

State's SIP revisions, as a direct final rule without prior proposal because the Agency views these as noncontroversial revisions 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 If EPA receives adverse comments, the direct final will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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 April 18, 1996.

ADDRESSES: All written comments should be addressed to: Richard R. Long, Director, Air Program, EPA Region VIII, at the address listed below. Information supporting this action can be found at the following location: EPA Region VIII, Air Program 999 18th Street, Denver, Colorado 80202-2466. 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 Program, EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 312-6434.

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 29, 1995.

Jack W. McGraw,

Acting Regional Administrator.

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40 CFR Part 52

[VA 0054-5006a; FRL-5441-1]

Approval and Promulgation of Air Quality Implementation Plans; Richmond, Virginia—NO_x Exemption Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a request for an exemption from the oxides of nitrogen (NO_x) reasonably available control technology (RACT) requirement of the Clean Air Act (Act) for the Richmond moderate ozone nonattainment area. The exemption request, submitted by the Commonwealth of Virginia's Department of Environmental Quality, is based upon the most recent three years of ambient air monitoring data which demonstrate that additional reductions of NO_x would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone in the area. The intended effect of this action is to propose approval of a request for an exemption from the NO_x RACT requirement for the Richmond moderate ozone nonattainment area. This action is being taken under section 182(f) of the Clean Air Act. Elsewhere in today's Federal Register, EPA has published an interim final determination to stay and defer sanctions for the duration of EPA's rulemaking process on the exemption petition.

DATES: Comments must be received on or before April 18, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA address above.

FOR FURTHER INFORMATION CONTACT: Christopher H. Cripps, (215) 597-0545, at the EPA Region III address above or via e-mail at cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in

writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION: On December 18, 1995, the Virginia Department of Environmental Quality requested that the Richmond ozone nonattainment area be exempt from the NO_x RACT requirement of section 182(f) of the Act.

Background

The air quality planning requirements for the reduction of NO_x emissions are set out in section 182(f) of the Act. Section 182(f) of the Act requires states with areas designated nonattainment for ozone and classified as moderate and above to impose the same control requirements for major stationary sources of NO_x as apply to major stationary sources of volatile organic compound (VOC) emissions. Section 182(f) provides further that these NO_x requirements do not apply to areas outside an ozone transport region if EPA determines that additional reductions of NO_x would not contribute to attainment in such areas. In an area that did not implement the section 182(f) NO_x requirements, but did attain the ozone standard as demonstrated by ambient air monitoring data [consistent with 40 CFR Part 58 and recorded in the Aerometric Information Retrieval System (AIRS)], it is clear that the additional NO_x reductions required by section 182(f) did not contribute to attainment of the NAAQS.

On July 8, 1994, EPA notified the Governor of Virginia that the Commonwealth had failed to submit a NO_x RACT SIP revision for the Richmond ozone nonattainment area. This finding commenced the sanctions process outlined by section 179 of the Act as implemented by 40 CFR 52.31. (See 59 FR 39832, August 4, 1994). The two to one (2:1) offset sanction has been in effect in the Richmond ozone nonattainment area as of January 8, 1996 as a result of the July 8, 1994 finding and cannot be lifted until either a NO_x RACT SIP is received by EPA and deemed complete or a NO_x waiver under section 182(f) is granted. In the Final Rules section of today's Federal Register, EPA has published an interim final determination to stay and defer sanctions for the duration of EPA's rulemaking process on the exemption petition.

The Commonwealth of Virginia could have submitted a NO_x RACT regulation to stop the sanction clock resulting from the July 1994 finding since it had started the process to adopt a NO_x RACT regulation for the Richmond ozone nonattainment area. A public hearing was held on August 28, 1995 to amend

the existing NO_x RACT regulation to extend the applicability of Part IV, Rule 4-4 Operations, section 120-04-0408 entitled "Standard for nitrogen oxides" to sources with a potential to emit of 100 or more tons per year of NO_x to the Richmond ozone nonattainment area. This amendment to the existing NO_x RACT regulation was not adopted and submitted to EPA.

The criteria established for the evaluation of an exemption request from the section 182(f) requirements are set forth in two EPA memoranda from John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards, issued on May 27, 1994 and February 8, 1995, both entitled, "Section 182(f) Nitrogen Oxides (NO_x) Exemptions-Revised Process and Criteria", and an EPA guidance document entitled "Guidelines for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f)," dated December 1993, from EPA's Office of Air Quality Planning and Standards, Air Quality Management Division.

