to the Joe Foss Field airport that are suitable for the secure storage of cargo pending inspection and release by Customs, and that the Sioux Falls Regional Airport Authority has committed to providing administrative office space, inspection areas, storage areas, and other space necessary for regular Customs operations and will also furnish the Customs office with necessary communications equipment such as a computer, a telephone, a facsimile machine, and computer lines as well as access to photocopiers.

Based on the information provided to Customs and summarized above, Sioux Falls would meet the current minimum criteria for port of entry designation set forth in T.D. 82–37, as revised. It is noted that the proposal relies on potential, rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, Customs will in 3 years review the actual workload generated within the port of entry. If that review indicates that the actual workload is below the T.D. 82–37 standards, procedures will be instituted to revoke port of entry status. Of course, if port of entry status is revoked, the City of Sioux Falls will have the opportunity to apply for user fee airport status under 19 U.S.C. 58b.

Proposed Limits of Port of Entry

The geographical limits of the proposed port of entry of Sioux Falls would be as follows:

All of Minnehaha and Lincoln Counties in the State of South Dakota.

If the proposed port of entry designation is adopted, the list of Customs ports of entry in 19 CFR 101.3(b) will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

The Regulatory Flexibility Act and Executive Order 12866

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, matters involving agency management and organization are not subject to Executive Order 12866.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 14, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–24864 Filed 10–5–95; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA 32–1–7190; FRL–5309–8]

Approval and Promulgation of Implementation Plans; Louisiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve Louisiana's request to grant an exemption for the Baton Rouge ozone nonattainment area from the applicable oxides of nitrogen (NO_X) transportation conformity requirements. On July 25, 1995, Louisiana submitted, to the EPA, a State Implementation Plan (SIP) revision request for an exemption (under section 182(b)(1) of the Clean Air Act (Act)) from the conformity requirements for NO_X for the Baton Rouge ozone nonattainment area, which is classified as serious. The State of Louisiana bases its request for Baton Rouge upon a modeling demonstration that additional NO_X reductions would not contribute to ozone attainment in the nonattainment area.

DATES: Comments on this proposed action must be received in writing on or before November 6, 1995.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne McDaniels or Mr. Quang Nguyen, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

Background

Clean Air Act section 176(c)(3)(A)(iii) requires, in order to demonstrate conformity with the applicable SIP, that transportation plans and transportation improvement programs (TIPs) contribute to emissions reductions in ozone and carbon monoxide nonattainment areas during the period before control strategy SIPs are approved by the EPA. This requirement is implemented in 40 CFR 51.436 through 51.440 (and 93.122 through 93.124), which establishes the so-called ''build/no-build test.'' This test requires a demonstration that the ''Action'' scenario (representing the implementation of the proposed transportation plan/TIP) will result in lower motor vehicle emissions than the ''Baseline'' scenario (representing the implementation of the current transportation plan/TIP). In addition, the ''Action'' scenario must result in emissions lower than 1990 levels.

The November 24, 1993, final transportation conformity rule does not require the build/no-build and less-than-1990 tests for NO_X as an ozone precursor in ozone nonattainment areas where the Administrator determines that additional reductions of NO_X would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. Clean Air Act section 176(c)(3)(A)(iii), which is the conformity provision requiring contributions to emissions reductions before SIPs with emissions budgets can

be approved, specifically references Clean Air Act section 182(b)(1). That section requires submission of State plans that, among other things, provide for specific annual reductions of volatile organic compounds (VOCs) and NO_X emissions ''as necessary'' to attain the ozone standard by the applicable attainment date. Section 182(b)(1) further states that its requirements do not apply in the case of NO_X for those ozone nonattainment areas for which the EPA determines that additional reductions of NO_X would not contribute to ozone attainment.

For ozone nonattainment areas, the process for submitting waiver requests and the criteria used to evaluate them are explained in the December 1993 EPA document ''Guidelines for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f),'' and the May 27, 1994, and February 8, 1995, memoranda from John Seitz, Director of the Office of Air Quality Planning and Standards, to Regional Air Directors, titled ''Section 182(f) NO_X Exemptions—Revised Process and Criteria.''

In a petition dated November 17, 1994, and in two follow-up letters to the petition, the Louisiana Department of Environmental Quality (LDEQ) requested that the EPA grant an exemption from the requirements of section 182(f) of the Act to include the reasonably available control technology (RACT) and new source review (NSR) requirements for major stationary sources of NO_X, inspection and maintenance (I/M) NO_X requirements, and transportation and general conformity requirements for NO_X.

