

Teledyne Continental Motors Model O-470-K, -L, -R reciprocating engines. These engines are installed on but not limited to Cessna 182 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent piston failure, which can result in engine power loss, engine failure and loss of the aircraft, accomplish the following:

(a) At the next access to the piston, top overhaul, or major overhaul after the effective date of this airworthiness directive, whichever occurs first, remove from service pistons, P/N SA626992, and replace with a serviceable part.

Note: The affected pistons can be identified by either a stamped-in P/N on the piston dome (SA626992 or SA626992P15) or, by a raised number (SA632932) along one of the piston pin bosses on the underside of the piston.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Fort Worth Special Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Special Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Fort Worth Special Certification Office.

Issued in Burlington, Massachusetts, on February 14, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.
[FR Doc. 95-4250 Filed 2-21-95; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353, 355, and 356

[Docket No. 941264-4364]

RIN 0625-AA45

Antidumping Duties; Countervailing Duties; Article 1904 of the North American Free Trade Agreement

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Advance Notice of Proposed Rulemaking; Extension of Comment Period.

SUMMARY: The Department of Commerce issued an advance notice of proposed rulemaking and request for comments as the first step in the process of conforming the existing antidumping, countervailing duty, and NAFTA Article 1904 regulations to the Uruguay Round

Agreements Act. In an effort to accommodate parties interested in submitting comments in this rulemaking proceeding, the Department is extending the comment period announced in the advanced notice of proposed rulemaking.

DATES: Final comments should be received on or before April 3, 1995.

ADDRESSES: Address written comments to Susan G. Esserman, Assistant Secretary for Import Administration, Central Records Unit, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, DC 20230. Comments should be addressed: Attention: Advance Notice of Proposed Rulemaking/Uruguay Round Agreements Act. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, (202) 482-4412, or David Mason Jr., (202) 482-4969.

SUPPLEMENTARY INFORMATION: On January 3, 1995, the Department of Commerce (the Department) published an Advance Notice of Proposed Rulemaking and Request for Comments in the **Federal Register** (*Antidumping Duties; Countervailing Duties; Article 1904 of the North American Free Trade Agreement* ("Advance Notice of Proposed Rulemaking")) (60 FR 80) as the first step in the process of conforming the Department's existing antidumping duty, countervailing duty, and NAFTA Article 1904 regulations to the Uruguay Round Agreements Act. In its notification, the Department requested initial comments by February 3, 1995 and final comments by February 24, 1995. In an effort to accommodate parties interested in submitting comments in this rulemaking proceeding, the Department now extends the time in which to file final comments pursuant to the Advance Notice of Proposed Rulemaking. The new due date for final comments is April 3, 1995.

FORMAT AND NUMBER OF COPIES: Parties should submit comments in the following format: (1) Number each comment in accordance with the number designated for that issue as indicated in the list of issues set forth in the Department's Advance Notice of Proposed Rulemaking (60 FR 80; January 3, 1995); (2) begin each comment on a separate page; (3) concisely state the issue identified and discussed in the comment; and (4) provide a brief summary of the comment (a maximum of 3 sentences)

and label this section "summary of the comment."

To simplify the processing and distribution of these comments, parties are encouraged to submit documents in electronic form accompanied by an original and one paper copy. All documents filed in electronic form must be on DOS formatted 3.5" diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. Each comment submitted should be on a separate file on the diskette and labeled by the number designated for that issue based upon the list of issues outlined below.

Comments received on diskette will continue to be made available to the public on Internet under the following address: FTP://FWUX.FEDWORLD.GOV/PUB/IMPORT

In addition, the Department will continue to make comments available to the public on 3.5" diskettes, with specific instructions on accessing compressed data, at cost, and paper copies available for reading and photocopying in Room B-099 of the Central Records Unit. Any questions concerning file formatting, document conversion, access on Internet, or other file requirements should be addressed to Andrew Lee Beller, Director of Central Records, (202) 482-1248.

List of Subjects in 19 CFR Parts 353, 355, and 356

Business and industry, Foreign trade, Imports, Trade Practices.

Dated: February 16, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4453 Filed 2-21-95; 8:45 am]

BILLING CODE 3510-DS-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 63

[WA22-1-6362; FRL-5157-4]

Approval and Promulgation of Implementation Plans, Washington; Approval of Section 112(I) Authority; Preconstruction and Operating Permits; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA invites public comment on its proposal to approve in part and disapprove in part, numerous revisions to the State of Washington

Implementation Plan submitted to EPA by the Director of the Washington Department of Ecology (WDOE) on March 8, 1994. The revisions were submitted in accordance with the requirements of section 110 and Part D of the Clean Air Act (hereinafter the Act). EPA is also proposing to take no action on a number of provisions which are unrelated to the purposes of the implementation plan. EPA also invites public comment on its proposal to approve certain WDOE rules, and certain rules of the Puget Sound Air Pollution Control Agency (PSAPCA) and Southwest Air Pollution Control Authority (SWAPCA), submitted to EPA by the Director of WDOE on September 29, 1994, under the authority of section 112(l) of the Act in order to recognize conditions and limitations established pursuant to these rules as Federally enforceable.

DATES: Comments must be postmarked on or before March 24, 1995.

