

BEFORE THE ADMINISTRATOR  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:	)	
	)	
OPERATING PERMIT	)	PETITION NO. 6-00-1
POLYPROPYLENE UNIT	)	
BATON ROUGE POLYOLEFINS PLANT	)	ORDER RESPONDING TO
EXXON CHEMICAL AMERICAS	)	PETITIONERS' REQUEST THAT
BATON ROUGE	)	THE ADMINISTRATOR OBJECT
EAST BATON ROUGE PARISH	)	TO THE ISSUANCE OF A STATE
LOUISIANA	)	OPERATING PERMIT
	)	
PERMIT NO. 2581-VO	)	
_____	)	

**ORDER DENYING PETITION FOR OBJECTION TO PERMIT**

**I. INTRODUCTION**

On December 30, 1998, Ms. Marylee Orr, Executive Director of the Louisiana Environmental Action Network (LEAN), petitioned the United States Environmental Protection Agency (EPA) to object to the issuance of a permit for a polypropylene unit at Exxon Chemical Americas' Baton Rouge Polyolefins Plant in Baton Rouge, Louisiana (Exxon Permit). The petition was submitted on behalf of the North Baton Rouge Environmental Association and the Louisiana Environmental Action Network (collectively, Petitioners or LEAN).

The Louisiana Department of Environmental Quality (LDEQ) issued the final Exxon Permit on November 24, 1998. The permit constitutes both a preconstruction permit issued pursuant to the Nonattainment New Source Review (NNSR) requirements of the Clean Air Act (Act), 42 U.S.C. § 7503, and a State operating permit

issued pursuant to Title V of the Act, 42 U.S.C. §§ 7661 - 7661f. Ms. Orr also submitted a letter supplementing the petition on behalf of LEAN on January 5, 1999, and another letter on March 1, 1999 requesting that the Exxon Permit be reopened.

Petitioners have requested that EPA object to the issuance of the Exxon Permit pursuant to Section 505(b)(2) of the Act, 42 U.S.C. § 7661d(b)(2). For the reasons set forth below, I deny the Petitioners' request. Petitioners also have requested that the Exxon Permit be denied or revoked based on alleged discrimination under Title VI of the Civil Rights Act. Today's order does not dispense with the Title VI complaint. EPA's Office of Civil Rights is reviewing Petitioners' Title VI complaint to determine whether to accept the complaint for investigation. EPA's OCR will be notifying Petitioners about its decision.

## **II. STATUTORY AND REGULATORY FRAMEWORK**

Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each State to develop and submit to EPA an operating permit program intended to meet the requirements of Title V. The State of Louisiana submitted a Title V program governing the issuance of operating permits on November 15, 1993, and subsequently revised this program on November 10, 1994. 40 C.F.R. Part 70, Appendix A. In September of 1995, EPA granted

full approval of the Louisiana Title V operating permits program, which became effective on October 12, 1995. 60 *Fed. Reg.* 47296 (September 12, 1995); 40 C.F.R. Part 70, Appendix A. This program is codified in Louisiana Administrative Code (L.A.C.), Title 33, Part III, Chapter 5, Sections 507 *et seq.* Major stationary sources of air pollution and other sources covered by Title V are required to obtain an operating permit that includes emission limitations and such other conditions as are necessary to assure compliance with all applicable requirements of the Act. 42 U.S.C. §§ 7661a(a) and 7661c(a).

Under Section 505(b) of the Act, 42 U.S.C. § 7661d(b), the Administrator is authorized to review state operating permits issued pursuant to Title V and to object to permits that fail to assure compliance with applicable requirements of the Act. In particular, under Section 505(b)(1) of the Act, 42 U.S.C. § 7661d(b)(1), EPA is to object to the issuance of a proposed Title V permit if the Agency determines that the issuance of the permit is "not in compliance with the applicable requirements of this Act, including the requirements of an applicable implementation plan." For the purposes of the Administrator's review and objection opportunity pursuant to Section 505(b), 42 U.S.C. § 7661d(b), the applicable requirements include the

substantive and procedural requirements of the Louisiana NNSR program.<sup>1</sup>

