

OAC 3745–18–43 (Hocking), OAC 3745–18–44 (Holmes), OAC 3745–18–45 (Huron), OAC 3745–18–46 (Jackson), OAC 3745–18–48 (Knox), OAC 3745–18–51 (Licking), OAC 3745–18–52 (Logan), OAC 3745–18–55 (Madison), OAC 3745–18–58 (Medina), OAC 3745–18–59 (Meigs), OAC 3745–18–60 (Mercer), OAC 3745–18–62 (Monroe), OAC 3745–18–64 (Morgan)—except for one paragraph approved later (OP Muskingum River), OAC 3745–18–65 (Morrow), OAC 3745–18–67 (Noble), OAC 3745–18–70 (Perry), OAC 3745–18–73 (Portage), OAC 3745–18–74 (Preble), OAC 3745–18–75 (Putnam), OAC 3745–18–86 (Union), OAC 3745–18–88 (Vinton), OAC 3745–18–89 (Warren), OAC 3745–18–92 (Williams), and OAC 3745–18–94 (Wyandot);

(ii) Rules as effective in Ohio on October 1, 1982: OAC 3745–18–64 (B) (OP Muskingum River in Morgan County);

(iii) Rules as effective in Ohio on May 11, 1987: OAC 3745–18–19(B) (CG&E Beckjord);

(iv) Rules as effective in Ohio on October 31, 1991: OAC 3745–18–04 (D)(7), (D)(8)(a) to (D)(8)(e), (E)(5), (E)(6)(a), (E)(6)(b), (F), and (I) (measurement methods);

(v) Rules as effective in Ohio on July 25, 1996: OAC 3745–18–47 (Jefferson);

(vi) Rules as effective in Ohio on March 21, 2000: OAC 3745–18–04(D)(8),

(D)(9), and (E)(7) (measurement methods), OAC 3745–18–22 (Coshocton), OAC 3745–18–33 (Gallia), and OAC 3745–18–71 (Pickaway);

(vii) Rules as effective in Ohio on September 1, 2003: OAC 3745–18–04(F) and (J) (measurement methods), and OAC 3745–18–56 (Mahoning);

(viii) Rules as effective in Ohio on January 23, 2006: OAC 3745–18–01 (definitions), OAC 3745–18–02 (air quality standards), OAC 3745–18–03 (compliance dates), OAC 3745–18–06 (general provisions), OAC 3745–18–07 (Adams), OAC 3745–18–10 (Ashtabula), OAC 3745–18–11 (Athens), OAC 3745–18–12 (Auglaize), OAC 3745–18–17 (Champaign), OAC 3745–18–18 (Clark), OAC 3745–18–28 (Erie), OAC 3745–18–29 (Fairfield), OAC 3745–18–31 (Franklin), OAC 3745–18–34 (Geauga), OAC 3745–18–35 (Greene), OAC 3745–18–37 (Hamilton), OAC 3745–18–38 (Hancock), OAC 3745–18–49 (Lake), OAC 3745–18–50 (Lawrence), OAC 3745–18–53 (Lorain), OAC 3745–18–57 (Marion), OAC 3745–18–61 (Miami), OAC 3745–18–63 (Montgomery), OAC 3745–18–66 (Muskingum), OAC 3745–18–68 (Ottawa), OAC 3745–18–69 (Paulding), OAC 3745–18–72 (Pike), OAC 3745–18–76 (Richland), OAC 3745–18–77 (Ross), OAC 3745–18–78 (Sandusky), OAC 3745–18–79 (Scioto), OAC 3745–18–80 (Seneca), OAC 3745–

18–81 (Shelby), OAC 3745–18–83 (Summit), OAC 3745–18–84 (Trumbull), OAC 3745–18–85 (Tuscarawas), OAC 3745–18–87 (Van Wert), OAC 3745–18–90 (Washington), OAC 3745–18–91 (Wayne), and OAC 3745–18–93 (Wood);

(ix) Rules as effective in Ohio on March 27, 2006: OAC 3745–18–08 (Allen), OAC 3745–18–15 (Butler), OAC 3745–18–24 (Cuyahoga), and OAC 3745–18–54 (Lucas); and

(x) Rule as effective in Ohio on December 8, 2007: OAC 3745–18–82 (Stark).

* * * * *

§ 52.1882 [Removed and Reserved]

■ 4. Section 52.1882 is removed and reserved.

PART 81—[AMENDED]

■ 5. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 6. The table in § 81.336 entitled “Ohio—SO₂” is amended by removing the three footnotes and revising the entries for Summit and Trumbull Counties to read as follows:

§ 81.336 Ohio.

