

Substances Import and Export Act shall continue to be unlawful.

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rule making "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, section 3(d)(1). The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Marinol® is a prescription drug used to treat nausea due to cancer chemotherapy and AIDS wasting. Handlers of Marinol® are likely to handle other controlled substances used to treat cancer or AIDS which are already subject to the regulatory requirements of the CSA. Further, placement of Marinol® in schedule III of the CSA will mean a significant decrease in the regulatory requirements for persons handling Marinol®.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

This 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. Therefore, in accordance with E.O. 12612, it is determined that this rule, if finalized, will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## List of Subjects

### 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

### 21 CFR Part 1312

Administrative practice and procedure, Drug traffic control, Exports, Imports, Narcotics, Reporting requirements.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby amends 21 CFR parts 1308 and 1312 as follows:

### PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

#### § 1308.12 [Amended]

2. Section 1308.12 is amended by removing paragraph (f)(1) and redesignating the existing paragraph (f)(2) as (f)(1).

3. Section 1308.13 is amended by adding a new paragraph (g) to read as follows:

#### § 1308.13 Schedule III.

\* \* \* \* \*  
(g) *Hallucinogenic substances.*

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product—7369.

[Some other names for dronabinol: (6a*R*-*trans*)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6*H*-dibenzo [*b*,*d*]pyran-1-ol) or (-)-delta-9-(*trans*)-tetrahydrocannabinol]

(2) [Reserved]

### PART 1312—[AMENDED]

1. The authority citation for part 1312 continues to read as follows:

**Authority:** 21 U.S.C. 952, 953, 954, 957, 958.

2. Section 1312.30 is amended by adding a new paragraph (a) and reserving paragraph (b) to read as follows:

#### § 1312.30 Schedule III, IV and V non-narcotic controlled substances requiring an import and export permit.

\* \* \* \* \*

(a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin

capsule in a U.S. Food and Drug Administration approved product.

(b) [Reserved]

Dated: June 28, 1999.

**Donnie R. Marshall,**

*Deputy Administrator, Drug Enforcement Administration.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[LA-29-1-7403; FRL-6370-8]

### Approval and Promulgation of Air Quality Implementation Plans; Louisiana: Reasonable-Further-Progress Plan for the 1996-1999 Period, Attainment Demonstration, Contingency Plan, Motor Vehicle Emission Budgets, and 1990 Emission Inventory for the Baton Rouge Ozone Nonattainment Area; Louisiana Point Source Banking Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In this action, the EPA is finalizing its approval of revisions to the Louisiana State Implementation Plan (SIP) for the Baton Rouge ozone nonattainment area. These revisions were submitted by the State of Louisiana for the purpose of satisfying the Post-1996 Rate-of-Progress (RÖP), Attainment Demonstration, and Contingency Plan requirements of the Federal Clean Air Act (the Act), which will aid in ensuring the attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. The EPA is also approving the associated 1999 Motor Vehicle Emissions Budgets (MVEBs) for the area.

The EPA is also taking final action to approve additional SIP revisions submitted by Louisiana including codifying revisions that were made to the 1990 base year emission inventory and submitted to the EPA as part of the Baton Rouge 15% Rate-of-Progress Plan approved on October 22, 1996. Furthermore, the EPA is approving additional revisions to the 1990 base year emissions inventory submitted as part of the Post-1996 RÖP Plan. The EPA is also approving the State's point source banking regulations. This rulemaking action is being taken under sections 110, 301, and part D of the Act. **EFFECTIVE DATE:** This action is effective on August 2, 1999.

**ADDRESSES:** Information relevant to this rulemaking is available for viewing during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 70202-2733. Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H.B. Garlock Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

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

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**I. Background**

*A. Summary of Today's Action*

The EPA is finalizing approval of revisions to the SIP for the Baton Rouge ozone nonattainment area including the Post-1996 ROP Plan, Attainment Demonstration, and Contingency Plan. In addition, the EPA is approving the associated 1999 MVEBs, revisions to the 1990 base year emission inventory, and the Louisiana Point Source Banking Regulations.

The EPA proposed approval of these SIP revisions on August 18, 1998 (63 FR 44192). The public comment period on the proposed rulemaking ended on October 19, 1998. The EPA received no public comments on its proposal. Accordingly, in today's rulemaking, the EPA is taking final approval action to approve these revisions, which are summarized in the following discussion. For more details on these SIP submittals, relevant Clean Air Act requirements, etc., please refer to the EPA's proposed rulemaking action.

*B. Clean Air Act Requirements*

**1. Reasonable Further Progress (RFP) Requirements**

Section 182(c)(2)(B) of the Act requires each State having one or more ozone nonattainment areas classified as serious or worse to develop a plan by November 15, 1994, that provides for additional actual volatile organic compound (VOC) reductions of at least three percent per year, averaged over each consecutive three year period, beginning six years after enactment of the Act, until such time as these areas have attained the NAAQS for ozone. These plans are referred to hereafter as Post-1996 ROP Plans. These plans were due to be submitted to the EPA as a SIP revision by November 15, 1994.

Section 182(b)(1) of the Act mandates a 15 percent VOC emission reduction, net of growth, between 1990 and 1996 for each State having one or more ozone nonattainment areas classified as moderate or worse. That SIP revision was due to the EPA by November 15, 1993. The plan for these reductions occurring between 1990-1996 is hereafter referred to as the 15% ROP Plan.

Sections 182(b)(1)(C), 182(b)(1)(D) and 182(c)(2)(B) of the Act limit the creditability of certain control measures

toward the ROP requirements. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g., new car emissions standards) promulgated prior to 1990, or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure (RVP)) of gasoline. Furthermore, the Act does not allow credit towards ROP requirements for post-1990 corrections to existing motor vehicle Inspection and Maintenance (I/M) Programs or corrections to Reasonably Available Control Technology (RACT) rules, since these programs were required to be in place prior to 1990. Emissions and emissions reductions shall be calculated on a typical weekday basis for the "peak" 3-month ozone period (generally June through August).

**2. Contingency Measures Requirements**

Sections 172(c)(9) and 182(c)(9) of the Act require contingency measures to be included in the ROP and attainment plans. These measures are required to be implemented immediately if reasonable further progress has not been achieved, or if the NAAQS is not met by the deadline set forth in the Act.

**3. Motor Vehicle Emissions Budgets**

Section 176(c) of the Act, and 40 CFR 51.452(b) of the Federal Transportation Conformity Rule require States to establish motor vehicle emissions budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS.

**4. Attainment Demonstration Requirements**

Under section 182(c)(2)(A) of the Act, States required to submit Post-1996 ROP Plans, by November 15, 1994, for serious or worse ozone nonattainment areas, must also submit for those areas an attainment demonstration to provide for achievement of the ozone NAAQS by the statutory deadline. This demonstration is to be based on photochemical grid modeling, such as the Urban Airshed Model (UAM), or an equivalent analytical method. The reader is referred to the proposal for a discussion of the relevant EPA memoranda on attainment demonstration submissions.