ADDRESSES: Written comments should be addressed to: David Bray, Permits Programs Manager, EPA, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Air & Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington, Department of Ecology, 4550 Third Avenue SE, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Permit Programs Manager, EPA, Air & Radiation Branch (AT-082), Seattle, Washington 98101, (206) 553-4253.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress amended the Clean Air Act to require, among other things, revisions to state implementation plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS) in areas which violate those standards (nonattainment areas). Under the provisions of the Act, revisions to title I, part D (nonattainment area) new source review (NSR) rules were required to be submitted by June 30, 1992 for PM-10 nonattainment areas, by November 15, 1992 for most ozone and carbon monoxide nonattainment areas, and by November 15, 1993 for the remainder of the ozone and carbon monoxide nonattainment areas. The Washington Department of Ecology (WDOE) amended its part D NSR rules

on August 20, 1993 and submitted them to EPA on March 8, 1994 as a revision to the Washington SIP.

The Clean Air Act Amendments of 1990 also established a new title V which requires States to develop operating permit programs for most stationary sources. While title V operating permit programs are not intended to be part of the SIP, many provisions of the SIP will interact closely with the title V operating permit program. As such, most States will be revising provisions of their SIPs to facilitate and improve the relationship between their SIP and their title V operating permit program. The WDOE amended several provisions of its current rules for air pollution sources and submitted them to EPA on March 8, 1994 as a revision to the Washington SIP.

Section 112(l) of the Act also enables the EPA to approve State air toxics rules or programs for the implementation and enforcement of emission standards and other requirements for hazardous air pollutants. Approval is granted by the EPA if the Agency finds that: (1) The State rule or program is "no less stringent" than the corresponding Federal program or rule; (2) the State program is supported by adequate authority and resources; (3) the schedule for implementation and compliance of emission standards and other requirements is sufficiently expeditious; and (4) the rules are otherwise in compliance with Federal guidance.

On September 29, 1994, the Director of the WDOE submitted an official application to obtain approval for title V permitting authorities (with the exception of PSAPCA and SWAPCA) in the State of Washington to implement and enforce the statewide rules for "Controls for New Sources of Toxic Air Pollutants" (WAC 173-460) as an interim program to implement section 112(g) of the Act. The Director of the WDOE also submitted an official application on behalf of the PSAPCA and SWAPCA to obtain approval for those local agencies to implement and enforce their own rules (portions of PSAPCA Regulations I and III and SWAPCA Regulation 460) for new sources of toxic air pollutants.

II. Discussion of SIP Submittal

A. Description of SIP Submittal

On March 8, 1994, the Director of the WDOE submitted all of Chapter 173-400 WAC "General Regulations for Air Pollution Sources" (with the exception of WAC 173-400-114) as amended on August 20, 1993, as a revision to the

Washington SIP. The amended rules include changes to the following sections: WAC 173-400-030 "Definitions;" WAC 173-400-040 "General standards for maximum emissions;" WAC 173-400-100 "Registration;" WAC 173-400-105 "Records, monitoring, and reporting;" WAC 173-400-110 "New source review (NSR);" WAC 173-400-120 "Bubble rules;" WAC 173-400-131 Issuance of emission reduction credits;" WAC 173-400-136 "Use of emission reduction credits;" WAC 173-400-141 "Prevention of significant deterioration (PSD);" WAC 173-400-171 "Public involvement;" WAC 173-400-180 "Variance;" WAC 173-400-230 "Regulatory actions;" and WAC 173-400-250 "Appeals." The amended rules include the following new sections which are revised and recodified provisions from the previous rules: WAC 173-400-112 "Requirements for new sources in nonattainment areas;" and WAC 173-400-113 "Requirements for new sources in attainment or unclassifiable areas." Finally, the amended rules also include the following entirely new sections: WAC 173-400-081 "Startup and shutdown;" WAC 173-400-091 "Voluntary limits on emissions;" and WAC 173-400-107 "Excess emissions."

With the exceptions discussed in Section II.C. and II.D. below, EPA is proposing to approve the submitted version of Chapter 173-400 WAC as a revision to the Washington SIP. Note that those provisions of WAC 173-400 which were not revised on August 20, 1993 and are not discussed in Sections II.B., II.C., and II.D., below were previously approved by EPA on January 15, 1993 (58 FR 4578).

B. Discussion of Proposed Approvals

1. New Source Review

The existing provisions related to new source review (NSR) were extensively revised to meet the new requirements of Title I, Part D of the Act as set forth in the "State Implementation Plans: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992) and to make the WDOE rules more consistent with EPA's regulations for new source review programs in 40 CFR part 51, subpart I Review of New Sources and Modifications. Specifically:

a. The definitions of the following terms were revised to be consistent with EPA's definitions: "actual emissions" (WAC 173-400-030(1)), "allowable emissions" (WAC 173-400-030(5)), "best available control technology

(BACT)" (WAC 173-400-030(9)), "Class I area" (WAC 173-400-030(13)), "emission standard and emission limitation" (WAC 173-400-030(22)), "major modification" (WAC 173-400-030(39)), "net emission increase" (WAC 173-400-030(46)), "new source" (WAC 173-400-030(47)), "significant" (WAC 173-400-030(67)), "source" (WAC 173-400-030(69)), and "volatile organic compound (VOC)" (WAC 173-400-030(81)). EPA finds that these revised definitions are consistent with the requirements of 40 CFR Part 51, Subpart I, and therefore proposes to approve them as revisions to the Washington SIP.

b. New definitions of the following terms were added to be consistent with EPA's regulations: "federal land manager" (WAC 173-400-030(28)), "mandatory Class I federal area" (WAC 173-400-030(38)), "major stationary source" (WAC 173-400-030(40)), "modification" (WAC 173-400-030(43)), "order" (WAC 173-400-030(53)), "order of approval" (WAC 173-400-030(54)), and "stationary source" (WAC 173-400-030(74)). EPA finds that these new definitions are consistent with the requirements of 40 CFR part 51, subpart I, and therefore proposes to approve them as revisions to the Washington SIP.