When EPA does not object to a Title V permit on its own initiative, Section 505(b)(2) of the Act, 42 U.S.C. § 7661d(b)(2), provides that any person may petition the Administrator to object to the issuance of the permit by demonstrating that it is not in compliance with all applicable requirements. See also 40 C.F.R. § 70.8(d). Pursuant to Section 505(b)(2) of the Act, 42 U.S.C. § 7661d(b)(2), petitions "shall be based only on objections that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise

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<sup>1</sup> Sections 110(a)(2)(C) and 172(c) of the Act, 42 U.S.C. §§ 7410(a)(2)(C) and 7502(c), require each state to revise its State Implementation Plan (SIP) to include a NNSR program. EPA approved Louisiana's NNSR SIP revision for major sources on October 10, 1997. 62 Fed. Reg. 52948; 40 C.F.R. § 52.970(c)(68).

Under 40 C.F.R. § 70.1(b), "all sources subject to Title V must have a permit to operate that assures compliance by the source with all applicable requirements." Applicable requirements are defined in 40 C.F.R. § 70.2 to include "(1) any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the [Clean Air] Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in [40 C.F.R.] Part 52."

Louisiana defines "federally applicable requirement" in relevant part, to include "any standard or other requirement provided for in the Louisiana State Implementation Plan approved or promulgated by EPA through rulemaking under title I of the Clean Air Act that implements the relevant requirements of the Clean Air Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52, subpart T." L.A.C. 33:III.502. Thus, the applicable requirements of the Exxon Permit include the requirement to obtain an NNSR (preconstruction) permit that in turn complies with the applicable NNSR requirements under the Louisiana SIP.

such objections within such period or unless the grounds for such objection arose after such period)."

### III. BACKGROUND

Exxon Chemical Americas, a division of the Exxon Chemical Company (Exxon), proposed to construct a polypropylene unit at the existing Baton Rouge Polyolefins Plant in Baton Rouge, Louisiana. Paxon Polymer Company, L.P. II is the owner of this facility; Exxon became the operator on January 1, 1998. Exxon submitted an application to LDEQ dated December 23, 1997 for a Part 70 Operating Permit (Title V Permit). Exxon also submitted additional information to LDEQ dated April 7, April 15, April 20, May 2, May 6, June 10, and June 15, 1998.

LDEQ submitted a proposed permit<sup>2</sup> for the polypropylene unit to EPA Region VI for review on June 25, 1998. The permit went out for public comment on July 7, 1998. EPA Region 6 provided written comments to LDEQ by a letter dated July 23, 1998. LDEQ faxed responses to EPA on August 6, 11, and 17, 1998. A letter dated August 4, 1998 (received by LDEQ on August 7, 1998) requested a public hearing. Notice of a public hearing was published in The Advocate, Baton Rouge, Louisiana, on

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<sup>2</sup> Even though the permit was marked "draft", it met the definition of "proposed permit" in L.A.C. 33:III.502. "Proposed permit" is defined as "the version of a permit for which the permitting authority (DEQ) offers public participation, affected state review, or EPA review."

September 15, 1998. LDEQ held a public hearing at the Alsen Community Center, Alsen, Louisiana on October 14, 1998. The public comment period ended October 30, 1998. On November 24, 1998, LDEQ issued the final permit to Exxon.

Under the authority of the permit, Exxon proposes to construct and operate a 700 million pound per year polypropylene unit at an existing polyolefins plant. The facility is subject to NNSR, Louisiana Air Quality Regulations, New Source Performance Standards, and is located in a nonattainment area.<sup>3</sup> The net increase associated with the unit is 32.54 tons per year (TPY) of volatile organic compounds (VOC). Exxon applied emission reduction bank credits to offset emissions from the polypropylene unit.<sup>4</sup>

#### **IV. ISSUES RAISED**

Petitioners request that the Exxon permit be denied or revoked on two general grounds: (1) alleged discrimination under Title VI of the Civil Rights Act; and (2) that the Baton Rouge ozone nonattainment area is not making reasonable further

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<sup>3</sup> The Baton Rouge area is designated as a serious nonattainment area for ozone. See 40 C.F.R. § 81.319.

