

(c) VMC may be determined by any accepted method or combination of methods, including but not limited to, simple geometric formulas, multiplication of a container by 29.2 m³, or other standard mathematical formula. The on-deck container capacity of a vessel for VMC purposes will be determined by the Commission.

Dated: November 25, 1996.

John A. Mills,

Secretary, Panama Canal Commission.

[FR Doc. 96-30488 Filed 11-27-96; 8:45 am]

BILLING CODE 3640-04-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 96-8 CARP]

Copyright Office; Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of living adjustment of 3.0% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 1995, to October, 1996.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, Copyright Arbitration Royalty Panel Specialist, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: On December 22, 1992, the Copyright Royalty Tribunal published in the Federal Register final rules governing the terms and rates of copyright royalty payments with respect to certain uses by noncommercial educational broadcast stations of published nondramatic musical works and published pictorial, graphic and sculptural works. 57 FR 60957 (December 22, 1992). The Copyright Royalty Tribunal determined in that proceeding that colleges, universities, and other noneducational

institutions which are not affiliated with National Public Radio would pay a royalty rate adjusted each year according to changes in the Consumer Price Index for the use of copyrighted published nondramatic musical compositions. 37 CFR 304.10. Accordingly, the Tribunal published a cost of living adjustment on December 1, 1993. 58 FR 63294 (December 1, 1993).

On December 17, 1993, Congress abolished the Copyright Royalty Tribunal. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Pub. L. 103-198, 107 Stat. 2304. The CRT Reform Act directed the Library of Congress and the Copyright Office to adopt the rules and regulations of the CRT as found in chapter 3 of 37 CFR. 17 U.S.C. 802(d). The Office subsequently reissued the CRT regulations on December 22, 1993. 58 FR 67690 (December 22, 1993).

In a later action, former 37 CFR 304.10, which calls for the annual cost of living adjustments to rates paid by college and university radio stations, was renumbered 37 CFR 253.10. 59 FR 23964 (May 9, 1994).

Accordingly, the Copyright Office of the Library of Congress is hereby performing the annual cost of living adjustment pursuant to the 1992 public broadcasting rate adjustment proceeding.

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 1995, to the most recent Index published before December 1, 1996, was 3.0% (1995's figure was 153.7; 1996's figure is 158.3, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertoire of ASCAP and BMI is \$217, each, and \$50 for the use of musical compositions in the repertoire of SESAC.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for Part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. 37 CFR 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(1) For all such compositions in the repertoire of ASCAP, \$217 annually.

(2) For all such compositions in the repertoire of BMI, \$217 annually.

(3) For all such compositions in the repertoire of SESAC, \$50 annually.

* * * * *

Dated: November 22, 1996.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 96-30483 Filed 11-27-96; 8:45 am]

BILLING CODE 1410-33-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ND4-1-6459a, UT8-1-6460a, CO20-1-6461a, MT14-1-6462a; FRL-5282-1]

Clean Air Act, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for the States of North Dakota, Utah, Colorado and Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: EPA approved the State Implementation Plan revisions for the States of North Dakota, Utah, Colorado and Montana (January 11, 1994 in 59 FR 1485, January 11, 1994 in 59 FR 1485, January 28, 1994 in 59 FR 4003, March 4, 1994 in 59 FR 10284, respectively) for the purpose of establishing Small Business Stationary Source Technical and Environmental Compliance Assistance Programs. This notice amends those approvals to incorporate by reference the States' Programs, and deletes the following sections from part 52, chapter I, title 40 of the Code of Federal Regulations: § 52.1833 of subpart JJ—North Dakota, § 52.2348 of subpart TT—Utah, § 52.347 of subpart G—Colorado, and § 52.1389 of subpart BB—Montana.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 28, 1997

unless, by December 30, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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. If no such comments are received, the public is advised that this action will be effective January 28, 1997.

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.

DATES: This action is effective January 28, 1997, unless adverse or critical comments are received by December 30, 1996. If the effective date is delayed timely notice will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Meredith Bond, Mail Code 8P2-A, EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 312-6438.

SUPPLEMENTARY INFORMATION: Administrative Requirements.

A. 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.

B. 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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act 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, the Administrator certifies 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).

C. 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, or \$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 promulgated 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2) of the APA as amended.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Small business assistance program.

Dated: February 13, 1996.
Jack McGraw,
Acting Regional Administrator.

Part 52, 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)(34) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(34) On October 19, 1992, the Governor of Montana submitted a plan for the establishment and implementation of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to be incorporated into the Montana State Implementation Plan as required by section 507 of the Clean Air Act.