c. WAC 173-400-110 "New Source Review (NSR)" was revised to clarify the applicability of the NSR rule and the procedures for submittal of applications, making completeness determinations and final determinations, and appeals of orders of approval. The section was also revised by revoking provisions and replacing them with two new sections as described below. EPA finds that this revised section is consistent with the requirements of 40 CFR part 51, subpart I, and therefore proposes to approve it as a revision to the Washington SIP.

d. A new section WAC 173-400-112 "Requirements for new sources in nonattainment areas" was added which specifies the requirements for new and modified major and minor stationary sources proposing to locate in designated nonattainment areas. New and modified minor stationary sources must comply with all applicable requirements, utilize the best available control technology (BACT) for all air pollutants, not violate the requirements for reasonable further progress established in the SIP and comply with the State's air toxics requirements which EPA is today proposing to approve pursuant to section 112(l) of the Act (see below). New and modified major sources must also comply with all applicable requirements, meet the lowest achievable emission rate (LAER)

for the nonattainment air pollutant and BACT for all other air pollutants, comply with the requirements for reasonable further progress by providing adequate offsetting emission reductions from existing sources in the nonattainment area, demonstrate that all other major sources owned or operated in the State of Washington are in compliance (or on a compliance schedule) with applicable requirements, demonstrate through an analysis of alternatives that the benefits of the project significantly outweigh the costs imposed as a result of its location in the nonattainment area, comply with the requirements for prevention of significant deterioration (PSD) if applicable, comply with the State's air toxics requirements, and comply with the visibility protection requirements for mandatory Federal Class I areas.

Section 189(e) of the Act requires part D NSR programs for PM₁₀ nonattainment areas to treat PM₁₀ precursor emissions in the same manner as PM₁₀ emissions unless the Administrator has determined that PM₁₀ precursors do not significantly contribute to violations of the PM₁₀ NAAQS. However, WAC 173-400-112 does not address PM₁₀ precursors nor require them to be treated in the same manner as PM₁₀ emissions. The Administrator has previously made a determination that PM₁₀ precursors do not significantly contribute to PM₁₀ violations in the Thurston County, and Seattle, Tacoma, and Kent PM₁₀ nonattainment areas (see 58 FR 40056 (July 27, 1993) and 59 FR 44324 (August 29, 1994)). The submitted control strategies for the Wallula, Spokane, and Yakima PM₁₀ nonattainment areas contain sufficient information on the relative contribution of PM₁₀ precursors to the nonattainment problem to enable the Administrator to determine at this time that PM₁₀ precursors do not significantly contribute to violations of the PM₁₀ NAAQS in those three areas. Based on the Administrator's determinations regarding PM₁₀ precursors in the three remaining PM₁₀ nonattainment areas, EPA finds this new section to be consistent with the requirements of 40 CFR part 51, subpart I, and title I, part D of the Act, as set forth in "State Implementation Plans: General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990" (57 FR 13498 (April 16, 1992)) and therefore proposes to approve it as a revision to the Washington SIP.

e. A new section WAC 173-400-113 "Requirements for new sources in attainment or nonclassifiable areas" was added which specifies the requirements

for new and modified major and minor stationary sources located in attainment areas. New and modified minor stationary sources must comply with all applicable requirements, utilize the best available control technology (BACT) for all air pollutants, not delay the attainment date for any nonattainment area nor cause or contribute to a violation of any ambient air quality standard, and comply with the State's air toxics requirements. New and modified major stationary sources must comply with all applicable requirements, utilize the best available control technology (BACT) for all air pollutants, not delay the attainment date for any nonattainment area nor cause or contribute to a violation of any ambient air quality standard, comply with the requirements for PSD if applicable, comply with the State's air toxics requirements, and not cause an adverse impact on visibility. EPA finds that this new section is consistent with the requirements of 40 CFR part 51, subpart I, and therefore proposes to approve it as a revision to the Washington SIP.

2. Startup and Shutdown

The new section on "startup and shutdown" (WAC 173-400-081) establishes a requirement that State and local air pollution control authorities consider any physical constraints on the ability of a source to comply with a standard whenever an authority promulgates a technology-based emission standard or makes a control technology determination. Where the authority determines that the source is not capable of achieving continuous compliance with a standard during startup or shutdown, the authority shall establish appropriate limitations to regulate the performance of the source during startup or shutdown conditions. The allowable emissions during startup or shutdown must be accounted for in any demonstration of attainment or maintenance of ambient air quality requirements. In addition, if such limitations would allow emissions during periods of startup or shutdown which exceed those allowed for under the current EPA-approved SIP, such limitations shall not take effect until approved by EPA as a revision to the SIP. EPA finds this section to be consistent with EPA requirements and proposes to approve it as a revision to the Washington SIP.

3. Excess Emissions

The new section on "excess emissions" (WAC 173-400-107) establishes requirements for reporting periods of excess emissions and the procedures and criteria for determining,

in the context of an enforcement action, when such excess emissions are unavoidable and could therefore be excused and not subject to penalty. The section sets forth separate criteria for periods of excess emissions resulting from startup or shutdown, scheduled maintenance, and upsets. EPA finds this section to be consistent with its requirements for SIP excess emissions rules (February 15, 1983 memorandum entitled "Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions" from Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation to Regional Administrators, Regions 1-X) and therefore proposes to approve it as a revision to the Washington SIP. Note that this new section replaces the provisions for excess emissions which were formerly contained in WAC 173-400-105(5) and EPA also proposes to approve the repeal of those provisions.

