

products, Government contracts, National forests, Reporting requirements, Timber sales.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is amended, as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for part 223 continues to read:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618, 104 Stat. 714-726, 16 U.S.C. 620-620j, unless otherwise noted.

2. Revise § 223.52 to read as follows:

§ 223.52 Market-related contract term additions.

(a) *Contract provision.* (1) Except as provided in paragraph (a)(3) of this section, each timber sale contract exceeding 1 year in length shall contain a provision for the addition of time to the contract term, under the following conditions:

(i) The Chief of the Forest Service has determined that adverse wood products market conditions have resulted in a drastic reduction in wood product prices applicable to the sale; and

(ii) The purchaser makes a written request for additional time to perform the contract.

(2) The contract term addition provision of the contract must specify the index to be applied to each sale. The Forest Supervisor shall determine, and select from paragraph (b) of this section, the index to be used for each sale based on the species and product characteristics, by volume, being harvested on the sale. The index specified shall represent more than one-half of the advertised volume.

(3) A market-related contract term addition provision shall not be included in contracts where the sale has a primary objective of harvesting timber subject to rapid deterioration.

(b) *Determination of drastic wood product price reductions.* (1) The Forest Service shall monitor and use Producer Price Indices, as prepared by the Department of Labor, Bureau of Labor Statistics (BLS), adjusted to a constant dollar base, to determine if market-related contract term additions are warranted.

(i) The Forest Service shall monitor and use only the following indices:

BLS producer price index	Industry code
Hardwood Lumber	2421# 1
Eastern Softwood Lumber	2421# 3
Western Softwood Lumber	2421# 4
Wood Chips	2421# 5

(ii) Preliminary index values will be revised when final index values become available, however, determination of a qualifying quarter will not be revised when final index values become available.

(2) The Chief of the Forest Service shall determine that a drastic reduction in wood product prices has occurred when, for 2 or more consecutive quarters, the applicable adjusted price index is less than 85 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the qualifying quarter. A qualifying quarter is a quarter where the applicable adjusted index is more than 15 percent below the average of such index for the 4 highest of the previous 8 calendar quarters. Qualifying quarter determinations will be made using the Producer Price Indices for the months of March, June, September, and December.

(3) A determination, made pursuant to paragraph (b)(2) of this section, that a drastic reduction in wood product prices has occurred, shall constitute a finding that the substantial overriding public interest justifies the contract term addition.

(c) *Granting market-related contract term additions.* When the Chief of the Forest Service determines, pursuant to this section, that a drastic reduction in wood product prices has occurred, the Forest Service is to notify affected timber sale purchasers. For any contract which has been awarded and has not been terminated, the Forest Service, upon a purchaser's written request, will add 1 year to the contract's terms, except as provided in paragraphs (c)(1) through (4) of this section. This 1-year addition includes time outside of the normal operating season.

(1) Additional contract time may not be granted for those portions of the contract which have a required completion date or for those portions of the contract where the Forest Service determines that the timber is in need of urgent removal or that timber deterioration or resource damage will result from delay.

(2) For each additional consecutive quarter, in which a contract qualifies for a market-related contract term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract.

(3) No more than twice the original contract length or 3 years, whichever is less, shall be added to a contract's term by market-related contract term addition.

(4) In no event shall a revised contract term exceed 10 years as a result of market-related contract term additions.

(d) *Recalculation of periodic payments.* Where a contract is lengthened as a result of market conditions, any subsequent periodic payment dates shall be delayed 1 month for each month added to the contract's term.

Dated: April 27, 1998.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 98-11626 Filed 4-30-98; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5983-3]

Technical Amendments to Approval and Promulgation of Air Quality Implementation Plans; State of Delaware: Open Burning and Non-CTG RACT Regulations; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction of effective date under CRA.

SUMMARY: On March 12, 1997 (62 FR 11329), the Environmental Protection Agency published in the **Federal Register** a direct final rule concerning the approval of a State Implementation Plan (SIP) revision submitted by the State of Delaware, consisting of two control measures to reduce volatile organic compound (VOC) emissions, which established an effective date of May 12, 1997. This document corrects the effective date of the rule to May 1, 1998 to be consistent with sections 801 to 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATES: This rule is effective on May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Tom Eagles, Office of Air, at (202) 260-5585.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Officer (GAO). EPA recently

discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on the date stated in March 12, 1997, **Federal Register** document, by operation of law, the rule did not take effect on May 12, 1997, as stated therein. Now that EPA has discovered its error, the rule has been submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since March 12, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule

is discussed in the March 12, 1997, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on May 1, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantial requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: April 22, 1998.

Carol Browner,
Administrator.

[FR Doc. 98-11549 Filed 4-30-98; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

CFR 40 Part 52

[FRL-5981-8]

Technical Amendments to Approval and Promulgation of Section 182(f) Exemption to the Nitrogen Oxides (NO_x) Control Requirements for the Lake Charles Ozone Nonattainment Area; Louisiana; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On May 29, 1997 (62 FR 29072), the Environmental Protection Agency published in the **Federal Register** a final rule issuing final approval of a petition from the State of Louisiana requesting that the Lake Charles marginal ozone nonattainment area be exempt from applicable nitrogen oxides (NO_x) control requirements of section 182(f) of the Clean Air Act, which established an effective date of May 27, 1997. This document corrects the effective date of the rule to May 1, 1998, to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Tom Eagles, Office of Air at (202) 260-5585.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on the date stated in the May 29, 1997, **Federal Register** document, by operation of law, the rule did not take effect on May 27, 1997, as stated therein. Now that EPA has discovered its error, the rule has been submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since May 29, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

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Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as