(i) Incorporation by reference.

(A) Montana Code Annotated, Sections 75-2-106, 75-2-107, 75-2-108, 75-2-109 and 75-2-220, to establish and fund a small business stationary source technical and environmental compliance assistance program, effective April 24, 1993.

(ii) Additional Materials.

(A) October 19, 1992 letter from the Governor of Montana submitting a Small Business Stationary Source Technical and Environmental Compliance Assistance Program plan to EPA.

(B) The State of Montana plan for the establishment and implementation of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted by the Board of Health and Environmental Sciences on September 25, 1992, effective September 25, 1992.

§ 52.1389 [Removed]

3. Section 52.1389 is removed.

Subpart TT—Utah

4. Section 52.2320 is amended by adding paragraph (c)(30) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(30) On November 9, 1992, the Governor of Utah submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the Utah State Implementation Plan as required by section 507 of the Clean Air Act.

(i) Incorporation by reference.

(A) Utah Code, Title 19, Chapter 2, Air Conservation Act, Sections 19-2-109.1 and 19-2-109.2, to establish and fund a small business stationary source technical and environmental compliance assistance program, effective April 27, 1992.

(ii) Additional Materials.

(A) November 9, 1992 letter from the Governor of Utah submitting a Small Business Assistance Program plan to EPA.

(B) The State of Utah plan for the establishment and implementation of a Small Business Assistance Program, promulgated September 30, 1992 by the Utah Air Quality Board, effective December 1, 1992.

§ 52.2348 [Removed]

5. Section 52.2348 is removed.

Subpart G—Colorado

6. Section 52.320 is amended by adding paragraph (c)(63) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(63) On November 18, 1992, the Governor of Colorado submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the Colorado State Implementation

Plan as required by section 507 of the Clean Air Act.

(i) Incorporation by reference.

(A) Colorado Revised Statutes, Sections 25-7-109.2 and 25-7-114.7, to establish and fund a small business stationary source technical and environmental compliance assistance program, effective July 1, 1992.

(ii) Additional materials.

(A) November 18, 1992 letter from the Governor of Colorado submitting a Small Business Assistance Program plan to EPA.

(B) The State of Colorado plan for the establishment and implementation of a Small Business Assistance Program, adopted by the Colorado Air Quality Control Commission on October 15, 1992, effective October 15, 1992.

§ 52.347 [Removed]

7. Section 52.347 is removed.

Subpart JJ—North Dakota

8. Section 52.1820 is amended by adding paragraph (c)(25) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(25) On November 2, 1992, the Governor of North Dakota submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the North Dakota State Implementation Plan as required by section 507 of the Clean Air Act.

(i) Incorporation by reference.

(A) Executive Order 1992-5, executed May 21, 1992, to establish a Small Business Compliance Advisory Panel.

(ii) Additional Materials.

(A) November 2, 1992 letter from the Governor of North Dakota submitting a Small Business Assistance Program plan to EPA.

(B) The State of North Dakota plan for the establishment and implementation of a Small Business Assistance Program, adopted by the North Dakota State Department of Health and Consolidated Laboratories on October 23, 1992, effective October 23, 1992.

§ 52.1833 [Removed]

9. Section 52.1833 is removed.

Editorial Note: This document was received at the Office of the Federal Register on November 22, 1996.

[FR Doc. 96-30327 Filed 11-27-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[IN75-1; FRL-5648-7]

Designation of Areas for Air Quality Planning Purposes; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: On March 3, 1978, the EPA published a final rule designating part of Porter County, Indiana as nonattainment for sulfur dioxide (SO₂) and the remainder of Porter County as "better than national standards" (43 FR 8962). On October 5, 1978, the EPA designated the formerly nonattainment portion of Porter County (the area bound on the north by Lake Michigan, on the west by the Lake-Porter County line, on the south by I-80 and 90 and on the east by the LaPorte-Porter County line) as "cannot be classified" for SO₂ (43 FR 4993). Inadvertently, however, the revised Porter County status designation was not correctly printed in subsequent Codes of Federal Regulations (40 CFR 81.315). It is being corrected in this rule.

EFFECTIVE DATE: November 29, 1996.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Air Programs Branch, Regulation Development Section (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6069.

SUPPLEMENTARY INFORMATION: 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 (P.L. 104-4), or require prior consultation with State officials as specified by Executive Order 112875 (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 EPA is not taking comment on this correction, it is therefore not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller