

sequential evaluation process. We do not use the listings to find that an individual is not disabled. Individuals whose impairments do not meet or equal the criteria of the listings receive individualized assessments at the subsequent steps of the sequential evaluation process.

Also, in the introductory text of the Listing of Impairments, we are changing the reference from the Secretary to the Commissioner. This change reflects the transfer of functions which took place, effective March 31, 1995, pursuant to Public Law 103-296, which made SSA an independent agency, separate from the Department of Health and Human Services.

Further, in the list of dates on which the various body system listings will no longer be effective, we are revising the format of item 5, Cardiovascular System, to be consistent with the rest of the list. We are not changing the date in the entry, only the format. The current entry was in the revised cardiovascular system listings published on February 10, 1994 (59 FR 6468).

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(5)(a), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because this regulation only extends the date on which the adult mental disorders listings will no longer be effective and makes minor technical changes to the introductory text of the listings. It makes no substantive changes to the listings. The current regulations expressly provide that the listings may be extended, as well as revised and promulgated again. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the listings. However, without an extension of the expiration date for the adult mental

disorders listings, we will lack regulatory guidelines for assessing mental impairments at the third step of the sequential evaluation processes after the current expiration date of the listings. In order to ensure that we continue to have regulatory criteria for assessing these impairments under the listings, we find that it is in the public interest to make this rule effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

Dated: July 27, 1995.

Shirley Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a), (b), and (d) through (h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d) through (h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)).

2. Appendix 1 to subpart P of part 404 is amended by revising the first

sentence and items 5 and 13 of the introductory text before part A to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

The body system listings in parts A and B of the Listing of Impairments will no longer be effective on the following dates unless extended by the Commissioner or revised and promulgated again.

* * * * *

5. Cardiovascular System (4.00 and 104.00): February 10, 1998.

* * * * *

13. Mental Disorders (12.00): August 28, 1997.

* * * * *

3. Part A of appendix 1 to subpart P of part 404 is amended by revising the first paragraph of 12.00 to read as follows:

12.00 Mental Disorders

The mental disorders listings in 12.00 of the Listing of Impairments will no longer be effective on August 28, 1997, unless extended by the Commissioner or revised and promulgated again.

* * * * *

[FR Doc. 95-20869 Filed 8-22-95; 8:45 am]

BILLING CODE 4190-29-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA39-1-7028a; FRL-5268-3]

Approval and Promulgation of Implementation Plan for Vehicle Miles Traveled Forecasting and Tracking: Puget Sound, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of forecasting and tracking vehicle miles traveled (VMT) for the Puget Sound Carbon Monoxide (CO) Nonattainment Area, Washington. On January 28, 1993, Washington State submitted a SIP revision for the Puget Sound Carbon Monoxide (CO) Nonattainment Area to satisfy the requirements of Section 187(a)(2)(A) and Section 187(a)(3) of the Clean Air Act Amendments of 1990 (CAAA). Section 187(a)(2)(A) requires Moderate and Serious carbon monoxide (CO) non-attainment areas with a design value above 12.7 to submit a SIP revision that contains a forecast of VMT in the non-attainment area for each year before the year in which the SIP projects the

National Ambient Air Quality Standard (NAAQS) for CO to be attained. The SIP revision, which was due by November 15, 1992, is also required to provide annual updates of the forecasts along with annual reports regarding the extent to which the forecasts proved to be accurate. These annual reports must contain estimates of actual VMT for each forecast year.

The rationale for the approval is set forth in this notice; additional information is available at the address indicated below.

DATES: This final rule is effective on October 23, 1995 unless adverse or critical comments are received by September 22, 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, EPA, Air & Radiation Branch (AT-082), 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, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and ADEC, 410 Willoughby, Suite 105, Juneau, AK 99801-1795.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, EPA Region 10, Mail Stop AT-082, Seattle, WA 98101, (206) 553-6917.

SUPPLEMENTARY INFORMATION:

I. Background

Section 187(a)(2)(A) of the Clean Air Act Amendments of 1990 required EPA, in consultation with the U.S. Department of Transportation (DOT), to develop guidance for states to use in complying with the VMT forecasting and tracking provisions of Section 187. A Notice of Availability for the resulting *Section 187 VMT Forecasting and Tracking Guidance* was published in the **Federal Register** on March 19, 1992.

The Section 187 Guidance identifies the Federal Highway Administration's Highway Performance Monitoring System (HPMS) as the foundation for VMT estimates and forecasts.