<sup>4</sup> See Letter from Frank E. Bains, Manager, Safety & Environmental Affairs, Exxon Americas, to Gustave A. Von Bodungen, Assistant Secretary, Air Quality Division, LDEQ (April 20, 1998) (submitting Feb. 18, 1998 LDEQ Emissions Reduction Credit Certificate for 40 tons of VOC for proposed polypropylene unit).

progress towards attainment, and that the additional emissions from the proposed polypropylene unit will adversely affect the ozone situation.<sup>5</sup> Petition at 2 - 3. Each of these two grounds is discussed in more detail below.

**A. Alleged Discrimination Under Title VI of the Civil Rights Act**

Section 601 of the Civil Rights Act of 1964 provides the following:

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d. Petitioners allege that the Exxon Permit should be denied because of the "discriminatory effects resulting from the issuance of pollution control permits by the State of Louisiana and [LDEQ] in and near the Alsen area of Louisiana, including the north Baton Rouge area," within the meaning of Title VI of the Civil Rights Act. Petition at 2. Petitioners further allege that the granting of a permit allowing air emissions from the proposed Exxon polypropylene unit will be a discriminatory act and will create a disparate impact that adds to an existing disparate impact on a racial or ethnic population, or creates a disparate impact on a racial or ethnic population. *Id.* Finally, Petitioners request that "EPA and the Department of

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<sup>5</sup> These objections were raised during the public comment period by a letter to LDEQ from Ms. Marylee Orr, Executive Director of LEAN, dated October 14, 1998.

Justice investigate all permitting efforts by the State of Louisiana and determine if civil rights violations have occurred due to effects resulting from the issuance of pollution control permits by . . . LDEQ in the Alsen and north Baton Rouge areas." *Id.*

Along with the alleged civil rights violations, Petitioners also raise environmental justice concerns. On February 11, 1994, the President issued Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 *Fed. Reg.* 7629 (February 16, 1994), and an accompanying memorandum, 30 *Weekly Comp. Pres. Doc.* 279-80 (February 11, 1994), to the heads of federal departments and agencies. Executive Order 12898 establishes the Administration's policy for identifying and addressing disproportionately high and adverse human health or environmental effects of federal agency programs, policies, and activities on minority communities and low-income communities.<sup>6</sup> As noted in the Presidential memorandum that accompanies Executive Order 12898, it is designed to focus the attention of federal agencies on the human health and environmental conditions in these communities to realize the goal of achieving environmental justice. The Presidential memorandum emphasizes several

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<sup>6</sup> While Executive Order 12898 was intended for internal management of the executive branch and not to create legal rights, federal agencies are required to implement its provisions "consistent with, and to the extent permitted by, existing law." Sections 6-608 and 6-609, 59 *Fed. Reg.* at 7632-33.



provisions of environmental, civil rights, and other statutes that provide opportunities for agencies to address environmental hazards in minority communities and low-income communities. In relevant part, it identifies Title VI of the Civil Rights Act as a tool for promoting environmental justice in programs or activities affecting human health or the environment that receive federal financial assistance.

As a recipient of EPA financial assistance, the programs and activities of LDEQ, including its issuance of the Exxon Permit, are subject to the requirements of Title VI of the Civil Rights Act and EPA's implementing regulations (40 C.F.R. Part 7). As stated earlier, today's order does not dispense with the Title VI complaint filed with EPA's Office of Civil Rights (OCR). EPA's OCR is reviewing Petitioners' Title VI complaint to determine whether to accept the complaint for investigation. EPA's OCR will be notifying Petitioners about its decision.

To justify exercise of an objection by EPA to a Title V permit pursuant to Section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), Petitioners must demonstrate that the permit is not in compliance with the requirements of the Act, including the requirements of the Louisiana SIP. While there may be authority under the Clean Air Act to consider civil rights issues in some circumstances to justify objection to a Title V permit, Petitioners have not shown that their particular civil rights concerns are grounds under the Clean Air Act for objection

to the Exxon Permit. Thus, the request to object on this ground is denied.