State Petition

On December 18, 1995, the Commonwealth of Virginia's Department of Environmental Quality submitted a NO_x exemption petition that would exempt the Richmond ozone nonattainment area from the NO_x RACT requirement under section 182(f) of the Act. The exemption request is based upon ambient air monitoring data for 1993, 1994, and 1995, which demonstrate that the NAAQS for ozone has been attained in the area without additional reductions of NO_x.

EPA Analysis of the Petition

An exceedance of the ozone NAAQS occurs when the daily-maximum, hourly ozone value exceeds 0.12 parts per million (ppm). A violation of the ozone NAAQS occurs when the average number of expected exceedances, which is determined by using the procedure of 40 CFR Part 51, Appendix H, is greater than 1.0 at any one ozone monitoring site in the area during a three year period. The Richmond ozone nonattainment area contains four monitors for measuring ambient concentrations of ozone. Information on the monitors and on the number of exceedances for 1993 through 1995 are detailed in the technical support document (TSD). Appendix C of the TSD provides calculations of the estimated number of exceedances for each monitor, as well as the three-year average number of expected exceedances. The sites with the greatest number of expected exceedances for the period from 1993 to 1995 were the

monitors located in Charles City County and Hanover County. Both have an annual average exceedance value of 1.0. Three exceedances were recorded at the monitor in Charles City County during 1993, but no exceedances were recorded in either 1994 or 1995. The monitor in Hanover County recorded one exceedance per year for the period from 1993 to 1995. Both the monitor in Charles City County and the monitor in Hanover County have an average, annual number of expected exceedances that does not exceed 1.0. Only one exceedance was recorded during 1995 at the monitor in Henrico County for the period from 1993 to 1995. The monitor in Chesterfield County recorded one exceedance in 1993, none in 1994 and one in 1995. Thus, the Richmond ozone nonattainment area is currently not recording any violations of the air quality standard for ozone.

EPA has reviewed the ambient air monitoring data for ozone submitted by the Commonwealth of Virginia in support of the exemption request and has determined that a violation of the ozone NAAQS has not occurred in the Richmond ozone nonattainment area for the relevant three year period. Because the ambient air data for Richmond adequately demonstrates that the nonattainment area is meeting the ozone NAAQS, and the exemption request for the area meets the applicable criteria contained in the EPA policy and guidance documents referenced above, the petition is approvable.

Once a petition has been granted, but during the period while the area is still designated nonattainment for ozone, the continuation of the section 182(f) exemption is contingent upon continued monitoring that demonstrates continued attainment of the ozone NAAQS in the entire Richmond ozone nonattainment area. If there is a violation of the ozone NAAQS in any portion of the Richmond ozone nonattainment area, the exemption will no longer be applicable as of the date of such determination as provided in a notice in the Federal Register. A determination that the NO_x exemption no longer applies would mean that NO_x requirements would once more be applicable to the affected area. EPA believes some reasonable period of notice is necessary to provide major stationary sources subject to the RACT requirements time to purchase, install, and operate any required controls. Accordingly, the Commonwealth may provide sources a reasonable time period to meet the RACT emission limits after the EPA determination that NO_x RACT requirements are necessary. EPA expects the time period to be as

expeditious as practicable, but in no case longer than 24 months.

Sanctions

If EPA takes final action approving the December 18, 1995 exemption petition, then the Richmond ozone nonattainment area would not be subject to the NO_x RACT requirement for the duration of the exemption. Further, approval of the December 18, 1995 exemption petition would stop the application of the offset sanction imposed on January 8, 1996 and defer application of further sanctions contingent on continued attainment of the ozone NAAQS. If, prior to the area being redesignated to attainment, the NO_x exemption is revoked due to a monitored violation of the NAAQS, EPA believes it is appropriate to provide the State a reasonable period of time before the re-application of sanctions would become effective. EPA's notice in the Federal Register of the waiver revocation would address when sanctions would be re-applied.

