the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes.'' EPA is assigning a classification of moderate because it reflects the severity of the Bay Area's nonattainment problem. Specifically, the Bay Area has a design value [4] of .138 parts per billion for the three-year period 1994–1997. This design value is equivalent to the design value for moderate areas classified according to the severity table in subpart 2, section 181(a)(1).

The EPA believes that this classification is appropriate because it will allow the Bay Area to receive CMAQ funding commensurate with its air quality problem. As the only ozone nonattainment area in the country redesignated under subpart 1 for the one-hour standard, it is the only such area to have no classification. At the same time, the Bay Area's air quality, as reflected by its design value, is similar to that of the other ozone nonattainment areas that are classified as moderate. Today's proposed action would allow the Bay Area, with its unique status among ozone nonattainment areas, to be treated for CMAQ purposes the same as other nonattainment areas with similar air quality problems.

III. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The proposed rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Executive Order 12875

Under E.O. 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. If the mandate is unfunded, EPA must 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 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 rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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, 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. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This classification action under subpart 1, section 172(a)(1)(A) of the Clean Air Act does not create any new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected.

E. 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 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.

EPA has determined that the action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: March 5, 1999.

David Howekamp,

Acting Regional Administrator, Region X.

[FR Doc. 99–6511 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

[4] The design value is derived from peak ozone concentrations and is a measure of the severity of an area's air quality problem. It is calculated according to an EPA Memorandum from William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards, to the Regional Air Directors, ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MO 061–1061; IL187–1; FRL–6311–8]

Clean Air Reclassification and Notice of Potential Eligibility for Attainment Date Extension, Missouri and Illinois; St. Louis Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the St. Louis nonattainment area

(hereinafter referred to as the St. Louis area) has failed to attain the 1-hour ozone national ambient air quality standard (NAAQS or standard) by November 15, 1996, the date set forth in the Clean Air Act (CAA or Act) for moderate nonattainment areas. If EPA takes final action on the finding as proposed, the St. Louis area would be reclassified as a serious nonattainment area.

EPA is also issuing a notice of the St. Louis area's potential eligibility for an attainment date extension, pursuant to EPA's ''Guidance on Extension of Air Quality 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 applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the 1-hour ozone standard by the dates prescribed in the CAA. EPA proposes to finalize the reclassification of the St. Louis area only after the area has had an opportunity to qualify for an attainment date extension under the extension policy.

As an alternative to reclassification for areas affected by transport, the extension policy provides that an area, such as St. Louis, is eligible for an attainment date extension if it can make submissions that meet certain conditions. Missouri and Illinois are working together to comply with the conditions for receiving an extension so that the St. Louis area can avoid reclassification. If Missouri and Illinois make submittals in response to the extension policy, EPA will address the adequacy of those submittals in a subsequent rulemaking action. If the submittals meet the provisions for an extension, the attainment date for the St. Louis area would be extended, and the area would not be reclassified.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: All comments should be addressed to: Aaron J. Worstell, Air Planning and Development Branch, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101; or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604.

Copies of the St. Louis area monitored air quality data analyses, guidance on extension of attainment dates in downwind transport areas, state submittals requesting attainment date extension, and other relevant documents used in support of this proposal are available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency, Region VII, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, KS 66101; U.S. Environmental Protection Agency, Region V, Air Programs Branch, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604–3507; and the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Aaron J. Worstell, EPA Region VII, (913) 551–7787 or Jay Bortzer, EPA Region V, (312) 886–1430.

SUPPLEMENTARY INFORMATION:

Background

What are the National Ambient Air Quality Standards?

Since the CAA's inception in 1970, EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The CAA requires these standards 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 or not the air quality in their communities is healthful.

What is the NAAQS for ozone?

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

TABLE 1.—SUMMARY OF OZONE STANDARDS

Standard	Value	Type	Method of Compliance
1-hour	0.12 ppm	Primary and secondary	Must not be exceeded on average more than one day per year over any 3-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 1-hour ozone standard of 0.12 ppm has existed since 1979 and was included with the 1990 CAA amendments. The 8-hour ozone standard, which replaces the 1-hour standard, was recently adopted by EPA on July 18, 1997 (62 FR 38856). However, the 1-hour ozone standard continues to apply for existing nonattainment areas until such time as EPA determines that an area has attained the 1-hour ozone standard (40 CFR 50.9(b)). It is the classification of the St. Louis area relative to the 1-hour ozone standard that is addressed in this document.