**B. Reasonable Further Progress Towards Attainment**

Petitioners also assert that the Exxon Permit should be denied because:

- (1) the Baton Rouge ozone nonattainment area is not making reasonable further progress towards attainment and doesn't adhere to the requirements of Title I of the Clean Air Act; and
- (2) the addition of air emissions from the proposed polypropylene facility will not help and will only hinder the area in achieving ozone attainment, and in meeting the ozone attainment and overall air quality requirements of Title I; this will not allow reasonable further progress for the purpose of ensuring attainment of the applicable national ambient air quality standard.

Petition at 2 - 3. Petitioners support their arguments through a discussion of the ozone exceedances days in the Baton Rouge area during 1998 and 1999. Petition at 3. These two issues will be discussed separately.

**1. Reasonable Further Progress**

As previously stated, to justify exercise of an objection by EPA to a Title V permit pursuant to Section 505(b)(2) of the Act, Petitioners must demonstrate that the permit is not in compliance with "applicable requirements" of the Act, which include the requirements of the Louisiana SIP. Petitioners' argument that the Exxon Permit should be denied because the Baton Rouge ozone nonattainment area is not making reasonable further progress is not a valid basis for objection to the permit, because the Title

I reasonable further progress obligation is not an "applicable requirement" for particular sources within the meaning and purview of the Title V operating permit program.

SIP requirements for nonattainment areas generally include an obligation that States meet reasonable further progress (RFP) milestones.<sup>7</sup> RFP is a planning obligation for States required by the Act. See 42 U.S.C. §§ 7502(c)(2) & 7511a(b)(1). States meet this RFP obligation by adopting specific control measures applicable to particular sources through their SIPs. The RFP obligation itself, however, is not imposed directly on any particular source. Accordingly, this programmatic SIP obligation is not an applicable requirement intended to be implemented as a term or condition of Title V permits held by individual sources. See 40 C.F.R. § 70.2 (definition of applicable requirement). By comparison, the specific SIP control measures applicable to particular sources that are adopted in furtherance of the State's RFP obligation will be applicable requirements for particular permits. *Id.* With the possible exception of the issue addressed

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<sup>7</sup> Reasonable further progress means "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." 42 U.S.C. § 7501(1).

States with ozone nonattainment areas classified as moderate or higher under Section 181(a)(1) of the Act are required to include SIP provisions mandating specific amounts of reductions in ozone precursors within specified periods of time. See 42 U.S.C. §§ 7511(a)(1), 7511a(b)(1) & 7511a(c)(2)(B). The Baton Rouge area has been designated nonattainment for ozone and classified as serious. See 40 C.F.R. § 81.319.

in section IV.B.2 below, however, Petitioners have not challenged the unlawfulness of any particular permit term in the Exxon Permit in support of its broader RFP claims.

In the preamble to the final rule promulgating 40 C.F.R. Part 70 (State Operating Permit Programs), EPA stated the following:

The EPA proposed that the NAAQS is a SIP requirement, not an "applicable requirement" for title V permits. In the case of large, isolated sources such as power plants or smelters where attainment of the NAAQS depends entirely on the source, EPA proposed that the NAAQS may be an applicable requirement and solicited comment on this position.

An environmental group commented that excluding protection of ambient standards, PSD increments or visibility requirements as applicable requirements are unlawful and bad policy. It argued that section 504(e) expressly defines "requirements of the Act" as "including, but not limited to, ambient standards and compliance with applicable increment or visibility requirements under part C of title I." Although this provision applies only to temporary sources, the group asserts that it would be anomalous for Congress to impose more comprehensive permit requirements for temporary sources than for permanent sources.

