

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-5520-1]

Control of Air Pollution; Removal and Modification of
Obsolete, Superfluous or Burdensome Rules

AGENCY: Environmental Protection Agency.

ACTION: Revision of direct final rule.

SUMMARY: On April 11, 1996, EPA published a direct final rule
under the Clean Air Act deleting superfluous, obsolete or
burdensome regulations from the Code of Federal Regulations
(CFR). This action was published without prior proposal
because EPA anticipated no adverse comment. Because EPA
received adverse comments on a few discrete portions of this
action, EPA is withdrawing those aspects the final rule. EPA
will address all public comments received on those portions in
a subsequent final rule based on the proposed rule also
published on April 11, 1996.

EFFECTIVE DATE: Date of publication. {Sent to FR 6/10/96}

FOR FURTHER INFORMATION CONTACT: Maureen Delaney, Office of Air and Radiation, Office of Policy Analysis and Review, (202) 260-7431.

SUPPLEMENTARY INFORMATION: On April 11, 1996, EPA published a final rule to delete numerous obsolete, superfluous or burdensome rules from the CFR (61 FR 16050). Among the rules to be deleted were 40 C.F.R. § 51.100(o), definition of reasonably available control technology (RACT); § 51.101, stipulations; § 51.110(g), attainment and maintenance of national standards; and § 51.213, transportation control measures. EPA promulgated this direct final rulemaking without prior proposal because the Agency viewed it as non-controversial and anticipated no adverse comments. The final rule was published in the Federal Register with a provision for a 30-day comment period. At the same time, EPA published a proposed rule which announced that in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the Federal Register (61 FR 16068), those portions of the final rule that were the subject of those comments would convert to a proposed rule through EPA's publishing a notice announcing withdrawal of those provisions.

EPA received adverse comment within the prescribed comment period on the following rules: 40 C.F.R. §§

51.100(o), 51.101, 51.110(g) and 51.213. Therefore, EPA is withdrawing the April 11, 1996 final rulemaking action pertaining to those rules. EPA will not institute a second comment period on this document. The portions of the April 11, 1996 rule that were no the subject of adverse comments remain final and effective as published.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control.

Dated: June 6, 1996.

SIGNED

Carol M. Browner,

Administrator.

40 CFR part 51 is amended as follows:

1. The authority citation for part 51 continues to read as follows:

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

2. Section 51.100 is amended by adding paragraph (o) to read as follows:

§ 51.100 Definitions.

* * * * *

(o) *Reasonably available control technology (RACT)* means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(1) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

(2) The social, environmental, and economic impact of such controls; and

(3) Alternative means of providing for attainment and maintenance of such standard, (This provision defines RACT for the purposes of §§ 51.110(c)(2) and 51.341(b) only.)

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3. Section 51.101 is added to read as follows:

§51.101 **Stipulations .**

Nothing in this part will be construed in any manner:

(a) To encourage a State to prepare, adopt, or submit a plan which does not provide for the protection and enhancement of air quality so as to promote the public health and welfare and productive capacity.

(b) To encourage a State to adopt any particular control strategy without taking into consideration the cost-

effectiveness of such control strategy in relation to that of alternative control strategies.

(c) To preclude a State from employing techniques other than those specified in this part for purposes of estimating air quality or demonstrating the adequacy of a control strategy, provided that such other techniques are shown to be adequate and appropriate for such purposes.

(d) To encourage a State to prepare, adopt, or submit a plan without taking into consideration the social and economic impact of the control strategy set forth in such plan, including, but not limited to, impact on availability of fuels, energy, transportation, and employment.

(e) To preclude a State from preparing, adopting, or submitting a plan which provides for attainment and maintenance of a national standard through the application of a control strategy not specifically identified or described in this part.

(f) To preclude a State or political subdivision thereof from adopting or enforcing any emission limitations or other measures or combinations thereof to attain and maintain air quality better than that required by a national standard.

(g) To encourage a State to adopt a control strategy uniformly applicable throughout a region unless there is no

satisfactory alternative way of providing for attainment and maintenance of a national standard throughout such region.

4. Section 51.110 is amended by adding and reserving paragraphs (c) through (f) and by adding paragraph (g) to read as follows:

§ 51.110 Attainment and maintenance of national standards.

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(g) During developing of the plan, EPA encourages States to identify alternative control strategies, as well as the costs and benefits of each such alternative for attainment or maintenance of the national standard.

5. Section 51.213 is added to read as follows:

§51.213 **Transportation control measures.**

(a) The plan must contain procedures for obtaining and maintaining data on actual emissions reductions achieved as a result of implementing transportation control measures.

(b) In the case of measures based on traffic flow changes or reductions in vehicle use, the data must include observed changes in vehicle miles traveled and average speeds.

(c) The data must be maintained in such a way as to facilitate comparison of the planned and actual efficacy of the transportation control measures.

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