to EPA an approvable attainment demonstration by August 31, 2001. This demonstration must show that the Baton Rouge 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 August 31, 2001.

4. Submit proof that all applicable local control measures required under the serious classification have been adopted. As part of this demonstration, Louisiana's August 31, 2001 SIP submittal must include at least the following:

(a) Any changes to Louisiana's Nonattainment New Source Review program necessary to ensure that the State's rules meet EPA's nonattainment new source review requirements.

(b) Contingency measures that meet the requirements of section 182(c)(9) of the Act.[9]

(c) Any revisions to the vehicle inspection and maintenance (I/M) program necessary to meet the applicable federal I/M program requirements. Any such changes must be adopted prior to August 31, 2001.

[7] 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 NO_X SIP call, 62 FR 60318) requiring 22 states and the District of Columbia to submit SIPs addressing the regional transport of ozone. These 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 NO_X). The EPA took final action on the NO_X SIP call on October 27, 1998 (63 FR 57356). The EPA expects the final NO_X SIP call will assist many areas in attaining the one-hour ozone standard. Louisiana was a member of the OTAG, but was not included in the NO_X SIP call.

[8] To support the Governor's request that EPA consider an attainment date extension for the Baton Rouge area based on transported air pollution, the Louisiana Department of Environmental Quality (LDEQ) submitted to EPA a report entitled, ''Assessment of the Contribution of Emissions from the Houston Area to Ozone Concentrations in the Five-Parish Baton Rouge Nonattainment Area,'' dated May 3, 2000, indicating that pollution transported from Texas may have impeded attainment of the 1-hour ozone standard in Baton Rouge. A copy of this report can be found in the docket for this proposed rulemaking.

[9] On July 2, 1999, EPA issued final approval of Louisiana's revised SIP for the Baton Rouge area, which contained a contingency measures plan using Emission Reductions Credits (''ERCs'') held in escrow in Louisiana's ERC ''bank'' (64 FR 35930). On August 30, 1999, LEAN, the North Baton Rouge Environmental Association, Save Our Lakes and Ducks, and the Southern University Environmental Law Society filed a petition for review in the United States Court of Appeals for the Fifth Circuit challenging EPA's July 2, 1999 SIP approval. In response to the litigation, EPA performed a preliminary investigation and became concerned that Louisiana's application of its ERC banking rule might not be consistent with EPA regulations and guidance. As a result, EPA requested a partial voluntary remand to reconsider its July 2, 1999 final approval of Louisiana's contingency measures plan for the Baton Rouge area. On October 19, 2000, the Fifth Circuit Court of Appeals granted a Joint Motion for a Partial Voluntary Remand in *Louisiana Environmental Action Network, et al.* v. *United States Environmental Protection Agency,* No. 99–60570 (5th Cir.). EPA expects to propose further action and/or rulemaking to address Louisiana's contingency measures plan before taking further action on this notice.

5. Provide that all newly adopted control measures will be implemented as expeditiously as practicable. 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 such an area's attainment demonstration, we will, as necessary, extend that area's attainment date to the 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).

XII. What Progress Has Louisiana Made To Meet the Extension Policy So That an Attainment Date Extension Can Be Granted?

A local task force comprised of stakeholders has been formed and is working closely with the LDEQ to develop a submittal that meets the requirements of the extension policy. Modeling efforts are well underway, and the State has solicited public input on numerous potential control measures.

XIII. What Actions Has Louisiana Taken To Improve Air Quality in the Baton Rouge Area?

EPA has approved, and Louisiana has implemented, VOC emission reductions as part of the State's 15 Percent Rate-of-Progress Plan (see 61 FR 54737, dated October 22, 1996), and Post-1996 Rate-of-Progress Plan (see 64 FR 35390, dated July 2, 1999). In addition, Louisiana is in the process of implementing a low enhanced vehicle inspection and maintenance program in the Baton Rouge area, which should further reduce VOC emissions. EPA has proposed to conditionally approve the I/M program (see 63 FR 71807, dated December 30, 1998).

XIV. If We Finalize Our Proposed Rulemaking Reclassifying the Baton Rouge Area, What Would Be the Area's New Classification?

As stated previously, section 181(b)(2)(A) of the Act requires that, when an area is reclassified for failure to attain, its reclassification must be the higher of the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. The official design value of the Baton Rouge area at the time of the proposed finding of failure to attain is based on quality-assured ozone monitoring data from 1997–1999. This design value is 0.126 ppm, and the classification of ''marginal'' nonattainment would be applicable to it. By contrast, the next higher classification for the Baton Rouge area is ''severe'' nonattainment. Since ''severe'' is a higher nonattainment classification than ''marginal,'' under the statutory scheme, the area would be reclassified to severe nonattainment. Refer to Table 3 above.

