

small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

#### Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being proposed for approval by this action would impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 27, 1995.

Michael V. Payton,

*Acting Regional Administrator.*

[FR Doc. 95-27566 Filed 11-6-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[WA9-1-5540, WA28-1-6613, WA34-1-6937; FRL-5326-3]

#### Approval and Promulgation of State Implementation Plans; Washington

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes limited approval and limited disapproval of 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<sub>10</sub>). The implementation plan was submitted by the State to satisfy certain Federal

requirements for a moderate nonattainment area PM<sub>10</sub> SIP for Yakima, Washington.

**DATES:** Comments must be postmarked on or before December 7, 1995.

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

Copies of the State's request and other information are available for inspection during normal business hours at the following locations: EPA, Office of Air, Docket #'s WA9-1-5540 WA28-1-6613 and WA34-1-6937, 1200 Sixth Avenue (AT-082), Seattle, WA 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504.

**FOR FURTHER INFORMATION CONTACT:** Kelly Huynh, Office of Air (AT-082), EPA, Seattle, Washington 98101, (206) 553-1059.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Yakima, Washington area was designated nonattainment for PM<sub>10</sub> and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA) upon enactment of the Amendments of 1990 on November 15, 1990. This Yakima nonattainment designation was announced in a March 15, 1990 Federal Register notice (See 56 FR 11101). The air quality planning requirements for moderate PM<sub>10</sub> nonattainment areas are set out in subparts 1 and 4 of Title I of the CAA. EPA has issued a "General Preamble" describing EPA's views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the CAA, including those State submittals containing moderate PM<sub>10</sub> 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 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 proposal and the supporting rationale. In this rulemaking action on the Yakima, Washington moderate PM<sub>10</sub> SIP, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Thus, EPA will consider any timely submitted comments before taking final action on this proposal.

Those States containing initial moderate PM<sub>10</sub> nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure 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 assure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the CAA.

States with initial moderate PM<sub>10</sub> nonattainment areas were also required to submit a permit program for the construction and operation of new and modified major stationary sources of PM<sub>10</sub> by June 30, 1992 (see section 189(a)). Such States also must 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<sub>10</sub> NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543-44.

##### II. This Action

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (See 57 FR 13565-66). In this action, EPA is proposing to grant limited approval of the Yakima PM<sub>10</sub> nonattainment plan as submitted on March 24, 1989; May 1, 1992; August 19, 1992; February 3, 1994; March 1, 1995; March 10, 1995; June 27, 1995; and August 17, 1995. EPA may grant a limited approval of this nonattainment plan under section 110(k)(3) of the CAA, in light of EPA's authority under section 301(a) of the CAA to adopt regulations necessary to further air quality by strengthening the SIP. EPA is proposing a limited approval because the nonattainment plan serves the purpose of improving air quality within the Yakima area and is providing Reasonable Further Progress (RFP)

toward attainment. The proposed approval of this implementation is limited, however, in that EPA is not proposing that this plan satisfies the specific requirements of section 172(c)(1) and 189(a)(1)(C) of the CAA to implement RACM, including RACT, in moderate nonattainment areas. EPA also is not proposing that this plan satisfies the specific requirements of section 189(c) of the CAA to show quantitative milestones which demonstrate attainment until the area is redesignated as well as the 1994 attainment demonstration. EPA believes, however, that the control measures adopted and submitted as of this date will achieve PM<sub>10</sub> emission reductions in the Yakima nonattainment area. The submittals as a whole contain inseparable portions the cannot be approved. Thus, EPA is proposing to approve the control measures of the complete SIP for the limited purpose of strengthening the SIP and making them enforceable.

However, because the Washington Department of Ecology (WDOE) and Yakima County Clean Air Authority (YCCAA) have not yet adopted into the SIP and submitted to EPA certain control measures necessary for full approval of the SIP, EPA is proposing to disapprove the RACM (including RACT) element. In addition, because the attainment demonstration for 1994 was not submitted as well as the maintenance demonstration, which demonstrates attainment until the area is redesignated, EPA is proposing to disapprove these elements of the SIP. Detailed discussions of the plan deficiencies are included below and are further discussed in the Technical Support Document (TSD). If this proposed disapproval becomes final, it will begin the period for the imposition of discretionary sanctions under section 110(m) of the CAA and the 18-month sanctions clock for the imposition of mandatory sanctions under section 179 of the CAA. If finalized, this disapproval will also authorize EPA to issue a Federal implementation plan as provided in section 110(c)(1) of the CAA.

If, however, prior to EPA's final action on this proposal the State submits a plan to EPA that adequately addresses the outstanding deficiencies, EPA will withdraw this limited approval/disapproval and will instead finalize a full approval of the PM<sub>10</sub> plan for Yakima. EPA invites public comment on this proposed action.

