§ 52.820 Identification of plan.

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(62) Revised chapter 31, rule 567–31.2, submitted on January 26, 1995, incorporates by reference EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) Amendment to chapter 31, ''Nonattainment Areas'' Iowa Administrative Code, rule 567–31.2. Effective February 22, 1995.

[FR Doc. 95–26461 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA5–1–5539a; FRL–5309–1]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves a revision to the State implementation plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM–10 SIP for Tacoma, Washington. On October 12, 1994, EPA approved certain separable sections and conditionally approved other sections of the Tacoma PM–10 SIP revision (59 FR 51506 (October 12, 1994)). In this action, EPA finds the State has fulfilled the terms of the conditional approval and that the SIP submitted fully satisfies the requirements of the Federal Clean Air Act.

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 & Radiation 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, Environmental Protection Agency, 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 & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Washington State Department of Ecology, 4450 Third Avenue SE., Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Claire Hong, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1813.

SUPPLEMENTARY INFORMATION:

I. Background

The Tacoma, Washington, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990.[1] *See* 56 FR 56694 (November 6, 1991) (official designation codified at 40 CFR 81.348). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this document and the supporting rationale. In this rulemaking action on the State of Washington's moderate PM–10 SIP for the Tacoma nonattainment area (referred to as Tacoma or the Tacoma Tideflats), EPA is applying its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above. Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under CAA section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to ensure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to ensure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area (see sections 172(c), 188, and 189 of the Act).

Additional provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see CAA section 189(a)). The Washington State Department of Ecology (WDOE) submitted the new source review requirements for this area, which were approved by EPA on August 29, 1994 (59 FR 44385).

Such States also were required to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see CAA section 172(c)(9) and 57 FR 13510–13512 and 13543–13544). EPA addresses the contingency measures the State has submitted for Tacoma below.

II. This Action

In this action, EPA is granting full approval of the plan revisions submitted to EPA for Tacoma, Washington on

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's notice and supporting information.

November 15, 1991, June 30, 1994 and May 2, 1995 (hereafter generally referred to as a single submittal). On October 12, 1994, EPA approved certain separable sections and conditionally approved other sections of the Tacoma PM–10 SIP revision (59 FR 51506 (October 12, 1994)). At that time, EPA fully approved the separable exclusion from precursor controls, the monitoring network, the procedures for consultation and public notification, the provisions for revising the plan and the adequacy of funding and authority. As such, those portions of the submittal will not be discussed in this Federal Register. In that same document, EPA granted conditional approval of other major portions of the submission on the condition that Washington adopt and submit to EPA specific industrial control orders with enforceable emission limits by January 1, 1995 for the following facilities located in the Tacoma nonattainment area: Simpson Tacoma Kraft Company (Simpson), Kaiser Aluminum and Chemical Corporation (Kaiser), Buffelen Woodworking, Continental Grain, Continental Lime, Domtar Gypsum, Puget Sound Plywood, USG Interiors, US Oil & Refining, and Woodworth. In May 1995, the State submitted a Supplement to the PM–10 State Implementation Plan which included these enforceable emission limits, demonstrations of attainment and maintenance and contingency measures, thus fulfilling the conditions of the conditional approval. In this document, EPA finds the SIP submittal meets the requirements established under the Clean Air Act.

Analysis of State Submission

1. Procedural Background

Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see CAA section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V.

The State of Washington Department of Ecology (WDOE) conducted a public hearing to receive public comment on a supplement to the State implementation plan revision for PM–10 in Tacoma on February 8, 1995. WDOE adopted the implementation plan for the area and submitted it to EPA on May 2, 1995. A letter dated May 11, 1995 was forwarded to the WDOE indicating the completeness of the submittal.

2. PM–10 Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate and current inventory of allowable emissions in the area. *See,* e.g., CAA section 110(a)(2)(K). Because the submission of such inventories is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the attainment/nonattainment demonstration submission (see 57 FR 13539).

In the submissions previous to 1995, WDOE submitted an emissions inventory that was based on estimated actual emissions for the base year of 1987, the attainment year of 1994, and maintenance year of 1997. However, this emissions inventory reflected estimated actual emissions, not allowable limits. As was discussed in the October 12, 1994 Federal Register document and the associated Technical Support Document, the use of estimated actual rather than allowable emissions means that these emission levels in the emissions inventory are not enforceable, and thus the emissions inventory was not approvable (59 FR 51506).

