

establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

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.

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 December 26, 1995 unless, by November 24, 1995, 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If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action.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 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 December 26, 1995.

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 December 26, 1995. 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), 42 U.S.C. 7607(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 30, 1995.  
Chuck Clarke,  
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 C—Alaska**

2. Section 52.70 is amended by adding paragraph (c)(22) to read as follows:

##### **§ 52.70 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(22) On March 24, 1994, ADEC submitted a revision to its SIP for the State of Alaska addressing the attainment and maintenance of the National Ambient Air Quality Standards for carbon monoxide in the Anchorage carbon monoxide nonattainment area.

(i) Incorporation by reference.

(A) March 24, 1994 letter from Alaska Governor Walter Hickel to EPA Regional Administrator Chuck Clarke including as a revision to the SIP the State of Alaska, Department of Environmental Conservation, 18 AAC 53, "Fuel Requirements for Motor Vehicles," (Article 1, 18 AAC 53.005—18 AAC 53.190 and Article 9, 18 AAC 53.990) with amendments adopted through March 19, 1994.

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#### **40 CFR Part 52**

**[WA41-1-7114a; FRL-5283-6]**

#### **Approval and Promulgation of Implementation Plans: Washington**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) approves the Regulations of the Northwest Air Pollution Authority (NWAPA) for the control of air pollution in Island, Skagit, and Whatcom Counties, Washington, as revisions to the Washington State

Implementation Plan (SIP). These Regulations were submitted by the Director of the Washington State Department of Ecology (WDOE) on February 14, 1995. In accordance with state law, NWAPA rules must be at least as stringent as the WDOE statewide rules.

**DATES:** This action is effective on December 26, 1995 unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Air Programs Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and Washington Department of Ecology, P.O. Box 47600, Olympia, Washington 98504.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On February 14, 1995, the Director of WDOE submitted to EPA Region 10 revised and updated regulations for NWAPA affecting Island, Skagit, and Whatcom Counties. NWAPA and WDOE held a joint public hearing on October 13, 1994 to receive public comment on the revisions to NWAPA's rules and the submittal to EPA as a revision to the Washington SIP. These regulations became effective as a matter of state law on November 13, 1994.

These revisions to NWAPA's rules provide clarification and corrections to previously adopted NWAPA rules in order to reflect changes in the Washington Clean Air Act, Washington Administrative Codes (WAC), etc., and to raise fees that reflect the added costs of performing these duties. The amended rules cover such subjects as criminal and civil penalties, notice of construction procedures, registration classes, volatile organic compounds (VOC) controls, and others (please see Description of Plan Revisions, below).

## II. Description of Plan Revisions

This rulemaking action approves, as part of the Washington SIP, certain portions of NWAPA's Regulations related to the control of criteria pollutants under section 110 of the Act. State law requires that the regulations of local air pollution control agencies be at least as stringent as state law (WAC-400-020(2)). In this rulemaking, EPA is approving the following sections:

- 104.1—Adoption of State Laws and Rules
- 132—Criminal Penalty
- 133—Civil Penalty
- 200—Definitions
- 300—Notice of Construction when Required
- 301—Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing
- 302—Issuance of Approval or Order
- 322—Exemptions from Registration
- 324—Fees (except for section 324.121)
- 340—Report of Breakdown and Upset
- 451—Emission of Air Contaminant-Visual Standard
- 462—Emission of Sulfur Compounds
- 580—Volatile Organic Compound Control

The following discussion highlights elements of NWAPA's rules that EPA is approving: Section 104.1 allows NWAPA to position itself as the primary enforcement agency for the three counties under its jurisdiction by incorporating by reference the latest versions of the Washington State Clean Air Act and the Washington State Administrative Procedures Act, as well as other state rules. Sections 132 and 133—Criminal Penalty and Civil Penalty, respectively, were amended to be consistent with the enforcement requirements of the federal Title V air operating permit program (40 CFR 70.11(a)(3)). The criminal penalty language was reworded to clarify that the maximum fine for criminal violations is ten thousand dollars per day per violation, or by imprisonment in the county jail for not more than one year, or both. Civil penalties have been adjusted from \$10,660 to \$11,000 per day per violation. Definitions, section 200, were revised to make terms consistent with state and federal definitions, and definitions for concealment, existing stationary facility, fugitive dust, fugitive emissions, modification, new source, and others, were added to the NWAPA regulations. Section 300 was changed to clarify when an investigation fee is required. Slight typographical errors were corrected by the amendments to sections 301 and 340. New threshold

levels below which no "notice of construction" is required are added by section 322. New emission units or activities with emissions below the following levels are exempt: 5 tons per year (tpy) of Carbon Monoxide, 2 tpy of nitrogen oxides, 2 tpy of sulfur oxides, 2 tpy of volatile organic compounds, .75 tpy of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>), 0.03 tpy of lead, and threshold levels for hazardous air pollutants as defined in WAC Chapter 173-401-531. Inspection fees have been raised in section 324 for fuel burning equipment, scrubbers, incinerators, and gasoline stations. Application fees for a "bubble" and "emission reduction credit" have also been raised. Part of section 451 was deleted as it was less stringent than state rules.