XV. If the Baton Rouge Area Is Reclassified to Severe, What Would Its New Schedule Be?

If the Baton Rouge area is reclassified, Louisiana would be required to submit a SIP that adopts the severe area requirements. Under section 181(a)(1) of the Act, the new attainment deadline for serious areas reclassified to severe 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, 2005.

If we reclassify the Baton Rouge area, we must also address the schedule by which Louisiana will be required to submit a SIP revision meeting the severe area requirements. We propose to have Louisiana 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 one-hour 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.

XVI. When Will We Make a Final Decision Whether To Reclassify or Grant an Extension to the Baton Rouge Area?

We will review Louisiana's proposed SIP submittal during the State's public comment period. We expect to receive the SIP submittal by August 31, 2001 and will publish thereafter a document in the **Federal Register** to address the approvability of the SIP submittal and the Baton Rouge area's eligibility for a extension of its attainment date pursuant to the extension policy. If we propose approval, we would also propose to extend the attainment date for the Baton Rouge area to an appropriate expeditious date. However, if Louisiana fails to meet the requirements of the extension policy by August 31, 2001, we will finalize the finding of failure to attain, and the Baton Rouge area will be reclassified to severe ozone nonattainment.

XVII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The proposed rule does not include environmental justice related issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: April 19, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01–11563 Filed 5–8–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–6976–7]

RIN 2090–AA18

Project XL Site-specific Rulemaking for Yolo County Landfill, Davis, Yolo County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comment on proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing a site-specific rule to implement a project under the Project XL program, an EPA initiative to allow regulated entities to achieve better environmental results at decreased costs. Today's proposal would provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, for the Yolo County Landfill, Davis, Yolo County, California.

Yolo County has proposed a project under EPA's Project XL to use certain bioreactor techniques at its municipal solid waste landfill (MSWLF), specifically the addition of bulk or non-containerized liquid wastes into the landfill to accelerate the biodegradation of landfill waste and decrease the time it takes for the waste to stabilize in the landfill. The principal objective of this bioreactor XL project is to evaluate waste decomposition rates when leachate is supplemented with other liquid additions. In order to carry out this project, Yolo County would need relief from certain requirements in EPA regulations which set forth operating criteria for MSWLFs and preclude the addition of bulk or non-containerized liquid wastes. To achieve the objectives of the project, today's proposed rule would provide regulatory flexibility from Liquid Restrictions, which precludes the addition of bulk or non-containerized liquid wastes. The Yolo County bioreactor project is one of several bioreactor XL projects currently being considered by EPA.

DATES: *Public Comments:* Comments on the proposed rule must be received on or before June 8, 2001.

Public Hearing: Commentors may request a public hearing by May 23, 2001 during the public comment period. Commentors must state the basis for requesting the public hearing. If EPA determines there is sufficient reason to hold a public hearing, it will do so no later than May 30, 2001, during the last week of the public comment period. Requests for a public hearing should be submitted to the address listed below. If a public hearing is scheduled, the date, time, and location will be made available through a **Federal Register** notice or by contacting Sherri Walker at the EPA Headquarters office (see **ADDRESSES** section).

ADDRESSES: *Request to Speak at Hearing:* Requests to speak at a hearing should be mailed to the RCRA Information Center Docket Clerk (5303G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please send an original and two copies of all comments and refer to Docket Number F–2000–YCLP–FFFFF. A copy should also be sent to Ms. Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. N.W. (1802), Washington DC 20460.

Comments: Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please submit an original and 3 copies of written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments and refer to Docket Number F–2000–YCLP–FFFFF. A copy should also be sent to Ms. Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (1802) Washington DC 20460.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: *walker.sherri@epa.gov.* Electronic comments must be submitted as an ASCII, WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Viewing Project Materials: A docket containing the proposed rule, supporting materials, and public comments is available for public inspection and copying at the RCRA Information Center (RIC) located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA Docket Number F–2000–YCLP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies are $0.15 per page. Project materials are also available for review for today's action on the world wide web at http://www.epa.gov/projectxl/.

A duplicate copy of the docket is available for inspection and copying at the regional office in which the landfill project is located.

FOR FURTHER INFORMATION, CONTACT: Ms. Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. N.W. (1802), Washington DC 20460, (202) 260–4295, walker.sherri@epa.gov.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would amend 40 CFR 258.28(a) by adding a new 40 CFR 258.28(a)(3) and will create a new section, 40 CFR 258.41. Section 258.28(a) currently prohibits application of bulk or noncontainerized liquid waste into a municipal solid waste landfill unit unless: (1) The waste is household waste other than septic waste; or (2) leachate or gas condensate derived from the landfill unit and the