The May 1995 submission included consent orders that established allowable emission limits for major point sources in the Tacoma Tideflats. The 1995 submission also included a revised emissions inventory that based its 1994 and 1997 attainment and maintenance demonstrations on the emission levels in these consent orders. Thus, the emissions inventory evaluated here includes the 1987 base year inventory (based on estimated actual emissions) included in the 1991 submission, and the revised 1994 attainment and 1997 maintenance demonstrations (based on the new allowable emission limits) included the 1995 submission. For sources within the nonattainment area, the emissions inventory provides a comprehensive list of particulate sources and utilizes appropriate factor and estimations that were available at the time the SIP revision was prepared. The emissions inventory cites industrial point sources and area sources as the largest contributors of PM–10 in the area. The emissions inventory shows no growth in industrial point or fugitive sources between 1994 and 1997 due to the new emission limits imposed on those sources. Mobile source emissions are estimated to increase approximately eight percent between 1994 and 1997. This increase is slightly offset by reductions due to lower sulfur fuel content and implementation of an inspection and maintenance program for diesel engines.

As discussed in the October 12, 1994 Federal Register document and in the Technical Support Document accompanying that document, EPA found that there is a substantial weight of evidence that residential wood combustion imported into the nonattainment area is a significant contributor to PM–10 in the Tacoma Tideflats. WDOE included an increased estimate of imported residential wood combustion in its attainment and maintenance demonstrations, although WDOE did not specifically list it as a source category in the 1995 emissions inventory. EPA has reviewed and approves the emissions inventory for the Tacoma Tideflats.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to ensure that RACM (including RACT) are implemented no later than December 10, 1993 (see CAA sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61).

In broad terms, the State should identify available control measures evaluating them for their reasonableness in light of the feasibility of the controls and the attainment needs of the area. A State may reject available control measures if the measures are technologically infeasible or the cost of the control is unreasonable. In addition, RACM, does not require controls on emissions from sources that are insignificant (i.e. de minimis) and RACM does not require the implementation of all available control measures where an area demonstrates timely attainment of the NAAQS and the implementation of additional controls would not expedite attainment. 57 FR 13540–44.

Washington's control strategy for the Tacoma area provides for attainment of the 24-hour standard based on control of industrial emissions, fugitive industrial

[3] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

emissions including resuspended road dust, and residential wood combustion. The Tacoma PM–10 plan includes enforceable consent orders that establish allowable emission limits for industrial point sources as well as fugitive emissions.

a. Industrial Controls

At first glance, the emissions inventory shows an apparent increase of 481 kg/day of PM–10 emissions from industrial point sources from 1987 to 1994. In reviewing these numbers, however, it should be remembered that this apparent increase is based on a comparison of unlike numbers: that is, the 1987 numbers are the estimated historical ''actual'' emission rates while the 1994 numbers are the current ''allowable'' emission limits as reflected in enforceable orders. Had the emissions inventory compared 1987 allowable limits to 1994 allowable limits, there would have been a decrease in the allowable emissions of several thousand kilograms of PM–10 per day. Therefore, contrary to its initial appearance, the emissions inventory reflects a decrease in allowable emissions. Additionally, two facilities, Woodworth and Puget Sound Plywood, located in the Tideflats have permanently ceased operation after the 1987 emissions were calculated without banking any emission reduction credits, resulting in an unquestionable decrease in these point source emissions. This issue of ''actuals'' versus ''allowables'' is discussed in the October 12, 1994 Federal Register document on the Tacoma Tideflats and its associated Technical Support Document (59 FR 51506 (October 12, 1994)).

The consent orders included in the May 1995 submission and in previous submissions establish enforceable emission limits for the major point sources in the Tideflats. Emission units regulated by these orders include baghouses, dryers, oil burners and major ducts and vents. In addition to specifying emission limits, these orders also establish test methods for compliance.

b. Industrial Fugitive and Resuspended Road Dust

The Tacoma emission inventory identified industrial fugitive emissions and resuspended road dust as significant contributors of particulate matter to the airshed. The Puget Sound Air Pollution Control Agency (PSAPCA) is a local air pollution control agency that has jurisdiction over four counties in Washington State; PSAPCA's jurisdiction includes the Tacoma Tideflats. PSAPCA's fugitive dust regulation (Regulation I, section 9.15) was designed to reduce fugitive dust from commercial and industrial activities and also to reduce dust emissions from paved and unpaved roads and parking lots.