The EPA disagrees with the comment that would apply section 504(e) to permanent sources. Temporary sources must comply with these requirements because the SIP is unlikely to have performed an attainment demonstration on a temporary source. To require such demonstration as (sic) on every permitted source would be unduly burdensome, and in the case of area-side (sic) pollutants like ozone where a single source's contribution to any NAAQS violation is extremely small, performing the demonstration would be meaningless. Under the Act, NAAQS implementation is a requirement imposed on States in the SIP; it is not imposed directly on a source. In its final rule, EPA clarifies that the NAAQS and the increment and visibility requirements under part C of title I of the Act are applicable requirements for temporary sources only.

57 *Fed. Reg.* 32250, 32276 (July 21, 1992); see also 40 C.F.R. § 70.2 (definition of applicable requirement). Like programmatic SIP demonstrations to attain the national ambient air quality standards (NAAQS), RFP is a broad SIP planning obligation for the State and not a Title V applicable requirement for a particular source. Finally, even if RFP were an applicable requirement for temporary sources under Section 504(e) of the Act, the Polyolefins Plant is not a temporary source. Even though these broader RFP issues cannot be addressed in this forum, I understand that the Region 6 Regional Administrator plans to address these concerns in a separate response.

## **2. Additional Air Emissions from the Proposed Facility**

Petitioners also claim that "the addition of air emissions from the proposed polypropylene facility will not help and only hinder the area from achieving ozone attainment and in meeting the ozone attainment and overall air quality requirements of Title I and not allow reasonable further progress for the purpose of ensuring attainment of the applicable national ambient air quality standard." Petition at 3. Since Petitioners do not object to any particular provision of the Exxon Permit, EPA has interpreted this concern about additional air emissions as raising the issue whether Exxon obtained the proper emissions

offsets under Louisiana's NNSR regulations.<sup>8</sup> NNSR requirements are applicable requirements and issues relating to NNSR may be addressed in a Title V petition. *See supra* at 4, n.1.

The NNSR program is a preconstruction review and permitting program for major stationary sources that is addressed in title I of the Act. The program regulates the construction and modification of major stationary sources of air pollutants in areas designated nonattainment for a particular criteria pollutant. The particular Exxon project is located in an area that is classified as a serious nonattainment area for ozone; volatile organic compounds (VOC)<sup>9</sup> are regulated as the surrogate air pollutants for ozone. Under the Act, permits to construct in a nonattainment area may only be issued to major new and modified

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<sup>8</sup> This interpretation is supported by the March 1, 1999 letter from Ms. Orr, which criticizes the Exxon Permit emissions offsets as an inadequate degree of reduction for the Baton Rouge area to achieve attainment with the ozone NAAQS. *See* Letter from Marylee Orr, Executive Director, LEAN, to Carol Browner, U.S. EPA Administrator (March 1, 1999).

This letter also raises a separate argument, not raised in the December 30, 1998 petition, contending that the Exxon Permit's 1.2:1 ratio of emissions offsets do not represent reasonable further progress within the meaning and requirements of Section 173(a)(1)(A) of the Act, 42 U.S.C. § 7503(a)(1)(A). These same petitioners have developed this argument more fully in an August 24, 1999 petition to EPA to object to the issuance of a permit by LDEQ to Borden Chemicals, Inc., for the construction and operation of a new formaldehyde plant in Geismar, Louisiana (Borden Permit). In the petition on the Borden Permit, Petitioners also challenge the 1.2:1 offsets ratio reflected there under Section 173(a)(1)(A). Because Petitioners' Section 173(a)(1)(A) arguments are more fully developed in the Borden petition, and because EPA's responses there will be accordingly more comprehensive, we will address those arguments in the order for the Borden petition rather than in today's order.

<sup>9</sup> EPA approved a petition for exemption from nitrogen oxides (NO<sub>x</sub>) requirements for the serious ozone nonattainment area of Baton Rouge pursuant to Section 182(f) of the Act, 42 U.S.C. § 7511a(f). Therefore, NO<sub>x</sub> NNSR is not required in this area. *See* 62 *Fed. Reg.* at 52949.

sources if certain requirements set forth in Part D of Title I of the Act are met.<sup>10</sup> Section 173(a)(1)(A) of the Act, 42 U.S.C. § 7503(a)(1)(A), provides that a preconstruction (NNSR) permit may be issued if the permitting authority determines that:

sufficient offsetting emissions reductions have been obtained, such that total allowable emissions from existing sources in the region, from new or modified sources which are not major emitting facilities, and from the proposed source will be significantly less than total emissions from existing sources . . . so as to represent . . . reasonable further progress (as defined in section [171] of [title I]). . . .