When determining that actual annual VMT or a VMT forecast has exceeded

the most recent prior forecast and, therefore, that contingency measures should be implemented, EPA believes that it is appropriate to take into account the statistical variability in the estimates of VMT generated through HPMS. Consequently, EPA has identified a margin of error to be applied when making VMT comparisons. In practice, there are two ways in which an estimate of actual VMT or an updated forecast can be found to exceed a prior forecast.

EPA interprets the requirement for contingency measures to "take effect without further action by the State or the Administrator" to mean that no further rulemaking activities by the State or EPA would be needed to implement the measures.

The State of Washington has submitted a SIP revision to EPA in order to satisfy the requirements of Section 187(a)(2)(A) and Section 187(a)(3). In order to be approved, the State submittal must provide for each of the following mandatory elements: (1) a forecast of VMT in the non-attainment area for each year prior to the attainment year; (2) a provision for annual updates of the forecasts along with a provision for annual reports describing the extent to which the forecasts proved to be accurate; these reports shall provide estimates of actual VMT in each year for which a forecast was required; (3) adopted and enforceable contingency measures to be implemented without further action by the State or the Administrator if actual annual VMT or an updated forecast exceeds the most recent prior forecast or if the area fails to attain the CO NAAQS by the attainment date.

II. Analysis

EPA is approving the SIP revision for Puget Sound because Washington has met the requirements of Section 187(a)(2)(A) and Section 187(a)(3).

1. VMT Forecasts

Section 187(a)(2)(A) requires that Washington include in its SIP submittal a forecast of VMT in the non-attainment area for each year before the year in which the SIP projects the National Ambient Air Quality Standard for CO to be attained. The forecasts are to be based on guidance developed by EPA in consultation with DOT, i.e., the *Section 187 VMT Forecasting and Tracking Guidance*.

Washington created a "Memorandum of Understanding" between the Puget Sound Regional Council, Spokane Regional Council, Washington State Department of Ecology and Washington State Department of Transportation to apportion responsibility for reporting of vehicle miles travelled to these agencies. Puget Sound Regional Council and Spokane Regional Council develop for peer review draft vehicle miles travelled reports for their respective Federal Aid Urban Areas, based on data submitted by the Department of Transportation. The draft reports are submitted to Ecology, which will submit the final vehicle miles travelled annual report to EPA.

To arrive at vehicle miles travelled forecasts, the Puget Sound Regional Council, (which develops VMT forecasts for the Puget Sound CO nonattainment area), uses a four-part model consisting of a trip generation component, a trip distribution component, a mode choice component, and a transportation/mode assignment component. The model considers residential factors, employment, road network, land use, population, etc., and is reevaluated several times per year.

2. Annual VMT Updates/Reports

Section 187(a)(2)(A) specifies that the SIP revision provide for annual updates of the VMT forecasts and annual reports that describe the accuracy of the forecasts and that provide estimates of actual VMT in each year for which a forecast was required. The *Section 187 VMT Forecasting and Tracking Guidance* specifies that annual reports should be submitted to EPA by September 30 of the year following the year for which the VMT estimate is made.

The SIP provided annual and daily VMT forecasts for 1993, 1994, and 1995, and actual VMT for 1990. However, Puget Sound updated its 1993 forecast prior to reporting the differences between HPMS (actual) values and forecasted values. The metropolitan planning organization updated its travel-demand-models with more current information and techniques. EPA received Washington's first annual VMT report on October 18, 1995. The report showed that Puget Sound's actual 1993 vehicle miles travelled were within .95 percent of the forecast. Table 1 outlines the difference between projected and actual VMT for 1993:

TABLE 1.—ACTUAL AND PROJECTED VMT FOR THE PUGET SOUND CARBON MONOXIDE NONATTAINMENT AREA, 1993

Nonattainment area	Actual (HPMS) 1993 daily VMT in millions	Projected 1993 VMT in millions	Percent difference
Puget Sound	57,307,000	56,769,000	+ .95%

3. Contingency Measures

Section 187(a)(3) specifies that the State adopt specific, enforceable contingency measures to be implemented if the annual estimate of actual VMT or a subsequent VMT forecast exceeds the most recent prior forecast of VMT. Implementation of the identified contingency measures must not require further rulemaking activities by the State or EPA. The State has met this requirement by adopting two programs as contingency measures. Both measures are “over control”, meaning that Ecology is already implementing the measures but is not taking credit for the measures as part of a control strategy for attaining the NAAQS. The two control measures are: Commute Trip Reduction (CTR) programs, as specified in Washington State’s Transportation Demand Management Act, and outreach and education to induce voluntary reductions in vehicle operations during periods of poor air quality. While these control measures are not contingency plans in the strict sense of the term “contingency”, they satisfy the broader intent of the Act’s contingency measure provision.

