

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–170 to read as follows:

§ 165.T05–170 Safety Zone; Delaware River

(a) *Location.* The following area is a temporary safety zone: All waters and adjacent shoreline of the Delaware River

encompassed from the north end Pier 80 to south end of Pier 84 extending out 50 yards into the channel.

(b) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(1) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(2) All persons desiring to transit through the safety zone must contact the Captain of the Port at telephone number (215) 271–4807 or on VHF channel 13 or 16 to seek permission prior to transiting the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Philadelphia, PA or designated representative.

(3) The Captain of the Port will notify the public of any changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(4) Mariners transiting in the vicinity of the safety zone should maintain the minimum safe speed necessary to maintain navigation.

(c) *Definition.* For the purpose of this section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia to act on his or her behalf.

(d) *Effective period.* This section is effective from August 26, 2004 to October 1, 2004.

Dated: August 26, 2004.

Jonathon D. Sarubbi,

Captain, U.S. Coast Guard, Captain of the Port Philadelphia.

[FR Doc. 04–20455 Filed 9–8–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA155–5081a; FRL–7809–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; NO_x RACT Determinations for Two Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the

Virginia State Implementation Plan (SIP). The revisions consist of determining the reasonably available control technology (RACT) for the control of nitrogen oxides (NO_x) from two individual sources located in Fairfax County, Virginia; namely, the Central Intelligence Agency, and the National Reconnaissance Office. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on November 8, 2004, without further notice, unless EPA receives adverse written comment by October 12, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by VA155-5081 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: morris.makeba@epa.gov.

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. VA155-5081. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 19 and 21, 2004, the Commonwealth of Virginia submitted formal revisions to its State Implementation Plan (SIP). The SIP revisions consist of RACT determinations for the control of NO_x from two individual sources located in Fairfax County, Virginia: (1) The Central Intelligence Agency, and (2) the National Reconnaissance Office.

II. Summary of SIP Revision

The following identifies the individual permit conditions for implementing RACT.

A. The Central Intelligence Agency, Registration No. 71757

The Central Intelligence Agency (CIA) operates stationary sources of air pollution at the George Bush Center for Intelligence (formerly known as CIA Headquarters compound) located in McLean, Fairfax County, Virginia. The Virginia Department of Environmental Quality (VADEQ) submitted a permit for CIA to implement RACT requirements for the following units: (a) Two Keeler natural gas/distillate oil fired boilers (Boilers 002 and 003) each with a maximum heat input capacity of 62.5 million Btu/hour; (b) one Cleaver Brooks natural gas/distillate oil fired boiler (Boiler 004) with a maximum heat input capacity of 31.0 million Btu/hour; (c) one Nebraska Industrial natural gas/distillate oil fired boiler (Boiler 005) with a maximum heat capacity of 62.5 million Btu/hour; (d) seven diesel fuel oil fired turbine generators (Generators 007 through 013) each with a maximum heat input capacity of 45.7 million Btu/hour, and (e) two Superior Boilerworks, waste heat recovery natural gas fired boilers (Boilers 041C and 041D) with a maximum heat input capacity of 17.5

million Btu/hour each. Test ports shall be provided when requested in accordance with the applicable performance specification in 40 CFR Part 60, Appendix A.

Boilers (Emissions Units 002, 003, 004, and 005)

Initial performance tests shall be conducted for NO_x on the dual fueled boilers (Boilers 002 and 004) to determine compliance with the emission limits. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30, and the test procedures contained in each applicable section or subpart listed in 9 VAC 5-50-410. The details of the tests are to be arranged with VADEQ. The facility shall submit an original copy of the test protocol at least 30 days prior to testing. NO_x emissions from each dual boiler (Boilers 002, 003, 004, and 005) shall not exceed 0.25 pounds/MMBtu. Compliance with the emission limit shall be demonstrated as provided in the initial performance testing no later than November 1, 2005. The approved fuels for the four dual fueled boilers (Boilers 002, 003, 004, and 005) are: (1) Natural gas with a minimum heat content of 1000 Btu/cf higher heating value (HHV); and (2) distillate oil that meets the ASTM specification for number 1 or 2 fuel oil with a 0.5 percent maximum sulfur content per shipment, and minimum heat content of 138,000 Btu/gallon.

