

In the Final Rules Section of the Federal Register, EPA is granting the State's extension request, as a direct final rule without prior proposal because the Agency views this as a noncontroversial action 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 proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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 on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by November 6, 1995.

**ADDRESSES:** All written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, EPA Region VIII, at the address listed below. Information supporting this action can be found at the following location: EPA Region VIII, Air Programs Branch, 999 18th Street, Denver, Colorado 80202-2466; and Colorado Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530. The information may be inspected between 8 a.m. and 4 p.m., on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Callie Videtich, Air Programs Branch, EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1754.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the Rules Section of this Federal Register.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 25, 1995.

Jack W. McGraw,

*Acting Regional Administrator.*

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#### 40 CFR Part 52

[LA-14-1-5941; FRL-5310-1]

#### Clean Air Act Approval and Promulgation of New Source Review; Implementation Plan Addressing New Source Review in Nonattainment Areas; Louisiana; Approval and Promulgation of Air Quality Implementation Plans; Louisiana Administrative Code (LAC), Title 33, Environmental Quality, Part III, Air, Chapter 5. Permit Procedures, Section 504. Nonattainment New Source Review (NSR) Procedures

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes approval of the State Implementation Plan (SIP) revision, submitted by the State of Louisiana for the purpose of meeting requirements of the Clean Air Act (Act or CAA), as amended in 1990, with regard to NSR in areas that have not attained the national ambient air quality standards (NAAQS).

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

**ADDRESSEES:** Written copies on this action should be addressed to Ms. Jole C. Luehrs, Chief, Air Permits 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 (6PD), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard A. Barrett, Air Permits Section (6PD-R), Multimedia Planning and Permitting Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7227, facsimile (214) 665-2164.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The air quality planning requirements for nonattainment new source review are set out in part D of Title I of the CAA, as amended in 1990. The EPA has issued a "General Preamble" describing

the EPA's preliminary views on how the EPA intends to review SIPs and SIP revisions submitted under part D; including those State submittals containing nonattainment area NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because the EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in this proposal and the supporting rationale. The EPA is currently developing a proposed rule to implement the changes under the 1990 Amendments in the NSR provisions in parts C and D of Title I of the Act. The EPA anticipates that the proposed rule will be published for public comment in 1995. If the EPA has not taken final action on States' NSR submittals by that time, the EPA will refer to the proposed rule as the most authoritative guidance available regarding the approvability of the submittals. The EPA expects to take final action to promulgate a final rule to implement the parts C and D changes sometime during 1996. Upon promulgation of those regulations, the EPA will review those NSR SIP submittals, on which it has taken final action, to determine whether additional SIP revisions are necessary.

Prior to EPA approval of a State's NSR SIP submission, the State may continue permitting only in accordance with the new statutory requirements for permit applications completed after the relevant SIP submittal date. This policy was explained in transition guidance memoranda from John Seitz dated March 11, 1991, "New Source Review (NSR) Program Transitional Guidance", and September 3, 1992, "New Source Review (NSR) Program Supplemental Transitional Guidance on Applicability of New Part D NSR Permit Requirements".

As explained in the memorandum of March 11, 1991, the EPA does not believe Congress intended to mandate the more stringent Title I NSR requirements during the time provided for SIP development. States were thus allowed to continue to permit consistent with requirements in their current NSR SIPs during that period, or apply 40 CFR part 51, Appendix S for newly designated areas that did not previously have NSR SIP requirements.

The September 3, 1992, memorandum also addressed the situation where States did not submit the part D NSR SIP requirements or revisions by the applicable statutory deadline. For permit applications complete by the SIP submittal deadline, States may issue final permits under the prior NSR rules,

assuming certain conditions in the September 3 memorandum are met. However, for applications completed after the SIP submittal deadline, the EPA will consider the source to be in compliance with the Act where the source obtains from the State a permit that is consistent with the substantive new NSR part D provisions in the Act. The EPA believes this guidance continues to apply to permitting pending final action on NSR SIP submittals.

