shareholder's section 1254 costs under either paragraph (g)(5)(ii) (written data) or paragraph (g)(5)(iii) (assumptions) of this section. The S corporation may determine the section 1254 costs of some shareholders under paragraph (g)(5)(ii) of this section and of others under paragraph (g)(5)(iii) of this section.

(ii) *Written data.* An S corporation may determine a shareholder's section 1254 costs by using written data provided by a shareholder showing the shareholder's section 1254 costs with respect to natural resource recapture property held by the S corporation unless the S corporation knows or has reason to know that the written data is inaccurate. If an S corporation does not receive written data upon which it may rely, the S corporation must use the assumptions provided in paragraph (g)(5)(iii) of this section in determining a shareholder's section 1254 costs.

(iii) *Assumptions.* An S corporation that does not use written data pursuant to paragraph (g)(5)(ii) of this section to determine a shareholder's section 1254 costs must use the following assumptions to determine the shareholder's section 1254 costs—

(A) The shareholder deducted his or her share of the amount of deductions under sections 263(c), 616, and 617 in the first year in which the shareholder could claim a deduction for such amounts, unless in the case of expenditures under sections 263(c) or 616 the S corporation elected to capitalize such amounts;

(B) The shareholder was not subject to the following limitations with respect to the shareholder's depletion allowance under section 611, except to the extent a limitation applied at the corporate level: the taxable income limitation of section 613(a); the depletable quantity limitations of section 613A(c); or the limitations of sections 613A(d)(2), (3), and (4) (exclusion of retailers and refiners).

(6) *Examples.* The following examples illustrate the provisions of this paragraph (g):

Example 1. *Transfer of natural resource recapture property to an S corporation in a section 351 transaction.* As of January 1, 1997, A owns all the stock (20 shares) in X, an S corporation. X holds property that is not natural resource recapture property that has a fair market value of $2,000 and an adjusted basis of $2,000. On January 1, 1997, B transfers natural resource recapture property, Property P, to X in exchange for 80 shares of X stock in a transaction that qualifies under section 351. Property P has a fair market value of $8,000 and an adjusted basis of $5,000. Pursuant to section 351, B does not recognize gain on the transaction. Immediately prior to the transaction, B's section 1254 costs with respect to Property P equaled $6,000. Under § 1.1254–2(c)(1), B does not recognize any gain under section 1254 on the section 351 transaction and, under § 1.1254–3(b)(1), X's section 1254 costs with respect to Property P immediately after the contribution equal $6,000. Under paragraph (g)(2) of this section, each shareholder is allocated a pro rata share of X's section 1254 costs. The pro rata share of X's section 1254 costs that is allocated to A equals $1,200 (20 percent interest in X multiplied by X's $6,000 of section 1254 costs). The pro rata share of X's section 1254 costs that is allocated to B equals $4,800 (80 percent interest in X multiplied by X's $6,000 of section 1254 costs).

Example 2. *Contribution of money in exchange for stock of an S corporation holding natural resource recapture property.* As of January 1, 1997, A and B each own 50 percent of the stock (50 shares each) in X, an S corporation. X holds natural resource recapture property, Property P, which has a fair market value of $20,000 and an adjusted basis of $14,000. A's and B's section 1254 costs with respect to Property P are $4,000 and $1,500, respectively. On January 1, 1997, C contributes $20,000 to X in exchange for 100 shares of X's stock. Under paragraph (g)(1)(i) of this section, X must allocate to C a pro rata share of its shareholders' section 1254 costs. Using the assumptions set forth in paragraph (g)(5)(iii) of this section, X determines that A's section 1254 costs with respect to natural resource recapture property held by X equal $4,500. Using written data provided by B, X determines that B's section 1254 costs with respect to Property P equal $1,500. Thus, the aggregate of X's shareholders' section 1254 costs equals $6,000. C's pro rata share of the $6,000 of section 1254 costs equals $3,000 (C's 50 percent interest in X multiplied by $6,000). Under paragraph (g)(1)(ii) of this section, A's section 1254 costs are reduced by $2,000 (A's actual section 1254 costs ($4,000) multiplied by 50 percent). B's section 1254 costs are reduced by $750 (B's actual section 1254 costs ($1,500) multiplied by 50 percent).