4. Voluntary Limits on Emissions

The new section for voluntary limits on emissions (WAC 173-400-091) provides a mechanism for the owner or operator of a source to apply for, and obtain, enforceable conditions that limit the source's potential to emit. Such limitations would be contained in a "regulatory order" issued by the WDOE or a local air authority, after public notice and an opportunity for comment, and would include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with the limitations.

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of Federally enforceable State operating permits. Permits issued pursuant to an operating permit program approved into the SIP as meeting these criteria may be considered Federally enforceable. The EPA has encouraged States to develop such programs in conjunction with title V operating permits programs to enable sources to limit their potential to emit to below the title V applicability thresholds. (See the guidance document entitled, "Limitation of Potential to Emit With Respect to Title V Applicability Thresholds," dated September 18, 1992, from John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards (OAQPS), Office of Air and Radiation, U.S. EPA.) On November 3, 1993, the EPA announced in a guidance document entitled, "Approaches to Creating Federally Enforceable Emissions Limits," signed by John S.

Seitz, Director, OAQPS, that this mechanism could be extended to create Federally enforceable limits for emissions of hazardous air pollutants (HAP) if the program were approved pursuant to section 112(l) of the Act.

The June 28, 1989 **Federal Register** notice establishes five criteria which must be met in order for EPA to approve a State operating permit program into the SIP: (1) The program must be submitted to and approved by the EPA; (2) the program must impose a legal obligation on the operating permit holders to comply with the terms and conditions of the permit, and permits that do not conform with the June 28, 1989 criteria or the EPA's underlying regulations shall be deemed not Federally enforceable; (3) any permit issued under the program must contain terms and conditions that are at least as stringent as any requirements contained in the SIP, enforceable under the SIP, or any section 112 or other CAA requirement, and may not allow for the waiver of any CAA requirement; (4) any permit issued under the program must contain conditions that are permanent, quantifiable, and enforceable as a practical matter; and (5) any permit that is intended to be Federally enforceable must be issued subject to public participation and must be provided to the EPA in proposed form on a timely basis.

EPA finds that WAC 173-400-091 meets the requirements for Federally enforceable State operating permit programs as set forth in the June 28, 1989 **Federal Register** (54 FR 27274) and proposes to approve it as a revision to the Washington SIP. Furthermore, EPA proposes that, after final approval to this section, "regulatory orders" issued pursuant to the EPA-approved WAC 173-400-091, and terms and conditions contained therein, would be enforceable by the EPA and by citizens under section 304 of the Act regardless of whether such orders were issued prior to EPA approval of this section. However, such orders would have to have been issued after the effective date of WAC 173-400-091 (i.e., September 20, 1993) in accordance with all of the provisions set forth in that section. Sources could, thereafter, rely on "regulatory orders" issued pursuant to this section as a means to limit their potential to emit criteria pollutants and the pollutants regulated under the PSD provisions of the SIP in order to avoid requirements which would otherwise apply to "major stationary sources." EPA requests comment on the appropriateness of making Federally enforceable, as of the date of EPA approval, the terms and conditions of an

order that was issued prior to EPA's approval of a State or local rule, provided the order itself complied with all of the requirements of the EPA-approved rule.

5. Miscellaneous Changes

The remaining changes to WAC 173-400-030 "Definitions;" and the changes to WAC 173-400-040 "General standards for maximum emissions;" WAC 173-400-100 "Registration;" WAC 173-400-105 "Records, monitoring, and reporting;" WAC 173-400-171 "Public involvement;" " WAC 173-400-230 "Regulatory actions;" and WAC 173-400-250 "Appeals" are primarily administrative in nature to conform those sections to current State statutes and to other provisions of WAC 173-400. EPA finds these changes to be consistent with EPA's requirements and proposes to approve the rules as revised.

C. Discussion of Proposed Disapprovals

On January 15, 1993 (58 FR 4578), EPA disapproved numerous provisions of Chapter 173-400 WAC. These provisions were resubmitted as part of the March 8, 1994 submittal without the necessary changes to make them approvable. EPA is therefore proposing to again disapprove the following provisions. A complete discussion of the deficiencies and the reasons for disapproval can be found in the September 28, 1992 Notice of Proposed Rulemaking (57 FR 44530).

EPA is proposing to disapprove WAC 173-400-040(1) (c) and (d) which allow for the establishment of alternative opacity limits. EPA is proposing to disapprove the second paragraph of WAC 173-400-040(6) which provides an exception to the sulfur dioxide emission limitation. EPA is proposing to disapprove the exception provision in WAC 173-400-050(3) which allows for the establishment of an alternative oxygen correction factor for combustion and incineration sources. EPA is proposing to disapprove WAC 173-400-180 Variance which allows the WDOE to grant a variance to the requirements governing the quality, nature, duration, or extent of discharges of air contaminants. EPA is proposing to disapprove WAC 173-400-120 Bubble Rules, WAC 173-400-131 Issuance of Emission Reduction Credits, and WAC 173-400-136 Use of Emission Reduction Credits as these regulations do not comply with the requirements of EPA's Final Emissions Trading Policy Statement (51 FR 43814, December 4, 1986).

EPA is proposing to disapprove WAC 173-400-141 Prevention of Significant Deterioration (PSD) as it does not meet

the requirements of 40 CFR 51.166. WDOE has adopted, by reference, EPA's PSD regulations (40 CFR 52.21) as in effect on March 3, 1993. However, significant changes to EPA's regulations became effective on July 20, 1993, August 19, 1993 and June 3, 1994. Note that the PSD provisions of the Washington SIP are currently disapproved and EPA's PSD regulations have been promulgated into the Washington SIP (see 40 CFR 52.2497). Until WAC 173-400-141 is revised to meet current EPA requirements and is approved by EPA, WDOE will continue to issue PSD permits under a partial delegation of the EPA PSD permit program.