## II. Proposed Rulemaking Action

### A. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the Act, 42 U.S.C. 7410(a)(2), provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.<sup>1</sup> Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

After adequate public notice, the State of Louisiana held a public hearing, on December 30, 1992, to entertain public comment on the NSR implementation plan, which replaced the emergency rules submitted to the EPA on November 10, 1992. Following the public hearing, the plan was adopted by the State on February 20, 1993, and submitted to the EPA on March 3, 1993, as a proposed revision to the SIP. The State submitted, to the EPA, revisions for the Louisiana SIP to implement the NSR requirements of the CAA in nonattainment areas in Louisiana. Louisiana made the SIP revision to LAC Title 33, Part III, Chapter 5. Permit Procedures, by the addition of section 504. Nonattainment New Source Review Procedures. The SIP revision was reviewed by the EPA to determine administrative completeness shortly after its submittal. The completeness review was based upon the criteria as set out at 40 CFR part 51 Appendix V. The submittal was found to be complete on July 10, 1993; and a letter dated August 3, 1993, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process. Prior to the EPA acting on these revisions, the State submitted a notice of adoption and final rule on Regulation LAC 33:III.Chapter 5, which included and amended section

504, on November 15, 1993, in order to meet the requirements mandated by sections 173 and 182 of the Act. This proposed rule applies to, and contains an evaluation of, section 504.

In this action, the EPA proposes approval of the Louisiana nonattainment NSR SIP rules identified in this notice, and invites public comment on the action. Those sections submitted to the EPA not included in the revisions specifically addressed in this proposal will be the subject of a future rulemaking. In this rulemaking action on the Louisiana nonattainment NSR SIP, the EPA is proposing to apply its interpretations, taking into consideration the specific factual issues presented. Thus, the EPA will consider any timely submitted comments prior to the EPA's taking final action on this proposed rule.

### B. General Nonattainment NSR Requirements

The statutory requirements for nonattainment NSR SIPs and permitting are found at sections 172 and 173.

The Act requires all States to have submitted, at a minimum, the following nonattainment NSR provisions by November 15, 1992:

1. Provisions to assure that calculation of emissions offsets, as required by section 173(a)(1)(A), are based on the same emissions baseline used in the demonstration of reasonable further progress. Louisiana has established provisions to satisfy this section pursuant to sections 504.F.4 and 504.F.5.

2. Provisions to allow, according to section 173(c)(1), offsets to be obtained in another nonattainment area if: the area in which the offsets are obtained has an equal or higher nonattainment classification; and emissions from the nonattainment area, in which the offsets are obtained, contribute to a National Ambient Air Quality Standards (NAAQS) violation, in the area in which the source would construct. Louisiana has established provisions to satisfy this section, pursuant to section 504.F.9.

3. Provisions to assure, according to section 173(c)(1), that any emissions offsets, obtained in conjunction with the issuance of a permit to a new or modified source, must be in effect and enforceable by the time the new or modified source is to commence operation. Louisiana has established provisions to satisfy this section pursuant to section 504.F.3.

4. Provisions to assure that emissions increases, from new or modified major stationary sources, are offset by real reductions in actual emissions, as required by section 173(c)(1). Louisiana

has established provisions to satisfy this section pursuant to sections 504.D.3 and 504.F.7.

5. Provisions, according to section 173(c)(2), to prevent emissions reductions, otherwise required by the Act, from being credited for purposes of satisfying the part D offset requirements. Louisiana has established provisions to satisfy this section pursuant to sections 504.F.5. and 504.F.10.

6. Provisions, according to section 173(a)(5), that, as a prerequisite to issuing any part D permit, require an analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. Louisiana has established provisions to satisfy this section pursuant to section 504.D.6.

7. Provisions, according to section 173(e), that allow any existing or modified source, that tests rocket engines or motors, to use alternative or innovative means to offset emissions increases from firing and related cleaning, if four conditions are met: (a) the proposed modification is for expansion of a facility already permitted for such purposes; (b) the source has used all available offsets and all reasonable means to obtain offsets and sufficient offsets are not available; (c) the source has obtained a written finding by the appropriate, sponsoring Federal agency that the testing is essential to national security; and (d) the source will comply with an alternative measure designed to offset any emissions increases not directly offset by the source.