Example 3. *Merger involving an S corporation that holds natural resource recapture property.* X, an S corporation with one shareholder, A, holds as its sole asset natural resource recapture property that has a fair market value of $120,000 and an adjusted basis of $40,000. A has section 1254 costs with respect to the property of $60,000. For valid business reasons, X merges into Y, an S corporation with one shareholder, B, in a reorganization described in section 368(a)(1)(A). Y holds property that is not natural resource recapture property that has a fair market value of $120,000 and basis of $120,000. Under paragraph (c) of this section, A does not recognize ordinary income under section 1254 upon the exchange of stock in the merger because A did not otherwise recognize gain on the merger. Under paragraph (g)(2) of this section, Y must allocate to A and B a pro rata share of its $60,000 of section 1254 costs. Thus, A and B are each allocated $30,000 of section 1254 costs (50 percent interest in X, each, multiplied by $60,000).

Par. 6. Section 1.1254–6 is amended by adding two sentences at the end of this section to read as follows:

§ 1.1254–6 Effective date of regulations.

* * * Section 1.1254–4 applies to dispositions of natural resource recapture property by an S corporation (and a corporation that was formerly an S corporation) and dispositions of S corporation stock occurring on or after October 10, 1996. Sections 1.1254–2(d)(1)(ii) and 1.1254–3(b)(1)(i) and (ii) and (d)(1)(i) and (ii) are effective for dispositions of property occurring on or after October 10, 1996.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 8. In § 602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows.

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part of section where identified and described	Current OMB control No.
* * * * *	
1.1254–4	1545–1493
* * * * *	

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: September 10, 1996.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 96–25945 Filed 10–9–96; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA47–7120; FRL–5631–2]

Approval and Promulgation of Air Quality Implementation Plans; Washington; Revision to the State Implementation Plan Puget Sound (Seattle-Tacoma Area) Carbon Monoxide Attainment Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In this action, EPA is approving the attainment demonstration portion of the Central Puget Sound (also

referred to as the Seattle-Tacoma Area) carbon monoxide (CO) State Implementation Plan (SIP) revision submitted to EPA on January 28, 1993, and supplemented on September 30, 1994, by the State of Washington Department of Ecology (Washington) for the purpose of documenting attainment of the national ambient air quality standards (NAAQS) for CO. The SIP revision was submitted by Washington to satisfy certain federal requirements for an approvable nonattainment area CO SIP for the Puget Sound nonattainment area in the State of Washington. The rationale for the approval of the attainment demonstration portion of this SIP revision is set forth in this notice. Additional information is available at the addresses indicated below.

EFFECTIVE DATE: This rulemaking is effective as of October 10, 1996.

ADDRESSES: 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 6th Avenue (OAQ–107), Seattle, Washington 981010; and the Washington State Department of Ecology, 300 Desmond Drive, Lacey, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, EPA Region 10, Office of Air Quality, 1200 6th Avenue (OAQ–107), Seattle, WA 98101, (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for moderate CO nonattainment areas are set out in sections 186–187 of the Clean Air Act Amendments of 1990 (CAAA) which pertain to the classification of CO nonattainment areas and to the submission requirements of the SIPs for these areas, respectively. EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the CAA, [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's final rulemaking and the supporting rationale.

Those States containing CO nonattainment areas with design values greater than (>) 12.7 parts per million (ppm) were required to submit, among other things, an attainment demonstration by November 15, 1992, showing that the plan will provide for attainment by December 31, 1995, for moderate CO nonattainment areas. The Puget Sound area, which includes lands within the Puyallup, Tulalip, and Muckleshoot Indian Reservations, had a design value of 14.8 ppm based on 1987 data, and was classified as ''moderate > 12.7 ppm,'' under the provisions of section 186 of the CAA (see 56 FR 56694, November 6, 1991, 40 CFR § 81.348).

