

PART 3—ADJUDICATION**Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation**

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.200 [Removed]

2. Section 3.200 is removed.

[FR Doc. 02–19327 Filed 7–30–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[LA–63–1–7563; FRL–7253–2]

Approval and Promulgation of Implementation Plans; Louisiana; Control of Emission of Nitrogen Oxides from Lean Burn Engines Within the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: The EPA is proposing approval of rules into the Louisiana State Implementation Plan (SIP). In this rulemaking we are proposing to approve, by parallel processing, revisions proposed on April 8, 2002, by the State of Louisiana to the Nitrogen Oxides (NO_x) rules for stationary internal combustion engines/lean burn engines (lean burn engines), within the Baton Rouge (BR) ozone nonattainment area (the April 8, 2002, SIP revision). The State of Louisiana proposed the April 8, 2002, SIP revision to regulate NO_x emissions from lean burn engines within the BR ozone nonattainment area. Section one of this document explains more about this approval. The April 8, 2002, SIP revision will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the BR area.

The EPA is proposing approval of these SIP revisions to regulate emissions of NO_x as meeting the requirements of the Federal Clean Air Act (the Act).

DATES: Comments must be received on or before August 30, 2002.

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

Copies of the documents relevant to this action are available for public inspection 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, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality (LDEQ), 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691, and shar.alan@epa.gov.

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Throughout this document “we,” “us,” and “our” means EPA.

1. What Are We Proposing To Approve?

On February 27, 2002, the Governor of Louisiana, submitted rule revisions to LAC 33:III, Chapter 22, “Control of Emissions of Nitrogen Oxides,” (AQ215), as a revision to the Louisiana SIP for point sources of NO_x in the BR area and its Region of Influence. We published our proposal to approve the February 27, 2002 SIP revision in a separate **Federal Register** (67 FR 48095, July 23, 2002).

On April 8, 2002, the Governor of Louisiana submitted rule revisions to LAC:33:III, Chapter 22, “Control of Emissions of Nitrogen Oxides,” (AQ224), as a revision to the Louisiana SIP for lean burn engines in the BR ozone nonattainment area. The BR area constitutes the 5 ozone nonattainment parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge (40 CFR 81.319). This SIP revision concerns Reasonably Available Control Technology (RACT) for lean burn engines in these 5 parishes. RACT is defined as the lowest emission

limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility. See 44 FR 53761, September 17, 1979.

On April 8, 2002, the Governor of Louisiana submitted a letter to us requesting that we propose approval of their rule revision concerning RACT for lean burn engines through “parallel processing.” See 40 CFR part 51, Appendix V for more information on “parallel processing.” The State of Louisiana submitted this revision to us as a part of the NO_x reductions needed for the BR area to attain the 1-hour ozone standard. These NO_x reductions will assist the BR area to attain the 1-hour ozone standard.

We are proposing to process and approve the April 8, 2002, SIP revision at the same time as the State is accepting comments and finalizing this rule revision. We refer to this method of simultaneously processing and approving a State’s proposed rule revision as “parallel processing.” We have based our proposed parallel approval on the State’s proposal dated April 8, 2002. If the State’s final rule revision is significantly different from its April 8, 2002, revision we will re-propose our rulemaking on the revision.

We are proposing approval of this rule revision under Part D, and section 182(c) of the Act because Louisiana is relying on these NO_x reductions to demonstrate attainment of the 1-hour ozone standard in the BR 1-hour ozone nonattainment area.

2. What Is the Current Applicability Size Limit for Lean Burn Engines Within the BR Area?

The current applicability size limit for lean burn engines in the BR ozone nonattainment area, is set at 1500 horse power (Hp) or more. The NO_x emission specification for lean burn engines operating in the BR ozone nonattainment area is 4 grams per Hp-hour. For more information on how the emission specification is derived, please see the docket for this proposed action.

3. What Does the Proposed SIP Revision for Lean Burn Engines in the BR Area Say?

The State’s proposed SIP revision will lower the applicability size limit for lean burn engines operating within the BR ozone nonattainment area (5 parishes) from 1500 Hp or more to 320 Hp or more. However, the NO_x emission specification for lean burn engines operating within the BR ozone nonattainment area will remain unchanged at 4 grams per Hp-hour. See

Chapter 22, section D of Louisiana’s rule revisions.

We believe that lowering the applicability size limit for lean burn engines within the BR ozone nonattainment area will bring the major source threshold limit for such engines into agreement with the definition of major source found in section 182(c) of the Act. We also believe that the resulting NO_x emission reductions, due to the lower applicability size limit for lean burn engines within the BR area, will contribute to the attainment of the 1-hr ozone standard in the BR area.

For NO_x regulatory purposes, the LAC 33:III, Chapter 22 requires a source to operate at RACT or more stringent levels during the May 1 through September 30 (ozone season) time frame. The May 1 through September 30 time frame is consistent with the time frame adopted for the ozone transport assessment group rules. See 62 FR 60344 published on November 7, 1997. The NO_x emission control methods may vary from one source to another. Due to the fact that NO_x emission control methods differ from one source to another, some sources will need to operate their NO_x control device beyond the above-mentioned ozone season. The State provided us with more information about the seasonality of the NO_x control in Chapter 22, in a letter dated May 3, 2002. We have included State’s May 3, 2002, letter in the docket for this rulemaking.

