

§ 21.5058 Resumption of participation.

* * * * *

(b) *Disenrollment in order to participate in other educational programs.* A person who elects to disenroll in order to receive educational assistance allowance under 38 U.S.C. chapter 34 or to receive an officer adjustment benefit payable under § 21.4703 may not reenroll if he or she has negotiated a check under the provisions of law governing the program elected in lieu of the Post-Vietnam Era Veterans' Educational Assistance Program. A person who elects to disenroll in order to receive educational assistance under the Montgomery GI Bill—Active Duty, as provided in § 21.7045, may not reenroll.

(Authority: 38 U.S.C. 3018A, 3018B, 3202(1), 3222)

(c) *Reenrollment permitted following some disenrollments.* (1) Except as provided in paragraph (b) of this section, a person who has disenrolled may reenroll, but will have to qualify again for minimum participation as described in § 21.5052(a).

(2) If a person does reenroll, he or she may "repurchase" entitlement by tendering previously refunded contributions which he or she received upon disenrollment, subject to the conditions of § 21.5052(f).

(Authority: 38 U.S.C. 3221, 3222)

5. In § 21.5145, paragraph (e) is revised to read as follows:

§ 21.5145 Work-study program.

* * * * *

(e) *Payment in advance.* VA will pay in advance an amount equal to the lesser of the following:

- (1) 40 percent of the total amount payable under the contract; or
- (2) An amount equal to 50 times the applicable minimum hourly wage in effect on the date contract is signed.

(Authority: 38 U.S.C. 3241, 3485)

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§ 21.5231 [Amended]

6. Section 21.5231, is amended by removing "in the same manner as it is applied in the administration of chapters 34 and 36".

7. In § 21.5250, the introductory text of paragraph (a) and paragraph (a)(3) are revised, and paragraph (a)(16) is added, to read as follows:

§ 21.5250 Courses.

(a) In administering benefits payable under 38 U.S.C. chapter 32, VA and, where appropriate, the State approving agencies shall apply the following sections.

* * * * *

(3) Section 21.4252—Courses precluded.

* * * * *

(16) Section 21.4267—Approval of independent study.

* * * * *

8. In § 21.5270, paragraphs (b) and (j) are removed and reserved; and the introductory text and paragraph (c) are revised, to read as follows:

§ 21.5270 Assessment and pursuit of courses.

In the administration of benefits payable under 38 U.S.C. chapter 32, VA shall apply the following sections.

* * * * *

(c) Section 21.4272—Collegiate course measurement.

(Authority: 38 U.S.C. 3241, 3688)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA-32-7238; FRL-5430-1]

Approval of and Promulgation of Implementation Plans; Louisiana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Louisiana's request to grant an exemption for the Baton Rouge ozone nonattainment area from the applicable nitrogen oxides (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 transportation 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 attainment in the nonattainment area.

EFFECTIVE DATE: This final rule will be effective on February 12, 1996.

ADDRESSES: Copies of the SIP revision, public comments and the EPA's responses are available for inspection at the following address:

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, U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7214.

SUPPLEMENTARY INFORMATION:

I. 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 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 rule¹ does not require the "build/no-build test" and "less-than-1990 test" 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 emission 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 (VOC) and NO_x emissions "as necessary" to attain the ozone standard by the applicable

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).

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.

As explained below, the EPA, through an amendment to its transportation conformity rule, has changed the procedural mechanism through which a NO_x exemption from transportation conformity would be granted. 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) need to be submitted as SIP revision requests. The Baton Rouge ozone nonattainment area is classified as serious and, thus, is subject to section 182(b)(1).

The EPA published, on August 29, 1995, an interim final rule (60 FR 44762) which amended the transportation conformity rule and changed the statutory authority from section 182(f) to section 182(b)(1) of the Act for areas that are subject to section 182(b)(1). The interim final rule was effective immediately upon publication and provides the means for exempting areas subject to section 182(b)(1) from the NO_x provisions of the transportation conformity rule. In conjunction with the interim rule, the EPA published a proposal providing for further amendments to the transportation conformity rule and describing how the EPA intended to process section 182(b)(1) NO_x waivers (60 FR 44790). On November 14, 1995, the EPA published a final rule (60 FR 57179), after completing notice-and-comment rulemaking, that includes the provisions of the August 29, 1995, interim rule. The November 14, 1995, rule also addresses the NO_x budget requirement.