The CO NAAQS are for 1-hour and 8-hour periods and are not to be exceeded more than once per year. The 1-hour CO NAAQS is 35 ppm (40 mg/m ^{3}) and the 8-hour NAAQS is 9 ppm (10 mg/m ^{3}). No demonstration was required to be carried out for the 1-hour NAAQS, as the Puget Sound area has not violated this NAAQS since before the 1990 CAAA were enacted. The same strategies which bring the area into attainment with the 8-hour NAAQS will also contribute to reduced 1-hour concentrations.

II. Review of State Submittal

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 granting approval of the attainment demonstration portion of the plan revision submitted to EPA on September 30, 1994, because it meets all of the applicable requirements of the CAA.

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.[1] 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. The 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]. The 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). The 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. In this instance, a completeness determination was made by operation of law.

With respect to the portions of the tribal lands which lie within the CO nonattainment area, EPA contacted the chairpersons of the Puyallup and Muckleshoot Tribal Councils and the Chairman of the Tulalip Board of Directors of the Tulalip Tribes of Washington to provide them with the information EPA has regarding the CO levels in the ambient air within the entire nonattainment area and to identify the effects that redesignating the entire area as attainment would have on those tribal lands. Mobile sources of CO are the primary sources of concern on the tribal lands within the nonattainment area. No CO ''hot spot'' problems have been identified on the tribal lands by EPA, Washington, or Puget Sound Air Pollution Control Agency (PSAPCA), nor have any stationary CO sources of concern been identified. EPA provided the three tribes the opportunity to discuss any concerns that they had regarding the pending redesignation; no concerns were identified.

2. Attainment Demonstration

The original CO attainment demonstration for the Central Puget Sound nonattainment area was submitted by Washington to EPA on January 28, 1993,[2] with supplemental information submitted as part of a SIP revision on September 30, 1994. The rollback approach used in the 1994 SIP supplement incorporated the use of a 90/10 split for emission sources, specifically attributing 90% of the CO emissions to local traffic and 10% of the CO emissions to regional CO sources. (The 1993 submittal had used a 75/25 split.) Because of questions about whether the use of the 90/10 split was adequately justified, Washington submitted supplemental information on May 10, 1996, documenting that the PSAPCA had conducted additional rollback calculations using a 75/25 split, specifically attributing 75% of the CO emission sources to local traffic and

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

[2] EPA published a Direct Final Rule on July 25, 1996, approving the Puget Sound Carbon Monoxide Attainment Demonstration. Because of an adverse comment received from the State of New York, EPA withdrew the Direct Final Rule on September 6, 1996. In the July 25, 1996, Federal Register, the SIP submittal date for the Attainment Demonstration was identified as September 30, 1994. The State of Washington Department of Ecology submitted the original Puget Sound CO Attainment Demonstration on January 28, 1993. Supplemental information which included rollback recalculations for the attainment demonstration was submitted in a SIP revision dated September 30, 1994.

25% to regional CO sources. This general approach had been approved by EPA in a letter dated October 16, 1992. Conservative assumptions used in the 1994 calculations were: (1) All sources included in the regional emissions inventory contribute to ambient concentrations at monitoring sites uniformly (i.e., distant point sources contribute just as much as motor vehicles two blocks away); (2) the attainment demonstration for Tacoma (the site of the highest design value in the nonattainment area) uses 1987 data, when the CAA calls for the most recent two years of data (1988 and 1989) and base year air quality data for all other monitoring sites are from 1988 and 1989; and (3) the rollback analysis is based on 1987, 1988, and 1989 air quality and a 1990 base year for emissions. A fundamental assumption of the rollback approach is that there is a proportional relationship between emissions and air quality during a base year and emissions and air quality in a future year. Use of the same base year for air quality and emissions is the norm.