Other Environmental Effects

While EPA is proposing to waive the requirements to control NO_x emissions in the Richmond ozone nonattainment area on the basis that NO_x emission reductions would not contribute to attainment of the ozone NAAQS in Richmond, EPA recognizes that there are other benefits to controlling NO_x. These benefits include reducing acid deposition, reducing nitrogen deposition in sensitive estuaries, and their watersheds, in particular the Chesapeake Bay, and mitigating ozone nonattainment problems further downwind. The EPA has performed several simulations using the Regional Oxidant Model (ROM) analyzing alternative regional emissions control strategies for the Ozone Transport Commission (OTC). Several of the major findings of these OTC/EPA ROM simulations were: (1) From a regional perspective, NO_x reductions generally provide greater benefits than VOC reductions; (2) combined regional NO_x controls, with urban VOC controls, may be an effective strategy; (3) the controls mandated by the Act are estimated to effectively reduce ozone concentrations, but will be insufficient to achieve the NAAQS throughout the ozone transport region (OTR); and (4) extending NO_x controls to outside of the OTR may have some benefits in reducing ozone concentrations inside the OTR depending on weather conditions.

Maintenance Benefits of NO_x RACT

EPA believes that adoption and implementation of NO_x RACT controls

in the Richmond ozone nonattainment area would assist maintenance of the ozone NAAQS in the Richmond area by compensating for future growth in point, area and mobile source NO_x emissions. Consequently, the Commonwealth of Virginia may choose, at any time, to implement such NO_x controls by adoption and implementation of their NO_x RACT regulation for the Richmond area. Nothing in this notice or approval of the December 18, 1995 exemption petition will preclude the Commonwealth of Virginia from adopting a NO_x RACT regulation for the Richmond area and withdrawing the exemption petition.

Detailed descriptions of the petition addressed in this document, and EPA's evaluation of this petition, are contained in the TSD prepared for this action. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

EPA's review of this material indicates that the Virginia petition meets applicable requirements of the Act and EPA policy. EPA is proposing to approve the exemption from the NO_x requirements discussed herein. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing approval of Virginia's request to exempt the Richmond moderate ozone nonattainment area from the section 182(f) NO_x RACT requirement. This proposed approval is based upon the evidence provided by Virginia that the criteria outlined in the EPA guidance for section 182(f) exemptions have been met for the Richmond ozone nonattainment area. If a violation of the ozone NAAQS occurs in the Richmond ozone nonattainment area while this area is designated nonattainment for ozone, the exemption from the NO_x RACT requirement under section 182(f) of the Act shall no longer apply.

Final approval of Virginia's NO_x exemption petition would stop application of the offset sanction imposed on January 8, 1996 and defer application of future sanctions on the effective date of the waiver approval. Sanctions would then remain stopped or deferred contingent upon continued monitoring that demonstrates continued attainment of the ozone NAAQS in the

entire Richmond ozone nonattainment area. If there is a violation of the ozone NAAQS in any portion of the Richmond ozone nonattainment area while this area is designated nonattainment for ozone, the exemption will no longer be applicable as of the date of any such determination. Should this occur, EPA will provide notice both of the waiver revocation and of the date sanctions will re-apply in the Federal Register. A determination that the NO_x exemption no longer applies would mean that the NO_x requirements become once more applicable to the affected area, that the sanctions would be reinstated, and that deferred sanctions would be imposed on the date originally due or the effective date of the notice, whichever is later.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for NO_x exemptions under section 182(f). Each request for an exemption under section 182(f) shall be considered separately 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.*, 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, 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. Exemptions under section 182(f) do not create any new requirements, but allow suspension of the indicated requirements for the life of the exemptions. Therefore, because the approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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, EPA must adopt the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small

governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval 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. EPA's proposed action will relieve requirements otherwise imposed under the Clean Air 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 to the private sector, result from this action.

This action is not a SIP revision and is not subject to the requirements of section 110 of the Act. The authority to approve or disapprove exemptions from NO_x requirements under section 182 of the Act was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, "Proposed Delegation of

Authority: Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules"—Decision Memorandum."

The EPA's decision to approve or disapprove the Virginia petition to exempt the Richmond ozone nonattainment area from NO_x RACT requirements will be based on whether it meets the requirements of section 182(f) of the Clean Air Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 7, 1996.

Stanley L. Laskowski,
Acting Regional Administrator, Region III.
[FR Doc. 96-6465 Filed 3-18-96; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 90-337, DA 96-291]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.