On August 18, 1995, the EPA published a rulemaking proposing approval of the NO_X exemption for the RACT, NSR, I/M, and general conformity requirements. The Region did not propose approval of the transportation conformity exemption in that notice, however. The reason for not including the transportation conformity among the proposed exemptions stems from an April 1995 agreement by the EPA to change the procedural mechanism through which a NO_X exemption from transportation conformity exemption would be granted (*EDF et al. v. U.S. E.P.A*, No. 94–1044, U.S. Court of Appeals, D.C. Circuit). (The EDF et al. argued that NO_X exemptions are provided for in two separate parts of the Act in sections 182(b)(1) and 182(f), but that the Act's transportation conformity provisions in section 176(c)(3) explicitly reference section 182(b)(1).) Therefore, instead of a petition under section 182(f), transportation conformity NO_X exemptions for ozone nonattainment areas that are subject to section 182(b)(1) now need to be submitted as a SIP revision. The Baton Rouge ozone nonattainment area is classified as serious and, thus, is subject to section 182(b)(1).

The transportation conformity requirements are found at sections 176(c) (2), (3), and (4). The conformity requirements apply on an areawide basis in all nonattainment and maintenance areas. As originally promulgated, the EPA's transportation conformity rule [1] and general conformity rule [2] referenced the section 182(f) exemption process as a means for exempting any nonattainment area from NO_X conformity requirements. On August 29, 1995, the EPA amended the transportation conformity rule to instead reference section 182(b)(1) as the means for exempting areas subject to section 182(b)(1) from the transportation conformity NO_X requirements.[3]

The July 25, 1995, SIP revision request from Louisiana has been submitted to meet the requirements of a formal SIP revision submittal in accordance with the 182(b)(1) requirements. A public hearing on this SIP revision request was held on June 29, 1995. The Baton Rouge serious ozone nonattainment area consists of the following parishes: East Baton Rouge, West Baton Rouge, Pointe Coupee, Livingston, Iberville, and Ascension.

Section 182(b)(1) requires submittal of a plan revision that provides for reasonable further progress (RFP) reductions for moderate and above ozone nonattainment areas. The plan must provide for specific annual reductions in emissions from VOCs and NO_X, as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under the Act. Further, the requirement shall not apply in the case of NO_X for which the Administrator determines that additional reductions of NO_X would not contribute to attainment. In evaluating the 182(b) SIP revision request, the EPA considered whether additional NO_X reductions would contribute to attainment of the standard in the Baton Rouge area.

As outlined in the relevant EPA guidance, the use of photochemical grid modeling is the recommended approach for testing contribution of NO_X emission reductions to attainment of the ozone standard. This approach simulates conditions over the modeling domain that may be expected at the attainment deadline for three emission reduction scenarios: (1) Substantial VOC reductions, (2) substantial NO_X reductions, and (3) both VOC and NO_X reductions. If the areawide predicted maximum one-hour ozone concentration for each day modeled under scenario (1) is less than or equal to those from scenarios (2) and (3) for the corresponding days, the test is passed and the section 182(f) NO_X emissions reduction requirements would not apply.

The EPA has made a determination under section 182(b)(1) that the NO_X requirements do not apply. The EPA has based its decision on an urban airshed modeling (UAM) demonstration that additional NO_X reductions would not contribute to attainment in the Baton Rouge area.

State Submittal

On July 25, 1995, the State of Louisiana submitted, as a revision to the SIP, a request for an exemption from the transportation conformity NO_X requirements. The State bases its request on an urban airshed modeling (UAM) demonstration that additional NO_X reductions would not contribute to attainment in the area. The modeling demonstrates, consistent with the EPA's December 1993 section 182(f) guidance, that decreases in ozone concentrations resulting from VOC reductions alone are equal to or greater than decreases obtained from NO_X reductions or a combination of VOC and NO_X reductions. The State's submission includes a letter dated July 17, 1995, from the Governor of Louisiana requesting the exemption to the NO_X transportation conformity requirements and a summary of the UAM modeling results. The State of Louisiana also provided supplemental technical reports based on the modeling demonstration in the Baton Rouge post-1996 rate-of-progress (ROP) plan submitted to the EPA on November 15, 1994, pursuant to the requirements of section 182(c)(2)(B) of the Act. These reports contained the following: base case model inputs, base case performance evaluation, 1999 emissions report, and attainment modeling report. These additional technical reports provided supplemental detail and

[1] ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act,'' November 24, 1993 (58 FR 62188).