Changes made by PSAPCA in the additional rollback calculations submitted as supplemental information by Washington in May 1996 included the following four factors. First, the additional calculations used the same base year for emissions and air quality in Tacoma. Second, it conservatively assumed that all emissions other than local traffic emissions were the same in 1987 as in 1990, when in all likelihood, these emissions were higher in 1987. Third, the MOBILE5a model was run for 1987 and 1990 and, using the fleet average emissions factors for CO from these runs, developed a factor by which to multiply the 1990 mobile source emissions to produce a reasonable approximation of 1987 mobile source emissions. (No adjustment was made for traffic volumes, which may have been lower in 1987. *See* Public Comment/ EPA Response below.) And fourth, as noted, the estimated 1987 mobile source emissions were input into the rollback using a 75/25 split. Separate design values were calculated for cold and warm weather since both cold and warm weather exceedances had been recorded. The rollback recalculation predicted attainment for both cold and warm weather in 1995, with a predicted cold weather design value of 8.6 ppm and a predicted warm weather design value of 8.4 ppm, both in Tacoma, the site of the monitor with the highest recorded CO measurements.

A review of 1995 air quality data entered into the Aerometric Information Retrieval System (AIRS) data base indicated that the actual 1995 design value for the Tacoma CO monitor was 6.3 ppm. The actual 1995 design value for the entire nonattainment area was 6.5 ppm, significantly below the rollback calculated 1995 design value of 9.0 ppm using the 90/10 split or the 1995 cold and warm weather predicted design values using the 75/25 split in the recalculations submitted in May 1996.

Major control measures used by Washington during the winter season to effect annual emission reductions were the State's Emission Check Program, the expansion of the program into new areas, and oxygenated fuel. During the ''warm season,'' there was no oxygenated fuel. The following summarizes the 1990 to 1995 emission inventory reductions.

1990 TO 1995 EMISSION INVENTORY REDUCTIONS

Category	Percent reduction	
	Cold weather	Warm weather
King County:		
On-Road Mobile Sources	36.5	25.6
Total Emission Inventory	27.8	15.9
Pierce County:		
On-Road Mobile Sources	40.0	30.2
Total Emission Inventory	29.7	19.2
Snohomish County:		
On-Road Mobile Sources	37.5	27.0
Total Emission Inventory	28.5	16.7

These are maximum estimates. MOBILE5a was used to develop these figures and assumed a basic inspection and maintenance program rather than Washington's specific program.

3. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See CAA §§ 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs 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 § 110(a)(2)(C)]. There are no specific enforceability issues related to EPA's approval of the Central Puget Sound CO attainment demonstration. General enforceability issues related to EPA's proposed approval of Washington's redesignation request and maintenance plan for the Central Puget Sound CO nonattainment area are discussed in the Federal Register, 61 FR 29515, June 11, 1996.

III. Public Comment/EPA Response

During the public comment period on EPA's proposed finding, the Agency received comments from one commenter, the State of New York Department of Environmental Conservation. No other comments were received. A discussion of those comments are as follows.

1. Commenter states that ''the exclusive use of rollback modeling does not simulate the 'hot spot' scenario and, therefore, is not adequate to address urban CO nonattainment.''

Response: EPA accepts the analyses used by PSAPCA for this area to demonstrate attainment of the CO standard. (*See* Response to Comment 2 below.) The ''rollback'' approach used by PSAPCA was acceptable under EPA guidance in effect at the time the CO attainment demonstration was originally submitted by the State of Washington in 1993. Therefore, the rollback approach meets criteria identified in a memorandum, '' 'Grandfathering' of Requirements for Pending SIP

Revisions,'' from Gerald A. Emison, Director, Office of Air Quality Planning and Standards (June 27, 1988), under which, in certain circumstances, SIPs may be approved under guidance documents that are revised after the SIPs are submitted. EPA also recognizes that air monitoring in the nonattainment area has shown the area to be in attainment of the CO standard since 1991. The Maintenance Plan that EPA proposed to approve on June 11, 1996, utilizes ''hot spot'' modeling to project continued maintenance of the CO standard for 10 years. EPA believes that actual monitoring data which shows attainment of the standard confirms the results of the rollback analysis used in the attainment demonstration. This has been further supported by annual CO saturation studies conducted by the Washington Department of Ecology at potential hotspots; virtually all of the highly congested intersections in the region have been included in these studies and no exceedances have been recorded.