D. Provisions Unrelated to the SIP

EPA is proposing to take no action on WAC 173-400-040(2) Fallout; WAC 173-400-040(4) Odors; WAC 173-400-070(7) Sulfuric Acid Plants; WAC 173-400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants; and WAC 173-400-115 Standards of Performance for New Sources, as these provisions are not related to the criteria pollutants regulated under the SIP.

III. Discussion of Section 112(l) Submittal

A. Description of Submittal

On September 29, 1994, the Director of the WDOE submitted WAC 173-460 "Controls for New Sources of Toxic Air Pollutants," SWAPCA Regulation 460 "Controls for New Sources of Toxic Air Pollutants," and PSAPCA Regulation I, Article 6 "New Source Review" and Regulation III, Article 2 "Review of Toxic Air Contaminant Sources" for approval under section 112(l) of the Act. These provisions establish requirements for preconstruction permits for new and modified sources of HAP.

B. Discussion of Proposed Approval

1. Permits to Construct for New and Modified Sources of Hazardous Air Pollutants

a. WAC 173-460 "Controls for New Sources of Toxic Air Pollutants" establishes the State of Washington's procedures for regulating new and modified stationary sources of toxic air pollutants. It is a comprehensive regulation which covers more pollutants than the 189 HAP listed in section 112(b) of the Act. In addition, it applies to most stationary sources of toxic air pollutants and not just major stationary sources. Finally, it requires both the application of the best available control technology for toxics (T-BACT) and a

demonstration of the protection of human health and safety.

WAC 173-460-010 "Purpose" sets forth the purpose of this regulation and the policy of the State of Washington in regulating toxic air pollutants. WAC 173-460-020 "Definitions" incorporates all of the definitions from WAC 173-400 "General Regulations for Air Pollution Sources" and adds several new definitions specific to the control of toxic air pollutants. WAC 173-460-030 "Requirements, applicability, and exemptions" identifies the source categories subject to WAC 173-460 and certain general and specific exemptions from the regulation.

WAC 173-460-040 "New source review" supplements the new source review requirements of WAC 173-400-110 by adding additional requirements for toxic air pollutant sources. Specifically, it requires any new or modified source subject to WAC 173-460 to submit a notice of construction application and obtain a regulatory order approving the notice of construction prior to commencing construction. This section requires any new or modified stationary source to comply with all applicable requirements, utilize T-BACT, and demonstrate that toxic air pollutant emissions from the source are sufficiently low as to protect human health and safety from potential carcinogenic and/or other toxic effects. Source categories for which WDOE has established T-BACT by rule are exempted from the requirement to demonstrate that their emissions protect human health and safety. This section also specifies the process for making preliminary determinations, including public notice and opportunity for public comment, making final determinations, and appealing the permitting authority's decision.

WAC 173-460-050 "Requirement to quantify emissions" requires new sources to quantify emissions sufficient to perform the analyses required by WAC 173-460 and sets forth the procedures for making appropriate emissions calculations. WAC 173-460-060 "Control technology requirements" establishes the requirement for new and modified sources of toxic air pollutants to utilize T-BACT and establishes T-BACT requirements by rule for perchloroethylene dry cleaners, petroleum solvent dry cleaning systems, chromic acid plating and anodizing, solvent metal cleaners, and abrasive blasting.

WAC 173-460-070 "Ambient impact requirement" requires the owner or operator of a new or modified source of toxic air pollutants to demonstrate that

emissions from the source are sufficiently low as to protect human health and safety from potential carcinogenic and/or other toxic effects. Compliance with this requirement must be demonstrated using the procedures set forth in WAC 173-460. WAC 173-460-080 "Demonstrating ambient impact compliance" requires the owner or operator of a new or modified air toxics source to complete an analysis which demonstrates compliance with the acceptable source impact levels (ASIL) established in WAC 173-460. The analysis must utilize dispersion modeling techniques in accordance with EPA guidelines, unless the source qualifies for using specified small quantity emission rate tables.

WAC 173-460-090 "Second tier analysis" provides an alternative approach for demonstrating acceptable impacts if the owner or operator of a proposed new source or modification could not demonstrate compliance with the acceptable source impact levels using the procedures specified in WAC 173-460-080. This section allows the owner or operator of a new or modified source to petition WDOE to perform a second tier analysis evaluation to determine a means of compliance with WAC 173-460-070 and -080 by establishing allowable emissions for the source. A second tier analysis may be requested when a source wishes to more accurately characterize risks, to justify risk greater than acceptable source impact levels, or to otherwise modify assumptions to more accurately represent risks. The WDOE may approve emissions of air toxics from a source where ambient concentrations would exceed acceptable source impact levels only if it determines that T-BACT is utilized and that emissions of certain air toxics are not likely to result in an increased cancer risk of more than one in one-hundred thousand. If the WDOE approves the second tier analysis, the notice of construction approval, following public notice and opportunity for comment, shall specify allowable emissions consistent with WDOE's determination and include all requirements necessary to assure that conditions of WAC 173-460 and WAC 173-400 are met.

WAC 173-460-100 "Request for risk management decision" provides an alternative approach for sources that emit certain toxic air pollutants that are likely to result in an increased cancer risk of more than one in one-hundred thousand. The owner or operator of such a source may request that WDOE make a risk management decision which would allow such greater risk. To receive such approval, the owner or

operator of such source must propose allowable emission limits for the source that represent all known available reasonable control technology, apply all known available air toxic pollution prevention methods, and demonstrate that the proposal will result in a greater benefit to the environment as a whole. The source may also propose measures that would reduce community exposure to comparable toxic air pollutants. WDOE's decision on any request for a risk management decision will follow a public notice and opportunity for public comment, including a public hearing, and appropriate conditions on emission controls, pollution prevention, or other measures, shall be included in the approval of the notice of construction.

