

institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before June 19, 2002.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353-8328 before visiting the Region 5 Office.)

Dated: March 08, 2002.

**Robert Springer,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 02-12415 Filed 5-17-02; 8:45 am]

**BILLING CODE 6560-50-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[ME-066-7015b; A-1-FRL-7171-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; New CTGs

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before June 19, 2002.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One

Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Arnold, (617) 918-1047.

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: April 3, 2002.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

[FR Doc. 02-12470 Filed 5-17-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[LA-61-1-7552; FRL-7213-4]

#### Proposed Approval and Promulgation of Implementation Plans; Louisiana; Contingency Measures for the Baton Rouge (BR) Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve revisions to the Louisiana State Implementation Plan (SIP) for the Baton Rouge ozone non-attainment area submitted by the State of Louisiana for the purpose of replacing the previously approved contingency measures in the Demonstration of Attainment. These replacement measures meet the requirements in sections 172(c)(9) and 182(c)(9) of the Clean Air Act (the Act) as amended in 1990. We are proposing approval of replacement contingency measures that would require emission reductions from the Trunkline Gas Company—Patterson Compressor Station in St. Mary Parish to replace the State's current contingency measure requirements. Currently, the State's contingency measure requirement is that it hold 5.7 tons/day of VOC emission reductions "on deposit" in the State of Louisiana Emission Reduction Credit Bank (ERC Bank). The replacement contingency measure that the EPA proposes to approve would require that the Trunkline facility permanently reduce its volatile organic compound (VOC) emissions by 6.1 tons/day from 1990 emission levels. These reductions are surplus and federally enforceable.

**DATES:** Written comments must be received on or before June 19, 2002.

**ADDRESSES:** Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action, including the Technical Support Document (TSD), are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733. Louisiana Department of Environmental Quality, Air Quality Compliance Division, 7290 Bluebonnet, 2nd Floor, Baton Rouge, Louisiana. Louisiana Department of Environmental Quality Capital Regional Office, 11720 Airline Highway, Baton Rouge, Louisiana.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7367.

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refers to EPA.

### What Action Are We Taking Today?

On February 27, 2002, the Governor of Louisiana submitted to EPA a revision to the Baton Rouge SIP requesting that the current contingency measures contained in the Attainment Demonstration be replaced with substitute contingency measures. The current contingency measures for the Attainment Demonstration require that the State escrow at least 5.7 tons/day of VOC (3 percent of the adjusted base year inventory of 191.2 tons/day) in its Emission Reduction Credit (ERC) Bank. EPA approved these VOC reductions as creditable towards the 3 percent contingency requirement for the Demonstration of Attainment. (64 FR 35930, July 2, 1999.)

This revision substitutes 6.1 tons/day in VOC emission reductions from the Trunkline Gas Company for the previously approved measure. The EPA is proposing to approve this revision to the Louisiana SIP to regulate emissions of VOCs in accordance with the requirements of the Act. For more information on the SIP revision, please refer to the State's February 27, 2002, SIP revision and EPA's TSD.

### What Are the Clean Air Act Requirements?

Section 172(c)(9) and 182(c)(9) of the Act require that SIPs contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date, or to meet rate-of-progress (ROP) deadlines. The Act does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) and 182(c)(2)(A) in the April 16, 1992, General Preamble for Implementation of the Act (*See* 57 FR 13498, 13510, April 16, 1992). In that guidance EPA indicated that states with moderate and above ozone nonattainment areas, such as the Baton Rouge area, should include sufficient contingency measure so that, upon implementation of such measures, additional emission reductions of up to three percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. The State must show that the contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions.

### Why Is Louisiana Submitting a Substitute Contingency Measure?

We previously approved a contingency measures plan as satisfying section 172(c)(9) and 182(c)(9) of the Act (64 FR 35930, July 2, 1999). The contingency plan consisted of 5.7 tons/day of VOC ERCs held in escrow in the Louisiana ERC Bank that would be confiscated by the State and no longer available for use in the event of a milestone failure or if attainment was not achieved in a timely manner. In August 1999, a petition for review was filed in the United States Court of Appeals for the Fifth Circuit challenging our July 2, 1999, SIP approval. *Louisiana Environmental Action Network v. EPA*, No. 99-60570. In response to the litigation, we requested a partial voluntary remand to reconsider that final approval of the State's contingency measures plan for the Baton Rouge area. On October 19, 2000, the Fifth Circuit Court of Appeals granted a Joint Motion for a Partial Voluntary Remand.

The State has submitted this contingency measure as a substitute for the ERC bank contingency measure. This proposal, and any final action taken pursuant to it, serve as EPA's response with respect to the voluntary remand.

