

procedures, standards and equipment specifications. Because early finalization of these elements is critical to the program being able to start by the planned date, these elements must be submitted by January 31, 1997.

Minor Deficiencies

New York must correct these minor deficiencies in its final regulations to be submitted after the 18-month interim period.

(1) New York's must submit quality control measures in accordance with the requirements set forth in 40 CFR Part 51.359.

(2) New York must complete the development of the inspector training and certification program.

(3) New York must finalize plans for its data collection system.

(4) New York must complete the public information program, including the repair station report card.

(5) New York must commit to perform on-road testing in accordance with the requirements set forth in section 51.371 of the federal I/M regulation.

(6) New York must complete the development of the quality assurance program.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

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 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.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 6, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96-29660 Filed 11-26-96; 8:45 am]

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40 CFR Part 52

[FRL-5644-1]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; SO₂: New Manchester-Grant Magisterial District, Hancock County Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision provides for, and demonstrates, the attainment of the national ambient air quality standards (NAAQS) for sulfur oxides, measured as sulfur dioxide (SO₂) in the New Manchester-Grant Magisterial District, Hancock County nonattainment area. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives

adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 27, 1996.

ADDRESSES: Written comments on this action should be addressed to Makeba A. Morris, Chief, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and, West Virginia Division of Environmental Protection, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 566-2196.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 17, 1996.

Stanley L. Laskowski,

Actg Regional Administrator, Region III.

[FR Doc. 96-30325 Filed 11-26-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 628, 640, 654, 662, and 674

[Docket No. 960314075-6320-05; I.D. 103196A]

RIN 0648-A116

Atlantic Bluefish Fishery; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Stone Crab Fishery of the Gulf of Mexico; Northern Anchovy Fishery; Salmon Fisheries Off the Coast of Alaska; Removal of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Withdrawal of proposed rules.

SUMMARY: NMFS withdraws five proposed rules that would have withdrawn approval of fishery management plans (FMPs) for the Atlantic bluefish fishery, the spiny lobster fishery of the Gulf of Mexico and South Atlantic, the stone crab fishery of the Gulf of Mexico, the northern anchovy fishery, and the salmon fisheries off the coast of Alaska, and their implementing regulations. This action is in response to opposition by Regional Fishery Management Councils (Councils) to the proposed rules, taking into account a provision in the recently enacted Sustainable Fisheries Act.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, 301-713-2341.

SUPPLEMENTARY INFORMATION: Consistent with the President's Reinvention Initiative, NMFS published proposed rules that would have withdrawn the approval of the Secretary of Commerce (Secretary) for FMPs governing the Atlantic bluefish fishery (61 FR 13810, March 28, 1996), the spiny lobster fishery of the Gulf of Mexico and South Atlantic (61 FR 12055, March 25, 1996), the stone crab fishery of the Gulf of Mexico (61 FR 12056, March 25, 1996), the northern anchovy fishery (61 FR 13148, March 26, 1996), and the salmon fisheries off the coast of Alaska (61 FR 13149, March 26, 1996), and their implementing regulations. Rationale for the proposed actions was provided in the preambles to the proposed rules and is not repeated here.

The Mid-Atlantic Fishery Management Council and other commenters opposed withdrawal of the bluefish FMP because much of the fishery occurs in the exclusive economic zone, and public participation would be reduced without the FMP process. The South Atlantic Council and other commenters believed regulations implementing the spiny lobster FMP are a necessary back-up to Florida's regulations. The Gulf of Mexico Council and other commenters opposed withdrawal of the stone crab FMP because of the potential for gear conflicts and for circumvention of the Florida limited entry system. The North Pacific Council and the Alaska Department of Fish and Game were concerned about implications under the Endangered Species Act if the high seas salmon FMP were withdrawn, although other commenters favored the proposal. The Pacific Council and other commenters supported retention of the northern anchovy FMP to support California's management measures and coordination with Mexico.

On October 11, 1996, the President signed into law S. 39, the Sustainable Fisheries Act (Act), which amended the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Section 109(i) of the Act states that the Secretary may repeal or revoke an FMP for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council. However, the President stated, on signing Pub. L. 104-297, that the Secretary is to treat this provision as advisory, not mandatory. Given the involved Councils' opposition to the repeals of the five FMPs, NMFS is hereby withdrawing the proposed rules. NMFS intends to consolidate the implementing regulations for the five FMPs, which now appear in 50 CFR parts 628, 640, 654, 662, and 674, into the appropriate consolidated fishery regulations in 50 CFR parts 622, 648, 660, and 679 through future rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 21, 1996.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96-30263 Filed 11-26-96; 8:45 am]

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