The Baton Rouge ozone nonattainment area is classified as "serious" and is subject to the section 182(b)(1) 15% ROP requirements, section 182(c)(2)(B) Post-1996 ROP requirements, and section 182(c)(2)(A) attainment demonstration requirements. The Baton Rouge ozone nonattainment

area is comprised of the following parishes: East Baton Rouge, West Baton Rouge, Ascension, Livingston, and Iberville. As a serious ozone nonattainment area, Baton Rouge has a statutory attainment date of November 15, 1999. Therefore, the area's Post-1996 ROP requirement is to achieve an overall 9 percent reduction in actual

VOCs (net of growth) during the period 1996-1999 pursuant to section 182(c)(2)(B) of the Act.

*C. Related SIP Approvals*

As stated previously, section 182(b)(1) of the Act requires that moderate and above ozone nonattainment areas reduce their 1990 emissions of VOCs by 15 percent (net of growth) on or before

November 15, 1996. The 15% ROP Plan submittals were required to be submitted to the EPA by November 15, 1993. The EPA approved Louisiana's 15% ROP Plan on October 22, 1996 (61 FR 54737).

The following is a summary of the emissions reductions in the 15% ROP Plan:

| Louisiana 15 percent ROP plan required reductions<br>(Excluding RVP/FMVCP)                                                                           | (Tons/Day) |
|------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 15% ROP Reduction .....                                                                                                                              | 29.7       |
| I/M Correction .....                                                                                                                                 | 1.3        |
| RACT Correction .....                                                                                                                                | 0.0        |
| Growth .....                                                                                                                                         | 3.8        |
| Total .....                                                                                                                                          | 34.8       |
| <b>Reductions In the Plan:</b>                                                                                                                       |            |
| Stage II Vapor Recovery .....                                                                                                                        | 3.4        |
| Vents to Flares .....                                                                                                                                | 3.7        |
| Marine Vapor Recovery .....                                                                                                                          | 8.6        |
| Tank Fitting Controls .....                                                                                                                          | 7.9        |
| Fugitive Emission Controls .....                                                                                                                     | 10.4       |
| Federal Rules (Wastewater National Emission Standards for Hazardous Air Pollutants; Volatile Organic Storage New Source Performance Standards) ..... | 1.5        |
| Compliance Orders/Permits .....                                                                                                                      | 1.0        |
| Other (Tank Vent Recovery, Secondary Roof Seal on Tank) .....                                                                                        | .9         |
| Total .....                                                                                                                                          | 37.4       |
| Surplus Reductions (To Be Carried Over to Post-1996 Rate-of-Progress Plan) .....                                                                     | 2.6        |

Louisiana subsequently submitted a site-specific revision to the approved 15% ROP Plan on December 20, 1997. On May 11, 1998, the EPA approved the 15% ROP Plan revision (63 FR 25773).

In another rulemaking action, the EPA redesignated Pointe Coupee Parish, which was formerly part of the six-parish Baton Rouge nonattainment area, to attainment for the ozone NAAQS (62 FR 648, dated January 6, 1997). The Baton Rouge area was designated nonattainment for ozone and classified as serious pursuant to sections 107(d)(4) and 181(a) of the Act (56 FR 56694, dated November 6, 1991). (It should be noted that, in the August 18, 1998, proposal, the EPA did not reopen or request comment on the approval actions described in this section.)

*D. Current SIP Submittals*

In a letter from the Governor dated November 10, 1994, the State of Louisiana submitted to the EPA the Post-1996 ROP Plan and attainment demonstration according to section 182(c)(2). The combined plan submittal addressed both the 9 percent VOC emissions reduction requirement and the requirement to demonstrate attainment of the ozone NAAQS by the area's statutory attainment date, November 15, 1999. The SIP submittal was deemed administratively complete

on May 15, 1995, by operation of law pursuant to section 110(k)(1)(B) of the Clean Air Act.

Subsequently, on December 22, 1995, the Governor of Louisiana submitted revisions to the November 10, 1994, submittal. The EPA determined that, in effect, this revised Post-1996 ROP Plan and Attainment Demonstration superseded the previous submittal.<sup>1</sup> The plan was determined to be administratively complete on March 22, 1996. The revisions that Louisiana made to the plan substantially modified the mix of control measures utilized to satisfy the 9% ROP requirement, and also made changes to the attainment demonstration based on the EPA's draft guidance document on attainment modeling entitled, *Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS*. As provided for by the draft guidance document on modeling, the submittal included a weight-of-evidence

<sup>1</sup> In this submittal, the State deleted several of the appendices found in the previous submittal and substantially revised the remaining portion of the plan (i.e., control strategy, modeling demonstration, etc.). The December 22, 1995, submittal is capable of standing alone and does not rely on the November 10, 1994, submittal to be a complete plan. As such, the EPA's legal obligation to act on the State's original Post-1996 ROP Plan/Attainment Demonstration submittal, dated November 10, 1994, is rendered moot.

determination in support of the urban airshed modeling results.

Finally, on January 2, 1997, the Governor of Louisiana submitted a revision to the December 22, 1995, submittal. The 1997 submittal included significant changes to the 1990 base year emissions inventory (and associated 15% and 9% ROP reductions) to account for the impending redesignation of Pointe Coupee Parish to ozone attainment. Also, the 1997 submittal incorporated into the 1990 base year emissions inventory previously unreported emissions from several point sources. In addition, the 1997 submittal removed the emission reduction credits taken for the vehicle I/M control measure in the December 22, 1995, submittal, and replaced them with additional point source emission reductions. Furthermore, the submittal incorporated enhanced mobile modeling required by Federal conformity regulations, and also included an analysis of how removal of the I/M reductions would impact the modeling results submitted in the December 22, 1995, attainment demonstration. The 1997 submittal was determined to be administratively complete on June 20, 1997.

In addition, Louisiana submitted its contingency measure, point source emissions reduction banking

regulations, as part of the December 15, 1995, 15% ROP Plan pursuant to sections 172(c)(9) and section 182(c)(9) of the Act. The State subsequently submitted the same contingency measure in both the December 22, 1995, and January 2, 1997, Post-1996 ROP/attainment demonstration submittals. The EPA deferred taking action on the regulations in the context of the 15% ROP Plan approval until its rulemaking action on the Post-1996 ROP Plan/attainment demonstration SIP. (The rationale is explained in more detail in the EPA's rulemaking on the 15% ROP Plan, along with the associated Technical Support Document (TSD).)

