

Dated: September 29, 1995.

Jack W. McGraw,

Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(40) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(40) The Governor of Montana submitted a PM₁₀ plan for Kalispell, Montana in a letter dated November 25, 1991. The Governor of Montana later submitted additional materials in letters dated January 11, 1994, August 26, 1994, and July 18, 1995. The August 26, 1994, and July 18, 1995 submittals also contain the Kalispell Contingency Measure Plan. The August 26, 1994, submittal also contains the Columbia Falls PM₁₀ contingency measures and minor revisions to the attainment and maintenance demonstrations for the moderate PM₁₀ nonattainment area SIP for Columbia Falls. Finally, the August 26, 1994, submittal contains revisions to the Flathead County Air Pollution Control Program regulations.

(i) Incorporation by reference.

(A) Stipulations signed September 15, 1993 between the Montana Department of Health and Environmental Sciences and the following industries: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; and Montana Mokko.

(B) Stipulations signed September 17, 1993 between the Montana Department of Health and Environmental Sciences and the following industries: Pack and Company, Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen).

(C) Board Order issued on September 17, 1993, by the Montana Board of Health and Environmental Sciences enforcing emissions limitations specified by stipulations signed by both the Montana Department of Health and Environmental Services and participating facilities. The participating facilities included: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; Montana Mokko; Pack and Company,

Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen).

(D) Flathead County Board of Commissioners Resolution No. 867B, dated April 4, 1994, adopting the Flathead County Air Pollution Control Program.

(E) Board Order issued May 20, 1994, by the Montana Board of Health and Environmental Sciences approving the Flathead County Air Pollution Control Program.

(F) Flathead County Air Pollution Control Program, including all regulations found in Chapter VIII, Sub-Chapters 1–6, effective May 20, 1994.

(ii) Additional material.

(A) Montana Smoke Management Plan, effective April 28, 1988, which addresses prescribed burning requirements.

(B) Federal tailpipe standards, which provide an ongoing benefit due to fleet turnover.

§ 52.1380 [Removed and reserved]

3. Section 52.1380 is removed and reserved.

[FR Doc. 96–6004 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[VA 0054–5006b; FRL–5441–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Interim Final Determination that the Richmond, Virginia Ozone Nonattainment Area is Exempt From NO_x RACT Requirements for Purposes of Staying Sanctions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's Federal Register, EPA has published a notice of proposed rulemaking proposing approval of the Commonwealth of Virginia's petition to exempt the Richmond ozone nonattainment area from the nitrogen oxides (NO_x) reasonably available control technology (RACT) requirement under section 182(f) of the Clean Air Act (Act). Based on the proposed approval, EPA is making an interim final determination by this action that, with respect to the NO_x RACT requirement, the State, contingent upon continued monitoring of attainment of the ozone national ambient air quality standard (NAAQS), has corrected the deficiency which was the basis for the sanctions clock. This action will stay the application of the offset sanction which was imposed January 8, 1996 and, if final action is not

taken by July 8, 1996, defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed approval of the State's submittal. EPA will publish a final action taking into consideration any comments received on EPA's proposed action and this interim final action.

EFFECTIVE DATE: March 19, 1996.

Comment date. Comments must be received by April 18, 1996.

ADDRESSES: Comments should be sent to Marcia L. Spink, Associate Director, Air Programs, (3AT00), Air, Radiation and Toxics Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19103. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address.

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:

I. Background

On July 8, 1994, EPA sent a letter to the Governor of Virginia stating that, under section 179 of the Act, EPA made a finding that Virginia failed to submit a state implementation plan (SIP) revision for NO_x RACT. This finding commenced the sanctions process outlined by section 179. 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 of failure to submit. On December 18, 1995, the Director of the Virginia Department of Environmental Quality (VA DEQ) submitted on behalf of the Commonwealth of Virginia a petition pursuant to section 182(f) of the Act to exempt the Richmond moderate ozone nonattainment area from the NO_x RACT requirement. The petition is based upon ambient air monitoring data for 1993, 1994 and 1995 ozone seasons which shows that the Richmond ozone nonattainment area is meeting the ozone NAAQS. This petition could not be submitted until the monitoring data for the entire 1995 ozone season was quality assured under the procedures of 40 CFR Part 58 and recorded in the EPA's Aerometric Information Retrieval System (AIRS). In the Proposed Rules

section of today's Federal Register, EPA has proposed approval of this petition contingent upon continued monitoring of attainment of the ozone NAAQS in the Richmond ozone nonattainment area.