[2] ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule,'' November 30, 1993 (58 FR 63214).

[3] ''Transportation Conformity Rule Amendments: Authority for Transportation Conformity Nitrogen Oxides Waivers; Interim Final Rule,'' August 29, 1995 (60 FR 44762).

documentation on the modeling information provided to the EPA in the State's petition.

Analysis of State Submission

In evaluating the section 182(b)(1) transportation conformity NO_X exemption, the EPA applied the same criteria/guidance used for evaluating section 182(f) NO_X waiver requests. The following items are the basis for the EPA's action proposing to approve the State of Louisiana's section 182(b)(1) NO_X exemption request for the Baton Rouge ozone nonattainment area. Please refer to the EPA's Technical Support Document and the State's submittal for more detailed information.

A. Consistency With EPA NO_X Exemption Guidance

Chapter 4 of the EPA's December 1993 section 182(f) guidance requires that photochemical grid modeling be used to simulate conditions resulting from three emission reduction scenarios: (1) Substantial VOC reductions; (2) Substantial NO_X reductions; and (3) both VOC and NO_X reductions. To demonstrate that NO_X reductions would not contribute to attainment, the areawide predicted maximum 1-hour ozone concentration for each day modeled under scenario (1) must be less than or equal to that from scenarios (2) and (3) for the same day. Chapter 7 specifies that the application of UAM should be consistent with the techniques specified in the EPA ''Guideline on Air Quality Models (Revised),'' and ''Guideline for Regulator Application of the UAM (July 1991).'' In addition, Chapter 8 of the EPA's December 1993 section 182(f) guidance requires that the modeling simulating conditions from the NO_X emission reduction scenarios include NO_X emission increases after November 15, 1992, due to new or modified stationary sources of NO_X. (Many of these sources would be subject to the best available control technology requirement through the prevention of significant deterioration program, but not to NSR offsets.) As discussed in the next section, the State has met these requirements by using the UAM consistent with the EPA's guidance.

B. UAM Modeling Analysis

The LDEQ used UAM version IV, an EPA-approved photochemical grid model, to develop the attainment demonstration for the Baton Rouge area. The State's modeling activities were performed as outlined in the UAM modeling protocols, according to the EPA's ''Guideline for Regulatory Application of the Urban Airshed Model.'' A specific modeling protocol was developed by the State for its modeling activities. The State's modeling protocol was reviewed and approved by the EPA. The discussion below summarizes the EPA's analysis of how the State's modeling demonstrations complied with the EPA's guidance. Please refer to the EPA's Technical Support Document for more detailed information.

1. Episode Selection

The State used the EPA ''Guideline For Regulatory Application of The Urban Airshed Model'' to select episodes for use in the Baton Rouge UAM modeling exercises. Data from 1987 through 1991 were examined for episodes which cover at least 48 consecutive hours and the worst-case meteorological conditions. Three episodes were selected for the UAM analysis for the area.

2. Model Domain and Meteorological Input

The LDEQ used a sufficiently large modeling domain for Baton Rouge to ensure that the model captures the movement of ozone episodes as a result of the VOC and NO_X emissions emitted from the surface sources. Meteorological data were collected from numerous monitoring stations in the area. The LDEQ followed the methods described in the UAM user's guides to develop model inputs for wind field data, mixing heights, temperature, and meteorological scalars for the areas.

3. Emissions Inventory

The Baton Rouge modeling exercises were conducted using VOC and NO_X emission inventories compiled by survey and direct measurement by the LDEQ. The modeling emissions inventories are composed of point source, area, on-road mobile, off-road mobile, and biogenic emissions. Where applicable, emissions were adjusted for pertinent conditions related to the episode day to be modeled, thus producing day-specific emissions. The State followed the EPA's procedures for developing episode-specific emission inventories.

The EPA's section 182(f) guidance explains that, in general, the purpose of the section 182(f) requirements for NO_X is related to attainment of the ozone standard, which suggests that an analysis be focussed on the time that attainment of that standard is required. For the purpose of a section 182(f) modeling demonstration, this means that the projected emissions inventory for the attainment year should be used.

For Baton Rouge, the 1999 attainment year modeling inventory was developed from the 1990 base year emission inventory and adjusted to reflect the projected conditions for the attainment year. Demographic and econometric forecasting methods were employed to project activities levels to 1999, which, in turn, were used to develop a projected emissions inventory for 1999. The State then applied the VOC emission reductions that are projected to be realized through 1996 from the control regulations contained in the Baton Rouge 15 percent ROP SIP submitted to the EPA on November 15, 1994, and the NO_X controls implemented between 1990 and 1994 due to facilities' voluntary participation in the early NO_X reduction program. (The 1999 inventories did not incorporate any additional NO_X emission reductions that would have been achieved through implementation of the NO_X RACT, NSR, general and transportation conformity, or NO_X-related I/M provisions.)