Both sections 462 and 580 were revised to be consistent with state rules. Emission of Sulfur Compounds, section 462, now measures sulfur dioxide/sulfur compound emissions for a sixty consecutive minute period. Section 580, Volatile Organic Compound Control, was modified to change the throughput threshold requirements for Stage I vapor control as well as to revise the definition of a gasoline station.

In its February 14, 1995 submission, NWAPA did not submit its rules regarding Solid Fuel Burning Device Standards (section 480); Outdoor Burning (section 501); Grass Seed Fields (section 504); Refuse Burning—Time Restriction (section 511); Odor Control Measures (section 535); Concealment and Masking (section 540); and Asbestos Control Standards (section 570) for inclusion in the SIP. Therefore, statewide rules for open burning and concealment and masking apply to NWAPA's jurisdiction.

## III. Summary of EPA Action

In this action, EPA approves numerous additions to the NWAPA rules as revisions to the Washington SIP. Specifically, EPA approves the following sections: 104.1, 132, 133, 200, 300, 301, 302, 322, 324 (except for section 324.121), 340, 451, 462, and 580. EPA is taking no action on section 324.121 because it addresses fees for sources subject to the state's Title V air operating permit program and has been approved as part of that program. See 59 FR 55813 (November 9, 1994).

## IV. Administrative 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 Clean Air Act (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 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).

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 the 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 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.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those 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. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

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.

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 December 26, 1995 unless, by November 24, 1995 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 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 December 26, 1995.

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 December 26, 1995. 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), 42 U.S.C. 7607(b)(2)).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 8, 1995.

Charles Findley,

*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 WW—Washington**

2. Section 52.2470 is amended by adding paragraph (c)(56) to read as follows:

##### **§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \* \*

(56) On February 14, 1995, the Director for the Washington State Department of Ecology (WDOE) submitted amended regulations for the Northwest Air Pollution Authority (NWAPA) as a revision to the Washington State Implementation Plan (SIP).

(i) Incorporation by reference.

(A) The February 7, 1995 letter from the Director of WDOE submitting the amended NWAPA regulations to the Environmental Protection Agency (EPA); the Northwest Air Pollution Authority Regulations (approving sections 104.1, 132, 133, 200, 300, 301, 302, 322, 324 (except for 324.121), 340, 451, 462, 580) adopted on February 10, 1995.

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#### **DEPARTMENT OF TRANSPORTATION**

##### **Coast Guard**

##### **46 CFR Part 28**

[CGD 94-025]

RIN 2115-AE77

##### **Commercial Fishing Industry Vessel Regulations for Aleutian Trade Act Vessels**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is issuing regulations for U.S. commercial fishing industry vessels subject to the Aleutian Trade Act (ATA) of 1990. This rule promulgates a new subpart regulating certain equipment requirements and operating procedures for fish tender vessels operating in the Aleutian trade. These regulations allow for continued cargo service by water to remote communities in Alaska while ensuring increased safety standards for the vessels engaged in this trade.

**DATES:** This final rule is effective on April 22, 1996. The Director of the Federal Register approves as of April 22, 1996 the incorporation by reference of certain publications listed in the regulations.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 94-025). U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Mark D. Bobal, Office of Marine Safety, (G-MOS-2), Room 1210, U.S. Coast Guard Headquarters, Washington, D.C. 20593-0001, (202) 267-0214.

##### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On April 19, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) for Commercial Fishing Industry Vessels (55 FR 14924). In the NPRM, the Coast Guard proposed to regulate U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels, including vessels engaged in the Aleutian Trade, to implement the provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. Subsequent to the NPRM, Congress enacted the Aleutian Trade Act of 1990 (ATA), significantly affecting the impact of the proposed regulations on vessels engaged in the Aleutian trade.

As a result of the ATA the Coast Guard published a supplemental notice of proposed rulemaking, (SNPRM), in the Federal Register on October 27, 1992 (57 FR 48670). The Coast Guard received over 206 comments specifically opposing, and only 4 comments favoring, the proposed ATA regulations.

On September 13, 1994, the Coast Guard published a second SNPRM entitled Commercial Fishing Industry Vessel Regulations for Aleutian Trade