The July 25, 1995, SIP revision request from Louisiana has been submitted to meet the requirements of section 182(b)(1). A public hearing on this SIP revision request was held on June 29, 1995. The EPA proposed to approve the SIP revision request on October 6, 1995 (60 FR 52348).

The Baton Rouge serious ozone nonattainment area includes the following parishes: East Baton Rouge, West Baton Rouge, Pointe Coupee, Livingston, Iberville, and Ascension. In evaluating the SIP revision request, the EPA considered whether additional NO_x reductions would contribute to attainment of the ozone standard in the Baton Rouge modeling domain, which includes all or part of 20 parishes in Louisiana and covers both attainment as well as nonattainment parishes.

As outlined in the relevant EPA guidance, the use of photochemical grid modeling is the recommended approach for testing the contribution of NO_x emission reductions to attainment of the ozone standard.

A summary of the urban airshed modeling (UAM) demonstration and the EPA's review of the modeling and submittal are contained in the October 6, 1995, proposed rule (60 FR 52348) and the accompanying Technical Support Document. The modeling results show, on a directional basis, that application of NO_x controls in the Baton Rouge ozone nonattainment area would exacerbate peak ozone concentrations in the modeling domain.

II. Public Comments

In August 1994, three environmental groups (Natural Resources Defense Council (NRDC), Sierra Club, and Environmental Defense Fund (EDF et al.)) submitted joint adverse comments on the proposed approvals of NO_x exemptions for the Ohio and Michigan ozone nonattainment areas. The comments addressed the EPA's general policy regarding NO_x exemptions. The commenters requested that these comments be addressed in all EPA rulemakings dealing with NO_x exemptions. The EPA responded to these comments in a final rulemaking approving a section 182(f) NO_x exemption for the Baton Rouge area. See 61 FR 2438, dated January 26, 1996. The technical basis (i.e., UAM demonstration) for the Baton Rouge section 182(b)(1) transportation conformity NO_x exemption is the same as for the section 182(f) exemption. (Please refer to the January 26, 1996, section 182(f) final approval (61 FR 2438) for Baton Rouge for a summary of the NRDC's comments and the EPA's responses.)

In addition, shortly after the close of the 30-day public comment period, the New York State Department of Environmental Conservation (NYSDEC) submitted a letter to the EPA expressing opposition to the proposed Baton Rouge transportation conformity NO_x exemption. For the public record, the EPA has elected to respond to those comments in this rulemaking. The following discussion summarizes the NYSDEC comments and provides the EPA's responses to the comments.

Comment: The NYSDEC expressed concern regarding the claim that VOC only controls reduce ozone levels and geographic extent of ozone exposure since modeling in the northeast shows a need for NO_x reductions as well as VOC to reduce regional ozone. The NYSDEC also questioned certain model

assumptions; namely, whether the Federal motor vehicle control program (FMVCP) is assumed in future year (1996 and 1999) emission inventories, and the adequacy of modeling across-the-board reductions for a specific source category exemption.

Response: In the modeling demonstration, the State included in the attainment year (1999) projected emissions inventory the emission reductions expected to result from the Federal Motor Vehicle Emission Control Program. Although the state did not model the mobile emission reductions that would result from transportation conformity, per se, the across-the-board reductions modeled (i.e., a 100 percent reduction in both point source VOC and NO_x emissions combined) far exceed the reductions that would be expected to result from transportation conformity alone. (In the Baton Rouge modeling domain, point source VOC emissions alone comprise 46 percent of the total projected anthropogenic VOC inventory, and point source NO_x emissions alone comprise 57 percent of the total projected NO_x inventory.)

The EPA believes that the State has satisfied the requirements of Chapter 4 of the December 13, 1993, guidance document, "Guideline for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f)," by simulating conditions resulting from three emission reduction scenarios (i.e., substantial VOC reductions, substantial NO_x reductions, and substantial VOC/NO_x reductions combined). Consistent with the guidance, the State has demonstrated that, on a directional basis, the areawide predicted maximum 1-hour ozone concentration for each day modeled under the substantial VOC reductions alone strategy is less than or equal to that from substantial NO_x reductions alone or VOC and NO_x reductions combined.