PSAPCA requires ''Best Available Control Technology (BACT)'' under section 9.15 for all fugitive emissions from all incinerators, boilers, manufacturing equipment and air pollution control equipment. For the reasons described in the October 12, 1994 Federal Register and accompanying Technical Support Document, EPA finds that these area controls are reasonable and appropriate (59 FR 51508).

c. Residential Wood Combustion

There is a substantial body of evidence indicating that imported residential wood combustion is a large source of Tacoma's PM–10 (See 59 FR 51506 and the accompanying Technical Support Document for further discussion of imported residential wood combustion). In the May 1995 submission, WDOE modified its demonstrations of attainment and maintenance to account for the significant influx of residential wood combustion. WDOE also claimed a 70 percent reduction credit for imposition of a mandatory residential woodstove ban in PSAPCA's four-county jurisdiction. (See 59 FR 51509 and the accompanying Technical Support Document for a description of the specifics of the mandatory woodstove curtailment program). In the October 12, 1994 conditional approval, EPA evaluated and accepted the 70 percent emission reduction credit associated with the woodstove curtailment program.

The Tacoma SIP identifies industrial point sources, industrial fugitives, residential wood combustion and re-entrained road dust as significant sources of PM–10 in the airshed. The SIP then provides emissions limits for the industrial sources, and cites regulatory programs with a broad array of controls to address area sources.

In the Tacoma situation, EPA believes the significant sources, as well as several less significant sources, of PM–10 in the area have been reasonably controlled. EPA believes implementation of additional controls in this area would not expedite attainment.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, if the State does not submit a demonstration of attainment, the State must show that attainment by December 31, 1994, is impracticable (CAA section 189(a)(1)(B)(ii)).

The May 1995 submission included revised demonstrations of attainment and maintenance. WDOE's demonstrations used rollback, a modified demonstration of attainment or maintenance. The guidelines for using rollback are outlined in EPA guidance (Attachment 5 of ''PM–10 Moderate Area SIP Guidance: Final Staff Work Product,'' April 2, 1990). As discussed in the Technical Support Document associated with the October 12, 1994 action, Tacoma's SIP meets the criteria for using rollback. This action reviews the adequacy of the rollback analysis included in the 1995 submission.

In the October 12, 1994 action granting conditional approval to the Tacoma PM–10 SIP, EPA noted that WDOE had not adequately addressed the evidence indicating that residential wood combustion was a significant source of particulate matter in the Tideflats (59 FR 51510). Therefore, in the 1995 submission, WDOE relied on a rollback demonstration to account for the impact of imported residential wood combustion. WDOE estimates that approximately 40 percent of the PM–10 in the Tacoma Tideflats on the design day is attributable to imported residential wood combustion. As mentioned above, EPA has found that the mandatory residential wood combustion curtailment program, implemented by PSAPCA throughout a four county area, is approximately 70 percent effective (See 59 FR 51509 and the accompanying Technical Support Document for further discussion). Therefore, granting an emission reduction credit for a residential woodstove curtailment program is appropriate since the curtailment program applies to the Tideflats and all contiguous and surrounding areas. After accounting for the reduction in particulate matter due to the efficiency of the curtailment program, the rollback analysis presented in the 1995 submission shows that the limits in the emissions inventory for 1994 would be sufficient to attain the PM–10 NAAQS in 1994 and to maintain the standard in 1997. Further, there has been no

measured exceedance of the PM–10 NAAQS for nearly five years. EPA approves the demonstrations of attainment and maintenance submitted in the Tacoma PM–10 SIP.

5. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three (3) years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in CAA section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D of the Act or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

While section 189(c) plainly provides that quantitative milestones are to be achieved until an area is redesignated attainment, it is silent in indicating the starting point for counting the first 3-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the 3-year milestones, indicating that it would begin from the due date for the applicable implementation plan revision containing the control measures for the area (i.e., November 15, 1991 for initial moderate PM–10 nonattainment areas). See 57 FR 13539. As to the number of milestones, EPA believes that at least two milestones must be initially addressed. Thus, submittals to address the SIP revisions due on November 15, 1991 for the initial moderate PM–10 nonattainment areas must demonstrate timely attainment of the PM–10 NAAQS, the second milestone should, at a minimum, provide for continued maintenance of the standards.[4]

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to assess whether the initial milestones have been satisfied and to determine whether annual incremental reductions, different from those provided in the SIP, should be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see CAA section 171(1)). As indicated, the State of Washington's PM–10 SIP for Tacoma demonstrates attainment in 1994 and maintenance through 1997, and therefore satisfies RFP and initial quantitative milestones (see 57 FR 13539). CAA section 110(k)(4).

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by WDOE and EPA (see CAA sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see CAA section 110(a)(2)(C)).

WDOE's control measures and regulations for control of particulate matter, which are contained in the SIP, are addressed above under the section headed ''RACM (including RACT).'' These control measures apply to the types of activities identified in that discussion including, for example, point source emissions; fugitive emissions from point sources; vehicle resuspended road dust; and residential wood combustion. The SIP provides that the affected activities will be controlled throughout the entire nonattainment area. For measures controlling area source emissions, the control measures apply in the entire nonattainment area as well as in the four-county jurisdiction of PSAPCA, as in the case of the residential woodstove curtailment program.

The Technical Support Document accompanying the October 12, 1994 Federal Register document provides a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; malfunction provisions; excess emission provisions; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

Both WDOE and PSAPCA have responsibilities in the implementation and enforcement of control measures in the Tacoma nonattainment area. PSAPCA retains authority over all area sources and all but the two stationary sources in Tacoma that are regulated by WDOE. EPA considers PSAPCA's staffing level adequate to ensure that the Tacoma attainment plan is fully implemented. As a necessary adjunct of its enforcement program, PSAPCA also has broad powers to adopt rules and regulations, issue orders, assess penalties, require access to records and information, and receive and disburse funds. WDOE has adequate authority to implement and enforce the plan in the event PSAPCA fails to make a good faith effort to implement and/or enforce the regulations.

The two point sources in the Tacoma nonattainment area not under PSAPCA's jurisdiction are the Simpson Tacoma Kraft Company and Kaiser Aluminum and Chemical Corporation. These sources are regulated by WDOE. WDOE's legal authorities, personnel and funding sources are discussed in the Technical Support Document that accompanies the October 12, 1994 Federal Register. EPA finds these authorities and funding mechanisms adequate to ensure that the State will be able to enforce the control measures in the Tacoma nonattainment area.

7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13510–13512 & 13543–44). These measures must be submitted by November 15, 1993, for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's core control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

The May 1995 submission of the Tacoma PM–10 SIP changed the contingency measures submitted to EPA for inclusion in the SIP. Previous submissions included two contingency measures related to mobile sources: a sulfur reduction in fuels program and the inspection and maintenance program for diesel engines as the contingency measures for the Tacoma Tideflats. These contingency measures

[4] Section 189(c) provides that quantitative milestones are to be achieved ''until the area is redesignated attainment.'' However, this endpoint for quantitative milestones is speculative because redesignation of an area as attainment is contingent upon several factors and future events.

EPA believes it is unreasonable to require planning for each nonattainment area to cover quantitative milestones years into the future because of the possibility that such time may elapse before an area is in fact redesignated attainment. On the other hand, EPA believes it is reasonable for States initially to submit a sufficient number of milestones to ensure that there is continuing air quality protection beyond the attainment deadline. Addressing two milestones will ensure that the State continues to maintain the NAAQS beyond the attainment date for at least some period during which an area could be redesignated attainment. However, in all instances, additional milestones must be addressed if an area is not redesignated attainment within the time period covered by the initial milestones.

were not fully approved because their adequacy could not be fully evaluated in the absence of an approved attainment demonstration. Therefore, EPA conditionally approved these measures based on the WDOE's commitment to submit enforceable emission limits for the stationary sources in the nonattainment area and to demonstrate attainment without relying on the reductions to be achieved from the implementation of the contingency measures (59 FR 51513).

In the May 1995 submission, WDOE acknowledged that the establishment of an inspection and maintenance program and the reduction in sulfur content of on-highway diesel fuel were already in place. Therefore, WDOE used the emission reduction credits associated with these measures as part of their attainment and maintenance demonstrations, and submitted a new contingency measure, a geographic ban on uncertified woodstoves.