In lieu of imposing any alternative offset measures, the permitting authority may impose an emission offset amounting to no more than 1.5 times the average cost of stationary control measures adopted in that area during the previous three years. Louisiana has established provisions to satisfy this section pursuant to section 504.D.7.

8. Provisions, according to section 173(a)(3), to assure that owners or operators, of each proposed new or modified major stationary source, demonstrate that all other major stationary sources, under the same ownership in the State, are in compliance with the Act. Louisiana has established provisions to satisfy this section pursuant to section 504.D.1.

9. Provisions, according to section 173(a)(2), to assure that permits for new and modified major stationary sources to construct and operate may be issued

<sup>1</sup> Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of Section 110(a)(2).

if the proposed source is required to comply with the lowest achievable emission rate. Louisiana has established provisions to satisfy this requirement pursuant to section 504.D.2.

10. Additionally, the State must assure that no interpollutant trading is allowed as defined in 40 CFR part 51, Appendix S, section IV, condition 3. Louisiana has established provisions to satisfy this requirement pursuant to section 504.F.1.

11. The public notice and participation requirements, previously located in Section 504, have now been placed in LAC 33:III. Chapter 5. Section 531, which will be acted on by the EPA in a future rulemaking action. These requirements were located in the March 3, 1993, submittal and were subsequently moved in the November 15, 1993, submittal to Section 531. Public participation requirements have previously been approved in the SIP.

*C. Ozone*

The general nonattainment NSR requirements are found in sections 172 and 173 of the Act and must be met by all nonattainment areas. Requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. In addition, subpart 2 includes section 182(f), which states that requirements, for major stationary sources of volatile organic compounds (VOC), shall apply to major stationary sources of oxides of nitrogen (NO<sub>x</sub>) unless the Administrator makes certain determinations related to the benefits or contribution of NO<sub>x</sub> control to air quality, ozone attainment, or ozone air quality. States were required under section 182(a)(2)(C) to adopt new NSR

rules for ozone nonattainment areas by November 15, 1992.

1. Marginal Ozone Nonattainment Areas

For marginal ozone nonattainment areas, States must submit the following NSR provisions:

a. Definition of the term "major stationary source" that reflects the section 302(j) 100 tons per year (tpy) VOC and, presumptively, the 100 tpy NO<sub>x</sub> threshold for determination of whether a source is subject to part D NSR requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets under section 182(a)(4) at a ratio of at least 1.1 to 1 in order to obtain an NSR permit.

2. Moderate Ozone Nonattainment Areas

For moderate ozone nonattainment areas, States must submit the following NSR provisions:

a. Definition of the term "major stationary source" that reflects the section 302(j) 100 tpy VOC and, presumptively, the 100 tpy NO<sub>x</sub> threshold for determination of whether a source is subject to part D NSR requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets under section 182(a)(4) at a ratio of at least 1.15 to 1 in order to obtain an NSR permit.

3. Serious Ozone Nonattainment Areas

For serious ozone nonattainment areas, States must submit the following NSR provisions:

a. Definition of the term "major stationary source" that reflects the section 182(c) 50 tpy VOC and,

presumptively, the 50 tpy NO<sub>x</sub> threshold for determination of whether a source is subject to part D requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets under section 182(c)(10) at a ratio of at least 1.2 to 1 in order to obtain an NSR permit.

c. Provisions to implement section 182(c)(6) of the Act such that any proposed emissions increase is subject to the 25-ton de minimis test over a five year period.

4. Severe Ozone Nonattainment Areas

For severe ozone nonattainment areas, States must submit the following NSR provisions:

a. Definition of the term "major stationary source" that reflects the section 182(d) 25 tpy VOC and, presumptively, the 25 tpy NO<sub>x</sub> threshold for determination of whether a source is subject to part D requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets at a ratio [under section 182(d)(2)] of at least 1.3 to 1 in order to obtain an NSR permit, unless the SIP requires all existing major sources in the nonattainment area to use Best Available Control Technology, in which case, the offset ratio is at least 1.2 to 1.

c. Provisions to implement section 182(c)(6) of the Act such that any proposed emissions increase is subject to the 25-ton de minimis test over a five year period.