WAC 173-460-110 "Acceptable source impact levels" establishes the process that the WDOE uses to establish the acceptable source impact levels in this regulation. WAC 173-460-120 "Scientific review and amendment of acceptable source impact levels and lists" establishes an ongoing process for the scientific review of information on toxic air pollutants and acceptable source impact levels. WAC 173-460-130 "Fees" authorizes the WDOE or local air authority to charge fees for the review of notices of construction. WAC 173-460-140 "Remedies" establishes the civil and criminal enforcement authorities for violations of WAC 173-460. Finally, WAC 173-460-150 "Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels" and WAC 173-460-160 "Class B toxic air pollutants and acceptable source impact levels" list the acceptable source impact levels for the toxic air pollutants regulated by WAC 173-460. Note that these levels are criteria used in a permit review process and are not standards which would be enforceable against sources by either the State or EPA.

EPA is proposing to approve WAC 173-460 under section 112(l) of the Act in order to recognize regulatory orders approving notices of construction as Federally enforceable. EPA is also proposing to approve the provisions of WAC 173-400 that are used to implement the requirements of WAC 173-460 (specifically, WAC 173-400-110, -112, -113, and -171) under section 112(l) of the Act. If approved, permitting authorities would be able to utilize regulatory orders issued pursuant to WAC 173-460 to establish Federally enforceable limits on potential to emit for new and modified stationary sources of HAP and to make any case-by-case MACT determinations required under section 112(g) of the Act.

The EPA believes it has authority under section 112(l) to approve State preconstruction review programs for HAP directly under section 112(l). The EPA is therefore proposing approval of WAC 173-460 now so that permitting authorities in Washington may begin to issue Federally enforceable regulatory orders as soon as possible.

EPA is aware that WAC 173-460 was not designed specifically to implement section 112(g) of the Act. Furthermore, EPA has acknowledged that States may encounter difficulties implementing section 112(g) prior to promulgation of final EPA regulations (see June 28, 1994 memorandum entitled, "Guidance for Initial Implementation of Section 112(g)," signed by John Seitz, Director of the Office of Air Quality Planning and Standards). However, EPA believes that WAC 173-460 can serve as a procedural vehicle to make Federally enforceable any case-by-case MACT determinations required by section 112(g) during the transition period between title V approval in Washington and EPA approval of WDOE regulations to implement EPA's final section 112(g) regulations. EPA believes WAC 173-460 will be adequate for this transition period because it applies to any new source of HAP and any modification to an existing source of HAP. As such, any major source which would be subject to section 112(g) of the Act would be required by WAC 173-460 to obtain a regulatory order containing a T-BACT determination. Furthermore, WAC 173-460 allows permitting authorities to select control measures that would meet MACT, as defined in section 112 of the Act, and after EPA approval, to incorporate these measures into a Federally enforceable regulatory order.

b. SWAPCA Regulation 460 "Controls for New Sources of Toxic Air Pollutants" adopts WAC 173-460 by reference as a local regulation. As discussed in Section III.B.1. above, this WAC 173-460 meets all of EPA's requirements for a permit to construct program to establish Federally enforceable limitations on new and modified stationary sources of HAP. EPA is therefore proposing to approve SWAPCA Regulation 460 under the authority of section 112(l) of the Act. Note that EPA is proposing to approve WAC 173-460 which is applicable statewide and, by State law, remains in effect in all areas of the State regardless of any local agency regulations. If SWAPCA Regulation 460 is revised or revoked, SWAPCA is approved to implement WAC 173-460 as the new source review program for HAP in SWAPCA's jurisdiction until such time

as EPA approves the revision or revocation of SWAPCA Regulation 460.

c. PSAPCA Regulation I, Article 6 "New Source Review" and Regulation III, Article 2 "Review of Toxic Air Contaminant Sources" contain requirements for the construction and modification of stationary sources of HAP. Regulation I, Article 6 establishes a comprehensive new source review program that sets forth the process for submitting a "Notice of Construction and Application for Approval" and granting an "Order of Approval" or "Order to Prevent Construction." It applies to new and modified sources of any air contaminant and includes requirements for the content of applications, payment of "Notice of Construction" review fees, and requirements for public notice and comment. Furthermore, Section 6.07(c)(3) requires the utilization of the best available control technology (BACT) for all air contaminants emitted by new and modified stationary sources.

Regulation III, Article 2 establishes additional requirements for new and modified sources of toxic air contaminants and applies to all sources required to submit a "notice of construction and application for approval" under Regulation I, Article 6 except for certain source categories for which PSAPCA has established T-BACT by rule. Section 2.01 "Applicability" states that Article 2 applies to all sources of toxic air contaminants except for the following source categories for which PSAPCA has established T-BACT by rule: asbestos removal operations, chromic acid plating and anodizing tanks, solvent metal cleaners, perchloroethylene dry cleaning systems, petroleum solvent dry cleaning systems, gasoline storage and dispensing operations, graphic arts systems, can and paper coating operations, motor vehicle and mobile equipment coating operations, polyester/vinylester/gelcoat/resin operations, coatings and ink manufacturing, and ethylene oxide sterilizers and aerators. Note that sources exempt from the additional requirements of this section are not exempted from the requirement of Regulation I, Article 6 "New Source Review." Section 2.02 "National Emission Standards for Hazardous Air Pollutants" requires all sources subject to Article 2 to comply with any applicable provision of 40 CFR part 61. Section 2.03 "New or Altered Toxic Air Contaminant Sources" requires that no "Notice of Construction and Application for Approval" shall be issued under Regulation I, Article 6 for a new or modified source subject to

Article 2 unless the source owner or operator demonstrates that the toxic air contaminant emissions from the source will not result in the exceedence of any Acceptable Source Impact Level (ASIL) contained in Appendix A of Regulation III and does not otherwise cause an air pollution problem.