What is the St. Louis Ozone Nonattainment Area?

The St. Louis ozone nonattainment area is an interstate area which includes cities and counties in both Missouri and Illinois as follows: Madison County, Monroe County, and St. Clair County in Illinois; and Franklin County, Jefferson County, St. Charles County, St. Louis City, and St. Louis County in Missouri.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone standard prior to enactment of the 1990 CAA amendments, such as the St. Louis area, 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, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual ozone monitoring site (i.e., the highest of the fourth highest 1-hour daily maximums 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 0.138 and 0.160 ppm, such as the St. Louis area (which had a

design value of 0.156 ppm in 1989), were classified as moderate. 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, under section 182(b)(1)(A) of the CAA, states containing areas that were classified as moderate nonattainment were required to submit state implementation plans (SIPs) to provide for certain controls, to show progress toward attainment, and to provide for attainment of the ozone standard as expeditiously as practicable but no later than November 15, 1996. Moderate area SIP requirements are found primarily in section 182(b) of the CAA.

Why is EPA Proposing To Reclassify the St. Louis Area?

In regard to reclassification for failure to attain, section 182(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 182(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).

In the case of St. Louis, EPA has yet to make the determination described in section 182(b)(2)(B) of the Act.

Table 3 lists the average number of days when ambient ozone concentrations exceeded the 1-hour ozone standard at each monitoring site in the St. Louis area for the period 1994–1996. 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 1994–1996 seven monitoring sites in the St. Louis area averaged more than one exceedance day per year. Therefore, pursuant to section 181(b)(2)(B) of the CAA, EPA proposes to find that the St. Louis area did not attain the 1-hour standard by the November 15, 1996, deadline.

TABLE 3.—AIR QUALITY MONITORING DATA FOR THE ST. LOUIS AREA (1994–1996)

Site	Number of expected days over standard (1994–1996)	Average number of expected exceedance days per year	Site design value (ppm)
Missouri Sites:			
Arnold—29–099–0012	5.0	[a] 1.7	0.126
West Alton—29–183–1002	9.9	[a] 3.3	[b] 0.136
Orchard Farms—29–183–1004	3.6	[a] 1.2	0.133
South Lindbergh—29–189–0001	3.0	1.0	0.124
Queeny Park—29–189–0006	6.1	[a] 2.0	0.129
55 Hunter—29–189–3001	3.0	1.0	0.123
3400 Pershall—29–189–5001	3.0	1.0	0.118
Rock Road—29–189–7002	5.0	[a] 1.7	0.125
South Broadway—29–510–0007	1.0	0.3	0.108
River DesPeres [c]—29–510–0062	1.0	1.0	0.101
1122 Clark—29–510–0072	0.0	0.0	0.089
Newstead—29–510–0080	1.0	0.3	0.108
Illinois Sites:			
Alton—17–119–0008	4.0	[a] 1.3	0.127
West Division—17–119–1009	2.0	0.7	0.110
Poag Road—17–119–2007	3.1	1.0	0.124
North Walcott—17–119–3007	4.0	[a] 1.3	0.125
East St. Louis—17–163–0010	1.0	0.3	0.108

[a] A violation occurs when the average number of expected exceedances is greater than 1.05.
[b] Represents the 1996 design value for the St. Louis area.
[c] Site discontinued at end of 1995 ozone season.

As discussed later in this document, because EPA has now interpreted the CAA to allow for an extension of the attainment date based on an understanding of transport data not available at the time of St. Louis' original attainment date, EPA believes it is fair to allow the states an opportunity to apply and qualify for an attainment date extension before EPA finalizes its finding and the area is reclassified.

This proposal details the following reasons which support EPA's decision to proceed in this manner:

1. The Agency has concluded that this is the best way of reconciling the Act's provisions with respect to ozone transport with the provisions governing graduated attainment dates and with the reclassification provisions. The Act shows congressional intent that transport be considered when the Agency acts to reclassify an area, and a reluctance to subject an area to greater controls than necessary to bring local sources into compliance.

2. St. Louis has been shown to be affected by ozone transport from upwind areas.

3. St. Louis is now monitoring air quality data that, were it being newly classified, would entitle it to the classification of a marginal nonattainment area. However, if it were reclassified, it would be required to impose the controls which are normally demanded only for an area with serious levels of air pollution.