**II. Analysis of the Submittals**

The EPA has reviewed the State's submittals for consistency with the Act and applicable EPA regulations and policy. A summary of the EPA's analysis is provided below. More detailed support and technical discussion are contained in the proposed rulemaking and associated TSD entitled, "TSD for Proposed Clean Air Act Approval and Promulgation of the Post-1996 Rate-of-Progress Plan and Attainment

Demonstration for the Baton Rouge Ozone Nonattainment Area (July 1998)."

*A. Post-1996 Rate-of-Progress Plan*

**1. Introduction**

As stated previously, section 182(c)(2)(B) of the Act requires each serious and above ozone nonattainment area to submit a SIP revision by November 15, 1994, which provides for an actual reduction in VOC emissions of at least three percent per year averaged over each consecutive 3-year period, beginning 6 years after enactment of the Clean Air Act Amendments of 1990 (CAAA), until the area attains the ozone standard.

**2. Base Year Emissions Inventory**

Under section 182(b)(1)(B), the baseline from which States determine the required reductions for ROP planning is the 1990 base year emissions inventory. The inventory is broken down into several emissions source categories: stationary, area, on-road mobile, off-road mobile, and biogenics. The EPA originally approved the Louisiana 1990 base year emissions

inventory on March 15, 1995 (60 FR 13911).

Louisiana's December 15, 1995, submittal made a number of adjustments to the base year inventory. The EPA acted upon the revised 1990 base year inventory as part of its rulemaking on the 15% ROP Plan. In that rulemaking, however, the EPA failed to codify its approval of the revised base year inventory in the Code of Federal Regulations (CFR) (specifically, 40 CFR part 52). In this rulemaking, the EPA is taking final action to codify its approval of the revised base year inventory (in the context of the rulemaking on the 15% ROP Plan). It should be noted that, in the August 18, 1998, proposal, the EPA did not reopen or ask for comment on its March 15, 1995, approval of the base year inventory.

Louisiana's January 2, 1997, submittal made a number of additional revisions to the 1990 base year emissions inventory. The following table compares the revised 1990 base year VOC emissions cited in the January 2, 1997, submittal, with those cited in the approved 15% Plan rulemaking.

**BATON ROUGE, LOUISIANA, 1990 BASE YEAR INVENTORY**  
[Ozone Seasonal VOC Emissions (Tons/Day)]

| Plan submittal   | Point source emissions | Area source emissions | Onroad mobile emissions | Nonroad mobile emissions | Biogenic emissions | Total  |
|------------------|------------------------|-----------------------|-------------------------|--------------------------|--------------------|--------|
| 12/15/95 .....   | 115.40                 | 26.30                 | 55.50                   | 23.20                    | 120.91             | 341.31 |
| 1/2/97 .....     | 115.00                 | 25.40                 | 53.40                   | 21.80                    | 99.60              | 315.20 |
| Difference ..... | .40                    | .90                   | 2.10                    | 1.40                     | 21.31              | 26.11  |

The bases for these changes to the inventory were discussed in detail in the EPA's proposed rulemaking.

The EPA is taking final action to approve the revised 1990 base year emissions inventory submitted on January 2, 1997.

Overall, these revisions to the 1990 base year inventory decrease the "1990 ROP inventory," which is the 1990 base year inventory less the biogenic emissions, for the Baton Rouge nonattainment area from 220.4 tons/day to 215.6 tons/day. The decrease of 4.8 tons/day in the 1990 ROP inventory reduces the 15% ROP Plan reductions requirement by .6 tons/day. Since the reductions in the approved 15% ROP Plan have remained unchanged, Louisiana added the .6 tons/day differential to the 15% Plan surplus reductions resulting in a total surplus of 3.2 tons/day available to be carried over to the Post-1996 ROP Plan. The EPA has determined this revised surplus to be

acceptable for use in the Post-1996 ROP Plan.

**3. Adjusted Base Year Inventory**

Section 182(c)(2)(B) states that the rate-of-progress reductions must be achieved "from the baseline emissions described in subsection 182(b)(1)(B)." This baseline value is termed the 1990 adjusted base year inventory. Section 182(b)(1)(B) defines baseline emissions (for the purposes of calculating each milestone VOC/nitrogen oxides (NOx) emissions reduction) as "the total amount of actual VOC or NOx emissions from all anthropogenic sources in the area during the calendar year of enactment." This section excludes from the baseline the emissions that would be eliminated by FMVCP regulations promulgated by January 1, 1990, and the RVP regulations promulgated by the time of enactment (at 55 FR 23666, June 11, 1990), which require maximum RVP limits for gasoline to be sold in

nonattainment areas during the peak ozone season.

In the August 18, 1998, proposal, the EPA provided a detailed explanation of the methodology for calculating the FMVCP/RVP adjustment. The EPA is taking final action to approve the FMVCP/RVP adjustment factor and the inventories discussed above, as follows:

| Emissions inventory                                                                     | Tons/Day |
|-----------------------------------------------------------------------------------------|----------|
| A. 1990 Base Year Emissions Inventory .....                                             | 315.2    |
| B. 1990 Rate-of-Progress Inventory (Base Year—Biogenics) ....                           | 215.6    |
| C. Emissions Reductions from the Pre-1990 FMVCP and Phase II RVP Expected by 1999 ..... | 24.4     |
| D. 1990 Adjusted Base Year Inventory (B-C) .....                                        | 191.2    |

**4. Required Rate-of-Progress Reductions**

The next step is then to calculate the Post-1996 ROP reductions requirement. In order to do so, the 1990 adjusted base

year VOC inventory is multiplied by nine percent. Thus, the Post-1996 ROP reduction requirement is 17.2 tons/day (.09 x 191.2). The EPA has determined the State's calculation of the Post-1996 ROP reduction requirement to be acceptable.

5. Fleet Turnover Correction Term

In the absence of any new requirements of the CAAA, some decrease in motor vehicle emissions will occur automatically due to fleet turnover. States are not allowed to take credit for these reductions for ROP purposes. During the State's calculation of the 1996 target level of emissions, these FMVCP reductions, along with non-creditable RVP reductions that would occur between 1990 and 1996, were subtracted from the 1990 ROP inventory to calculate the 1990 adjusted base year inventory. This 1990 adjusted base year inventory was then used to calculate the required reductions and the 1996 target level of emissions.

Between 1996 and 1999, there will be some additional reductions in emissions due to fleet turnover that are not creditable. These additional, non-creditable reductions are referred to as the fleet turnover correction term. The fleet turnover correction term is the difference between the 1999 and 1996 FMVCP/RVP mobile source reductions, or 3.0 tons/day. The EPA has determined the fleet turnover correction term in the Baton Rouge Post-1996 ROP Plan to be acceptable.

6. Calculation of Target Level of Emissions

For the purpose of calculating the 1999 target, the 1996 target inventory (obtained from the 15% ROP Plan calculations) is used. The 1996 target inventory used by the State in this calculation was revised from the target inventory approved as part of the 15% ROP Plan rulemaking in order to account for the changes made to the 1990 base year inventory described in detail in the August 18, 1998, proposal. The EPA is taking final action to

approve the State's revised 1996 target level of emissions of 163.8 tons/day.

