

the taxpayer, any amount tendered with the offer, including all installments paid on the offer, will be refunded without interest. If an offer is rejected, any amount tendered with the offer, including all installments paid on the offer, will be refunded, without interest, after the conclusion of any review sought by the taxpayer with Appeals. Refund will not be required if the taxpayer has agreed in writing that amounts tendered pursuant to the offer may be applied to the liability for which the offer was submitted.

(i) *Statute of limitations*—(1) *Suspension of the statute of limitations on collection.* The statute of limitations on collection will be suspended while levy is prohibited under paragraph (g)(1) of this section.

(2) *Extension of the statute of limitations on assessment.* For any offer to compromise, the IRS may require, where appropriate, the extension of the statute of limitations on assessment. However, in any case where waiver of the running of the statutory period of limitations on assessment is sought, the taxpayer must be notified of the right to refuse to extend the period of limitations or to limit the extension to particular issues or particular periods of time.

(j) *Inspection with respect to accepted offers to compromise.* For provisions relating to the inspection of returns and accepted offers to compromise, see section 6103(k)(1).

(k) *Effective date.* This section applies to offers to compromise pending on or submitted on or after July 18, 2002.

**§§ 301.7122-0T and 301.7122-1T**  
**[Removed]**

3. Sections 301.7122-0T and 301.7122-1T, are removed.

Approved: July 15, 2002.

**Charles O. Rossotti,**

*Commissioner of Internal Revenue.*

**Pamela F. Olson,**

*Acting Assistant Secretary of the Treasury*  
*(Tax Policy).*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51 and 52**

[FRL-7249-5]

**Notice of Halting the Sanctions Clocks for the Commonwealth of Virginia's Failure To Submit Required State Implementation Plan for the NO<sub>x</sub> SIP Call**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Determination regarding state implementation plan; notice of halting the sanctions clocks.

**SUMMARY:** The EPA is announcing that the State Implementation Plan (SIP) revision in response to the Nitrogen Oxides (NO<sub>x</sub>) SIP Call submitted by the Commonwealth of Virginia (Virginia) is complete, thereby halting the sanctions clocks. Under the Clean Air Act (CAA) and EPA's NO<sub>x</sub> SIP Call regulations, Virginia was required to submit SIP measures providing for NO<sub>x</sub> emissions reductions, by October 30, 2000. On December 26, 2000, EPA made a finding that Virginia had failed to submit a SIP in response to the NO<sub>x</sub> SIP Call, thus starting the 18-month and 24-month clocks, respectively, for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP). On June 30, 2002, Virginia submitted, as a SIP revision, its NO<sub>x</sub> Budget Trading Program, in response to the NO<sub>x</sub> SIP Call. On July 16, 2002, EPA found Virginia's SIP submission to be complete. The approval of the Virginia SIP revision in response to the NO<sub>x</sub> SIP Call will be addressed in a separate rulemaking action.

**EFFECTIVE DATE:** July 23, 2002.

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

**SUPPLEMENTARY INFORMATION:** On October 27, 1998 (63 FR 57356), EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." On March 2, 2000 (65 FR 11222), the NO<sub>x</sub> SIP Call rule was modified establishing emissions budgets for NO<sub>x</sub> that each of the identified States must meet through enforceable SIP measures. Various industries and States challenged the final NO<sub>x</sub> SIP Call rule by filing petitions for review in the U.S. Court of Appeals for the District of

Columbia (D.C. Circuit). State Petitioners challenging the NO<sub>x</sub> SIP Call filed a motion requesting the Court to stay the submission schedule until April 27, 2000. In response, in May 1999, the DC Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, No. 98-1497 (D.C. Cir., May 25, 1999) (order granting stay in part). On March 3, 2000, the Court of Appeals issued an opinion, largely upholding the NO<sub>x</sub> SIP Call regulations. On April 11, 2000, EPA filed a motion with the Court to lift the stay of the SIP submission date. The EPA requested that the Court lift the stay as of April 27, 2000. On June 22, 2000, the Court ordered that EPA allow the States 128 days from the June 22, 2000 date of the order to submit their SIPs. Therefore, SIPs were due October 30, 2000.