4. Missouri and Illinois have committed to submit an attainment demonstration by November 1999 which includes all the local control measures required under the Act for moderate nonattainment areas, demonstrating attainment when upwind controls are expected to be implemented.

Furthermore, in this proposal EPA's recognition that the area should be given an opportunity to qualify for an extension is balanced by EPA's action in moving forward with the process of reclassification in the event that the states are unsuccessful in demonstrating that they satisfy the criteria for an extension.

Can an Extension of the Moderate Area Attainment Date Be Granted for the St. Louis Area?

The attainment date specified in the Act for moderate nonattainment areas, such as St. Louis, is November 15, 1996. 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.

On October 2, 1996, Missouri submitted a request for a one-year extension of the attainment date. However, eight exceedances of the 1-hour ozone standard occurred in the St. Louis area in 1996 (refer to Table 4). Two of these exceedances occurred at the Alton monitoring site in Illinois. Although this was the only monitoring site recording more than one exceedance in 1996, under section 181(a)(5) of the Act, the St. Louis area failed to qualify for an attainment date extension based on 1996 air quality data.

TABLE 4.—OZONE EXCEEDANCES IN THE ST. LOUIS AREA—1996

Site ID	Site type	Date	PPM
Missouri Sites:			
Arnold—29–099–0012	SPM	June 20, 1996.	0.133
West Alton—29–183–1002	NAMS	June 13, 1996.	0.135
Orchard Farms—29–183–1004	SLAMS	June 28, 1996.	0.147
S. Lindbergh—29–189–0001	SLAMS	June 20, 1996.	0.130
S. Broadway—29–510–0007	SLAMS	June 20, 1996.	0.131
Illinois Sites:			
North Walcott—17–119–3007	SLAMS	June 13, 1996.	0.135
Alton—17–119–0008	SLAMS	June 13, 1996.	0.128
Alton—17–119–0008	SLAMS	June 14, 1996.	0.127

There exists, however, another mechanism for obtaining an extension of the attainment date under the 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.

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 CAA. As a result, many of these areas, such as the St. Louis area, find themselves facing the prospect of being reclassified, or ''bumped up,'' to a higher classification (e.g., from ''moderate'' to ''serious'') for failing to meet the ozone standard by the specified date.

For some time, EPA has recognized that pollutant transport can impair an area's ability to meet air quality standards. As a result, in March 1995 a collaborative, Federal-state process to assess the ozone transport problem was begun. Through a two-year effort known as the Ozone Transport Assessment

Group (OTAG), 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, 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 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 NO_X). EPA took final action on the NO_X SIP call on October 27, 1998 (63 FR 57356). EPA expects the final NO_X SIP call will assist many areas in attaining the 1-hour ozone standard.

On July 16, 1998, in consideration of these factors and the realization that many areas are unable to meet the CAA mandated attainment dates due to transport, EPA issued the extension policy. In this policy the attainment date for an area may be extended provided that the following criteria are met: (1) the area must be 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) an approvable attainment demonstration must be submitted with any necessary, adopted local measures and with an attainment date that shows that it will attain the 1-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) the area 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; (4) the area must provide that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA contemplates that when it acts to approve such an area's attainment demonstration, it 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).

Is the St. Louis Area Eligible for an Attainment Date Extension Under the Extension Policy?

EPA believes that the St. Louis area is affected by upwind transport. In fact, according to the final NO_X SIP call, the St. Louis area is affected by transport of pollutants from upwind areas to an extent that the area's ability to meet the 1-hour ozone standard is impaired. Therefore, EPA believes that the first of the transport criteria can be satisfied. However, before the St. Louis area can qualify for an attainment date extension under the extension policy, the remainder of the criteria specified in the extension policy must be met.

In October 1998, EPA notified the Governors of Missouri and Illinois of the availability of the extension policy. EPA also requested that, if they wished to demonstrate their eligibility for the extension policy, the Governors respond to EPA with a letter committing their respective states to meet the requirements necessary to qualify for an attainment date extension under the policy by November 15, 1999.