The new contingency measure is the implementation of a year-round prohibition on the use of uncertified woodstoves in an area to be defined by PSAPCA. This ban on uncertified woodstoves is authorized by the Washington Clean Air Act, 70.94.473 and PSAPCA's Regulation I section 13.07. Pursuant to those authorities, if EPA makes written findings that an area has failed to attain or maintain the national ambient air quality standard and, in consultation with WDOE, finds that the emissions from solid fuel burning devices are a contributing factor to such failure to attain or maintain the standard, then the use of woodstoves not meeting the standards set forth in RCW 70.94.457 shall be prohibited within the area that PSAPCA has determined contributed to the violation.

The SIP states that the contingency measure would be ''activated'' one year after the EPA makes its findings that the standard has been violated and that woodstoves are a contributing factor. EPA recognizes that this language would seem to contradict the requirement that the contingency measure be implemented immediately. However, EPA believes this to be a semantic difference. In order for the ban to be in place and fully operational within one year, PSAPCA would initiate implementation of the ban immediately. In light of the severity and extent of this ban, a one year phase-in period is reasonable.

This contingency measure is authorized by both the State and PSAPCA's regulations and will take effect immediately upon EPA finding that the standard has been violated and that woodstoves are a contributing factor. EPA approves the contingency measure.

III. Implications of this Action

EPA fully approves the plan revisions submitted to EPA for the Tacoma, Washington, PM–10 nonattainment area on November 15, 1991, June 30, 1994, and May 1995. In a previous Federal Register document, EPA approved the separable exclusion from precursor controls; the monitoring network; the procedures for consultation and public notification; the provisions for revising the plan and the adequacy of funding and authority. 59 FR 51506 (October 12, 1994) In this action, EPA fully approves the control measures for industrial sources, residential wood combustion and industrial and road fugitives; the emissions inventory; the attainment demonstration; the maintenance demonstration; the enforceability of control measures; the contingency measures and the quantitative milestones and reasonable further progress provisions.

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 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

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

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: September 22, 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)(57) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(57) On May 2, 1995, WDOE submitted to EPA revisions to the Washington SIP addressing the conditional approval of the State Implementation Plan (SIP) for particulate matter (PM10) in the Tacoma TIdeflats PM10 Nonattainment Area.

(i) Incorporation by reference.

(A) May 2, 1995 letter from WDOE to EPA Region submitting the SIP revision for Particulate Matter in the Tacoma Tideflats, A Plan for Attaining and Maintaining the National Ambient Air Quality Standard for PM10, Supplement May 1995, adopted on May 4, 1995.

[FR Doc. 95–26466 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 4E4311 and 4E4358/R2178; FRL–4981–5]

RIN 2070–AB78

2-(2-Chlorophenyl)Methyl-4,4-Dimethyl-3-Isoxazolidinone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone (also referred to in this document as clomazone) in or on the raw agricultural commodities cabbage, cucumbers, and summer squash. The Interregional Research Project No. 4 (IR-4) submitted petitions pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) that requested the regulation to establish maximum permissible levels for residues of the herbicide.

EFFECTIVE DATE: This regulation becomes effective October 25, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4E4311 and 4E4358//R2178], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4E4311 and 4E4358/R2178]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 30, 1995 (60 FR 45116), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brusnwick, NJ 08903, had submitted pesticide petitions (PP) 4E4311 and 4E4358 to EPA on behalf of the named Agricultural Experiment Stations. These petitions requested that the Administrator, pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, amend 40 CFR 180.425 by establishing tolerances for residues of the herbicide clomazone in or on certain raw agricultural commodities as follows:

1. *PP 4E4311.* Petition submitted on behalf of Agricultural Experiment Stations of Arkansas, California, Florida, Georgia, Kentucky, New York, North Carolina, Oregon, Texas, Washington, and Wisconsin proposing a tolerance for cabbage at 0.1 part per million (ppm).

2. *PP 4E4358.* Petition submitted on behalf of Agricultural Experiment Stations of Arkansas, Kentucky, Michigan, New Jersey, North Carolina, Tennessee, Virginia, Washington, and Wisconsin proposing a tolerance for