

February 8, 1995

MEMORANDUM

SUBJECT: Section 182(f) Nitrogen Oxides (NOx) Exemptions- -  
Revised Process and Criteria

FROM: John S. Seitz, Director  
Office of Air Quality Planning and Standards (MD-10)

TO: Director, Air, Pesticides and Toxics Management  
Division, Regions I and IV  
Director, Air & Waste Management Division, Region I I  
  
Director, Air, Radiation and Toxics Division,  
Region III  
Director, Air & Radiation Division, Region V  
Director, Air, Pesticides and Toxics Division,  
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This memorandum clarifies guidance previously issued concerning NOx exemptions under section 182(f) of the Clean Air Act (Act) and interstate transport of emissions under section 110(a)(2)(D) of the Act.<sup>1</sup> First, the EPA believes that these two sections must be considered independently. Under section 182(f), an exemption from the NOx requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of [NOx] would not contribute to attainment of the national ambient air quality standard for ozone in the area." The EPA believes that the term "area" means the "nonattainment area" and that EPA's determination is limited, as a legal matter, to consideration of

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<sup>1</sup> Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f), Office of Air Quality Planning and Standards, Air Quality Strategies & Standards Division, December 1993, Chapter 4, "Contribute to Attainment."

the effects in the nonattainment area due to NOx emissions reductions from sources in the same nonattainment area. The EPA has separate authority under section 110(a)(2)(D) to require a State to reduce emissions from stationary and/or mobile sources where there is evidence showing that such emissions would contribute significantly to nonattainment or interfere with maintenance in other States. In some cases, then, EPA may grant an exemption from across-the-board NOx reasonably available control technology (RACT) controls under section 182(f) and, in a separate action, require NOx controls from stationary and/or mobile sources under section 110(a)(2)(D). The guidance contained in this memorandum replaces the last paragraph of section 4.4 and supplements section 4.3 of the December 16, 1993 guidance.

Secondly, where EPA grants a NOx exemption under section 182(f), the exemption applies to RACT, nonattainment new source review, conformity, and inspection/maintenance. Further discussion of this issue may be found in a January 12, 1995 memorandum from G. T. Helms to the Regional Air Branch Chiefs.

cc: Rich Ossias