The 1999 target level of emissions is the amount of VOC emissions that must be achieved in order for the nonattainment area to demonstrate that the 9% ROP requirement has been met. The 1999 target level used by the State in the Post-1996 ROP Plan is the revised 1996 target level (163.8 tons/day), less the 9% ROP reductions (17.2 tons/day), less the fleet turnover correction term (3.0 tons/day), or 143.6 tons/day. The EPA is taking final action to approve the State's 1999 target level of emissions of 143.6 tons/day.

7. Growth Calculations

*a. Introduction.* The EPA has interpreted the Act to require that States must provide for sufficient control measures in their ROP Plans to offset any emissions growth expected to occur after 1996. Therefore, to meet the ROP requirement, a State must provide for sufficient emissions reductions to offset projected growth in emissions in addition to the three percent annual average reduction of VOC emissions. Thus, an estimate of growth in emissions from 1996 to 1999 is required for determining the total amount of required reductions in the Post-1996 ROP Plan.

*b. EPA Action.* In the August 18, 1998, proposal, the EPA provided a detailed description of the methodology the State followed for projecting growth in each source category during the period 1996-1999.

The following Table summarizes the projected emissions growth by source category for the nonattainment area:

BATON ROUGE GROWTH, 1996-1999

| Source category       | Tons/Day |
|-----------------------|----------|
| Point .....           | 0.2      |
| Area .....            | 0.2      |
| On-road Mobile .....  | 2.4      |
| Non-road Mobile ..... | 0.2      |
| Subtotal .....        | 3.0      |

BATON ROUGE GROWTH, 1996-1999-Continued

| Source category                                              | Tons/Day |
|--------------------------------------------------------------|----------|
| Offset from Growth of 15% Plan Point Source Reductions ..... | (0.2)    |
| Total Growth in 9% Plan .....                                | 2.8      |

The EPA has determined that the State's methodology for estimating emissions growth for the period 1996-1999 is acceptable.

8. Total Required Reductions

The total required reductions in the plan include the 9% ROP reductions, reductions to offset projected growth (1996-1999), and the FMVCP/RVP turnover correction reductions (1996-1999). These required reductions total 23.0 tons/day. The State's "share" of the required reductions consists of the 9% ROP reductions (17.2 tons/day) plus the growth offset (2.8 tons/day), or 20.0 tons/day. The FMVCP/RVP turnover correction reductions (3.0 tons/day) are the Federal reductions that are not creditable towards meeting the ROP/growth offset requirements.

9. Measures to Achieve the Required Reductions

*a. Introduction.* As described in the August 18, 1998, proposed rulemaking, the State relied on a combination of surplus emission reductions from the 15% ROP Plan, along with additional control measures to achieve the emissions reductions required for the Post-1996 ROP Plan. The EPA has determined that both the surplus reductions from the 15% ROP Plan and the emissions reductions claimed from the control measures in the Post-1996 ROP Plan are acceptable for meeting the 9% (net of growth) emissions reductions requirement. The reader is referred to the proposal and associated TSD for a detailed description of the control measures and their associated reductions, which are summarized below:

| Louisiana 9 percent plan required reductions (Excluding RVP/FMVCP): |  | (TONS/DAY) |
|---------------------------------------------------------------------|--|------------|
| 9% ROP Reduction .....                                              |  | 17.2       |
| Growth .....                                                        |  | 2.8        |
| Total .....                                                         |  | 20.0       |
| REDUCTIONS IN PLAN:                                                 |  |            |
| Federal Measures:                                                   |  |            |
| FMVCP Tier 1 Standards .....                                        |  | 1.0        |
| Small Engines Rule .....                                            |  | 1.1        |
| Architectural and Industrial Maintenance Coatings Rule .....        |  | 1.1        |
| Autobody Refinishing Rule .....                                     |  | 0.6        |

| Louisiana 9 percent plan required reductions (Excluding RVP/FMVCP): | (TONS/<br>DAY) |
|---------------------------------------------------------------------|----------------|
| Consumer Products Rule .....                                        | 0.9            |
| Other Sources:                                                      |                |
| Surplus Reductions in 15% Plan                                      | 3.2            |
| Barge Cleaner (Permit Modification) .....                           | 0.8            |
| Acetylene Plant (Agreed Order) .....                                | 3.2            |
| Glycol Dehydrator Controls .....                                    | 8.4            |
| Vents to Flares .....                                               | 1.1            |
| Total Reductions .....                                              | 21.4           |
| SURPLUS REDUCTIONS .....                                            | 1.4            |

b. *EPA Action.* The EPA is taking final action to approve the emissions reductions claimed in the January 2, 1997, Post-1996 ROP Plan as creditable towards the 9% ROP requirements of section 182(C)(2)(B) of the Act. The EPA is also approving into the SIP the Borden Chemical and Plastics Reasonable Further Progress Agreed To Order. The barge cleaner permit modification was issued under a SIP-approved nonattainment new source review program and is, therefore, already part of the Louisiana SIP and Federally enforceable. In addition, the State's waste gas regulation (LAC 33:III.2115), which requires controls on glycol dehydrators and vent streams, has already been approved into the SIP.

**B. Motor Vehicle Emissions Budgets**

**1. Introduction**

As stated previously, section 176(c) of the Act, and the Federal Transportation Conformity Rule require States to establish motor vehicle emissions budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. Louisiana submitted, in the January 2, 1997, Post-1996 ROP Plan, projected (1999) motor vehicle emissions budgets for VOC and NO<sub>x</sub> for the 5-parish Baton Rouge ozone nonattainment area.

Specifically, for the 5-parish serious ozone nonattainment area, the State established the following VOC/NO<sub>x</sub> mobile vehicle emissions budgets:

**BATON ROUGE, LA 1999 MOTOR  
VEHICLE EMISSIONS BUDGETS**

| Pollutant             | Budget (Tons/Day) |
|-----------------------|-------------------|
| VOC .....             | 33.93             |
| NO <sub>x</sub> ..... | 58.03             |

**2. EPA Action**

The EPA has determined that the State's methodology for projecting the 1999 motor vehicle VOC and NO<sub>x</sub> emissions is acceptable. Therefore, the EPA is taking final action to approve the figures in the above table as the official 1999 MVEBs to be used for

transportation conformity determinations.

**C. Contingency Measures**

**1. Introduction**

Under section 172(c)(9) of the Act, ozone nonattainment areas classified as moderate or above must submit contingency measures to be implemented if RFP is not achieved or if the standard is not attained by the applicable attainment date. The "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992) states that the contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress continues to be made if attainment or RFP is not achieved in a timely manner and additional planning by the State is needed.