4. Model Performance

For Baton Rouge, both graphical and statistical performance measures were used to evaluate the model. Using these analyses, the predicted results from the model were compared to the observed results for each episode. These analyses indicated that, overall, the model performed satisfactorily for the three episodes used for the UAM demonstration.

5. Modeling Demonstration

The EPA's section 182(f) guidance requires the State to model three emission reduction scenarios to evaluate the benefits of NO_X reductions: (1) Substantial VOC reductions; (2) substantial NO_X reductions; and (3) both VOC and NO_X reductions. For the section 182(b)(1) exemption, the LDEQ modeled the three emission reduction scenarios for all three episodes using the 1999 projected emission inventory, which includes the voluntary early (1990–1994) point source NO_X reductions and the VOC emission controls to be implemented through 1996 (i.e., 15 percent ROP). The LDEQ modeled the scenarios using across-the-board reductions in the projected VOC and NO_X point source emission inventories. The State first modeled substantial NO_X and VOC emission reductions as follows: A 100 percent reduction in point source VOC emissions alone; a 100 percent reduction in point source NO_X emissions alone; and a 100 percent reduction in both VOC and NO_X emissions combined. This reduction

represents approximately 46 percent of the total projected anthropogenic VOC emissions and approximately 57% of the total projected NO_X emissions. The State also modeled smaller across-the-board reductions in the projected VOC and NO_X point source emissions of 25%, 50%, and 75% separately and then combined in order to more accurately characterize near-term VOC and NO_X control scenarios.

As explained in the EPA's section 182(f) guidance, the EPA believes it is appropriate to focus this analysis on the areawide maximum 1-hour predicted ozone concentration, since this value is critical for the attainment demonstration. For all three episodes, the controlling day showed that the domain-wide predicted maximum ozone concentrations are lowest when only VOC reductions are modeled. In contrast, further NO_X reductions increase the domain-wide maximum ozone concentrations. Please refer to the EPA's Technical Support Document for more detailed information.

The EPA believes that all NO_X exemptions that are approved should be approved only on a contingent basis. As described in the EPA's NO_X Supplement to the General Preamble (57 FR 55628, November 25, 1992), the EPA would rescind a NO_X exemption in cases where NO_X reductions were later found to be beneficial in the area's attainment plan. That is, a modeling based exemption would last for only as long as the area's modeling continued to demonstrate attainment without the additional NO_X reductions.

If the EPA later determines that additional NO_X reductions from transportation sources are beneficial based on new photochemical grid modeling in an area initially exempted, the area would be removed from exempt status and would be required to implement the NO_X provisions of the transportation conformity rule except to the extent that modeling shows NO_X reductions to be ''excess reductions.''

In summary, the UAM modeling results for the Baton Rouge nonattainment area indicate that additional NO_X reductions as well as NSR control of any NO_X increases related to expected growth would not contribute to attainment of the ozone standard by 1999. The EPA therefore proposes to approve the transportation conformity NO_X exemption for the Baton Rouge area. This exemption will remain effective for only as long as modeling continues to show that NO_X control of transportation sources would not contribute to attainment in the Baton Rouge nonattainment area.

Proposed Rulemaking Action and Solicitation of Comments

Based on the State's SIP revision request and associated documentation, the EPA proposes to approve Louisiana's request for an exemption from the transportation conformity NO_X requirements.

Public comments are solicited on the requested SIP revision and on EPA's proposed rulemaking action. Comments received by November 6, 1995, will be considered in the development of the EPA's final rule.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995, (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action will relieve requirements otherwise imposed under the Act, and hence does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Conformity, Intergovernmental relations, Oxides of nitrogen, Ozone, Transportation conformity.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 29, 1995.

Samuel Coleman,

Acting Regional Administrator.

[FR Doc. 95–24939 Filed 10–5–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[FRL–5309–6]

Clean Air Act Promulgation of Extension of Attainment Date for PM–10 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to grant a 1-year attainment date extension for the Denver, Colorado particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) nonattainment area. This proposed action is based on monitored air quality data for the national ambient air quality standard for PM–10 during the years 1992–94 and EPA's evaluatation of the applicable state implementation plan (SIP).