These PSAPCA regulations have previously been approved as part of the Washington SIP for control of criteria pollutants. They also meet all of EPA's requirements for a permit to construct program to establish Federally enforceable limitations on new and modified stationary sources of HAP. Furthermore, the WDOE has certified that, pursuant to Washington State law, the PSAPCA regulations are at least as stringent as corresponding State regulations, in this case, WAC 173-460 which EPA is also proposing to approve. EPA is therefore proposing to approve these PSAPCA regulations under the authority of section 112(l) of the Act. Note that EPA is proposing to approve WAC 173-460 which is applicable statewide and, by State law, remains in effect in all areas of the State regardless of any local agency regulations. If PSAPCA Regulation I, Article 6 or Regulation III, Article 2 is revised or revoked, PSAPCA is approved to implement WAC 173-460 as the new source review program for HAP in PSAPCA's jurisdiction until such time as EPA approves the revision or revocation of PSAPCA's regulations.

2. Voluntary Limits on Emissions

The new section for voluntary limits on emissions (WAC 173-400-091) provides a mechanism for the owner or operator of a source to apply for, and obtain, enforceable conditions that limit the source's potential to emit. The provisions of this section are applicable, as a matter of State law, to any air contaminant and not just the criteria pollutants regulated under the EPA-approved Washington SIP. In addition to requesting approval into the SIP, WDOE has also requested approval of this section under section 112(l) of the Act for the purpose of creating Federally enforceable limitations on the potential to emit of HAP. Approval under section 112(l) is necessary because the proposed SIP approval discussed in Section II.B.4. above only extends to the control of criteria pollutants. Federally enforceable limits on criteria pollutants (i.e., VOC's or PM-10) may have the incidental effect of limiting certain HAP listed pursuant to section 112(b).¹ However,

section 112 of the Act provides the underlying authority for controlling all HAP emissions.

The EPA believes that the five approval criteria for approving State operating permit programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice, are also appropriate for evaluating and approving State operating permit programs under section 112(l) of the Act. The November 3, 1993 guidance document entitled "Approaches to Creating Federally Enforceable Emissions Limits," signed by John S. Seitz, Director, OAQPS, indicated that this mechanism could be extended to create Federally enforceable limits for emissions of HAP if the program were approved pursuant to section 112(l) of the Act. The June 28, 1989 notice does not address HAP simply because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants. In addition to meeting the criteria in the June 28, 1989 notice, a State operating permit program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows the EPA to approve a program only if it: (1) contains adequate authority to assure compliance with any section 112 standards or requirements; (2) is supported by adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act. The EPA plans to codify the approval criteria for programs limiting potential to emit of HAP, such as State operating permit programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the Act. (See 58 FR 62262, November 26, 1993.) The EPA currently anticipates that these regulatory criteria, as they apply to State operating permit programs, will mirror those set forth in the June 28, 1989 **Federal Register** notice. The EPA currently anticipates that since State operating permit programs approved pursuant to section 112(l) prior to the planned Subpart E revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary.

The EPA believes it has authority under section 112(l) to approve programs to limit potential to emit of HAP directly under section 112(l) prior to this revision to Subpart E. The EPA is therefore proposing approval of this section now so that permitting

authorities in Washington may begin to issue Federally enforceable regulatory orders as soon as possible.

As discussed in Section II.B.4. above, EPA believes that this section meets the approval criteria specified in the June 28, 1989 **Federal Register** notice. Regarding the statutory criteria of section 112(l)(5) referred to above, the EPA believes this section contains adequate authority to assure compliance with section 112 requirements because the third criterion of the June 28, 1989 notice is met, that is, because the program does not allow for the waiver of any section 112 requirement. Sources that become minor through a permit issued pursuant to this program would still be required to meet section 112 requirements applicable to non-major sources. Regarding the requirement for adequate resources, the EPA believes WDOE has demonstrated that it can provide for adequate resources to support the synthetic minor program. Permitting authorities currently cover sources not subject to title V under a "registration" program which assesses fees adequate to cover the costs of implementing and enforcing the terms of regulatory orders issued under this section. The EPA will monitor each permitting authority's implementation of this section to ensure that adequate resources are in fact available. The EPA also believes that this section provides for an expeditious schedule for assuring compliance with section 112 requirements. This program will be used allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in this section would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate Federally enforceable limit by the relevant deadline. Finally, the EPA believes it is consistent with the intent of section 112 of the Act for States to provide a mechanism through which sources may avoid classification as a major source by obtaining a Federally enforceable limit on potential to emit.

EPA therefore, proposes to approve WAC 173-400-091 under the authority of section 112(l) of the Act. Furthermore, EPA proposes that, after final approval to this section, "regulatory orders" issued pursuant to the EPA-approved WAC 173-400-091, and terms and conditions for HAP contained therein, would be enforceable by the EPA and by citizens under section 304 of the Act regardless of whether such orders were issued prior to EPA approval of this section. However, such orders would have to

¹ The EPA intends to issue guidance addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting

a source's potential to emit of HAP to below section 112 major source levels.

have been issued after the effective date of WAC 173-400-091 (i.e., September 20, 1993) in accordance with all of the provisions set forth in that Section. Sources could, thereafter, rely on "regulatory orders" issued pursuant to this section as a means to limit their potential to emit of HAP in order to avoid requirements which would otherwise apply to a "major stationary source" of HAP. EPA requests comment on the appropriateness of making Federally enforceable the terms and conditions of an order that was issued prior to EPA's approval of a State or local rule, provided the order itself complied with all of the requirements of the EPA-approved rule.

