

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 101

#### Customs Service Field Organization— Sioux Falls, SD

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations pertaining to the field organization of Customs by establishing Sioux Falls, South Dakota, as a port of entry. The change is being proposed as part of Customs continuing efforts to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public.

**DATES:** Comments must be received on or before November 6, 1995.

**ADDRESSES:** Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Bob Jones, Office of Field Operations (202-927-0456).

#### SUPPLEMENTARY INFORMATION:

##### Background

As part of its continuing efforts to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public, Customs is proposing to amend § 101.3 of the Customs Regulations (19 CFR 101.3) by establishing a port of entry at Sioux Falls, South Dakota, and encompassing the counties of Minnehaha and Lincoln in the State of South Dakota.

The Governor of the State of South Dakota has requested the establishment of a port of entry within South Dakota which does not presently have a port of entry. In support of the port of entry request, it has been stated to Customs that the proposed port of entry will yield significant immediate and future economic benefits for the State of South Dakota, including the retention and expansion of jobs, the more efficient transportation of imported and exported merchandise, the opportunity for establishment of a foreign trade zone, the expanded development of infrastructure within the proposed port, an enhanced business competitiveness for existing enterprises, and the opportunity to encourage new businesses to locate within South Dakota. The Customs office within the requested port of entry would be located at the Joe Foss Field airport in Sioux Falls which is the largest urban area within the State of South Dakota.

In T.D. 82-37 (47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and by T.D. 87-65 (52 FR 16328), Customs has set forth certain criteria which should be considered in connection with a request for port of entry designation. Specifically, the community for which such designation is requested must: (1) demonstrate that the benefits to be derived justify the Federal Government expense involved; (2) except in the case of land border ports, be serviced by at least two major modes of transportation (rail, air, water, or highway); and (3) except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius). In addition, T.D. 82-37, as revised, provides that at least one of the following actual or potential workload criteria must be met in the area to be serviced by the requested port of entry (minimum number of transactions per year): (1) 15,000 international air passengers; (2) 2,500 (formal) consumption entries, with the applicant location committing to optimal use of electronic data input means to permit integration with any Customs system for electronic processing of entries, and with no more than half of the 2,500 entries being attributed to one private party; (3) for land border ports, 150,000 vehicles; (4) 2,000 scheduled international aircraft arrivals (passengers and/or cargo); (5)

350 cargo vessel arrivals; or (6) any appropriate combination of the foregoing. Finally, T.D. 82-37, as revised, provides that facilities at the location must include wharfage and anchorage adequate for oceangoing vessels in the case of a water port, cargo and passenger facilities, warehousing space for the secure storage of imported cargo pending final Customs inspection and release, and administrative office space, inspection areas, storage areas, and other space necessary for regular Customs operations.

In connection with the request for designation of the Sioux Falls port of entry it has been represented to Customs that the cost to the Federal Government would only involve the services of one full-time Customs official and therefore would be minimal when compared to the significant benefits, described above, that port of entry status would impart to the South Dakota business community. As regards transportation services, Sioux Falls is located at the junction of two major interstate highways (Interstate 90 and Interstate 29), is serviced by a major national freight railway company, and is serviced at the Joe Foss Field airport by national passenger and cargo airlines, express air freight services and commuter airlines. It has also been represented to Customs that the greater metropolitan area of Sioux Falls has a population of 139,236 based on 1990 census figures and that a population of well over 300,000 exists within a 70-mile radius of Sioux Falls. With regard to actual or potential workload, the only figures provided to Customs concerned annual projections of import entries that would be filed within the requested port of entry by existing businesses, with no single company accounting for more than half of the projected entries: 2,709 in 1996, 3,147 in 1997, and 3,253 in 1998; it was also stated to Customs that the Sioux Falls Regional Airport Authority is committed to making optimal use of electronic data transfer capability to permit integration with the Customs Automated Commercial System for processing entries. Finally, it has been represented to Customs that the Joe Foss Field airport has exceptional cargo and passenger facilities, that passenger areas can be secured to accommodate international arrival passenger clearance, that there are several warehouse facilities in close proximity

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]

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## 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<sub>x</sub>) 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> as an ozone precursor in ozone nonattainment areas where the Administrator determines that additional reductions of NO<sub>x</sub> 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