Turbine Generators (Emission Units 007-013)

The approved fuel for the diesel fired generators (Generators 007-013 or 7 units) is diesel fuel oil that meets the ASTM specification for number 1 or 2 fuel oil with a 0.5 percent maximum sulfur content per shipment. The NO_x emissions from these seven diesel fired turbine generators shall not exceed the following: 188 ppm_{dv} corrected to 15 percent oxygen; 35.5 pounds/hour for each units, and 37.5 tons/year for all 7 units. Compliance with the concentration and pound/hour limit shall be demonstrated as provided in the initial performance testing no later than November 1, 2005. The seven units shall not operate more than 2,100 combined hours per year, calculated monthly as the sum of the previous consecutive twelve-month period. Initial performance tests shall be conducted for NO_x on the seven diesel-fired turbine generators to determine compliance with the emission limits. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30, and the test procedures

contained in each applicable section or subpart listed in 9 VAC 5-50-410. The details of the tests are to be arranged with VADEQ. The facility shall submit a test protocol at least 30 days prior to testing.

Heat Recovery Boilers (Emission Units 041C and 041D)

The approved fuel for the heat recovery boilers (Boilers 041C and 041D) is natural gas with a minimum heat content of 1000 Btu/cf HHV. When firing natural gas, the NO_x emissions (in combination) from the heat recovery boilers shall not exceed the following: (1) 0.20 pounds/MMBtu (each); (2) 7 pounds/hour (combined); and (3) 30.66 tons/year (combined). Compliance with the pound/MMBtu and pound/hour emission limits shall be demonstrated as provided in the initial performance testing no later than November 1, 2005. Initial performance tests shall be conducted for NO_x on the heat recovery boilers to determine compliance with the emission limits. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30, and the test methods and procedures contained in each applicable section or subpart listed in 9VAC 5-50-410. The details of the tests are to be arranged with VADEQ. The facility shall submit an original copy of the test protocol at least 30 days prior to testing. An original and two copies of the test results shall be submitted to VADEQ within 45 days after the test completion and shall conform to the test report format provided by VADEQ.

Facility Wide Conditions

1. *On-Site Records.* The facility shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. These records shall include, but are not limited to the following:

- a. The total amount of NO_x emitted from the facility, calculated monthly as the sum of the previous consecutive twelve months.
- b. Annual consumption of distillate oil and hours of operation for the diesel fuel oil fired turbine generators (Generators 007-013) in gallons, calculated monthly as the sum of the previous twelve month period.
- c. Annual consumption of natural gas in cubic feet, and distillate oil, for each fuel burning unit along with the associated emissions for each unit shall be calculated monthly as the sum of the previous consecutive twelve month period.
- d. The name of the fuel supplier.
- e. The date on which the distillate fuel oil was received.

f. The volume of distillate fuel oil delivered in the shipment.

g. A statement that the diesel fuel oil complies with the American Society for Testing and Materials (ASTM) specifications D975-02 for numbers 1 or 2 low sulfur diesel fuel oil.

h. A statement that the sulfur content is less than or equal to that allowed for type of fuel.

i. The sulfur content of the diesel fuel oil.

j. The steps taken for tuning the diesel fired turbine generators and the results of the tuning.

These records shall be available for inspection by VADEQ and shall be current for the most recent five years.

B. The National Reconnaissance Office, Registration No. 71988

Boeing Service Company (BSC) operates the National Reconnaissance Office (NRO) in Chantilly, Virginia. This facility is located in Westfields Business Park, Fairfax County. VADEQ submitted a permit for NRO to implement RACT requirements for five emergency and peak shaving diesel engine driven electrical generators (emission units GS-1 through GS-5). Each emission unit burns No. 2 diesel fuel oil and has a maximum rating of 1600 KW electrical output, normal rating of 2304 horsepower at 1800 RPM and 16.1 MMBtu/hour heat input. Test ports shall be provided when requested in accordance with the applicable performance specification in 40 CFR part 60, Appendix A.