Comment: The NYSDEC stated that there have been voluntary early NO_x reductions from point sources between 1990 and 1994, which seems to imply that improvements in air quality would be affected by these voluntary NO_x reductions as well.

Response: As part of the modeling demonstration, the State included the early NO_x reductions from point sources that had occurred between 1990 and 1994. Since doing so did not alter the conclusion, the EPA believes the State has adequately demonstrated that any additional NO_x reductions would not contribute to attainment of the ozone standard and, therefore, has met the Act's requirements for receiving a NO_x waiver.

Comment: The NYSDEC stated that area source NO_x inventories modeled appeared low by two orders of magnitude, i.e., 0.2 percent versus 20 percent.

Response: The projected area source NO_x inventory modeled (1.0 tons/day) is correct. Area source NO_x emissions comprise only 0.2 percent of the total projected NO_x inventory (479.0 tons/day). Point, on-road mobile, and non-road mobile source NO_x emissions comprise 67.7 percent, 15.4 percent, and 16.7 percent of the total projected NO_x emissions inventory, respectively.

Comment: The NYSDEC urged the EPA to undertake a review of the regional consistency between Baton Rouge and other southeast areas, and that action on the exemption petition be delayed until this review is complete.

Response: The EPA has taken steps to assure that downwind areas will not be negatively impacted by NO_x exemptions. The EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_x emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that the NO_x emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State or in another nonattainment area within the same State. This action would be independent of any action taken by the EPA on a NO_x exemption request under section 182(f) or section 182(b)(1). That is, EPA action to grant or deny a NO_x exemption request under section 182(f) or 182(b)(1) for any area would not shield that area from EPA action to require NO_x emission reductions, if necessary, under section 110(a)(2)(D).

The State of Louisiana is included in the superregional photochemical modeling of the eastern United States (U.S.) currently being conducted by the EPA, States, and other agencies as part of the Ozone Transport Assessment Group (OTAG). The OTAG assessment process, which is scheduled to end at the close of 1996, will evaluate regional and national emission control strategies using improved regional modeling analyses. The goal of the OTAG is to reach consensus on additional regional and national emission reductions that are needed to support efforts to attain the ozone standard in the eastern U.S. Upon completion of the modeling, the EPA will evaluate the modeling results and their implications concerning NO_x versus VOC emission controls. The results of this modeling may supersede the UAM demonstration that the EPA is using as the basis for granting this waiver. To continue the waiver for all

NO_x source categories, the modeling must continue to show attainment of the ozone standard without the use of additional NO_x controls. The final modeling may demonstrate attainment of the ozone standard using a subset of the possible NO_x emission controls. In this situation, the EPA may continue the waiver for the remaining "non-controlled" NO_x sources under section 182(f)(2) of the CAA.

Comment: The NYSDEC disagrees that the NO_x waiver rule should be a Table 3 action for signature by the Regional Administrator and, because of the national implications of the NO_x exemption, believes it should be a Table 1 action.

Response: The NO_x waiver for transportation conformity is a SIP revision request submitted by the State of Louisiana. SIP revisions have been delegated to the Regional Administrator for signature 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. This NO_x waiver is applicable only for the purpose of relieving the need to meet the interim transportation conformity test for the Baton Rouge area. In addition, the policy related to processing the NO_x waivers for transportation conformity has been coordinated at the national level.

III. Effective Date

This rulemaking is effective as of February 12, 1996. The Administrative Procedure Act, 5 U.S.C. 553(d)(1), permits the effective date of a substantive rule to be less than thirty days after publication if the rule "relieves a restriction." Since the approval of the section 182(b)(1) transportation conformity NO_x exemption for the Baton Rouge ozone nonattainment area is a substantive rule that relieves the restrictions associated with the CAA Title I requirements to control NO_x emissions, the transportation conformity NO_x exemption approval may be made effective upon signature by the Regional Administrator.