In the General Preamble, the EPA interpreted the Act to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures in their November 1993 submittals so that, upon implementation of such measures, additional emissions reductions of up to three percent of the emissions in the adjusted base year inventory (or a lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review.

Additional contingency provisions are included in section 182(c)(9) for serious ozone nonattainment areas. These latter provisions are similar to the section 172(c)(9) requirements except that the focus in section 182 (Ozone Areas) is on meeting emissions reductions milestones (section 182(g)).

**2. Point Source Emissions Banking**

Louisiana identified, in both its 15% and Post-1996 ROP Plans submittals, the State's point source VOC/NO<sub>x</sub> banking regulations (LAC 33:III sections 601, 603, 605, 607, 613, 615, 617, 619, 621, 623, and 625)<sup>2</sup> as the three percent contingency measure. These banking regulations are intended to meet the contingency measure requirements of both section 172(c)(9) and section 182(c)(9) of the Act. The adopted point source banking regulations were initially submitted to the EPA for approval in the December 15, 1995, 15% ROP Plan submittal. The EPA deferred taking action on the regulations in the context of the 15% ROP Plan approval until its rulemaking action on the Post-1996 ROP Plan/Attainment Demonstration SIP. (The rationale for "carving out" the contingency measures was explained in detail in the TSD to the August 18, 1998, proposed rulemaking, as well as the TSD to the 15% ROP Plan rulemaking.) The reader is referred to the EPA's proposal for an in-depth discussion of the point source banking regulations.

In the December 22, 1995, Post-1996 ROP Plan submittal, the State provided a table of the emissions reductions that had been banked by industry to date pursuant to the regulations. The State's contingency measure requirement is 5.7 tons/day of VOCs (three percent times the adjusted base year inventory of 191.2 tons/day). The VOC reductions "on deposit," 13.0 tons/day, are well in excess of the three percent requirement.

The EPA has determined that the State has met the contingency measures requirements by having adopted and

<sup>2</sup> It should be noted that, in the preamble discussion to its August 18, 1998, proposal (pp. 44200 and 44207), the EPA's description of the State's submission inadvertently left out references to certain sections of the point source banking regulations submitted by the State. The correct sections, however, were actually discussed (generally and/or specifically) elsewhere in the proposal/TSD and are correctly set out in the preamble to this final rule.

submitted the point source banking regulations, and demonstrating the bank has sufficient VOC credits "on deposit" and available for confiscation in the event of a missed milestone/failure to attain. Furthermore, the EPA has determined that the banking rules provide for expeditious implementation of the contingency measures consistent with the time frames identified in the General Preamble.

As mentioned in the August 18, 1998, proposal, Louisiana also submitted to the EPA, in the January 2, 1997, submittal, a correction to a typographical error in section 615, "Schedule for Submitting Applications." The EPA is taking final action to also approve this correction to the point source banking rules.

### 3. EPA Action

The EPA is taking final action to approve the already-banked VOC emissions reductions credits (totaling 5.7 tons/day) toward meeting the three percent contingency measure requirement pursuant to sections 172(c)(9) and 182(c)(9) of the Act.

The EPA has determined that the point source VOC/NO<sub>x</sub> banking regulations are generally consistent with the Act, EPA policy/guidance and Federal regulations. Therefore, the EPA is taking final action to approve the State's banking regulations as meeting the requirements for SIP approval under part D and section 110 of the Act.

It should be noted that the scope of this final rulemaking is to approve the banked VOC emissions reductions as creditable toward the contingency measures pursuant to sections 172(c)(9) and 182(c)(9) of the Act, and to approve all of the point source banking regulations as an acceptable SIP revision pursuant to part D and section 110 of the Act. The EPA is not, however, approving the banking regulations as an economic incentive program (EIP) pursuant to the EPA's Economic Incentives Program Rules (59 FR 16690) and section 182(g) of the Act. (Since the State has not expressly submitted the point source banking regulations as a section 182(g) SIP revision, the EPA believes it beyond the scope of this rulemaking to act upon the banking regulations as an EIP.)

#### D. Additional Rule Submitted

The State elected to include regulation LAC 33:III.611, "Mobile Sources Emissions Reductions," in the January 2, 1997, submittal for the EPA's approval as part of the overall emissions banking program. However, the State is not taking any reduction credit in the contingency plan from this voluntary

mobile source emissions reduction program. In fact, no vehicles have actually been scrapped to date under the program and, hence, no mobile emission reduction credits have been banked statewide as part of the vehicle scrappage program.

Since the State's submission of section 611, certain national policy issues have arisen surrounding the use of mobile source-generated emissions reductions credits for use by point sources. Pending resolution of these issues, the EPA is deferring taking action on the regulation at this time. The deferral will have no effect on either the Post-1996 ROP Plan or the Attainment Demonstration since the State is not relying on reductions from the vehicle scrappage program to meet the reductions target or demonstrate attainment. (A more in-depth discussion of the EPA's rationale for deferring action on the rule was provided in the TSD to the August 18, 1998, proposed rulemaking.)

#### E. Attainment Demonstration

##### 1. Introduction

As stated previously, section 182(c)(2)(A) of the Act stipulates that serious and above ozone nonattainment areas must submit a revision to the SIP that includes a demonstration that the plan, as revised, will provide for attainment of the NAAQS for ozone by November 15, 1999. In addition to the 15% and 9% (net of growth) ROP reductions requirements, if the mandatory emission reductions are not sufficient to demonstrate attainment of the ozone NAAQS by November 15, 1999, emissions (VOCs and/or NO<sub>x</sub>) must be further reduced until attainment is demonstrated through photochemical grid modeling.

For ozone nonattainment areas classified as serious or above, section 182(c)(2)(A) of the Act requires an attainment demonstration based on photochemical grid modeling, for which the Urban Airshed Model (UAM) is the EPA-approved model. See appendix W of 40 CFR part 51.

The following guidance documents establish the acceptable techniques for application of UAM to demonstrate attainment of the ozone NAAQS:

EPA's *Guideline on Air Quality Models (Revised)* (July 1986);

EPA's *Guideline for Regulatory Application of the UAM* (July 1991); and

EPA's final *Guidance on use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS* (June 1996).

The UAM model uses an inventory of pollutant emissions, together with air

quality and meteorological data, as input to a system of algorithms incorporating chemistry and dispersion, in order to simulate an observed pollution episode. Once a "base case" is developed that meets the minimum performance criteria, projected future emissions are used as input to simulate air quality in the attainment deadline year. Various combinations of geographically uniform emission reductions are simulated to determine approximate attainment reduction targets. Planners design a control strategy to meet these targets, and then simulate it with UAM, including the spatially and temporally varying effects of the selected controls. Attainment is demonstrated when the modeled air quality with emission controls in effect is below the NAAQS throughout the geographical modeling domain.