Louisiana has established major source thresholds and offset ratios for VOC and included provisions for NO<sub>x</sub> major stationary sources as follows:

Area classification	Major source threshold	Offset ratio minimum	NO <sub>x</sub> provisions
Marginal .....	100 tpy .....	1.10 to 1 .....	See paragraph below.
Moderate .....	100 tpy .....	1.15 to 1 .....	Identical to VOC.
Serious .....	50 tpy .....	1.20 to 1 .....	Identical to VOC, see paragraph below.
Severe .....	25 tpy .....	1.30 to 1 .....	Identical to VOC.
Extreme .....	Not applicable .....	Not applicable .....	Not applicable.

The EPA is currently evaluating a petition for exemption from NO<sub>x</sub> requirements pursuant to section 182(f), received on October 28, 1994, from the State of Louisiana. The petition regarding the NO<sub>x</sub> offset requirement for the marginal ozone nonattainment area of Calcasieu Parish, Louisiana, will be the subject of future EPA action. If this petition is approved, the EPA intends to publish final approval of the NSR SIP. If the petition is not approved, the EPA will readdress the NSR SIP to require

NO<sub>x</sub> offsets in the marginal ozone nonattainment areas of Louisiana.

The EPA has proposed approval of a petition for exemption from NO<sub>x</sub> requirements pursuant to section 182(f), received from the State of Louisiana on November 17, 1994, for the serious ozone nonattainment area of Baton Rouge, and has proposed its approval on August 18, 1995 (see 60 FR 43100). If approved, NO<sub>x</sub> offsets will not be required in that area.

Louisiana has established all of the above requirements for all other ozone nonattainment areas.

Additionally, for nonclassifiable (transitional or incomplete data) ozone nonattainment areas, State rules for the marginal area classification apply. For further information on nonclassifiable areas see, "General Preamble" 57 Federal Register 55624 (April 16, 1992), and the "NO<sub>x</sub> supplement to the General Preamble" 57 FR 13523 (November 25, 1993).

In addition, Louisiana's plan submittal reflects appropriate modification provisions, including a de minimis level of 25 tons.

**D. Carbon Monoxide (CO)**

The general part D NSR permit requirements apply in CO nonattainment areas, and are supplemented by the CO requirements in subpart 3 of part D.

1. All moderate CO nonattainment areas, with a design value of 12.7 parts per million or less, must submit proposed part D NSR programs no later than November 15, 1993. Such programs must have the following provisions:

a. Definition of the term "major stationary source" that reflects the section 302(j) 100 tpy CO threshold for determination of whether a source is subject to part D requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets under section 173(a)(1)(A) at a ratio of at least 1 to 1 in order to obtain an NSR permit.

2. All States, with moderate CO nonattainment areas with a design value greater than 12.7 ppm, were required to submit proposed part D NSR programs by November 15, 1992. Such programs must have the following provisions:

a. Definition of the term "major stationary source" that reflects the 100 tpy CO threshold for determination of whether a source is subject to part D requirements as a major source.

b. Provisions to ensure that new or modified major stationary sources obtain offsets at a ratio of at least 1 to 1 in order to obtain an NSR permit.

3. Pursuant to section 187(c)(1), 42 U.S.C. 7512a(c)(1), all States with serious CO nonattainment areas, in which stationary sources contribute significantly to CO levels (as determined under rules issued by the Administrator; i.e., according to guidance issued in a May 13, 1991, memorandum "Guidance for Determining Significant Stationary Sources for Carbon Monoxide" from William Laxton, Director, Technical Support Division to Regional Air Division Directors) were required to

submit part D NSR programs by November 15, 1992. Such programs must have the following provisions:

a. Definition of the term "major stationary source" that reflects the 50 tpy CO threshold for determination of whether a source is subject to part D requirements as a major source.

b. Provisions under section 173(a)(1)(A) to ensure that new or modified major stationary sources obtain offsets at a ratio of at least 1 to 1 in order to obtain an NSR permit.