OHIO.—SO₂

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|-----------------------|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| * * * * * | | | | |
| Summit County | | | | X |
| Trumbull County | | | | X |
| * * * * * | | | | |

* * * * *

[FR Doc. E8–5666 Filed 3–20–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R06–OAR–2007–0967; FRL–8544–6]

Determination of Nonattainment and Reclassification of the Baton Rouge 8-Hour Ozone Nonattainment Area; State of Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing its finding that the Baton Rouge “marginal” 8-hour ozone nonattainment area (hereinafter referred to as the Baton Rouge area) did not attain the 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA or the Act) and Code of Federal Regulations (CFR) for “marginal” nonattainment areas. By operation of law, the Baton Rouge area is to be reclassified from a “marginal” to a “moderate” 8-hour ozone nonattainment area on the effective date of this rule. The new attainment deadline for the reclassified Baton

Rouge nonattainment area is “as expeditiously as practicable” but no later than June 15, 2010. In addition, EPA is requiring Louisiana to submit State Implementation Plan (SIP) revisions addressing the CAA’s pollution control requirements for “moderate” 8-hour ozone nonattainment areas no later than January 1, 2009.

DATES: This final rule is effective on April 21, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R06–OAR–2007–0967. All documents in the docket are listed on the www.regulations.gov, Web site. Although listed in the index,

some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Planning Section (6PD-L), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Louisiana Department of Environmental Quality (LDEQ), the Galvez Building, 602 N. Fifth Street, Baton Rouge, Louisiana 70802.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7367.

SUPPLEMENTARY INFORMATION:

Background

A complete description of the 8-hour designation process for the Baton Rouge area can be found in the proposal for this rulemaking at 72 FR 61315, October 30, 2007. In addition, under § 51.908 of the Code of Federal Regulations, states containing areas classified as “marginal” non-attainment for the 8-hour ozone standard were not required to submit attainment demonstration SIPs. However, states were required to submit other SIP elements, as required by Subpart 2 of the Act, that included the following: submitting an emission inventory within two years and periodic inventories every three years thereafter, reasonably available control technology corrections, and retaining a vehicle inspection and maintenance program that may have previously been in place. Baton Rouge has met these requirements for a “marginal” nonattainment area under the 8-hour standard and the 1-hour standard.

Table of Contents

I. What Does This Action Do?

- II. What Does the CAA Say About Determination of Nonattainment and Reclassification, and How Does It Apply to the Baton Rouge Area?
- III. What Is the Area's New Classification?
- IV. What Is the New Attainment Date for the Baton Rouge Area?
- V. When Must Louisiana Submit SIP Revisions Fulfilling the Requirements for 8-Hour Ozone Nonattainment Areas?
- VI. What Comments Were Received on the Proposed Rule?
- VII. Final Action
- VIII. Administrative Requirements

I. What Does This Action Do?

On October 30, 2007, EPA proposed its finding that the Baton Rouge ozone nonattainment area did not attain the 8-hour NAAQS by the applicable attainment date (72 FR 61315). The proposed finding was based upon ambient air quality data from the years 2004–2006. These data showed that the 8-hour NAAQS of 0.08 ppm (i.e., 0.084 ppm when rounding is considered) had been exceeded based on the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration and that the area did not qualify for an attainment date extension under section 181(a)(5) of the Act. We also proposed to determine that the appropriate reclassification of the area was to “moderate.”

This action finalizes our finding that the Baton Rouge area did not attain the 8-hour ozone NAAQS by June 15, 2007, as prescribed in section 181 of the Act, and as detailed in EPA's final designations rule published on April 30, 2004 (69 FR 23857). It also fulfills EPA's duty pursuant to section 181(b)(2) of the Act. In addition, this action sets the dates by which Louisiana must submit SIP revisions addressing the CAA's pollution control requirements for “moderate” ozone nonattainment areas and attain the 8-hour NAAQS for ozone. EPA's rulemaking actions are to be effective [30] days from publication in the **Federal Register**.

II. What Does the CAA Say About Determination of Nonattainment and Reclassification, and How Does it Apply to the Baton Rouge Area?

Under sections 107(d)(1)(c) and 181(a) of the Act, the Baton Rouge area was designated nonattainment for the 8-hour ozone NAAQS and classified as “marginal” based on its design value of 0.086 ppm in 2004. These nonattainment designations and classifications are codified in 40 CFR Part 81 (See 69 FR 23857, April 30, 2004). In addition, states containing areas that were classified as “marginal” nonattainment were required to submit

SIPs to provide for certain controls and submit emission inventories. The Baton Rouge area met these requirements by submitting an updated emission inventory. As a “severe” nonattainment area under the 1-hour standard, the area was already implementing “marginal” area requirements in Subpart 2 of the Act. No attainment demonstrations were required, but attainment of the standard was required to be achieved by June 15, 2007.