The EPA's *Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS* allows States to use a "weight-of-evidence" determination if the modeled attainment test is not fully passed, showing that attainment of the NAAQS is still likely. (The reader is referred to the EPA's proposal for a detailed discussion of UAM modeling procedures and requirements.)

##### 2. EPA Action

The EPA's review focused on the data sources used, technical judgments, and procedures followed in input preparation and performing quality assurance and diagnostics. The EPA also evaluated the model's base case performance, consistency of control measure simulation inputs with submitted control measures, adequacy of the demonstration of attainment of the NAAQS, and the consistency/completeness of the modeling documentation.

*a. Episode Selection and Base Case Performance.* As explained in the *Guideline for the Regulatory Application of the Urban Airshed Model*, episodes are chosen for modeling based on their high ozone levels, data availability and other criteria. Generally, episodes should be chosen that are approximately as severe as the area's design value, which is based on historical ozone highs. During a particular episode, the observed ozone peak may be higher or lower than the design value; but as long as it is relatively close, that episode can be accepted for use in an attainment demonstration.

The *Guideline for the Regulatory Application of the Urban Airshed Model* calls for a minimum of three primary episode days to be modeled. The EPA

may allow areas to use just two episode days if they are based on a field study, since this provides substantially more complete data, and, hence, more confidence in model development procedures and results. In the case of the Baton Rouge demonstration, the State modeled three primary episode days.

The following three episodes were selected for use in the December 22, 1995, Baton Rouge Attainment Demonstration SIP submittal: August 15–16, 1989, May 24–25, 1990; and August 18–19, 1993.

Once the episodes were chosen, the modelers are required to simulate these observed pollution episodes using the urban airshed model. In conducting the Baton Rouge base case model performance evaluation, the State employed both graphical and statistical performance measures to gauge their success. (A discussion of the graphical and statistical tests used in the evaluation of the Baton Rouge modeling demonstration was provided in the EPA's August 18, 1998, proposal and associated TSD.) In the Baton Rouge base case simulations, the model performance for the August 15–16, 1989, and August 18–19, 1993, episodes was rated "good," and the model performance for the May 24–25, 1990, episode was rated "very good." The EPA has determined that the Baton Rouge episodes had acceptable performance and met the *Guideline* criteria.

*b. Attainment Test.* The *Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS* (June 1996) identifies two approaches that the State can use for demonstrating attainment of the ozone NAAQS. One of the acceptable approaches is called the "Deterministic Approach," which consists of a deterministic test and an optional weight-of-evidence determination. The deterministic test is passed if predicted maximum ozone concentrations are less than or equal to 124 parts per billion (ppb) in all surface grid cells on all modeled primary episode days. If the test is not passed, a weight-of-evidence determination may be used to show that attainment of the NAAQS is still likely.

Meanwhile, the second acceptable approach is called the "Statistical Approach." This approach consists of two parts: a statistical test and a weight-of-evidence determination. The statistical test includes three benchmarks. The first benchmark limits the number of allowed exceedences, the second restricts the magnitude of an allowed exceedence, and the third requires a minimum level of

improvement in air quality to be exceeded. If one or more of the benchmarks is failed, a weight-of-evidence determination may also be performed using corroborative information. If the corroborative information is consistent with the likelihood that a proposed strategy will lead to attainment of the ozone NAAQS by statutory dates, attainment has been demonstrated.

As discussed in detail in the EPA's August 18, 1998, proposal, the State elected to follow the "Statistical Approach," consisting of a statistical test and weight-of-evidence determination, for demonstrating attainment of the ozone NAAQS through UAM modeling.

*c. Photochemical Grid Model Used.* The State used UAM Version IV, an EPA-approved photochemical grid model, to develop the attainment demonstration for the Baton Rouge area. The State performed its modeling activities as outlined in the UAM modeling protocols and according to the EPA's *Guideline for Regulatory Application of the Urban Airshed Model*. (In advance of performing the UAM analyses, the State developed a specific protocol for conducting its modeling activities, which EPA reviewed and approved.)

The Baton Rouge modeling domain covers all or part of 20 parishes in Louisiana, including the Baton Rouge serious ozone nonattainment area consisting of East Baton Rouge, West Baton Rouge, Livingston, Iberville, and Ascension Parishes.

The EPA has determined that the State followed acceptable procedures to develop the meteorological and air quality inputs, base case emissions inventories, projection inventories, and future boundary conditions used in the UAM modeling. (The reader is referred to the EPA's proposal for a more in-depth discussion of the methodology the State followed in developing these model inputs.)

*d. Demonstration of Attainment.* The EPA's *Guideline for the Regulatory Application of the Urban Airshed Model* stipulates that, for the primary episode days modeled, there should be no predicted daily maximum ozone concentrations greater than 124 ppb anywhere in the modeling domain for each primary episode day modeled. However, in its subsequent *Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS* (June 1996), the EPA revised the model test for demonstrating attainment of ozone NAAQS. (The revisions were intended to make the modeled attainment test more closely

reflect the form of the NAAQS.) In the *Guidance*, the EPA recommended that either the "Statistical Approach" or "Deterministic Approach" should be used for the attainment demonstration of the ozone NAAQS. (These approaches were discussed in detail in the proposed rulemaking.)

As stated above, the State elected to use the "Statistical Approach," consisting of a statistical test with optional weight-of-evidence determination, to demonstrate attainment of the ozone NAAQS. The statistical test included the application of three benchmark tests. The weight-of-evidence determination entailed the use of supplementary analyses to determine whether attainment was likely, despite model results which did not pass the statistical test.

The State used the three selected episodes, all having good to very good base case model performance ratings, for demonstrating attainment of the ozone NAAQS. These episodes were modeled using the projected 1999 emission inventory, which included the emission controls to be implemented through 1999. The results of the various benchmark tests are discussed in detail in the August 18, 1998, proposed rulemaking.

*e. Modeling Evaluation.* The EPA has determined that the State's attainment demonstration for the Baton Rouge ozone nonattainment area fulfills the requirements of section 182(c)(2)(A) of the Act. The State adequately followed the EPA's guidance on the application of the UAM for demonstrating attainment of the ozone NAAQS. Following the "Statistical Approach," it demonstrated that two of the three episodes met or nearly met all the specified benchmark criteria. Furthermore, supplementary information provided by the State for consideration in the weight-of-evidence determination (i.e., mid-course review, severity of selected episodes, uncertainty in the boundary condition estimates, etc.) supported the modeled attainment demonstration.

The *Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS* also allows the use of normalized trend data, results from observational models and or other models and consideration of incremental cost/benefit estimates, etc., in a weight-of-evidence determination. In determining whether the State's "Statistical Approach" to demonstrating attainment was adequate, the EPA considered general trend data, which reflected reductions in monitored ozone values, precursor emissions, and total exceedence days since 1990.