4. All States with nonclassifiable CO nonattainment areas must submit revised part D programs by November 15, 1993.

Louisiana has established a major source threshold of 100 tpy, and a minimum offset ratio of greater than 1.00 to 1 for moderate CO nonattainment areas. Louisiana has established a major source threshold of 50 tpy, and a minimum offset ratio of greater than 1.00 to 1 for serious nonattainment areas.

Louisiana has no areas designated as nonattainment for CO at this time.

**E. Particulate Matter Less Than 10 Micrometers In Diameter (PM-10)**

Pursuant to section 189(a)(2) 42 U.S.C. 7513a(a)(2), all States, with a PM-10 nonattainment area classified as moderate, were required to submit an NSR permit program SIP revision by June 30, 1992, or 18 months after the designation of such an area.

**1. Moderate Areas**

PM-10 NSR programs must have the following provisions:

a. Definition of the term "major stationary source" that reflects thresholds in section 302(j) of 100 tpy for PM-10 and, presumptively, 100 tpy for each PM-10 precursor for determination of whether a source is subject to part D requirements as a major source.

b. Provisions under section 173(a)(1)(A) to ensure that new or modified major stationary sources obtain emission offsets at an offset ratio of at least 1 to 1.

c. Under section 189(e), requirements applicable to major sources of PM-10

are also applicable to major sources of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the standards in the area. The EPA generally considers sulfur dioxide, nitrogen oxides, or volatile organic compounds to be PM-10 precursors for NSR purposes in certain areas. Further guidance on making such determinations has been issued at 57 Federal Register 13541 (April 16, 1992) and 57 Federal Register 18070 (April 28, 1992).

d. Provisions to ensure that the significance threshold for a modification to be major, and therefore subject to the section 173 permit requirements, is 15 tpy for PM-10 and, presumptively, 15 tpy for each PM-10 precursor.

**2. Serious Areas**

PM-10 NSR programs must have the following provisions:

a. Definition of the term "major stationary source" that reflects the section 189(b)(3) thresholds of 70 tpy for PM-10 and 70 tpy for each PM-10 precursor (in certain cases) for determination of whether a source is subject to part D requirements as a major source.

b. Provisions under section 173(a)(1)(A) to ensure that new or modified major stationary sources obtain an offset ratio of at least 1 to 1.

c. Under section 189(e), requirements applicable to major sources of PM-10 are also applicable to major sources of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the standards in the area.

d. Provisions to ensure that the significance threshold for a modification to be major, and therefore subject to the section 173 permit requirements, is 15 tpy for PM-10 and, presumptively 15 tpy for each PM-10 precursor.

Louisiana has established major source thresholds, offset ratios, modification significance levels, and PM-10 precursor provisions as follows:

Area classification	Major source threshold	Offset ratio minimum	Significance level	Precursor provisions
Moderate .....	100 tpy .....	Greater than 1 to 1 .....	15 tpy .....	See paragraph below.
Serious .....	50 tpy .....	Greater than 1 to 1 .....	15 tpy .....	See paragraph below.

Since Louisiana has no areas designated as nonattainment for PM-10 at this time, the EPA is proposing to approve the PM-10 NSR provisions for the limited purpose of strengthening the

SIP and not for satisfying the part D NSR requirements for PM-10. If an area is designated nonattainment for PM-10, then the State would be required to submit provisions for PM-10 precursors

unless it has sought and obtained a determination by the EPA under section 189(e).

### F. Sulfur Dioxide (SO<sub>2</sub>)

States with SO<sub>2</sub> nonattainment areas were required to submit NSR implementation plans by May 15, 1992. States with areas that are designated or redesignated as nonattainment after the Amendments have 18 months to submit such plans. NSR implementation plans must contain the following provisions with regard to SO<sub>2</sub>:

1. Definition of the term "major stationary source" that reflects the section 302(j) 100 tpy SO<sub>2</sub> threshold for determination of whether a source is subject to part D requirements as a major source.