The commute trip reduction measure is codified under Revised Code of Washington (RCW) 70.94.510–551. It calls for “major employers” located within counties with a population of 150,000 or more and to submit plans to reduce commuting trips to the workplace. The second control measure aims at voluntary curtailment of vehicle operation during periods of poor air quality. This measure intends to educate the public during periods of extreme temperature inversions, and to encourage the use of public transportation, mass transit, telecommuting, and other less polluting transit options. Outreach media will include television, radio, and newsprint. Both VMT contingency measures will, if required, be funded by statewide CMAQ (Congestion Mitigation and Air Quality) funds.

III. Today’s Action

In today’s action, EPA is approving the SIP revision submitted by the State of Washington.

The State of Washington has submitted a SIP revision implementing each of the required elements required by Section 187(a)(2)(A) and Section 187(a)(3) of the CAAA. Washington has crafted a “memorandum of understanding” among the Puget Sound Regional Council, the Spokane Regional Council, the Washington State Department of Ecology, and the Washington State Department of Transportation that delineates each agency’s responsibility in reporting vehicle miles travelled in Washington State. Additionally, Washington has outlined two contingency measures (commute trip reduction and voluntary reduction of vehicle operation through public outreach and education) in case VMT forecasts are exceeded. EPA is therefore approving this submittal.

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 CAAA 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 CAAA, 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).

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 published elsewhere in this **Federal Register**, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 23, 1995 unless, within 30 days of its publication, 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 notice 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 23, 1995.

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 OMB has exempted this regulatory action from E.O. 12866 review.

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 today 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.

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 23, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: July 20, 1995.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (55) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(55) On January 22, 1993 the Director of the Washington State Department of Ecology (WDOE) submitted the amendment to the Washington SIP for Carbon Monoxide (CO) in the King, Pierce, and Snohomish Counties' Urbanized Areas.

(i) Incorporation by reference.

(A) The January 22, 1993 letter from the Director of the WDOE submitting the Amendment to the Washington SIP for Carbon Monoxide in the King, Pierce, and Snohomish Counties' Urbanized Areas to EPA, "Supplement to the SIP for Washington State, Puget Sound Carbon Monoxide Nonattainment Area, January 1993," Section 6.0 Vehicle Miles Traveled Forecasting and Tracking, adopted on January 22, 1993.

(ii) Additional material.

(A) VMT supplements to include the VMT Tracking Report data required for the Puget Sound CO Nonattainment Areas, dated October 13, 1994 and September 19, 1994.

[FR Doc. 95-20801 Filed 8-22-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[CA 79-2-7068; FRL-5267-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on November 28, 1994, and April 24, 1995. This final action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of oxides of nitrogen (NO_x) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules concern the control of NO_x from stationary gas turbines, stationary internal combustion engines, and boilers, steam generators, and process heaters. Thus, EPA is finalizing the

approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This final rule is effective on September 22, 1995.

ADDRESSES: Copies of the rules and EPA's evaluation report for the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT:

Duane F. James, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1191.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1994, in 59 FR 60750, and on April 24, 1995, in 60 FR 20066, EPA proposed to approve the following rules into the California SIP: Placer County Air Pollution Control District's (PCAPCD) Rule 250, "Stationary Gas Turbines," and Ventura County Air Pollution Control District's (VCAPCD) Rule 74.9, "Stationary Internal Combustion Engines," and Rule 74.15.1, "Boilers, Steam Generators, and Process Heaters" (the NPRMs). The PCAPCD adopted Rule 250 on October 17, 1994, and the VCAPCD adopted Rule 74.15.1 on May 11, 1993, and Rule 74.9 on December 21, 1993. These rules were submitted by the California Air Resources Board (ARB) to EPA on November 18, 1993 (Rule 74.15.1), March 29, 1994 (Rule 74.9), and October 19, 1994 (Rule 250). These rules were adopted as part of Placer and Ventura Counties' efforts to achieve the National