requirements for ozone nonattainment areas in the modeling domain. In this rulemaking, EPA is proposing to approve the petition based upon its demonstration that additional NO<sub>x</sub> reductions would not contribute to attainment of the National ambient air quality standard (NAAQS) for ozone in any nonattainment area within the LMOS modeling domain. The EPA is reserving the right, however, to reverse this approval if subsequent modeling, such as may be available through the final attainment demonstration, or any other subsequent modeling data demonstrate an ozone attainment benefit from NO<sub>x</sub> emission controls. DATES: Comments on the petition and on the proposed EPA action must be received by April 5, 1995. ADDRESSES: Written comments shall be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the petition are available for inspection at the following address: (It is recommended that you telephone Daniel Meyer at (312) 886-9401, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

## FOR FURTHER INFORMATION CONTACT:

Daniel Meyer, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. (312) 886–9401.

## SUPPLEMENTARY INFORMATION:

## I. Background

Part D of the Act establishes the State Implementation Plan (SIP) requirements for nonattainment areas. Subpart 2, part D of the Act establishes additional provisions for ozone nonattainment areas. At section 182(b)(2) of this subpart, the Act requires the application of RACT regulations for major stationary volatile organic compound (VOC) sources located in moderate and above ozone nonattainment areas as well as in ozone transport regions. States are required to submit RACT regulations by November 15, 1992 and sources are required to achieve compliance with these RACT regulations by May 31, 1995. At section 182(a)(2)(C), the Act requires the application of NSR regulations for major new or modified VOC sources located in marginal and above ozone nonattainment areas as well as in ozone transport regions.

States are required to adopt revised NSR regulations by November 15, 1992. At section 182(f), the Act requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> as are applied to major stationary sources of VOC. Therefore, the RACT and NSR requirements also apply to major stationary sources of NO<sub>x</sub>.

The EPA "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 55628), November 25, 1992 (NO<sub>x</sub> Supplement), discusses in detail the section 182(f) requirements. For sources outside of an ozone transport region, these requirements do not apply to NO<sub>x</sub> sources if: (1) The EPA determines that net air quality benefits are greater in the absence of NO<sub>x</sub> emissions reductions; or (2) the EPA determines that additional reductions of NO<sub>x</sub> emissions would not contribute to attainment of the NAAQS for ozone in the area. Where any one of the tests is met (even if the other test is failed), the NO<sub>x</sub> RACT and NSR requirements of section 182(f) would not apply.

In addition to determining the applicability of NOx reductions under RACT and NSR, the section 182(f) exemption process may also determine the applicability of NO<sub>x</sub> reductions under the Act's conformity requirements, which assure conformity with approved SIPs. The general and transportation conformity requirements are found at section 176(c) of the Act. The conformity requirements apply on an areawide basis in all nonattainment areas, including the nonclassifiable ozone nonattainment areas. The EPA's transportation conformity final rule<sup>1</sup> and general conformity final rule<sup>2</sup> reference the section 182(f) exemption process as a means for exempting an affected area from NOx conformity requirements. The approval of an areawide section 182(f) petition will exempt marginal and above ozone nonattainment areas from the NO<sub>x</sub> conformity requirements of the Act. See the May 27, 1994, memorandum entitled, "Section 182(f) Nitrogen Oxides (NO<sub>x</sub>) Exemptions—Revised Process and Criteria," from John Seitz,

Director of the Office of Air Quality

Planning and Standards. Under the I/M program final rule (57 FR 52950), November 5, 1992, the section 182(f) petition is also referenced to determine applicability of NO<sub>x</sub> reductions. The I/M program requirement for moderate ozone nonattainment areas is found at section 182(b)(4), and the I/M program requirement for serious and above ozone nonattainment areas is found at section 182(c)(3). Basic I/M testing programs must be designed such that no increase in  $NO_x$  occurs as a result of the program. If a petition is granted to an area required to implement a basic I/M program, the basic I/M NO<sub>x</sub> requirement may be omitted. Enhanced I/M testing programs must be designed to reduce NO<sub>x</sub> emissions consistent with the enhanced I/M performance standard. If a petition is granted to an area required to implement an enhanced I/M program, the NO<sub>x</sub> emission reductions are not required, but the program must be designed to offset NO<sub>x</sub> emission increases resulting from the repair of vehicles due to hydrocarbon and carbon monoxide failures.

The EPA believes that all approvable petitions should be approved only on a contingent basis. As described in the NO<sub>x</sub> Supplement, the EPA would rescind a NO<sub>x</sub> petition in cases where NO<sub>x</sub> reductions were later found to be beneficial in the area's attainment demonstration. Therefore, a modelingbased exemption would last only as long as the area's modeling continued to demonstrate attainment without the additional NO<sub>x</sub> reductions required by section 182(f). The EPA would also rescind the exemption if other data, including new photochemical grid modeling, demonstrates an ozone attainment benefit from NO<sub>x</sub> emission controls. If EPA later determines that NO<sub>x</sub> reductions are beneficial in an area initially exempted, the area would be removed from exempt status and would be required to adopt the NO<sub>x</sub> RACT and NSR rules, except to the extent that the new modeling shows NO<sub>x</sub> reductions to be "excess reductions." In addition, the area would no longer be exempt from the NO<sub>x</sub> reduction requirements under the Act's I/M and conformity programs. In the rulemaking action rescinding the exempt status, the EPA would specify a schedule for a State to adopt the NO<sub>x</sub> RACT and NSR rules and for sources to comply with the NO<sub>x</sub> RACT emission limits. In addition, the rulemaking action would also describe how a State must comply with the I/M and conformity program requirements. For conformity, the effect of a recision is that subsequent Federal actions will

<sup>&</sup>lt;sup>1</sup> "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. or the Federal Transit Act' November 24, 1993 (58 FR 62188)

<sup>&</sup>lt;sup>2</sup> "Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule" November 30, 1993 (58 FR 63214).