2. Provisions under section 173(a)(1)(A) to ensure that new or modified major stationary sources obtain SO<sub>2</sub> offsets at a ratio of at least 1 to 1 in order to obtain an NSR permit.

3. Provisions to ensure that the significance threshold for a modification to be major, and therefore subject to the section 173 permit requirements, is 40 tpy of SO<sub>2</sub>.

Louisiana has established a major source threshold of 100 tpy, a minimum offset ratio of greater than 1 to 1, and a modification significance level of 40 tpy.

Louisiana has no areas designated as nonattainment for SO<sub>2</sub> at this time.

### G. Lead

Generally, the date, by which a plan must be submitted for an area, is triggered by the area's nonattainment designation. For areas designated nonattainment for the primary lead NAAQS in effect at enactment of the 1990 Amendments; under section 171(b), States must submit SIPs which meet the applicable requirements of part D within 18 months of the date of enactment of the 1990 Amendments. States with lead nonattainment areas are required to submit NSR implementation plans which must contain the following provisions:

1. Definition of the term "major stationary source" that reflects the section 302(j) 100 tpy lead threshold for determination of whether a source is subject to part D requirements as a major source.

2. Provisions under section 173(a)(1)(A) to ensure that new or modified major stationary sources of lead obtain lead offsets at a ratio of at least 1 to 1 in order to obtain an NSR permit.

3. Provisions to ensure that the significance threshold for a modification to be major, and therefore subject to the section 173 permit requirements, is 0.6 tpy of lead.

Louisiana has established a major source threshold of 100 tpy, a minimum

offset ratio of greater than 1 to 1, and a modification significance level of 0.6 tpy.

Louisiana has no areas designated as nonattainment for Lead at this time.

### III. Implications of this Action

The EPA is proposing approval of the plan revisions submitted on March 3, 1993, as amended on November 15, 1993, regarding NSR, subject to EPA approval of the NO<sub>x</sub> exemption request for the Calcasieu Parish ozone nonattainment area. The State of Louisiana has submitted a complete plan to implement the NSR provisions of part D. Assuming approval of the NO<sub>x</sub> exemption request, each of the program elements mentioned above were properly addressed, with the exception of PM-10 precursor requirements. Since Louisiana has no areas designated as nonattainment for PM-10 at this time, the EPA is proposing to approve the PM-10 NSR provisions for the limited purpose of strengthening the SIP and not for satisfying the part D NSR requirements for PM-10. If an area is designated nonattainment for PM-10, then the State would be required to submit provisions for PM-10 precursors unless it has sought and obtained a determination by the EPA under section 189(e).

Those sections submitted to the EPA, not included in the revisions specifically addressed in this proposal, will be the subject of a future rulemaking. If the EPA does not approve the NO<sub>x</sub> exemption request for Calcasieu Parish, there will not be final approval of the NSR SIP until rule changes requiring NO<sub>x</sub> offsets in marginal areas are submitted by the State.

Louisiana LAC 33:III.Chapter 5.section 504 is approvable under the requirements for nonattainment area permitting regulations as outlined in 40 CFR part 51 and in part D. These revisions incorporate requirements of the CAA for the construction and operation of new and modified major stationary sources of air pollutants. However, the EPA is currently in the process of revising its regulations, in accordance with the CAA, and expects to propose an amended 40 CFR 51.165 within the near future. These revisions to 40 CFR 51.165 will reflect the new nonattainment NSR provisions added by the CAA in part D, subparts 1 and 2. Once the EPA promulgates final nonattainment NSR rules pursuant to the CAA, the State of Louisiana will have to review LAC 33:III.Chapter 5.section 504 against the requirements found in the final promulgated regulations and submit any additionally

required revisions to the EPA for approval.

### IV. Request for Public Comments

The EPA is requesting comments on all aspects of the requested SIP revision and the EPA's proposed rulemaking action. Comments received by date indicated above will be considered in the development of the EPA's final rule.

### V. Executive Order (EO) 12866

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 EO 12866 review.

### VI. Regulatory Flexibility

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.