Diesel Engine Electrical Generators (Emission Units GS-1 through GS-5)

Four initial performance tests shall be conducted on two of the five emission units (GS-1 through GS-5) to determine the NO_x emission rate of the engines. The facility shall conduct the tests to determine compliance with the NO_x emission limits by November 1, 2005. One performance test for each emission tested shall be conducted while the generator is operated at 50 to 75 percent of maximum load and the second performance test for each emission tested shall be performed while the generator is at 90 percent load or greater. Tests shall be conducted and reported and data reduced as set forth in 9 VAC 5-50-30 using an appropriate EPA Reference Test Method. The schedule for testing is to be arranged with VADEQ. The facility shall submit an original and one copy of a test protocol at least 30 days prior to testing. An original and two copies of the test results shall be submitted to VADEQ within 45 days after test completion and shall conform to the test report format

provided by VADEQ. During the performance tests, the facility shall collect engine parametric operating data and to correlate the data to actual NO_x emissions. The facility shall also prepare a report, which provides the parametric data collected, the correlation to NO_x emissions, and the selection of appropriate operating ranges for each parametric operating parameter. The report shall be submitted to VADEQ along with the test report.

NO_x emissions from each No. 2 diesel fuel oil engine driven electric generator (GS-1 through GS-5) shall not exceed 39.6 pounds NO_x/hour/engine. Compliance shall be demonstrated by a one time NO_x emission test on two of the diesel engine/generator units, and by the proper operation and maintenance of each emission unit. The approved fuels for the five engine driven electric generators is No. 2 diesel fuel oil which meets the ASTM specification for number 1 or 2 fuel oil.

NO_x emissions from the five diesel engine/generator units shall be controlled by fuel injection set at three degrees retarded timing. The engines shall be provided with adequate access for inspection. Compliance shall be demonstrated by determining the timing of each engine on an annual basis, if maintenance has been performed on that engine.

Facility Wide Conditions

1. *On-Site Records.* The facility shall maintain records of emission data and operating parameters for emission units GS-1 through GS-5 as necessary to demonstrate compliance with this permit. These records shall include, but are not limited to the following:

- a. Date of each engine timing determination, timing of each engine, and documentation of any corrective action including adjustment of engine timing.
 - b. Date of maintenance and documentation of any corrective action taken during emission unit maintenance.
 - c. The name of the No. 2 diesel fuel oil supplier.
 - d. The date on which No. 2 diesel fuel oil was received.
 - e. The volume of No. 2 diesel fuel oil delivered in each shipment.
 - f. A certification that the delivered fuel meets the ASTM specification for No. 2 diesel fuel oil.
- These records shall be available for inspection by VADEQ and shall be current for the most recent five years.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these SIP submittals because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT. The Commonwealth has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal

counterparts. * * *" The opinion concludes that "[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1-1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a State agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a State audit privilege and immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the State plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, State audit privilege or immunity law.

V. Final Action

EPA is approving revisions to the Commonwealth of Virginia's SIP which establish and require RACT for the two major sources of NO_x listed in this document. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on November 8, 2004, without

further notice unless EPA receives adverse comment by October 12, 2004. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for two named sources located in Fairfax County, Virginia, namely, the Central Intelligence Agency, and the National Reconnaissance Office.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve NO_x RACT determinations for two specific sources located in Fairfax County, Virginia must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2004. Filing a petition for reconsideration by the Administrator of

this final rule does not affect the finality of this rule for the purposes 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).)

List of Subjects in 40 CFR Part 52

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

Dated: August 26, 2004.

Richard J. Kampf,
Acting 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 *et seq.*

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (d) is amended by adding entries for "Central Intelligence Agency (CIA), George Bush Center for Intelligence" and "National Reconnaissance Office, Boeing Service Center" at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *
(d) * * *

EPA-APPROVED VIRGINIA SOURCE-SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Central Intelligence Agency (CIA), George Bush Center for Intelligence.	Registration No. 71757	04/16/04 ..	[Insert Federal Register page number where the document begins], 09/09/04.	52.2420(d).
National Reconnaissance Office, Boeing Service Center.	Registration No. 71988	04/16/04 ..	[Insert Federal Register page number where the document begins], 09/09/04.	52.2420(d).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA156-5082a; FRL-7809-7]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; NO_x RACT Determinations for Prince William County Landfill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revision consists of a reasonably available control technology (RACT) determination, contained in an operating permit for the control of nitrogen oxides (NO_x) from Prince William County Landfill, Registration No. 72340, located in Prince William County, Virginia. EPA is approving