Thus, Exxon must obtain emission offsets in such an amount that represents reasonable further progress.<sup>11</sup> In addition,

EPA interprets section 173(a)(1)(A) to ratify current EPA regulations requiring that the emissions baseline for offset purposes be calculated in a manner consistent with the emission baseline used to demonstrate RFP. Regarding the amount that is necessary to show noninterference with RFP, EPA will presume that so long as a new source obtains offsets in an amount equal to or greater than the amount specified in the applicable offset ratio . . . the new source will represent RFP.

57 *Fed. Reg.* 13498, 13552 (April 16, 1992).

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<sup>10</sup> EPA approved the State of Louisiana's NNSR SIP revision (which implemented the requirements of Part D) on October 10, 1997. 62 *Fed. Reg.* 52948. The NNSR requirements for major sources are set forth in L.A.C. 33:III:504.

<sup>11</sup> In this case, emissions offsets designed to meet RFP are implemented through a NNSR permit program required under Louisiana's SIP. Thus, the State carries out its programmatic RFP obligation, in part, through a SIP permit program applicable to individual sources. The terms and conditions of those SIP permits are applicable requirements of a Title V permit, and the substantive and procedural validity of those requirements may be challenged through Title V procedures. As noted earlier, however, the programmatic RFP obligation is not itself a Title V applicable requirement and may not be challenged through this petition process.

The net increase associated with the polypropylene unit is 32.54 TPY of VOC. The Louisiana SIP requires offsets at the ratio of 1.2:1, or 39.05 TPY. L.A.C. 33:III.504.Table 1. The Polyolefins Plant received 40 TPY of VOC emission credits from the nearby Exxon-Baton Rouge Chemical Plant on January 20, 1998. LDEQ issued an Emission Reduction Credit Bank Certificate on February 18, 1998 for 40 tons of VOC.<sup>12</sup> Exxon applied these credits to offset emissions from the polypropylene unit.<sup>13</sup> This means that these credits are retired, resulting in a net reduction in area wide baseline emissions. Since offsets greater than 39.05 TPY were obtained, EPA presumes that RFP has been met. See 57 *Fed. Reg.* at 13552. Petitioners failed to provide any evidence to overcome the presumption that RFP has been met. *Id.* Therefore, the request to object on this ground is denied.

## V. CONCLUSION

For the reasons set forth above, I deny the petition of LEAN requesting the Administrator to object to issuance of the Exxon

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<sup>12</sup> See Letter to Gustave A. Von Bodungen, Assistant Secretary, Air Quality Division, LDEQ from Frank E. Bains, Manager, Safety & Environmental Affairs, Exxon Americas (April 20, 1998), with attached LDEQ Emissions Reduction Credit Certificate (Feb. 18, 1998). L.A.C. 33:III.607.F requires that emission reduction credits be surplus emission reductions. Surplus emission reductions are those "emission reductions that are voluntarily created for an emissions unit and have not been required by any local, state, or federal law, regulation, order or requirement and are in excess of reductions used to demonstrate attainment of federal and state ambient air quality standards." L.A.C. 33:III.605.

<sup>13</sup> See *supra* at 7, n.4.



Permit pursuant to Section 505(b) of the Act, 42 U.S.C.  
§ 7661d(b).

Date:

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Carol M. Browner  
Administrator

established in 40 CFR Part 68, EPA ICR No. 1956.01. This is a new collection.