IV. Final Action

The comments received were found to warrant no significant changes from the proposed to final action on this NO_x exemption request. The primary difference between the proposed and final rulemaking is the addition of the statement that the EPA may require NO_x emission controls in general or on a source-specific basis under section

110(a)(2)(D) of the CAA if future ozone modeling demonstrates that such controls are needed to achieve the ozone standard in downwind areas. Based on subsequent modeling results, the EPA may rescind all or part(s) of the transportation conformity NO_x waiver. Approval of the exemption waives the Federal requirements for transportation conformity applicable to the Baton Rouge ozone nonattainment area. To maintain the waiver, future modeling must demonstrate attainment of the ozone standard without the use of additional NO_x emission controls. (The modeling may demonstrate the need for some NO_x emission controls, necessitating the need for reducing the coverage of the waiver.) Should the EPA rescind the exemption, the State would be required to begin implementing the transportation conformity NO_x requirements.

V. Miscellaneous

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 economic 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. USEPA*, 427 U.S. 246, 256-66 (1976; 42 U.S.C. 7410(a)(2)).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, the EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

The EPA's final action will relieve requirements otherwise imposed under the CAA and, hence, does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. This action also will not impose a 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.

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 April 29, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose 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) of the CAA).

List of Subjects in 40 CFR Part 52

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

Dated: February 12, 1996.

Jane N. Saginaw,
Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart T—Louisiana

3. Section 52.992 is amended by adding paragraph (c) to read as follows:

§ 52.992 Areawide nitrogen oxides (NO_x) exemptions.

* * * * *

(c) The LDEQ submitted to the EPA on July 25, 1995, a revision to the SIP, pursuant to section 182(b)(1), requesting that the Baton Rouge serious ozone nonattainment area be exempted from the transportation conformity NO_x requirements of the CAA. The Baton Rouge nonattainment area consists of East Baton Rouge, West Baton Rouge, Pointe Coupee, Livingston, Iberville, and Ascension Parishes. The exemption request was based on photochemical grid modeling which shows that additional reductions in NO_x would not contribute to attainment in the nonattainment area. On February 12, 1996, the EPA approved the State's request for an areawide exemption from the transportation conformity NO_x requirements.

[FR Doc. 96-4289 Filed 2-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MI28-02-7224; FRL-5324-4]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule; correction.

SUMMARY: On July 26, 1994 the USEPA published a final rule approving Michigan's 1990 base year ozone emission inventory for the Grand Rapids and Muskegon nonattainment areas submitted as a revision to the Michigan state implementation plan (58 FR 37944). The supplementary information to the final rule included errors on the totals of volatile organic compounds (VOC) emissions. The intent of this document is to provide the correct VOC emission totals.

Specifically, on page 37946 of the final rule, the table "Daily VOC Emissions From All Sources" incorrectly lists the total VOC emissions in tons per summer weekday (tpd) for the Grand Rapids and Muskegon as 199.29 and 58.53, respectively. The correct total VOC emissions are 203.29 tpd for Grand Rapids, and 59.38 tpd for Muskegon.

EFFECTIVE DATE: This correction is effective February 27, 1996.

FOR FURTHER INFORMATION CONTACT: Charles C. Hatten, Environmental Engineer, Regulation Development Section, Air and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6031.

List of Subjects in 40 CFR Part 52

Environmental protection, Ozone, Volatile organic compounds.

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

Dated: October 10, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96-4394 Filed 2-26-96; 8:45 am]

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40 CFR Part 799

[OPPTS-421111; FRL-4988-9]

RIN 2070-AB94

Withdrawal of Certain Testing Requirements for Office of Water Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the final test rule for the Office of Water Chemicals in 40 CFR 799.5075 by rescinding the 90-day and 14-day testing requirements for chloroethane. The testing requirements are being rescinded because the Agency has received data adequate to meet the data needs for which the test rule was promulgated.

DATES: This amendment shall become effective on February 27, 1996. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern (daylight or standard as appropriate) time on February 27, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is amending the final test rule for the Office of Water Chemicals in 40 CFR 799.5075 by rescinding: (1) The 90-day subchronic testing requirement for chloroethane, and (2) the 14-day testing requirement for chloroethane.

I. Background

In the Federal Register of September 21, 1995 (60 FR 48948) (FRL-4972-3), EPA proposed rescinding the 90-day subchronic testing requirement for chloroethane and the 14-day testing requirement for chloroethane. EPA promulgated the rule (FRL-4047-2) establishing these testing requirements pursuant to TSCA section 4(a), and published the final rule in the Federal