for making this rule effective in less than 30 days from publication since the details of the operation were not known until late October 1998. Thus, following normal rule making procedures would be impractical. Delaying implementation of the regulation will adversely impact navigation and would result in unnecessary additional operating costs to the bridge owner.

Discussion of Temporary Rule

The Clinton Railroad Drawbridge swingspan has a vertical clearance of 18.7 feet above normal pool in the closed to navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw opens on signal for passage of river traffic. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators who do not object. Winter conditions on the Upper Mississippi River, coupled with the closure of Corps of Engineers' locks 11, 12, 19 and 20 until March of 1999, will result in a significant decrease in vessel traffic and therefore substantially reduce the demand for bridge openings.

The Clinton Railroad Drawbridge, Mile 518.0 Upper Mississippi River, is located downstream from Lock 12 and upstream from Lock 19. Performing maintenance on this bridge during the winter is preferred by both waterway users and bridge owners since very few vessels, if any, are impacted during this timeframe. If this maintenance were performed during the commercial navigation season, there would be a significant number of delays to vessel traffic caused by the prolonged bridge closures. Additionally, vessel traffic would be burdened with a 24-hour-advance notification requirement during the heavily transited commercial navigation season.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic will be virtually nonexistent as a result of planned lock closures and ice accumulations during the maintenance period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of this action to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule does not provide for a collection-of-information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 12612 and has determined that this temporary rule does not raise sufficient implications of federalism to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waters of the U.S. belongs to the Coast Guard by Federal statutes.

Environmental

The Coast Guard considered the environmental impact of this temporary rule and concluded that under Figure 2–1, paragraph 32(a) of Commandant Instruction M16475.1C, this temporary rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective 12:01 a.m. on December 21, 1998, through 12:01 a.m. on March 1, 1999, § 117.T408 is added to read as follows:

§ 117.T408 Upper Mississippi River.

Clinton Railroad Drawbridge Mile 518.0 Upper Mississippi River. From 12:01 a.m. on December 21, 1998 through 12:01 a.m. on March 1, 1999, the drawspan requires twenty-four hours advance notice for bridge operation. Bridge opening requests must be made 24 hours in advance by calling the Clinton Yardmaster's office at 319–244–3204 anytime; 319–244–3269 weekdays between 7 a.m. and 3:30 p.m.; or page Mr. Darrell Lott and 800–443–7243, PIN#009096.

Dated: November 6, 1998.

A.L. Gerfin, Jr.

Captain, U.S. Coast Guard Commander, 8th Coast Guard Dist. Acting.

[FR Doc. 98–30958 Filed 11–18–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA 67–7142a; FRL—6188–1]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves a minor revision to the State Implementation Plan (SIP) for Washington. Pursuant to section 110 (a) of the Clean Air Act (CAA), the Washington Department of Ecology (WDOE) submitted a request dated January 8, 1998, to EPA to revise the SIP and include a variance to a permit issued by a local air pollution control agency, the Puget Sound Air Pollution Control Agency (PSAPCA), to the U.S. Army for the operation of three heat recovery incinerators located at Fort Lewis.

DATES: This action is effective on January 19, 1999 without further notice, unless EPA receives adverse comment by December 21, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and WDOE, P.O. box 47600, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Mahbubul Islam, Office of Air Quality (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6985.

SUPPLEMENTARY INFORMATION:

I. Background

WDOE submitted a revision of the Washington SIP to EPA dated January 8, 1998 consisting of a minor amendment to PSAPCA Regulations I, Article 3, Section 3.23, Alternate Means of Compliance, (new) Subsection NOC#7216.

The U.S. Army has requested a variance to a permit issued by the PSAPCA for the operation of three heat recovery incinerators located at Fort Lewis. Through the permit approval process, PSAPCA determined that the incinerators employed the best available control technology (BACT) and the toxic air contaminants would not exceed acceptable source impact levels. The permit required the facility to meet emission limits specified in EPA guidance and use good combustion practices to minimize emissions of hazardous air pollutants (HAPs). Fort Lewis performed source testing of the three incinerator units and demonstrated their ability to meet the permit emission limits. However, the heat recovery incinerators cannot comply with the residence time requirements in the WDOE solid waste incinerator rule (WAC 173–434–160). The intent of the residence time design requirement is to assure adequate control of emissions without requiring extensive testing. Fort Lewis requested a variance from the residence time requirements, and will instead demonstrate compliance through annual source testing as specified in the permit.

II. Summary of Action

EPA is, by today's action, approving a permit variance issued to the U.S. Army, operator and owner of three heat recovery incinerators at Fort Lewis. PSAPCA held a public hearing on this variance request on December 1, 1997 at Fort Lewis. In addition, after a thirty day comment period, the Board of Directors of PSAPCA and WDOE held public hearings on December 11, 1997. No public comment was received during the comment period.

