

incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive. They may contain state regulations or other enforceable measures, as well as supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

V. What Is the Baton Rouge Ozone Nonattainment Area?

The Baton Rouge ozone nonattainment area, located in southern Louisiana, consists of East Baton Rouge,

West Baton Rouge, Ascension, Iberville, and Livingston Parishes.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone standard before enactment of the 1990 CAA Amendments, such as the Baton Rouge area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. In addition, under section 181(a) of the Act, each area designated nonattainment under section 107(d) was classified as "marginal," "moderate," "serious," "severe," or "extreme," depending on the severity of the area's air quality problem. The design value for an area

characterizes the severity of the air quality problem. The design value for an area is the highest site design value. The site design value in turn is the fourth highest 1-hour daily maximum in a given three-year period. Table 2 provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 and 0.180 ppm, such as the Baton Rouge area (which had a design value of 0.164 ppm in 1989), were classified as serious. These nonattainment designations and classifications were initially codified in 40 CFR part 81 (*see* 56 FR 56694, November 6, 1991).

TABLE 2.—1-HOUR OZONE NONATTAINMENT CLASSIFICATIONS

Area class	Design value (ppm)	Attainment date
Marginal	0.121 up to 0.138	November 15, 1993.
Moderate	0.138 up to 0.160	November 15, 1996.
Serious	0.160 up to 0.180	November 15, 1999.
Severe	0.180 up to 0.280	November 15, 2005.
Extreme	0.280 and above	November 15, 2010.

VI. What Does This Action Do?

In this action, in accordance with the decisions of the Fifth Circuit Court of Appeals rejecting EPA's use of the extension policy and in fulfilling our nondiscretionary duty under the CAA, EPA is withdrawing the portion of the October 2, 2002, rulemaking that granted Baton Rouge an extension of its attainment date. Specifically we are withdrawing the approvals of the attainment date extension for the Baton Rouge area and the transport demonstration in Louisiana's December 31, 2001, SIP. Additionally, EPA is reinstating its previous final determination that the Baton Rouge area did not attain the 1-hour ozone NAAQS by November 15, 1999, as prescribed in section 181 of the CAA. As a result of this action, the Baton Rouge area is reclassified by operation of law to severe ozone nonattainment pursuant to section 181(b)(2) of the CAA on the effective date of this action.² In addition, this action sets the dates by which Louisiana must submit SIP revisions addressing the CAA's pollution control requirements for

severe ozone nonattainment areas (the "severe area SIP") and to attain the 1-hour NAAQS for ozone. The post-1999 ROP nine percent reduction originally was required under the CAA to occur by November 15, 2002. Because that statutory deadline passed before the area became classified as severe and thus first became subject to the requirement to demonstrate post-1999 ROP, we conclude that the State must have some time to actually develop and implement the measures needed to achieve such progress. Accordingly, in this action we are allowing Louisiana to demonstrate that the first required post-1999 nine percent ROP is achieved as expeditiously as practicable after November 15, 2002, but in any case no later than November 15, 2005. EPA is allowing Louisiana to relate contingency measures for the 2002 ROP milestone to this new date.³ Further discussion of a severe ozone nonattainment area's SIP requirements appears below in section VIII.

VII. What Is the New Attainment Date for the Baton Rouge Area?

In the June 24, 2002, rulemaking, EPA set forth its conclusion under section 181(a)(1) of the Act that the attainment deadline for the Baton Rouge area, as a

serious ozone nonattainment area reclassified to severe under section 181(b)(2), is as expeditiously as practicable but no later than the date provided in the Act for the new classification: November 15, 2005. EPA incorporates this conclusion, supporting reasoning, and responses to comments by reference into this rulemaking.

VIII. When Must Louisiana Submit SIP Revisions Fulfilling the Requirements for Severe Ozone Nonattainment Areas?

Under section 182(i) of the Act, serious ozone nonattainment areas reclassified to severe are required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS. Under section 182(d), severe area plans are required to meet all the requirements for serious area plans plus the requirements for severe area plans, which include: (1) A 25 ton per year major stationary source threshold; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major stationary source threshold; (3) a new source review (NSR) offset requirement of at least 1.3 to 1; (4) a rate of progress in emission reductions of ozone precursors of at least 3 percent of base line emissions per year from November 15, 1999, until the attainment year; (5) additional transportation control measures (TCMs) needed to offset growth in emissions due to growth in vehicle miles traveled (VMT); and (6) a fee requirement for major stationary sources of volatile organic

² This rulemaking is a final action because the Fifth Circuit's decision in *Sierra Club v. United States EPA*, 314 F.3d 735, leaves no remaining questions on which we might solicit public comment regarding the reclassification of the Baton Rouge area. In light of the Court's decision and considering that we have already taken public comments and issued a final rule on reclassification (67 FR 42687, June 24, 2002), we have concluded that no good cause exists to require additional public comment regarding the reclassification of the Baton Rouge area.

³ The severe area ROP plan will also have to provide for the second increment of post-1999 ROP for the period 2002 to 2005 and thus must achieve a minimum of 18 percent emission reductions from base line emissions by November 15, 2005. Therefore, the average ROP emission reductions will not decrease.