On December 26, 2000 (65 FR 81366), EPA issued findings of failure to officially submit complete submissions to their SIPs, including adopted rules, in response to the SIP Call. The States that received these findings are Virginia, West Virginia, Alabama, Kentucky, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Michigan, Ohio, and the District of Columbia. These findings started an 18-month sanctions clock; if the State failed to make the required submittal which EPA determined to be complete within that period, the emissions offset sanction would apply in accordance with 40 CFR 51.121(n) and 52.31. If the State still had not made a complete submittal which EPA determined to be complete within six months after the sanction is imposed, limitations on the approval of Federal highway funds would apply in accordance with 40 CFR 51.212(a) and 52.31. Conversely, when EPA finds that the State has made a complete SIP submittal under the SIP Call, then the 18-month clock, or additional 6-month clock, stops and the sanctions would be lifted. In addition, CAA section 110(c) provides that EPA can promulgate a FIP immediately after making the findings, as late as two years after making the findings, or any time in between. On July 16, 2002, EPA determined that the Virginia SIP submission is complete; therefore, the sanctions clocks will not take effect.

**Administrative Requirements**

*A. Notice and Comment Under the Administrative Procedure Act*

This document is final agency action but is not subject to notice-and-comment requirements of the Administrative Procedures Act (APA), 5 U.S.C. 553(b). The EPA invokes,

consistent with past practice (for example, 61 FR 36294), the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). The EPA believes that because of the limited time provided to make findings of failure to submit and findings of incompleteness regarding SIP submissions or elements of SIP submission requirements, Congress did not intend such findings to be subject to notice-and-comment rulemaking. Notice and comment are unnecessary because no significant EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs or elements of SIP submissions required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert agency resources from the critical substantive review of complete SIPs. See 58 FR 51270, 51272 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

#### *B. Executive Order 12866 (Regulatory Planning and Review)*

This action is exempt from OMB review under Executive Order 12866.

#### *C. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact on small entities of any rule subject to the notice-and-comment rulemaking requirements. Because this action is exempt from such requirements, as described under (A) above, it is not subject to the RFA.

#### *D. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative

that achieves the objectives of the rule. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's document contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector. The various CAA provisions discussed in this document require the States to submit SIPs. This document merely provides a finding that the States have not met those requirements. This document does not, by itself, require any particular action by any State, local, or tribal government, or by the private sector. For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Submission to Congress and the General Accounting Office*

Under section 801(a)(1)(A) of the APA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted, by the effective date of this rule, 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. This rule is not a "major rule" as defined by APA section 804(2), as amended. The EPA is issuing this action as a rulemaking. There is a question as to whether this action is a rule of "particular applicability" under [[Page 81369]] section 804(3)(A) of the APA as amended by SBREFA, and thus exempt from the congressional submission requirements, because this rule applies only to named States. In this case, EPA has decided to err on the side of submitting this rule to Congress, but will continue to consider this issue of the scope of the exemption for rules of "particular applicability."

#### *F. Paperwork Reduction Act*

This rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### *G. Judicial Review*

Under CAA section 307(b)(1), a petition to review today's action may be filed in the Court of Appeals for the District of Columbia within 60 days of July 23, 2002.

#### **List of Subjects**

##### *40 CFR Part 51*

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

##### *40 CFR Part 52*

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 16, 2002.

**Abraham Ferdas,**

*Acting Regional Administrator, Region III.*

[FR Doc. 02-18581 Filed 7-22-02; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[NH-047-7173a; A-1-FRL-7243-2]

#### **Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; VOC RACT Order and Regulation**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions establish requirements for sources of volatile organic compounds (VOC). The intended effect of this action is to approve a VOC regulation for the New Hampshire portion of the eastern Massachusetts serious ozone nonattainment area and to approve a VOC order for Anheuser-Busch into the New Hampshire SIP. EPA is taking this action in accordance with the Clean Air Act.