### A. Analysis of State Submission

#### 1. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.<sup>1</sup> Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (See 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 (1991), as amended by 57 FR 42216 (August 26, 1991). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The WDOE held a public hearing on the original plan on December 7, 1988. When this was superceded by the May 1992 supplement and the August 1992 supplement additional public hearings were held on November 30, and December 9, 1991 to entertain public comment on the Yakima implementation plan. Adequate public hearings were also held for the Yakima contingency measures (submitted on February 3, 1994) and the Yakima County Clean Air Authority (YCCAA) regulations (submitted on February 21, 1995). Following the public hearings the submittals were adopted by the State and signed by the Governor's designee as a proposed revision to the SIP.

The SIP revisions were reviewed by EPA to determine completeness shortly after their submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittals were found to be complete, and letters were forwarded to the WDOE indicating the completeness of the submittals and the next steps to be taken in the review process.

#### 2. Accurate Emissions Inventory

It is a requirement that each nonattainment plan include a

<sup>1</sup> Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

comprehensive, accurate, current inventory of allowable emissions from major point sources and actual emissions from all other sources of the relevant pollutant (PM<sub>10</sub>) in the area. Because the submission of such inventories are necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission (See 57 FR 13539).

Yakima originally submitted an emissions inventory for a 1985 base year with the inventory projected out to 1991. When the area did not attain the PM<sub>10</sub> NAAQS by 1991, the base year was replaced by 1990 in the August 1992 submittal and a new emissions inventory was submitted. These emissions were again projected out, this time to the attainment year (1994). The 1990 inventory identified residential wood combustion as the primary nonattainment source, contributing approximately 57% of the total area emissions. Additional contributing sources included resuspended road dust at 17.2%, point sources at 9.8%, vehicle exhaust at 7% and other area sources at 9%. However, the emissions inventory did not include allowable point source emissions and thus supplements were needed to provide a sufficient basis for determining the adequacy of the attainment demonstration for the area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the CAA.<sup>2</sup>

The Yakima emissions inventory became comprehensive, and EPA approvable, in terms of allowable point source emissions when WDOE submitted a March 10, 1995 and August 17, 1995 supplement. Further details are found in the TSD on the emissions inventory.

#### 3. RACM (Including RACT)

As noted, the initial moderate PM<sub>10</sub> nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 [See 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).

Residential wood combustion emissions were identified as the main contributing source to the PM<sub>10</sub> nonattainment problem in Yakima and

<sup>2</sup> The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM-10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act.

are being controlled through a mandatory woodsmoke curtailment program as the area's sole control measure. The original submittal indicates that a mandatory woodsmoke curtailment program was to have been implemented by the 1988-1989 heating season. It turns out the curtailment program was not fully functioning until the 1991-1992 heating season. The SIP indicates that the control of indoor solid fuel burning devices are expected to result in an emission reduction of 66.5% of woodstove PM<sub>10</sub> emissions in the area. A more detailed discussion of the individual source contributions and their associated control measures (including available control technology) can be found in the TSD. EPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Washington's PM<sub>10</sub> nonattainment plan control strategy has resulted in attainment of the PM<sub>10</sub> NAAQS by December 31, 1994, and thus is approved.

#### 4. Demonstration

As noted, the initial moderate PM<sub>10</sub> 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 CAA). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. WDOE and YCCAA conducted attainment demonstrations using Regional Air Modeling (RAM), a dispersion modeling program, for the Yakima area. However, WDOE and YCCAA have not submitted a demonstration that indicates the 24 hour NAAQS for PM<sub>10</sub> will be attained by 1994 in the Yakima area with the new allowable major source emissions. The 24-hour PM<sub>10</sub> NAAQS is 150 micrograms/cubic meter ( $\mu\text{g}/\text{m}^3$ ), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150  $\mu\text{g}/\text{m}^3$  is equal to or less than one (see 40 CFR section 50.6). The annual PM<sub>10</sub> NAAQS is 50  $\mu\text{g}/\text{m}^3$ , and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50  $\mu\text{g}/\text{m}^3$ . A quantitative milestone demonstration has not yet been submitted showing that the PM<sub>10</sub> NAAQS will be maintained for the three years following the attainment date (December 31, 1997) and thus a limited disapproval action is being taken for the

plan. The control strategy used to attain the PM<sub>10</sub> standard is summarized in the section titled "RACM (including RACT)". A more detailed description of the attainment demonstration and the control strategy used can be found in the TSD.

#### 5. PM<sub>10</sub> Precursors

The control requirements which are applicable to major stationary sources of PM<sub>10</sub>, also apply to major stationary sources of PM<sub>10</sub> precursors unless EPA determines such sources do not contribute significantly to PM<sub>10</sub> levels in excess of the NAAQS in that area (see section 189(e) of the CAA). Even if precursors are controlled, available data showing the contribution of precursors should be provided by the State and placed in the SIP rulemaking record in the event that sources of precursors assert that they should be granted an exclusion from control under section 189(e).