As stated previously under "Current SIP Submittals," the State, in its January 2, 1997, submittal, removed the emission reduction credits taken for the vehicle inspection and maintenance control measure included in the December 22, 1995 Post-1996 ROP Plan submittal, and replaced them with additional point source reductions. The January 2, 1997, submittal provided an analysis of how removal of the I/M reductions would impact the modeling results submitted in the December 22, 1995, attainment demonstration. The EPA reviewed the State's analysis and concurred that removal of the I/M reductions from the plan would not significantly alter the modeling results.

In summary, based on the results of the statistical test, the weight-of-evidence determination, and the I/M impact analysis, the EPA has determined that State adequately demonstrated the modeled control strategy would provide for attainment of the ozone NAAQS by the statutory attainment date.

*f. Control Strategy Evaluation.* The EPA has determined that the modeling results for Baton Rouge adequately demonstrate that the area could attain the ozone standard by 1999 through the implementation of a VOC-only control strategy consisting of the Federally enforceable 15 Percent and Post-1996 ROP VOC reductions (net of growth) from the 1990 base year levels. The reader is referred to the proposed rulemaking for a more in-depth discussion of the control strategy modeled.

The EPA is taking final action to approve Louisiana's Attainment Demonstration SIP submittals, dated December 22, 1995, and January 2, 1997, as meeting the requirements of section 182(c)(2)(A) of the Act for demonstrating attainment of the NAAQS for ozone by November 15, 1999. Through photochemical grid modeling, the State has demonstrated to the EPA's satisfaction that the VOC reductions in the 15% and Post-1996 ROP Plans (34.8 and 21.4<sup>3</sup> tons/day, respectfully) are sufficient to demonstrate attainment of the ozone NAAQS by the statutory deadline.

### III. Final Rulemaking Action

The EPA has reviewed the SIP submittals for consistency with the Act, applicable EPA regulations and EPA policy, and is approving the following under sections 110(k)(3), 301(a), and part D of the Act:

A. The Baton Rouge, Louisiana, Post-1996 Rate-of-Progress Plan, submitted December 22, 1995, and revised January 2, 1997, as meeting the requirements of section 182(c)(2)(B) of the Act to achieve a reduction in VOC emissions (net of growth) of 9 percent between 1996 and 1999.

B. The Baton Rouge, Louisiana, contingency plan, initially submitted as part of the 15% ROP Plan on December 15, 1995, and, subsequently, as part of the Post-1996 ROP Plan submitted December 22, 1995, and revised January 2, 1997. The EPA is taking final action to approve the contingency plan as meeting the requirements of sections 172(c)(9) and 182(c)(9) of the Act that moderate and above ozone nonattainment areas include contingency measures in their ROP Plan submittals. Specifically, the EPA is taking final action to approve the contingency-reserved VOC banked emissions reductions of 5.7 tons/day (achieved through the State's banking regulations), identified in a table in appendix T of the December 22, 1995, submittal, as creditable towards the 3 percent contingency requirements of sections 172(c)(9) and 182(c)(9) of the Act. In addition, the EPA is taking final action to approve the point source VOC and NO<sub>x</sub> emissions reductions banking regulations (LAC 33:III sections 601, 603, 605, 607, 613, 615, 617, 619, 621, 623, and 625) submitted December 15, 1995, and revised January 2, 1997, as meeting the requirements for SIP approval under part D and section 110 of the CAAA.

C. The 1999 Motor Vehicle Emissions Budgets for on-road mobile VOC and NO<sub>x</sub> emissions for the Baton Rouge 5-parish ozone nonattainment area submitted January 2, 1997, as meeting the requirements of section 176(c) of the Act and 40 CFR 51.452(b) of the Federal Transportation Conformity Rule.

D. The Baton Rouge, Louisiana Attainment Demonstration submitted December 22, 1995, and revised January 2, 1997, including the modeling analyses, as meeting the requirements of section 182(c)(2)(A) of the CAAA to provide for attainment of the ozone NAAQS by the applicable November 15, 1999, attainment date.

E. Revisions to the 1990 base year VOC emissions inventory submitted January 2, 1997 as meeting the requirements of section 182(a)(1) of the Act. In addition, the EPA is taking final action to codify the revisions to the 1990 base year emissions inventory submitted as part of the 15% ROP Plan approved October 22, 1996 (61 FR 54737).

F. The revision to the 1996 target level of VOC emissions submitted January 2, 1997, as meeting the requirements of part D and EPA guidance.

The EPA is deferring taking any action at this time on the State's accelerated vehicle retirement regulation (LAC 33:III.611) entitled, "Mobile Sources Emission Reductions," which was submitted to the EPA on January 2, 1997. Deferring action on this regulation has no effect on either the Baton Rouge Post-1996 ROP Plan or on the Baton Rouge Attainment Demonstration since the State took no credit in these plans for reductions from vehicle scrappage.

### IV. 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. 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, 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 rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997),

<sup>3</sup>The 21.4 tons/day in emissions reductions includes the 3.2 tons/day surplus reductions from the 15% ROP Plan carried over to the Post-1996 ROP Plan.

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 the 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.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any new requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, 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 final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

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

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This action is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective August 2, 1999.

#### H. Petition for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 31, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 24, 1999.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

Part 52 of chapter I, title 40, CFR, is amended as follows:

#### PART 52—[AMENDED]

1. The authority for citation for part 52 continues to read as follows:

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

#### Subpart T—Louisiana

2. In § 52.970, in the "EPA-Approved Louisiana Regulations in the Louisiana SIP" table in paragraph (c), chapter 6 is added to read as follows:

#### § 52.970 Identification of plan.

\* \* \* \* \*

(c) EPA approved regulations.

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

| State citation                                                                 | Title/subject                                                | State approval date | EPA approval date                         | Comments                                                                       |
|--------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------|-------------------------------------------|--------------------------------------------------------------------------------|
| *                                                                              | *                                                            | *                   | *                                         | *                                                                              |
| <b>Chapter 6—Regulations on Control of Emissions Reduction Credits Banking</b> |                                                              |                     |                                           |                                                                                |
| Section 601                                                                    | Background and Purpose                                       | Aug. 1994, LR20:874 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 603                                                                    | Applicability                                                | Aug. 1994, LR20:874 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 605                                                                    | Definitions                                                  | Aug. 1994, LR20:874 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 607                                                                    | Stationary Point Source Reductions.                          | Aug. 1994, LR20:877 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 613                                                                    | ERC Bank Balance Sheet                                       | Aug. 1994, LR20:877 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 615                                                                    | Schedule for Submitting Applications.                        | Jul. 1995, LR21:681 | [July 2, 1999 and Federal Register cite]. | Approves original rule (adopted 8/94) and subsequent revision (adopted 07/95). |
| Section 617                                                                    | Review and Approval of ERC Bank Balance Sheets.              | Aug. 1994, LR20:878 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 619                                                                    | Registration of Emission Reduction Credit Certificates.      | Aug. 1994, LR20:879 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 621                                                                    | Protection of Banked ERCs.                                   | Aug. 1994, LR20:679 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 623                                                                    | Withdrawal, Use, and Transfer of Emission Reduction Credits. | Aug. 1994, LR20:880 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| Section 625                                                                    | Application and Processing Fees.                             | Aug. 1994, LR20:880 | [July 2, 1999 and Federal Register cite]. |                                                                                |
| *                                                                              | *                                                            | *                   | *                                         | *                                                                              |

3. In section 52.970, an entry in the “EPA-Approved Louisiana Source-Specific Requirements” table in paragraph (d) is added to read as follows:

(d) EPA-approved State source-specific requirements.