**Abstract:** On June 20, 1996, EPA published risk management regulations mandated under the accidental release prevention provisions under the Clean Air Act Section 112(r)(7), 42 U.S.C. 7412(r)(7). These regulations were codified in 40 CFR Part 68. The intent of Section 112(r) is to prevent accidental releases to the air and mitigate the consequences of such releases by focusing prevention measures on chemicals that pose the greatest risk to the environment. The chemical accident prevention rule required owners and operators of stationary sources subject to the rule to submit a risk management plan by June 21, 1999 to EPA. The Office of Chemical Emergency Preparedness and Prevention (OCEPP), Superfund Division, Region 5, is responsible for implementing and enforcing the Risk Management Program. In order to fulfill its responsibilities as the implementing office, OCEPP will collect information from major stationary sources of air emissions to determine whether or not these sources are in compliance with the risk management program regulations. The information will be requested through certified mail and pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. 7414(a). Therefore, response to the information collection is mandatory.

Any information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979). 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 OMB control number.

The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The information collected will include the names of the regulated substances used, produced, or stored on-site; amount of the regulated substances; copies of inventory records; copies of Material Safety Data Sheets; capacity of the container which stores or handles the regulated substance; and the number of employees.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Burden Statement:** EPA estimates that a total of 2,000 respondents will receive the request for information. The total burden for the respondents for this collection of information is estimated to be 3,000 hours with an average of 1.5 hours per response and a labor cost of \$49. The responses will be one-time, and do not involve periodic reporting or recordkeeping. No capital or start-up expenses will be required. 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.

Dated: April 28, 2000.

**William Munro,**

*Director, Superfund Division.*

[FR Doc. 00-11568 Filed 5-8-00; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6603-6]

### Clean Air Act Operating Permit Program; Petition for Objection to Proposed State Operating Permit for Exxon Chemical Americas' (Exxon) Polypropylene Unit Baton Rouge Polyolefins Plant Baton Rouge, East Baton Rouge Parish, Louisiana

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

**ACTION:** Notice of final order on petition to object to State operating permit.

**SUMMARY:** This notice announces that the EPA Administrator has denied a petition to object to a proposed state operating permit issued by the Louisiana Department of Environmental Quality for Exxon's Chemical Americas proposed polypropylene unit at its Polyolefins Plant in Baton Rouge, Louisiana. Pursuant to section 505(b)(2) of the Clean Air Act (Act), the petitioners may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under section 307 of the Act.

**ADDRESSES:** You may review copies of the final order, the petition, and other supporting information at EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at the following address: <http://www.epa.gov/ttn/oarpg/t5pfr.html>.

**FOR FURTHER INFORMATION CONTACT:** Jole Luehrs, Chief, Air Permitting Section, Multimedia Planning and Permitting Division, EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7250, or e-mail at [luehrs.jole@epa.gov](mailto:luehrs.jole@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Ms. Marylee Orr, Executive Director of the Louisiana Environmental Action Network (LEAN) submitted a petition to the Administrator on December 30, 1998, seeking EPA's objection to the title V operating permit issued for Exxon's proposed polypropylene unit at Exxon's polyolefins plant in Baton Rouge, Louisiana. The petition was submitted on behalf of the North Baton Rouge Environmental Association and LEAN (Petitioners). The petition objects to issuance of the Exxon permit on two grounds: (1) Alleged discrimination under Title VI of the Civil Rights Act; and (2) the Baton Rouge ozone

nonattainment area is not making reasonable further progress towards attainment, and that the additional emissions from the proposed polypropylene unit will adversely affect the ozone situation. Ms. Orr also submitted a letter supplementing the petition on behalf of LEAN on January 5, 1999, and another letter on March 1, 1999, requesting that the Exxon permit be reopened. The Region 6 Regional Administrator also addressed the second issue in a separate letter to the Petitioners.

On April 12, 2000, the Administrator issued an order denying the petition. The order explains the reasons for denying the Petitioners' claims.

Dated: April 28, 2000.