An analysis of air quality and emissions data for the Yakima nonattainment area indicates that exceedances of the NAAQS are attributed chiefly to particulate matter emissions from solid fuel combustion and that sources of particulate matter precursor emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) contribute an insignificant amount. Even with WDOE assuming worst case conditions, the Yakima area precursor sources would only total 7.9% of the emissions inventory. The consequences of this finding are to exclude these sources from the applicability of PM<sub>10</sub> nonattainment area control requirements. Note that while EPA is making a general finding of approval for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

#### 6. Quantitative Milestones and Reasonable Further Progress

The PM<sub>10</sub> nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated to attainment and which demonstrate Reasonable Further Progress (RFP), as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the CAA). RFP is defined in section 171(1) as such annual incremental reductions in emissions of

the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to determine whether annual incremental reductions different from those provided in the SIP should be required in order to ensure attainment of the PM<sub>10</sub> NAAQS by December 31, 1994 (see section 171(1)). The Yakima PM<sub>10</sub> SIP does not adequately demonstrate attainment for 1994 and does not contain a 1997 quantitative milestone report to demonstrate the area's maintenance of air quality until redesignation to attainment is granted. For full approval, WDOE and YCCAA must submit a plan which demonstrates RFP towards attainment through December 31, 1997.

#### 7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See 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 section 110(a)(2)(C)).

Yakima's SIP control measure is addressed above under the section headed "RACM (including RACT)." The control measure applies to curtailing residential woodsmoke activities during impaired air quality conditions. The SIP provides that all non-certified solid fuel burning devices are subject to curtailment under Stage I calls, and all woodheating devices are banned during a Stage II call. The curtailment calls are not applicable to those residences that have no other source of heat available.

The attached TSD contains further information on enforceability requirements including enforceable emission limitations, a description of the rules contained in the SIP and the source types subject to them, test methods with averaging times, malfunction provisions, correctly cited references of incorporated methods/rules, and reporting and recordkeeping requirements.

Because YCCAA is authorized by WDOE to enforce the woodsmoke curtailment program, as well as the other RACM measures contained within

the SIP such as source emission limitations and 20% opacity restrictions, the YCCAA regulations must be enforceable in order to approve the Yakima nonattainment plan. Under section 110(a)(2)(E)(iii) of the CAA the State must provide necessary assurances that the State has responsibility for ensuring adequate implementation of plan provisions. WDOE would have responsibility where, for example, they have the authority and resources to implement provisions where the local entity fails to do so. State law requires local agency regulation to be as stringent or more stringent than the state's regulations. At this time several of the YCCAA regulations are less stringent than the state's regulations and thus are not legally enforceable, and need to be corrected before full plan approval. Details describing the YCCAA regulation deficiencies are contained in the TSD supporting this notice.

#### 8. Contingency Measures

As provided in section 172(c)(9) of the CAA, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (See generally 57 FR 13543-13544). 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 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<sub>10</sub> NAAQS by the applicable statutory deadline. The Yakima SIP contains a Woodstove Buy Back Program (WSBBP) as its primary contingency measure. The WSBBP is being implemented as a 100% overcontrol measure. The program has been in effect since July 1, 1993, when EPA funding was secured, and has replaced approximately 70 uncertified woodstoves to cleaner forms of heat such as certified woodstoves, electricity, or gas. The WSBBP provides overcontrol for the area by creating a reduction in overall emissions regardless of whether a PM<sub>10</sub> NAAQS violation occurs, and thus is being approved as Yakima's contingency measure.

#### III. Implications of This Action

EPA is proposing limited approval and limited disapproval of the plan revisions submitted to EPA for the Yakima nonattainment area on March 24, 1989; May 1, 1992; August 19, 1992; February 3, 1994; and March 1, 1995.

In order to fully approve the Yakima moderate PM<sub>10</sub> nonattainment SIP

submitted by the WDOE and the YCCAA, some corrections and supplements need to be submitted to and approved by EPA. The plan deficiencies are described above and more completely in the TSD. Several YCCAA regulations need to be corrected to become at least as stringent as WDOE's corresponding regulations, a new 1994 attainment demonstration needs to be submitted using worst case allowable emissions, and a quantitative milestone report needs to be submitted demonstrating attainment of the area until December 31, 1997. If finalized without correcting these deficiencies, this limited approval/disapproval would constitute a disapproval under section 179(a)(2) of the CAA (See generally 57 FR 13566-67). As provided under section 179(a) of the CAA, the State of Washington would have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of the disapproval before EPA is required to impose either the highway funding sanction or the requirement to provide two-to-one new source review offsets. If the State has not corrected its deficiency within 24 months after the disapproval, EPA must impose the second sanction. Any sanction EPA imposes must remain in place until EPA determines that the State has corrected these deficiencies. If EPA ultimately disapproves the SIP submittal for the Yakima nonattainment area and the State of Washington fails to correct the deficiencies within 18 months of such disapprovals, EPA anticipates that the first sanction it would impose would be the two-to-one offset requirement. Note also that any final disapproval would trigger the requirement for EPA to impose a federal implementation plan as provided under section 110(c)(1) of the CAA.

