

§ 27.8 Judicial review.

A final Notice of Assessment issued under this party may be subject to judicial review pursuant to 5 U.S.C. 701 et seq.

Dated: July 18, 1997.

Raymond W. Kelly,

Under Secretary for Enforcement.

[FR Doc. 97-20646 Filed 8-5-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA61-7136, WA64-7139a; FRL-5869-8]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves in part several minor revisions to the state of Washington Implementation Plan (SIP). Pursuant to section 110 (a) of the Clean Air Act (CAA), the Director of the Washington Department of Ecology (WDOE) submitted two requests to EPA dated November 25, 1996 and April 7, 1997 to revise the SIP for certain regulations of a local air pollution control agency, the Puget Sound Air Pollution Control Agency (PSAPCA).

DATES: This action is effective on October 6, 1997 unless adverse or critical comments are received by September 5, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Ms. Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), 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, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and WDOE, P.O. Box 47600, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Lisa Jacobsen, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-6917.

SUPPLEMENTARY INFORMATION:

I. Background

Two submittals from WDOE dated November 26, 1996 and April 7, 1997, were sent to EPA and consisted of minor amendments to PSAPCA Regulations I, II, and III.

The November 26, 1996 minor revisions were adopted by PSAPCA on September 12, 1997 after meeting public participation requirements on July 11, 1996 and October 10, 1996 and become state effective on October 31, 1997.

Regulation I, section 3.11, Civil Penalties, is amended in accordance with state law to adjust maximum penalty amounts for inflation and section 3.23, Alternate Means of Compliance, is amended to clarify alternate means of compliance. Sections 5.02, 5.03, 5.05, 5.07, 6.03, and 6.04 are amended to include updates reflecting state law regarding registration and to adjust the fees covering the program costs. A new § 7.09, General Reporting Standards, adds applicable reporting requirements to the operating permits section. Section 5.08, Shut Down Sources; and 5.11, Registration of Oxygenated Gasoline Blenders, were repealed because they are no longer needed. On October 11, 1996, EPA formally redesignated the Central Puget Sound CO nonattainment area to attainment, and approved a maintenance plan which will ensure that the Central Puget Sound area remains in attainment for CO. The maintenance plan removes the requirement for oxygenated fuel during the CO season but incorporates the requirement for the use of oxygenated fuel as a contingency measure in the event of a violation of the CO national ambient air quality standard.

Regulation II, section 2.09, the elimination of the oxygenated gasoline contingency measure and fee schedule, was approved by EPA in an earlier action (62 FR 23363-23365) on April 30, 1997.

Regulation III section 4.03 is amended to clarify existing language and to increase fees to cover the costs of administering the program.

The April 7, 1997 submittal was adopted by PSAPCA after meeting public participation requirements on December 12, 1996 and became state effective January 15, 1997.

Regulation I, section 5.03 was amended to clarify the registration requirements. Section 6.04 was amended for clarification of the Notice of Construction.

Regulation III, sections 1.11, 2.01, and 2.05 were amended for clarification of

requirements when dealing with Toxic Air Contaminants.

II. Summary of Action

EPA is, by today's action, approving the following revisions submitted by WDOE on November 26, 1996 and April 7, 1997 as amendments to the regulations of PSAPCA and for inclusion into the SIP:

Regulation I

- Section 3.11, Civil Penalties
- Section 3.23, Alternate Means of Compliance
- Section 5.02, Definitions and Components of Registration Program
- Section 5.03, Registration Required
- Section 5.05, General Requirements for Registration
- Section 5.07, Registration Fees
- Section 6.03, Notice of Construction
- Section 6.04, Notice of Construction Review Fees
- Section 7.09, General Reporting Requirements

Regulation III

- Section 1.11, Reporting Requirements
 - Section 2.01, Applicability
 - Section 2.05, Sources of Toxic Air Contaminants
- EPA approves the following deletions from the SIP:

Regulation I

- Section 5.08, Shut Down Sources
- Section 5.11, Registration of Oxygenated Gasoline Blenders

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 October 6, 1997 unless, by September 5, 1997, 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 October 6, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future

request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D, of the 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. EPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 17, 1997.

Chuck 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)(73) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(73) On November 26, 1996 and April 7, 1997, the Director of the Washington State Department of Ecology (Washington) submitted to the Regional Administration of EPA revisions to the State Implementation Plan consisting of minor amendments to Puget Sound Air Pollution Control Agency (PSAPCA) Regulations I and III.

(i) Incorporation by reference.

(A) PSAPCA Regulations approved—Regulation I, Sections 3.11, 3.23, 5.02, 5.05, 5.07, 6.03, 7.09—State-adopted 9/12/96. Regulation III, Section 4.03—State-adopted 9/12/96. Regulation I, Sections 5.03 and 6.04—State-adopted 12/12/96. Regulation III, Sections 1.11, 2.01, and 2.05—State-adopted 12/12/96.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket Nos. 94-1; FCC 96-488]

Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: This document contains corrections to the summary of the Commission's Report and Order reforming access charges published in the **Federal Register** of January 31, 1997 (62 FR 4657).

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Lerner, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418-1520, email: rlerner@fcc.gov.

SUPPLEMENTARY INFORMATION: The Commission published a summary of the Price Cap Performance Review for Local Exchange Carriers Third Report and Order (released December 24, 1996) in the **Federal Register** issue of January 31, 1997, in FR Doc. 97-2143 (62 FR 4657). The summary outlines an order that adopts rules that are intended to make it easier for local exchange carriers to introduce new services and to lower rates. This summary was published with