II. EPA Action

Based on the proposed approval set forth in today's Federal Register, EPA believes that it is more likely than not that the State is eligible for an exemption from the NO_x RACT requirement, under section 182(f) and, therefore, is no longer subject to the requirement for which the July 8, 1994 finding of failure to submit was issued. Therefore, EPA is making this interim final determination finding that the State, contingent on continued monitored attainment of the ozone NAAQS, has corrected the deficiency of failing to submit NO_x RACT rules. This action shall be effective on publication pursuant to 5 U.S.C. 553(d)(1). This action does not stop the sanction clock that started under section 179 for this area on July 8, 1994. However, this action will stay the application of the offset sanction and, if necessary, will defer the application of the highway sanction. See 59 FR 39832 (August 4, 1994) to be codified at 40 CFR 52.31. If EPA's final action fully approves the December 18, 1995 exemption petition, such action will stay and defer sanctions for the duration of the exemption.

Today EPA is also providing the public with an opportunity to comment on this interim final determination. If, based on any comments on this action and any comments on EPA's proposed approval of the NO_x waiver petition, EPA determines that the petition is not approvable and this final action is inappropriate, EPA will take further action to disapprove the petition and to find that the Richmond ozone nonattainment area is not eligible for an exemption from NO_x RACT. If EPA's proposed approval of the NO_x exemption petition is reversed, then sanctions would be applied or re-applied at the time of a final action disapproving the NO_x exemption petition (or, if action is re-proposed, at the time of the proposed disapproval). Regardless of EPA's final action on the NO_x exemption petition, the July 8, 1994 finding of failure to submit still may be corrected by submittal of a NO_x RACT SIP for the Richmond ozone nonattainment area that meets the completeness criteria of section 110(k). See 59 FR 39832 (August 4, 1994). A finding of completeness for such a submittal would stop the sanctions clock.

III. Administrative Requirements

Because EPA has preliminarily determined that the December 18, 1995 petition under section 182(f) is approvable, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.¹ 5 U.S.C. 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the December 18, 1995 NO_x exemption petition and, through its proposed action, is indicating that it is more likely than not that the State, contingent upon continued monitored attainment of the ozone NAAQS, has corrected the deficiency of failing to submit a NO_x RACT SIP. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the December 18, 1995 NO_x exemption petition. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay or defer sanctions while EPA completes its rulemaking process on the approvability of the petition. In addition, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this document is to relieve a restriction. See 5 U.S.C. 553(d)(1).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

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 economic 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.

¹ As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

This action, pertaining to the interim final determination of the Commonwealth of Virginia's December 18, 1995 petition for an exemption from NO_x RACT under section 182(f), temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

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. 96-6464 Filed 3-18-96; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[FCC 96-37]

International Accounting Rates Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule; policy statement.

SUMMARY: On January 31, 1996, the Federal Communications Commission adopted a Policy Statement (FCC 96-37) which sets forth a shift in its policies on international accounting rates. With these changes the Commission seeks to encourage competition in the U.S. market for global telecommunications services and technological innovation.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen C. McLaughlin, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Policy Statement adopted and released on January 31, 1996. The full text of this Policy Statement is available for inspection and copying during normal business hours in the FCC's International Bureau's Public Reference Center, Room 102 of the Federal Communications Commission, 2000 M Street, N.W., Washington, D.C. 20554.

In light of this Policy Statement, the Commission also released a Public Notice wherein requested the submission of supplemental comments