On November 23, 1998, Missouri submitted a letter to EPA providing a commitment to meet the requirements of the extension policy. Similarly, on December 15, 1998, Illinois submitted a letter to EPA providing a commitment to meet the requirements of the extension policy. (EPA's letters notifying the Missouri and Illinois Governors of the extension policy, and the respective responses are included in the docket for this rulemaking.)

EPA's review of the Missouri and Illinois SIPs for the St. Louis area indicates that Missouri and Illinois must submit the following in order to meet the requirements set forth in the extension policy:

1. A technical analysis establishing the influence of transport on ozone levels within the St. Louis area. This requirement can be met by citing the analysis contained in EPA's aforementioned NO_X SIP call.

2. Regulations or negative declarations addressing certain CAA requirements pertaining to reasonably available control technology (RACT) for major sources emitting volatile organic compounds (VOC). Note that this applies only to Missouri since the Illinois SIP has fully addressed VOC RACT.

3. Regulations addressing the CAA's requirements pertaining to RACT for major sources of NO_X. EPA believes that this requirement can be met by adopting regulations that will achieve reductions in NO_X emissions consistent with the NO_X SIP call.

4. An attainment demonstration meeting the criteria set forth in the extension policy.

In addition, the states must submit SIP revisions addressing all other local control measures required for moderate nonattainment areas and any additional measures necessary for attainment. All measures must also be implemented in accordance with the time frames set forth in the extension policy.

What Progress Has Been Made by Missouri and Illinois To Meet the Extension Policy So That an Attainment Date Extension Can Be Obtained?

Missouri and Illinois have already done extensive work toward meeting the extension policy. Several major portions of the extension policy have already been satisfied, and Missouri and Illinois have already made substantial progress toward compliance with the criteria for obtaining an attainment date extension.

Regarding the first item, EPA believes that Missouri and Illinois can establish the influence of transport on ozone levels within the St. Louis area by citing the analysis contained in EPA's NO_X SIP call.

Regarding the second item, Illinois has already submitted regulations or negative declarations fully addressing VOC RACT controls for major VOC sources. Missouri has also addressed VOC RACT for most major VOC sources, but there are some RACT categories for which Missouri has not yet submitted regulations or negative declarations.

Regarding the third item, EPA believes that Missouri and Illinois will be able to meet NO_X RACT by adopting regulations consistent with the NO_X SIP call. Missouri and Illinois are currently developing an emissions inventory and drafting regulations in response to the NO_X SIP call.

Regarding the fourth item, Missouri and Illinois are currently working to develop an approvable attainment demonstration. The states have initiated the steps leading to a final attainment demonstration and have committed to completing and submitting the attainment demonstration by November 15, 1999.

What Actions Have Illinois and Missouri Taken to Improve Air Quality in the St. Louis Area?

EPA has approved, and Illinois has implemented, VOC emission reductions as part of the states' 15 percent rate-of-progress plan (ROPP or 15 percent plan) (see 62 FR 66279). Illinois has implemented VOC controls including: (1) requiring the lowering of Reid Vapor Pressure of gasoline to 7.2 pounds per square inch (decreased volatility); (2) transportation control measures; (3) automobile refinishing emission control regulations; (4) marine vessel loading emission control regulations; (5) tightened RACT standards and emission cutoffs for various industrial source categories; (6) underground gasoline storage tank breathing emission controls; (7) organic chemical batch process RACT regulations; and (8) expansion of basic vehicle inspection and maintenance (I/M) area coverage. Illinois has implemented an enhanced vehicle I/M program and cold-cleaner degreasing regulations, which should further reduce VOC emissions in the Illinois portion of the St. Louis area. Illinois has adopted and implemented a contingency plan resulting in additional VOC control measures.

The state of Missouri has also taken a number of actions to improve air quality in the St. Louis area. As part of its 15 percent ROPP, the state adopted many of the same VOC RACT regulations as Illinois. Missouri has also adopted and implemented a contingency plan which included additional VOC control measures. In July 1998, the Governor of Missouri requested to opt in to the reformulated gasoline (RFG) program. EPA proposed to establish an implementation date for RFG based on the Governor's request in a **Federal Register** notice published on September 15, 1998 (see 63 FR 49317). EPA expects to take final action on the RFG opt-in in the near future. In addition, the state of Missouri is proceeding with implementation of an upgraded I/M program for motor vehicles. The state released its request for proposals to operate the program in October 1998. Based on this request and on the previous I/M SIP submission, EPA proposed to conditionally approve the I/M program provided that it begins operation by April 2000 (see 64 FR 9460). This program is a major part of the 15 percent plan and will result in a significant reduction in emissions when implemented in the coming years. EPA also notes that St. Louis is an area which implemented a Stage II vapor recovery program in the 1980s.