SIP approvals, under section 110 and subchapter I, part D, of the CAA, do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA 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); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals, for the appropriate circuit, by December 5, 1995. 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 may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

#### VII. Unfunded Mandates

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 proposed 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, New source review, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 29, 1995.

Samuel Coleman,

*Acting Regional Administrator (6RA).*

[FR Doc. 95-24940 Filed 10-5-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 82

[FRL-5313-1]

#### Protection of Stratospheric Ozone: Listing of Global Warming Potential for Ozone-Depleting Substances

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

**ACTION:** Notice of proposed listing.

**SUMMARY:** With this proposed action, the Environmental Protection Agency (EPA or the Agency) lists the global warming potentials for ozone-depleting substances that are included as class I and class II controlled substances, or have been added as class I or class II controlled substances, under authority of section 602(e) of the Clean Air Act Amendments of 1990 (CAA). Class I and class II controlled substances are more fully described in a final rule previously published in the Federal Register on May 10, 1995. To meet EPA's statutory obligation under the CAA, this proposed listing cites the global warming potentials contained in the document, Scientific Assessment of Ozone Depletion: 1994, published by the United Nations Environment Programme (UNEP) in early 1995. As stated in the CAA, the listing of global warming potentials for class I and class II controlled substances "shall not be construed to be the basis of any additional regulation under this Act."

**DATES:** Written comments on this proposed listing must be received on or before November 6, 1995. Inquiries regarding public comments should be directed to the Stratospheric Ozone Information Hotline at 1-800-296-1996.

**ADDRESSES:** Comments on this proposed listing should be submitted in duplicate (two copies) to: Air Docket No. A-92-13, U.S. Environmental Protection Agency, 401 M Street, SW., Room M-1500, Washington, DC 20460.

Materials relevant to this proposed listing are contained in Docket No. A-92-13. The Docket is located in room M-1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 a.m. until 5:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying the docket.

**FOR FURTHER INFORMATION CONTACT:** Tom Land, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205J), 401 M Street, SW., Washington, DC 20460, (202) 233-9185. The Stratospheric Ozone Hotline at 1-800-296-1996 can also be contacted for further information.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The temperature of the earth is determined by a balance between incoming energy from the sun and outgoing energy radiated from the earth's surface and atmosphere. Ultraviolet and visible radiation from the sun pass through the earth's atmosphere and strike the earth's surface. The earth radiates this energy from the sun back into the atmosphere in the form of infrared radiation in a process called radiative forcing. Certain constituents of the atmosphere, such as carbon dioxide and water vapor, absorb the infrared radiation and trap it in the atmosphere in a process known as the greenhouse effect. The trapped infrared radiation warms the earth's surface and the troposphere (lower atmosphere). The warming of the earth's surface and the troposphere through the balance between absorbed energy and radiated energy determines the climate of the planet.

The molecular structure of a chemical determines its ability to absorb infrared radiation in the atmosphere. Scientists use an index called the global warming potential (GWP) to quantify the relative capability of different chemicals to absorb radiated infrared radiation. Three factors contribute to a chemical's relative contribution to this radiative forcing process. The three factors are the primary input in the formulation, calculation and use of the radiative forcing index known as the GWP. The three factors that contribute to the relative radiative forcing potential of a chemical are: (1) The capacity to absorb the different wavelengths of infrared energy, (2) the residence time in the atmosphere, and (3) the time period over which the radiative effects will be considered. The first two of these factors are technical, and the third is dependent on the interests of the user. In addition to these direct radiative effects, some chemicals, such as ozone-depleting substances, have an indirect effect on radiative forcing due to interactive atmospheric processes.

Molecules containing carbon-chlorine bonds and carbon-fluorine bonds, such as the ozone-depleting substances controlled under the Montreal Protocol and Title VI of the Clean Air Act Amendments of 1990, absorb radiation emitted by the earth that would otherwise escape into space. In defining the relative capability of ozone-depleting substances to affect radiative forcing, scientists assign a GWP to a specific substance, such as dichlorodifluoromethane (CFC-12). Research to define the GWP for each of