### Does the Substitute Measure Meet All Applicable Requirements?

The State is using excess reductions that accrued in 1998 at the Trunkline facility to meet the contingency measure requirement. In guidance issued in 1993<sup>1</sup>, we allow the use of surplus reductions that have already been achieved before the failure has been identified to serve as contingency measures in the year after the failure for attainment and ROP plans. If an area then fails to meet a milestone which triggers the implementation of contingency measures, the state would have one year to backfill the contingency measure. *See* 57 FR 13498, 13511 (April 16, 1992). The State ensured that the VOC reductions relied on as the contingency measure have not been used anywhere else in the 2005 attainment demonstration.

Because the Trunkline Gas Company—Patterson Compressor Station in St. Mary Parish is not in the Baton Rouge nonattainment area, the State followed EPA's policy guidance<sup>2</sup>

allowing 1-hour ozone nonattainment areas to take credit in plans for emission reductions obtained from sources outside the designated nonattainment area, provided that the sources are no farther away than 100 km (for VOC sources) or 200 km (for NO<sub>x</sub> sources) from the nonattainment area. The Patterson Compressor Station is only 40 km from the Baton Rouge nonattainment area, and, as such, its reductions are available for use as credit in the contingency measures plan. In addition, in accordance with the guidance, the emissions from this source, which is outside the nonattainment area, were included in the 1990 base year emissions inventory for the nonattainment area.

The contingency measure plan requirement for the Attainment Demonstration is 3 percent of the 1990 adjusted base year VOC inventory. Therefore, in order to use the emission reductions available from Trunkline, the State added the emissions from the facility back into the 1990 inventory.<sup>3</sup> When the inventory was adjusted to include the Trunkline emissions, the new 3 percent requirement for contingency measures became 6.1 tons/day of VOC emission reductions.

These reductions are available because the Trunkline facility installed a flare in 1998 to dispose of flash gases from several storage containers to comply with Louisiana's waste gas disposal rule and comprehensive toxic air pollutant control program. This was an alternative to combustion in a furnace or closed combustion chamber. The destruction efficiency of the open air flare is estimated at 99 percent.

After the installation of the flare, VOC emissions changed from 13.4 tons/day to 0.4 tons/day. The resulting 13 tons/day of emission reductions are creditable. To ensure that these emission reductions are permanent and Federally enforceable, the State revised emission limit is reflected in the permit issued to Trunkline. The permit makes the additional emission reductions available for SIP purposes, *i.e.*, surplus, permanent, and enforceable. 6.1 tons/day of this 13 ton/day reduction will be credited to contingency measures and will no longer be available for any other use. Because the 6.1 tons/day from the Trunkline facility is greater than the 5.7 tons/day in the prior contingency

<sup>1</sup> Memorandum, "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide in Nonattainment Areas," from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 13, 1993.

<sup>2</sup> Memorandum: Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM<sub>10</sub> NAAQS.

Richard D. Wilson, December 29, 1997 (signature date).

<sup>3</sup> The EPA recognizes that adding the Trunkline emission back into the 1990 emissions inventory will also impact the 9 percent and the 15 percent ROP Plan targets. These adjustments are discussed in the TSD and will be dealt with in the ROP plans.

measure, this SIP revision also complies with section 110(l) of the Act.

### Proposed Action

Because the substitute contingency measure submitted in this SIP revision meets all the requirements for contingency measures and other SIP requirements, we are proposing approval of a substitute contingency measure for the Baton Rouge ozone nonattainment area. We are proposing to approve 6.1 tons/day of VOC emissions, as obtained from the issuance of a permit to Trunkline, as the substitute contingency measure. If we finalize this action, those 6.1 tons/day of VOC emissions from Trunkline are no longer available for any other uses, *e.g.*, netting.

### 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 proposes to approve 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).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action merely proposes to approve 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping, Volatile organic compounds.

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

Dated: May 7, 2002.

**Lynda F. Carroll,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 02-12616 Filed 5-17-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 62

[UT-001-0034b, UT-001-0035b; FRL-7201-4]

### Clean Air Act Approval and Promulgation of State Implementation Plan; Utah; Revisions to Air Pollution Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve two separate revisions to the State Implementation Plan (SIP) submitted by the Governor of Utah on June 17, 1998. The submittals repeal Utah's Air Conservation Regulations (UACR) R307-1-4.11 Regulation for the Control of Fluorides From Existing Plants and R307-2-28 Section XX, Committal SIP. In addition, the submittals revise R307-7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The intended effect of this action is to make federally enforceable those provisions of Utah's June 17, 1998 submittals that EPA is approving and to remove from the SIP those provisions that Utah has repealed. This action is being taken under section 110 of the Clean Air Act (CAA).

In the "Rules and Regulations" section of this **Federal Register**, EPA is acting on the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Comments must be received in writing on or before June 19, 2002.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150