The U.S. Army requests that three heat recovery incinerators at Fort Lewis be granted a variance to WAC 173–434 160(2), requiring a one second residence time at 1800° F for all combustion gases after the last over fire air port. Due to the limited size of the incinerator firebox, the volume of airflow at design temperatures does not allow a residence time of one second. In order to comply with the residence time requirement, major structural modifications need to be made. The U.S. Army estimated that such a change to the incinerator building would cost in excess of $5 million. Such an additional cost burden on the American taxpayer is unwarranted since all air emission standards will be met by alternative means and there is no environmental or public health hazard caused by non-compliance with the one second residence time rule.

The residence time requirement is intended to minimize the formation of Dioxin during the initial combustion of refuse. This regulation was enacted before the carbon injection became the control method to minimize Dioxin emissions from incinerators. The Fort Lewis incinerator injects powder activated carbon into the flue gases to remove Dioxin from the stack gases. Source testings at Fort Lewis incinerators show that their dioxin emissions to the atmosphere are well below acceptable limits specified in the permit. Fort Lewis will conduct annual emission testings to ensure that they meet the permit requirements and protect human health and environment.

This variance is requested for one year, during which time a permanent solution will be sought. Fort Lewis will cooperate with WDOE during the rule making process to revise the incinerator rule so that it allows demonstrating compliance with the intent of the regulation (control of HAPs) through alternative mechanisms.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 19, 1999 without further notice unless the Agency receives adverse comments by December 21, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 19, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997),

applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. 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 January 19, 1999. 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: November 3, 1998.

Jane S. Moore,

Acting Regional Administrator, Region X.

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 *et seq.*

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(78) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(78) EPA approves a minor revision to the SIP dated January 8, 1998 to include a variance to a permit issued to the U.S. Army for the operation of three heat recovery incinerators located at Fort Lewis by local air pollution control agency, the Puget Sound Air Pollution Control Agency.

(i) Incorporation by reference.

(A) Puget Sound Air Pollution Control Agency, Notice of Construction No. 7216, Date: Nov 25, 1997.

[FR Doc. 98–30847 Filed 11–18–98; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[HCFA–1049–FC]

RIN 0938–AJ26

Medicare Program; Limited Additional Opportunity to Request Certain Hospital Wage Data Revisions for FY 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period provides hospitals with a limited additional opportunity to request certain revisions to their wage data used to calculate the FY 1999 hospital wage index. In addition, it explains the criteria that must be met to request a revision, the types of revisions that will be considered, the procedures for requesting a revision, the implementation of wage index revisions, and other related issues. Requests for wage data revisions must be received by the date and time specified in the ''DATES'' section of this preamble. We will implement revisions to the hospital wage index in accordance with this final rule with comment period on a prospective basis only.

DATES: *Effective date:* The provisions of this final rule with comment period are effective on November 19, 1998.

Request date: Requests for wage data revisions will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern standard time on December 3, 1998.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern standard time on December 21, 1998.

ADDRESSES: *Request for wage data revisions:* Revision request must be sent to the following address: Health Care Financing Administration, Center for Health Plans and Providers, Division of Acute Care, Mail Stop: C4–05–27, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attention: Stephen Phillips.

Comments: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1049–FC, P.O. Box 7517, Baltimore, MD 21244–1850.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Information collection requirements: For comments that relate to information collection requirements, mail a copy of comments to the following: Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: John Burke HCFA–1049–NC, and the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Stephen Phillips, (410) 786–4531.

SUPPLEMENTARY INFORMATION:

Comments, Procedures, Availability of Copies, and Electronic Access

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1049–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's office at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 p.m. (phone: (202) 690–7890).

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I. Introduction

Section 1886(d)(3)(E) of the Social Security Act (the Act) requires that, as part of the methodology for determining prospective payments to hospitals for inpatient operating costs, the Secretary must adjust standardized amounts ''for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.'' In addition, section 1886(d)(3)(E) of the Act requires that the hospital wage index be updated annually and that updates or adjustments to the hospital wage index be budget neutral.

In the July 31, 1998 **Federal Register** (63 FR 40966), we published hospital inpatient prospective payment rates and policies for Federal fiscal year (FY) 1999, including the hospital wage index. The FY 1999 wage index is based on data from Medicare cost reports for cost reporting periods beginning in FY 1995. This cost report data is submitted by hospitals and certified by hospitals. Before the calculation of the FY 1999 hospital wage index was published on July 31, 1998, we provided opportunities to hospitals to request wage data revisions and to verify wage data in HCFA's files. We established