**Carl E. Edlund,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 00-11567 Filed 5-8-00; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6602-7]

### Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), Union Pacific Railroad Wallace-Mullan Branch

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

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement with the Union Pacific Railroad Company for recovery of certain response costs concerning the Union Pacific Railroad Wallace-Mullan Branch in northern Idaho. The settlement requires Union Pacific to pay a total of \$650,000 to the Hazardous Substance Superfund. The settlement includes a limited covenant not to sue pursuant to 42 U.S.C. 9607(a) and provides for contribution protection pursuant to 42 U.S.C. 9622(h). This administrative settlement will be superseded upon entry of a consent decree lodged on December 23, 1999, by the United States, State of Idaho, Coeur d'Alene, and Union Pacific, Case No. 99-606-N-EJL (D. Idaho), or will otherwise terminate three months from the effective date of the administrative settlement, unless otherwise agreed by the parties to this settlement. EPA will

consider public comments on the proposed administrative settlement for thirty days. EPA may withdraw from or modify this proposed settlement should such comments disclose facts or considerations which indicate this proposed settlement is inappropriate, improper, or inadequate.

**DATES:** Written comments must be provided on or before June 8, 2000.

**ADDRESSES:** Comments should be addressed to Clifford J. Villa, Assistant Regional Counsel, Environmental Protection Agency, Region 10, 1200 Sixth Ave., ORC-158, Seattle, Washington 98101 and refer to In the Matter of Union Pacific Railroad Wallace-Mullan Branch Notice of Proposed Administrative Settlement.

Copies of the proposed settlement are available from: Clifford J. Villa, U.S. Environmental Protection Agency, Region 10, Office of Regional Counsel, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553-1185.

**FOR FURTHER INFORMATION CONTACT:** Clifford J. Villa at (206) 553-1185.

**Authority:** The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i).

**Sheila M. Eckman,**

*Acting Regional Administrator, Region 10.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6604-1]

### Public Water System Supervision Program Revision for the State of South Dakota

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

**ACTION:** Notice.

**SUMMARY:** The State of South Dakota has revised its Public Water System Supervision (PWSS) Primacy Program. South Dakota's PWSS program, administered by the Drinking Water Program of the South Dakota Department of Environment and Natural Resources (DENR), has adopted regulations for lead and copper in drinking water that correspond to the National Primary Drinking Water Regulations (NPDWR) in 40 CFR part 141 Subpart I (56 FR 26460-26564). The Environmental Protection Agency (EPA) published a proposed primacy revision on August 16, 1999 at 64 FR 44521 and provided for public comment. The EPA also held a public hearing on December 2, 1999, in Badlands National Park,

South Dakota (64 FR 61109). No comments were received regarding PWSS program issues. The EPA has completed its review of South Dakota's primacy revisions and has determined that they are no less stringent than the NPDWR. EPA therefore approves South Dakota's primacy revisions for the Lead and Copper Rule.

Today's approval action does not extend to public water systems in Indian Country as that term is defined in 18 U.S.C. 1151. Please see

**SUPPLEMENTARY INFORMATION, Item B.**

**DATES:** This primacy revision approval will be effective June 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Linda Himmelbauer, Municipal Systems Unit, EPA Region 8 (8P-W-MS), 999 18th Street, Suite 500, Denver, Colorado 80202-2466, telephone 303-312-6263.

**SUPPLEMENTARY INFORMATION:**

#### A. Why Are Revisions to State Programs Necessary?

States which have received primacy from EPA under the SDWA must maintain a safe drinking water program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their program and ask EPA to approve the revisions to their programs. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur.

#### B. How Does Today's Action Affect Indian Country (18 U.S.C. Section 1151) in South Dakota?

South Dakota is not authorized to carry out its Public Water System Supervision program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to: Lands within the exterior boundaries of the following Indian Reservations located within the State of South Dakota:

- Cheyenne River Indian Reservation.
- Crow Creek Indian Reservation.
- Flandreau Indian Reservation.
- Lower Brule Indian Reservation.
- Pine Ridge Indian Reservation.
- Rosebud Indian Reservation.
- Standing Rock Indian Reservation.
- Yankton Indian Reservation.

EPA held a public hearing on December 2, 1999, in Badlands National Park, South Dakota, and accepted public comments on the question of the location and extent of Indian country within the State of South Dakota. In a forthcoming **Federal Register** notice, EPA will respond to comments and more specifically identify Indian country areas in the State of South Dakota.