If EPA finalizes its proposed rulemaking reclassifying the St. Louis area, what would be the area's new classification?

Section 181(b)(2)(A) of the Act requires that, when an area is reclassified for failure to attain, its reclassification 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 design value of the St. Louis 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 0.131 ppm, as derived from the West Alton monitoring site, and the classification of ''marginal'' nonattainment would be applicable to it. By contrast, the next higher classification for the St. Louis area is ''serious'' nonattainment. Since ''serious'' is a higher nonattainment classification than ''marginal,'' under the statutory scheme the area would be reclassified to serious nonattainment. Refer to Table 5 below.

TABLE 5.—AIR QUALITY MONITORING DATA FOR THE ST. LOUIS AREA (1996–1998)[e]

Site	Number of expected days over standard (1996–1998)	Average number of expected exceedance days per year	Site design value (ppm)
Missouri Sites:			
Arnold—29–099–0012	3.2	[b] 1.1	0.118
West Alton—29–183–1002	4.4	[b] 1.5	[c] 0.131
Orchard Farms—29–183–1004	2.3	0.8	0.118
S. Lindbergh-Gravois [a]—29–189–0001	3.5	[b] 1.2	0.119
Queeny Park—29–189–0006	1.2	0.4	0.110
55 Hunter—29–189–3001	1.2	0.4	0.109
3400 Pershall—29–189–5001	2.2	0.7	0.117
Rock Road—29–189–7002	1.2	0.4	0.116
South Broadway—29–510–0007	2.2	0.7	0.107
River DesPeres [d]—29–510–0062	.....	.....	.....
1122 Clark—29–510–0072	1.2	0.4	0.094
Newstead—29–510–0080	0.0	0.0	0.107
Illinois Sites:			
Alton—17–119–0008	2.0	0.6	0.116
W. Division—17–119–1009	0.0	0.0	0.110
Poag Road—17–119–2007	1.0	0.3	0.118
N. Walcott—17–119–3007	2.0	0.6	0.117
E. St. Louis—17–163–0010	1.2	0.4	0.098

[a] Data from the S. Lindbergh and Gravois monitoring sites have been combined.
[b] A violation occurs when the average number of expected exceedances is greater than 1.05.
[c] This value represents the current design value for the St. Louis area.
[d] Site discontinued at end of 1995 ozone season.
[e] Note that fourth quarter 1998 air quality data was not available and is not reflected in this table. Any change in the calculated design values or expected exceedances is insignificant.

What would reclassification mean for the St. Louis area?

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, EPA does not expect to take final action on this proposed reclassification until

after November 15, 1999. This will allow the states adequate time to make a demonstration that an extension of the attainment date, instead of a reclassification, would be appropriate under the extension policy. As a practical matter, even if EPA were to reclassify the St. Louis area immediately, there would likely be insufficient time for the states to submit new attainment demonstrations and actually demonstrate attainment of the 1-hour ozone standard by November 15 of this year. If the St. Louis area is reclassified, and if EPA does not act to reclassify the area 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. EPA believes that the practical impossibility of meeting the November 1999 deadline for serious areas requires EPA to establish a new attainment date for the area. Therefore, in this document EPA discusses options for establishing a new attainment date in the event that the area is reclassified to serious.

November 1999 is a date that is impossible to set as a date for the area to attain and for the states to have made SIP submissions. Since it is impossible, the principles underlying what EPA does for areas that must submit 15 percent plans after the deadline for submission has passed should apply here. Consistent with what EPA has done with respect to setting new applicable deadlines for those plans, EPA believes that a deadline that is as expeditious as practicable 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. (An area reclassified to serious is required to submit SIP revisions addressing the serious area requirements for the 1-hour ozone standard in section 182(c).) Where an attainment date has already passed or is otherwise impossible to meet, EPA believes 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. EPA also notes 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 dates have passed. Although this latter provision is not directly applicable to a reclassification, EPA believes 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.