Section 181(b)(2)(A) of the Act specifies that:

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

- a. The next higher classification for the area, or
- b. The classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

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

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

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

On October 30, 2007, EPA proposed its finding that the Baton Rouge area did not attain the 8-hour ozone standard by the applicable date (72 FR 61315). The proposed finding was based upon ambient ozone concentration data for the period 2004–2006, from monitoring sites in the Baton Rouge area that recorded a 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration that exceeded the standard. You may refer to the proposal to review these values which are presented in “Table 1.—Baton Rouge Area Fourth Highest 8-Hour Ozone Concentrations and Design Values (ppm).”

The air quality data in Table 1 were available for comment in our October 30, 2007, proposed finding of the area's failure to attain the ozone NAAQS. We

received no comments pertaining to these data. Therefore, pursuant to section 181(b)(2)(B) of the CAA, we hereby finalize our determination that the Baton Rouge area did not attain the 8-hour standard by the June 15, 2007, attainment date.

III. What Is The Area's New Classification?

Section 181(b)(2)(A) of the Act requires that, when an area is reclassified for failure to attain, its reclassification be the higher of either the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. Section 181(b)(2)(B) requires EPA to publish in the **Federal Register** a notice identifying the appropriate reclassification for the area in accordance with section 181(b)(2)(A). The classification that would be applicable to the Baton Rouge area's design value at the time of today's final rule is "marginal" because the area's 2006 calculated design value, based on quality-assured ozone monitoring data from 2004–2006, is 0.091 ppm. By contrast, the next higher classification for the Baton Rouge area is "moderate." As EPA explained in the proposal, because "moderate" is a higher classification than "marginal" under the CAA statutory scheme, upon the effective date of this final rulemaking, the Baton Rouge area is reclassified by operation of law as "moderate."

IV. What is the New Attainment Date for the Baton Rouge Area?

Under section 181(a)(1) of the Act, the new attainment deadline for "marginal" ozone nonattainment areas, reclassified to "moderate" under section 181(b)(2), would generally be as "expeditious as practicable" but no later than the date applicable to the new classification, i.e., June 15, 2010. The "as expeditiously as practicable" attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 8-hour ozone standard.

V. When Must Louisiana Submit SIP Revisions Fulfilling the Requirements for 8-Hour Ozone Nonattainment Areas?

Under section 181(a)(1) of the Act, the attainment deadline for "marginal" ozone nonattainment areas reclassified to "moderate" under section 181(b)(2) is as "expeditiously as practicable" but no later than June 15, 2010. Under section 182(i) of the Act, such areas are required to submit SIP revisions addressing the

"moderate" area requirements for 8-hour ozone NAAQS. Pursuant to 40 CFR 51.908(d), for each nonattainment area, a state must provide for the implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date, in this case 2009 (40 CFR 51.900(g)). The ozone season is the ozone monitoring season defined in 40 CFR Part 58, Appendix D, section 4.1, Table D–3 (71 FR 61236, October 17, 2006). For the purpose of reclassification of the Baton Rouge nonattainment area, January 1, 2009, is the beginning of the ozone monitoring season. As a result, EPA is requiring that the required SIP revisions be submitted by Louisiana as "expeditiously as practicable," but no later than January 1, 2009. This timeline also calls for implementation of applicable controls no later than January 1, 2009. (See 72 FR 61318).

The area was previously required to submit the requirements for "marginal" areas and under section 182(b) of the Act, remains required to meet them, and now must meet the requirements for "moderate" areas as well.

A revised SIP must include, among other things, the following "moderate" area requirements: (1) An attainment demonstration (40 CFR 51.908), (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912), (3) reasonable further progress reductions in volatile organic compound (VOC) and nitrogen oxide (NO_x) emissions (40 CFR 51.910), (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9)). See also the requirements for "moderate" ozone nonattainment areas set forth in CAA section 182(b). Since the Baton Rouge area also is a 1-hour ozone nonattainment area, the anti-backsliding requirements of the 8-hour ozone implementation rule at 40 CFR 51.900 and 51.905 apply too. See also *S. Coast Air Quality Management District v. Environmental Protection Agency*, 472 F.3d 882 (DC Cir. 2006), *reh'g denied*, 489 F.3d 1245 (DC Cir. 2007).

VI. What Comments Were Received on the Proposed Rule?

EPA received no comments from the public on the Notice of Proposed Rulemaking published on October 30, 2007 (72 FR 61315), Determination of Nonattainment and Reclassification of

the Baton Rouge 8-Hour Ozone Nonattainment Area; State of Louisiana.