IV. Summary of Action

EPA is soliciting public comment on its proposed approval in part and disapproval in part of revisions to the State of Washington Implementation Plan. Specifically, EPA is proposing to approve:

WAC 173-400 as in effect on September 20, 1993, except for the following sections: -040(1)(c) and (d); -040(2); -040(4); the second paragraph of -040(6); the exception provision in -050(3); -070(7); -075; -115; -120; -131; -136; -141; and -180.

EPA is proposing to disapprove the following:

WAC 173-400-040(1)(c) and (d), the second paragraph of -040(6), the exception provision in -050(3), -120, -131, -136, -141, and -180.

EPA is proposing to take no action on the following:

WAC 173-400-040(2), -040(4), -070(7), -075, and -115.

Note that WAC 173-400-114 was not submitted for inclusion in the Washington SIP.

EPA is also soliciting public comment on its proposed approval of certain State and local agency regulations pursuant to the authority of section 112(l) of the Act. Specifically, EPA is proposing to approve the following:

WAC 173-460 as in effect on February 14, 1994;

WAC 173-400-091; -110; 112; 113; and 171 as in effect on September 20, 1993;

SWAPCA Regulation 460 as in effect on June 15, 1993; and

PSAPCA Regulation I, Article 6 as in effect on September 17, 1993 and Regulation III, Articles 1 and 2 as in effect on September 17, 1993.

Interested parties are invited to comment on all aspects of this proposed approval in part and disapproval in part. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments

postmarked by March 24, 1995, will be considered in the final rulemaking action taken by EPA.

Administrative Review

This action has been classified as a Table 2 SIP action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2224), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted Table 2 SIP actions from E.O. 12866 review.

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 CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Similarly, approvals of State rules under section 112(l) do not create any new requirements. Therefore, because the Federal SIP approval and the section 112(l) approval do not impose any new requirements, I certify that they do 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does

not impose any new Federal requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP or approval of any State rules pursuant to section 112(l). Each request for revision to any SIP or approval under section 112(l) shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact or entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the proposed approval of the State and local air toxics rules under section 112(l) is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations,

Reporting and recordkeeping requirements.

Dated: February 9, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95-4291 Filed 2-21-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WA24-1-6519b; FRL-5143-8]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the Northwest Air Pollution Authority (NWAPA). The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for the control of air pollution in Island, Skagit, and Whatcom Counties. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment 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 the 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. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by March 24, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT-082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

Washington State Department of Ecology, P.O. Box 47600, PV-11, Olympia, WA 98504-7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air Programs Branch (AT-082), EPA, Region 10, Seattle, Washington 98101, (206) 553-6917.

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

Dated: January 9, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95-3863 Filed 2-21-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MA-29-01-6537; A-1-FRL-5156-9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Emission Banking, Trading, and Averaging

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing the approval of a State Implementation Plan (SIP) revision submitted by the State of Massachusetts. This revision establishes a program of emission reduction credit (ERC) banking and trading whereby companies who reduce emissions below the level required by State and federal regulation can "bank" the surplus reductions for use at a later date or for transfer to another party. This program has been adopted as a voluntary economic incentive program pursuant to EPA's interim guidance on Economic Incentive Programs. The intended effect of this action is to facilitate cost-effective compliance with other emission reduction requirements required by the Massachusetts SIP. This action is being taken under the Clean Air Act.

DATES: Comments must be received on or before March 24, 1995.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203-2211. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Division of Air Quality Control, Department of

Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, (617) 565-9024.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 1993, EPA published proposed rules for Economic Incentive Programs (58 FR 11110). The proposal set forth Economic Incentive Program (EIP) rules which could be adopted by certain ozone and carbon monoxide nonattainment areas which were mandated by sections 182(g)(3), 182(g)(5), 187(d)(3), and 187(g) of the Clean Air Act (Act) to use or consider as one of three options the use of an economic incentive program to correct attainment plan deficiencies. The notice also served as interim guidance for States to develop discretionary EIPs which is allowed for any criteria pollutant in all areas.

On February 9, 1994, the Massachusetts Department of Environmental Protection (DEP) submitted 310 CMR 7.00 appendix B: Emission Banking, Trading, and Averaging as a revision to its State Implementation Plan (SIP). This regulation was submitted as a discretionary EIP and is described as emission limiting due to the fact that the regulation places limits on total mass emissions, emission related parameters, or specifies levels of emission reductions that participating sources must meet. The regulation is designed to utilize a federally enforceable permit mechanism or single-source SIP revisions to ensure the enforceability of the ERCs. It replaces the former 310 CMR 7.00 appendix B which dealt exclusively with emissions averaging.

The regulation deals separately with ERC banking and trading and with emissions averaging. Section 310 CMR 7.00 appendix B(3) establishes the requirements of the ERC banking and trading portion of the program by which persons and companies who reduce emissions below the level required by State and federal regulation can "bank" the surplus reductions for use at a later date or for transfer to another party. The goal of this part of the program is to encourage the creation and trading of surplus ERCs for the purpose of offsets, netting, and cost-effective compliance without interfering with any applicable requirements concerning attainment, reasonable further progress, or any other applicable air pollution control requirements. As such, 310 CMR 7.00 Appendix B(3) is intended to promote innovative and cost-effective