We are proposing approval of these rules revisions under Part D of the Act because Louisiana is relying on these NO_x reductions to demonstrate attainment of the 1-hour ozone standard in the BR ozone nonattainment area. We will be proposing action on Louisiana’s attainment demonstration in a separate FR publication.

4. What Are NO_x?

Nitrogen oxides belong to the group of criteria air pollutants. The NO_x result from burning fuels, including natural gas, gasoline and coal. Nitrogen oxides react with volatile organic compounds (VOC) to form ozone or smog, and are also major components of acid rain.

5. What Is a Nonattainment Area?

A nonattainment area is a geographic area in which the level of a criteria air pollutant is higher than the level allowed by Federal standards. A single geographic area may have acceptable levels of one criteria air pollutant but unacceptable levels of one or more other criteria air pollutants; thus, a geographic area can be attainment for one criteria pollutant and nonattainment for another criteria pollutant at the same time. See section 1 of this document for a listing of the Louisiana parishes that are nonattainment for ozone.

6. What Is Definition of a Major Source for NO_x?

The BR area was designated a serious ozone nonattainment area (40 CFR 81.319). According to section 182(c) of the Act, a major source in a serious nonattainment area is a source that emits, when uncontrolled, 50 tpy or more of NO_x. Therefore, the major source size for point sources within the BR area is 50 tpy or more, when uncontrolled.

7. What Is a State Implementation Plan?

Section 110 of the Act requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These criteria pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each State must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each State has a SIP designed to protect air quality. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

8. What Is the Federal Approval Process for a SIP?

When a State wants to incorporate its regulations into the federally

enforceable SIP, the State must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process includes a public notice, a public hearing, a public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a State adopts a rule, regulation, or control strategy, the State may submit the adopted provisions to us and request that we include these provisions in the federally enforceable SIP. We must then decide on an appropriate Federal action, provide public notice on this action, and seek additional public comment regarding this action. If we receive adverse comments, we must address them prior to a final action.

Under section 110 of the Act, when we approve all State regulations and supporting information, those State regulations and supporting information become a part of the federally approved SIP. You can find records of these SIP actions in the CFR at Title 40, part 52, entitled “Approval and Promulgation of Implementation Plans.” The actual State regulations that we approved are not reproduced in their entirety in the CFR but are “incorporated by reference,” which means that we have approved a given State regulation with a specific effective date.

9. What Does Federal Approval of a SIP Mean to Me?

A State may enforce State regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

10. What Areas in Louisiana Will the Proposed SIP Revision for Lean Burn Engines Affect?

The following table contains a list of parishes affected by the proposed rule revision that we are proposing to approve. If you are in one of these Louisiana parishes, you should refer to the Louisiana NO_x rules to determine if and how today’s action will affect you.

TABLE I.—RULE LOG NUMBER AND AFFECTED AREAS FOR LOUISIANA NO_x SIP

Rule log number	Affected areas
LAC 33:III:2201 (AQ224) provisions	Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge parishes.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 23, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 02–19320 Filed 7–30–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7252–7]

Hazardous Waste Management System; Proposed Exclusion for Identifying and Listing Hazardous Waste and a Determination of Equivalent Treatment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA, also, “the Agency” or “we” in this preamble) is proposing to grant two petitions submitted by the University of California—E.O. Lawrence Berkeley National Laboratory (LBNL). The first petition is to exclude (or

“delist”) certain hazardous wastes from the lists of hazardous wastes. Today’s proposed rule proposes to grant LBNL’s petition to delist its F002, F003, and F005 waste, and requests public comment on the proposed decision. EPA reviewed all of the waste-specific information provided by LBNL and determined that the petitioned waste is nonhazardous with respect to the original listing criteria.

The Agency is also proposing to grant LBNL’s second petition, which is for a determination of equivalent treatment (DET) for the catalytic chemical oxidation (CCO) technology that LBNL used to treat the original mixed waste.

EPA reviewed all of the specific CCO treatment information provided by LBNL and determined that the CCO treatment is equivalent to combustion. Today’s proposed rule proposes to grant LBNL’s DET petition for the CCO technology, and requests public comment on the proposed decision. If the proposed DET becomes final, the treatment residues generated from LBNL’s use of the CCO technology will have met the applicable LDR technology standard for DOO1 waste. If the proposed delisting and DET become final, then the petitioned waste can be disposed at an authorized low-level radioactive waste facility.

DATES: Comments on this proposed rule will be accepted until September 16, 2002. We will stamp comments postmarked after the close of the comment period as “late.” These “late” comments may not be considered in formulating final decisions.

Any person may request a hearing on this proposed rule by filing a written request by August 15, 2002. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send two copies of your comments to Rich Vaille, Associate Director, Waste Management Division (WST–1), U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

Any person may request a hearing on these proposed decisions by filing a written request with Jeff Scott, Director, Waste Management Division (WST–1) U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency Records Center, 75 Hawthorne Street, San Francisco, CA 94105, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The docket contains the petition, all information submitted