VII. Final Action

Pursuant to CAA section 181(b)(2), EPA is making a final determination that the Baton Rouge "marginal" 8-hour ozone nonattainment area failed to attain the 8-hour ozone NAAQS by June 15, 2007. Upon the effective date of this rule, the Baton Rouge "marginal" 8-hour ozone nonattainment area will be reclassified by operation of law as a "moderate" 8-hour ozone nonattainment area. Pursuant to section 182(i) of the CAA, EPA is establishing the schedule for submittal of the SIP revisions required for "moderate" areas once the area is reclassified. The required SIP revision for Baton Rouge must be submitted as "expeditiously as practicable," but no later than January 1, 2009.

VIII. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order. The Agency has determined that the finding of nonattainment would result in none of the effects identified in the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This action to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines does not establish any new information collection burden. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (see, 13 CFR part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. After considering the economic impacts of today's action on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the

aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, sections 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of \$100 million or more in any one year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. Also, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and therefore, is not subject to the requirements of sections 203. EPA believes, as discussed previously in this document, that the finding of nonattainment is a factual determination based upon air quality considerations and that the resulting reclassification of the area must occur by operation of law. Thus, EPA believes that the finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State

and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This final rule does not have federalism implications. It 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, this action merely determines that the Baton Rouge area had not attained by its applicable attainment date, and to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "A Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure a meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. This action does not have Tribal implications as specified in Executive Order 13175. This action merely determines that the Baton Rouge area has not attained by its applicable attainment date, and to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines. The CAA and the Tribal Authority Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children From Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If

the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action merely determines that the Baton Rouge area has not attained by its applicable attainment date, and to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, "Actions That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action merely

determines that the Baton Rouge area has not attained by its applicable attainment date, and to reclassify the Baton Rouge "marginal" Nonattainment Area as a "moderate" ozone nonattainment area and to adjust applicable deadlines. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action merely determines that the Baton Rouge area has not attained by its applicable attainment date, and to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines.

K. Congressional Review Act

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. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *May 20, 2008*. 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 to reclassify the Baton Rouge area as a "moderate" ozone nonattainment area and to adjust applicable deadlines may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: March 7, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

■ Part 81, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.319 the table entitled "Louisiana—Ozone (8-Hour Standard)" is amended by revising the entry for the Baton Rouge area to read as follows:

§ 81.319. Louisiana.

* * * * *

LOUISIANA—OZONE (8-HOUR STANDARD)

| Designated area | Designation ^a | | Category/classification | |
|-------------------------------|--------------------------|---------------------|-------------------------|---------------------|
| | Date ¹ | Type | Date ¹ | Type |
| Baton Rouge Area: | | | | |
| Ascension Parish | | Nonattainment | 4/21/08 | Subpart 2/Moderate. |
| East Baton Rouge Parish | | Nonattainment | 4/21/08 | Subpart 2/Moderate. |
| Iberville Parish | | Nonattainment | 4/21/08 | Subpart 2/Moderate. |
| Livingston Parish | | Nonattainment | 4/21/08 | Subpart 2/Moderate. |
| West Baton Rouge Parish | | Nonattainment | 4/21/08 | Subpart 2/Moderate. |

LOUISIANA—OZONE (8-HOUR STANDARD)—Continued

| Designated area | Designation ^a | | Category/classification | |
|-----------------|--------------------------|------|-------------------------|------|
| | Date ¹ | Type | Date ¹ | Type |
| * * * | * | * | * | * |

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

* * *

[FR Doc. E8-5663 Filed 3-20-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG-2007-0039]

RIN 1625-AB23

2008 Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Interim rule.

SUMMARY: As required by statute, the Coast Guard has reviewed and is updating the rates for pilotage service on the Great Lakes for the 2008 navigation season. We are increasing pilotage rates an average 8.17% over the last ratemaking that was completed in September 2007. This rulemaking promotes the Coast Guard strategic goals of maritime safety, protection of natural resources, maritime security, and maritime mobility.

DATES: This interim rule is effective March 21, 2008. Comments and related material must reach the Docket Management Facility on or before April 21, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2007-0039 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

FOR FURTHER INFORMATION CONTACT: For questions on this interim rule, please call Mr. Paul Wasserman, Chief, Great Lakes Pilotage Branch, Commandant (CG-54122), U.S. Coast Guard, at 202-372-1535, by fax 202-372-1929, or by e-mail at Paul.M.Wasserman@uscg.mil. For questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Dockets Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Public Participation and Request for Comments
- II. Effective Date
- III. Background and Purpose
- IV. Discussion of Comments
- V. Discussion of the Interim Rule
- VI. Regulatory Evaluation

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2007-0039), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you

submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2007-0039) in the Search box, and click "Go >>." You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Effective Date

This interim rule takes effect upon publication in the **Federal Register**. Under 5 U.S.C. 553(d), the Coast Guard finds good cause for this interim rule to take effect less than 30 days after