EPA APPROVED LOUISIANA SOURCE-SPECIFIC REQUIREMENTS

| Name of source                                | Permit number                                | State approval/ effective date | EPA approval date                         | Comments                                                    |
|-----------------------------------------------|----------------------------------------------|--------------------------------|-------------------------------------------|-------------------------------------------------------------|
| *                                             | *                                            | *                              | *                                         | *                                                           |
| Borden Chemicals and Plastics in Baton Rouge. | Reasonable Further Progress Agreed To Order. | 10/24/96                       | [July 2, 1999 and Federal Register cite]. | Submitted as part of the Baton Rouge, LA Post-1996 ROP Plan |

4. In section 52.970, an entry in the “EPA Approved Control Measures in the Louisiana SIP” table in paragraph (e) is added to read as follows:

(e) EPA approved nonregulatory and quasi-regulatory measures.

EPA APPROVED CONTROL MEASURES IN THE LOUISIANA SIP

| Control measures                                                             | Applicable geographic or non-attainment area | State submittal date/effective date | EPA approval date                         | Comments                                            |
|------------------------------------------------------------------------------|----------------------------------------------|-------------------------------------|-------------------------------------------|-----------------------------------------------------|
| *                                                                            | *                                            | *                                   | *                                         | *                                                   |
| Post-1996 ROP Plan (Including a Revised 1996 Target Level of VOC Emissions). | Baton Rouge, LA                              | 01/02/97                            | [July 2, 1999 and Federal Register cite]. | Originally submitted 12/22/95 and revised 01/02/97. |
| Attainment Demonstration for the 1-hour Ozone NAAQS.                         | Baton Rouge, LA                              | 01/02/97                            | [July 2, 1999 and Federal Register cite]. | Originally submitted 12/22/95 and revised 01/02/97. |

## EPA APPROVED CONTROL MEASURES IN THE LOUISIANA SIP—Continued

| Control measures                                | Applicable geographic or non-attainment area | State submittal date/effective date | EPA approval date                         | Comments                                                                                                                                         |
|-------------------------------------------------|----------------------------------------------|-------------------------------------|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Contingency Plan .....                          | Baton Rouge, LA .....                        | 01/02/97                            | [July 2, 1999 and Federal Register cite]. | Submitted as part of the 15% ROP Plan on 12/14/95 and, subsequently, as part of the Post-1996 ROP Plan submitted on 12/22/95 and revised 1/2/97. |
| 1999 Motor Vehicle Emission Budgets.            | Baton Rouge, LA .....                        | 01/02/97                            | [July 2, 1999 and Federal Register cite]. |                                                                                                                                                  |
| Revised 1990 Base Year VOC Emissions Inventory. | Baton Rouge, LA .....                        | 01/02/97                            | [July 2, 1999 and Federal Register cite]. | See also 52.993.                                                                                                                                 |

5. Section 52.993 is amended by adding paragraphs (d) and (e) as to read as follows:

**52.993 Emissions inventories.**

\* \* \* \* \*

(d) On December 15, 1995, the Governor of the State of Louisiana submitted a revision to the 1990 base year volatile organic compound (VOC) emissions inventory for the Baton Rouge, Louisiana ozone nonattainment area. The revised inventory was submitted as part of the revised Baton Rouge 15 Percent Rate-of-Progress Plan. This revision to the base year inventory modified the point source VOC emissions. The revisions satisfy the requirements of section 182(a)(1) of the Clean Air Act, as amended in 1990.

(e) On January 2, 1997, the Governor of the State of Louisiana submitted a revision to the 1990 base year volatile organic compound (VOC) emissions inventory for the Baton Rouge, Louisiana ozone nonattainment area. The revised inventory was submitted as part of the revised Baton Rouge Post-1996 Rate-of-Progress Plan. This revision to the base year inventory modified the point, area, non-road mobile, on-road mobile, and biogenic sources of VOC emissions. The revisions satisfy the requirements of section 182(a)(1) of the Clean Air Act, as amended in 1990.

[FR Doc. 99-16927 Filed 7-1-99; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IA 079-1079; FRL-6370-9]

**Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** Because EPA received adverse comments, EPA is withdrawing the direct final rule for the approval of revisions to the Iowa State Implementation Plan. EPA published the direct final rule on May 13, 1999 (64 FR 25825). This approval pertained to a set of state rules recently submitted by the Iowa Department of Natural Resources. EPA stated in the direct final rule that if EPA received adverse or critical comments by June 14, 1999, EPA would publish a timely notice of withdrawal in the **Federal Register**. Therefore, due to receiving adverse comments within the comment period, EPA is withdrawing the direct final rule and will summarize and respond to the comments received and take final rulemaking action in a subsequent final rule. EPA will not institute a second comment period on this document.

**DATES:** The direct final rule published at 64 FR 25825 is withdrawn as of July 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 24, 1999.

**Dennis Grams,**

*Regional Administrator, Region VII.*

[FR Doc. 99-16929 Filed 7-1-99; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 97-138; FCC 99-118]

**Main Studio and Local Public Inspection Files for Broadcast Stations**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document revises and clarifies the Commission's rules regarding the main studio and local public inspection files of broadcast television and radio stations. The intended effect of this action is to amend the retention requirements as well as other required changes to the Commission's rules.

**EFFECTIVE DATE:** August 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Victoria McCauley, Policy and Rules Division, Mass Media Bureau (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *MO&O*, FCC 99-118, adopted May 25, 1999; released May 28, 1999. The full text of the Commission's *MO&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12th St. S.W., Washington, D.C. 20554. The complete text of this *MO&O* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 1231 20th St., N.W., Washington, D.C. 20036.

**Synopsis of Memorandum Opinion and Order**

1. In the *Report and Order* ("R&O"), 63 FR 49487 (September 16, 1998), in this proceeding, we amended our rules regarding the main studio and local public inspection file for broadcast stations. In doing so, our goals were twofold: to strike an appropriate balance between ensuring that the public has