One option is to construct a schedule consistent with recent reclassifications of other areas. EPA has 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. EPA published the notice reclassifying this area on February 18, 1998, thereby providing approximately 21 months for the area to attain the standard. EPA thus concluded that 21 months was an adequate period for a moderate nonattainment 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. EPA here suggests, as an option, an attainment date that is in keeping with this time frame and that would allow the area an opportunity to make submissions to meet the serious area requirements and implement measures to attain the standard. Applying this approach to the St. Louis area would result in a new attainment date 21 months from publication of the final reclassification notice.

Another option would be to set an attainment date that takes into account the impact of transport on the area, even though the area must be reclassified because it has failed to meet the criteria for the attainment date extension policy. This attainment date would coincide with the date set for upwind area reductions under the NO_X SIP call, or 2003. Although the St. Louis area, if reclassified, would have to meet the requirements for a serious area, under this option it would not be held responsible for emission reductions necessary to compensate for transported pollution. This option would then be consistent with EPA's approach of allocating responsibility for pollution fairly among the states. EPA solicits comments on the appropriateness of the options discussed above and whether a shorter or later attainment date would be more appropriate.

If the St. Louis area is reclassified, EPA must also address the schedule by which Illinois and Missouri are required to submit SIP revisions meeting the serious area requirements. One option is to require that the states submit SIP revisions containing all of the serious area requirements no later than one year after final action on the reclassification. This submission would include a new attainment demonstration and all additional measures required by section 182(c) of the Act. The additional measures include, but are not limited to, the following: (1) attainment and reasonable further progress demonstrations; (2) an enhanced vehicle I/M program; (3) clean-fuel vehicle program; (4) a 50 ton-per-year major source threshold; (5) more stringent new source review requirements; (6) an enhanced monitoring program; and (7) contingency provisions. If the submission shows that the area can attain the standard sooner than the attainment date established in a final reclassification notice, EPA would adjust the attainment date to reflect the earlier date, consistent with the requirement in section 181(a)(1) that the standard be attained as expeditiously as practicable. EPA solicits comments on the appropriate schedule for submitting these SIP revisions.

What action is being taken by EPA?

Today EPA is proposing to find that the St. Louis area has failed to attain the ozone 1-hour air quality standard by the date prescribed by the CAA for moderate nonattainment areas, or November 15, 1996. If EPA finalizes this finding, the St. Louis area will be reclassified by operation of law from moderate nonattainment to serious nonattainment.

If Missouri and Illinois fulfill the requirements of the extension policy by November 15, 1999, EPA will not finalize the proposed finding of failure to attain, and consequently, the St. Louis area will not be reclassified to serious nonattainment. However, if Missouri or Illinois fail to meet the requirements of the extension policy by November 15, 1999, EPA will finalize the finding of failure to attain, and the St. Louis area will be reclassified to serious nonattainment at that time.

EPA believes that this approach is reasonable since it (1) ensures that the local control measures mandated by the CAA for moderate nonattainment areas, such as VOC and NO_x RACT, are achieved; (2) takes into consideration the transport of pollutants into the St. Louis area which impair the ability of the area to meet the air quality standards; and (3) harmonizes the St. Louis area attainment date with the schedule for emissions reductions in upwind areas associated with the NO_x SIP call.

Finally, if the St. Louis area does attain the 1-hour standard at some time in the future, then the area would be eligible for revocation of the 1-hour

standard, and any classification would no longer be applicable.

Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 entitled ''Regulatory Planning and Review.''

B. E.O. 12875

Under E.O. 12875, *Enhancing the Intergovernmental Partnership,* 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 proposal would not create a mandate on state, local, or tribal governments. It would not impose any enforceable duties on these entities. The SIP submission requirements are not judicially enforceable. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposal.

C. E.O. 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, the Agency 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.

This proposal is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not establish a further health or risk-based standard because it implements a previously promulgated health or safety-based standard.

D. E.O. 13084

Under E.O. 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, E.O. 13084 requires EPA to provide to the OMB, 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, E.O. 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 proposal would not significantly or uniquely affect tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposal.

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. This proposal 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 CAA, 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 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. Therefore, I certify that this action 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, unless otherwise prohibited by law, 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 St. Louis 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 CAA 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 would affect only the states of Missouri and Illinois, which are not small governments.

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: March 5, 1999.

Dennis Grams,

Regional Administrator, Region VII.

Dated: March 10, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

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