#### IV. Request for Public Comments

EPA is requesting comments on all aspects of this proposal. As indicated at the beginning of this notice, EPA will consider any comments postmarked by December 7, 1995.

#### V. 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 proposed 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.

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 any 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 by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2224), 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.

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

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: October 24, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95-27567 Filed 11-6-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 63

[FRL-5325-6]

RIN 2060-AD93

#### National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage 1)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

**SUMMARY:** Today's action provided in this document proposes to amend the rule, "National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)" (the "Gasoline Distribution NESHAP"), promulgated on December 14, 1994. The proposal would amend the initial compliance date for the equipment leak provisions applicable to existing sources from no later than December 14, 1995 to no later than December 15, 1997, and would amend the date by which an existing facility must provide an initial notification to December 16, 1996 or 1 year after a facility becomes subject to the Gasoline Distribution NESHAP, whichever is later. These modifications are being proposed because the compliance date for these provisions is approaching and the EPA believes that, under current circumstances, additional time will allow sources a better opportunity to establish major or area source status without foregoing quantifiable emissions reductions. The EPA is requesting comments for the next 30 days only on the proposed changes discussed in this document.

**DATES:** *Comments.* Comments must be received on or before December 7, 1995 unless a hearing is requested by November 17, 1995. If a hearing is requested, written comments must be received by December 22, 1995.

**Public Hearing.** Anyone requesting a public hearing must contact the EPA no later than November 21, 1995. If a hearing is held, it will take place on November 21, 1995, beginning at 9:00 a.m.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket (6102), Attention Docket Number A-92-38 (see docket section below), room M1500, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

**Public Hearing.** If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. JoLynn Collins, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5671.

**Docket.** Docket No. A-92-38, Categories VI Reconsideration and VII Amendments, contains information considered by the EPA in developing this proposal document and is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, including all non-Government holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone (202) 260-7548. A reasonable fee may be charged for copying. This docket also contains information considered by the EPA in proposing and promulgating the Gasoline Distribution NESHAP.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Shedd at telephone number (919) 541-5397 or at facsimile number (919) 541-3470, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 14, 1994 (59 FR 64303), the EPA promulgated the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)" (the "Gasoline Distribution NESHAP"). The Gasoline Distribution NESHAP regulates all hazardous air pollutants (HAP) emitted from new and existing bulk gasoline terminals and pipeline breakout stations that are major sources of HAP emissions or are located at sites that are major sources of HAP

emissions. Among the promulgated requirements for existing sources under this rule are the requirements that sources institute an equipment leak prevention program and provide an initial notification of regulatory status no later than December 14, 1995 (40 CFR §§ 63.424(e) and 63.428(a)).

Whether a bulk gasoline terminal or pipeline breakout station is a major source or at a site that is a major source is determined by a site's "potential to emit considering controls" (Act 112(a), 42 U.S.C. 7412(a)). In the Gasoline Distribution NESHAP, the EPA promulgated two mechanisms for determining major source status that are specific to this rule: first, the NESHAP included screening equations for determining potential emissions from terminals and breakout stations based on the HAP content of gasoline, gasoline throughput, and emission rates from equipment used to handle gasoline; and second, the NESHAP allowed for case-by-case review or "emissions inventory" of a site's emissions (40 CFR § 63.420). The equations could be used only by bulk terminals and pipeline breakout stations that were at sites that had no other sources of HAP. Other sources would be able to establish potential to emit either by an emissions inventory or by using other means (outside the rule) that are generally available to sources under Subpart A of part 63, the General Provisions, and related guidance.

When the EPA promulgated the Gasoline Distribution NESHAP, the EPA anticipated that about 75 percent of all gasoline bulk terminals and pipeline breakout stations would be able to establish area source status. However, the EPA recognizes that several developments since promulgation of the rule have affected the number of sources that will establish area source status.

First, through a petition for reconsideration filed by the American Petroleum Institute (API), the EPA has learned that virtually all bulk terminals and pipeline breakout stations have HAP containing fluids such as distillates (e.g., diesel fuel and heating fuel oil) that are handled in equipment outside of the source category. According to API, this limits the utility of the emissions screening equation as a method for establishing potential to emit.

Second, the EPA has issued two guidance memoranda on options for and timing of establishing potential to emit limits. See memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement, "Options for Limiting the Potential to Emit (PTE) of