2. Commenter states that ''the Puget Sound SIP rollback calculation does not consider growth in Vehicle Miles Traveled (VMT) relying solely on Mobile5a emission factors to demonstrate the proportional relationship between the base year emissions and air quality in the future. In the Federal Register supplementary information section it states that '(n)o adjustment was made for traffic volumes, which *may* have been lower in 1987.' New York recognizes that growth in VMT can negate or reduce the benefits from mobile source control measures and should be accounted for in any attainment demonstration.''

Response: EPA agrees with the commenter that VMT growth should have been factored into the rollback calculation. As a result of the commenter's concern, PSAPCA recalculated the rollback analysis, incorporating VMT growth factors derived from Highway Performance Monitoring System (HPMS) VMT data for the Puget Sound area. This supplemental information was formally submitted to EPA by Washington on September 12, 1996. EPA has reviewed the recalculations, along with the methodology for deriving the VMT growth factors, and is satisfied that the methodology used was appropriate and that attainment is satisfactorily predicted, with a predicted 1995 design value of 8.98 ppm. It should be noted again that the actual 1995 design values for the Tacoma CO monitor and for the Puget Sound CO nonattainment area as a whole are significantly lower than this predicted design value and that there have been no violations of the CO NAAQS for five years.

IV. Rulemaking Action

EPA is approving the attainment demonstration portion of Washington's Central Puget Sound CO SIP revision submitted to EPA on September 30, 1994, because Washington's submittal meets the requirements set forth in section 187(a)(7) of the CAA.

Pursuant to Section 553(d)(3) of the Administrative Procedures Act (APA), this final notice is effective upon the date of publication in the Federal Register. Section 553(d)(3) of the APA allows EPA to waive the requirement that a rule be published 30 days before the effective date if EPA determines there is ''good cause'' and publishes the grounds for such a finding with the rule. Under section 553(d)(3), EPA must balance the necessity for immediate Federal enforceability of these SIP revisions against principles of fundamental fairness which require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. *United States* v. *Gavrilovic*, 551 F 2d 1099, 1105 (8th Cir., 1977). The purpose of the requirement for a rule to be published 30 days before the effective date of the rule is to give all affected persons a reasonable time to prepare for the effective date of a new rule.

EPA is making this rule effective upon October 10, 1996 to provide sufficient time for necessary rulemaking for the forthcoming Central Puget Sound Carbon Monoxide Redesignation. Washington will discontinue implementation of the oxygenated fuel program in the Seattle-Tacoma-Everett Consolidated Metropolitan Statistical Area (CMSA) once approval of the carbon monoxide maintenance plan becomes effective. As much time as possible needs to be provided for State and local air authorities to notify fuel distributors so that distribution plans can be modified in response to these changes.

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.

V. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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 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 impose any new requirements, the Administrator certifies 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 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. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Approval of the attainment demonstration does not impose any new requirements on small entities. The Regional Administrator certifies that the approval of the attainment demonstration will not affect a substantial number of small entities.

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 private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA

to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 1996. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 26, 1996.

Chuck Clarke,

Regional Administrator.

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

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)(62) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(62) On September 30, 1994, the Director of WDOE submitted to the Regional Administrator of EPA a revision to the Carbon Monoxide State Implementation Plan for, among other things, the CO attainment demonstration for the Central Puget Sound carbon monoxide nonattainment area. This was submitted to satisfy federal requirements under section 187(a)(7) of the Clean Air Act, as amended in 1990, as a revision to the carbon monoxide State Implementation Plan.

(i) Incorporation by reference.

(A) September 30, 1994, letter from WDOE to EPA submitting an attainment demonstration revision for the Central Puget Sound CO nonattainment area (adopted on September 30, 1994); a supplement letter and document from WDOE, ''Reexamination of Carbon Monoxide Attainment Demonstration for the Tacoma Carbon Monoxide Monitoring Site for the Supplement to the State Implementation Plan for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Carbon Monoxide in the Puget Sound Nonattainment Area,'' dated May 10, 1996; and a supplement letter and document from WDOE, ''Revisions to the May 1996 Reexamination of Carbon Monoxide Attainment Demonstration for the Tacoma Carbon Monoxide Monitoring Site'', dated September 12, 1996.

[FR Doc. 96–25980 Filed 10–9–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD46

Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Nineteen Plant Species From the Island of Kauai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 17 plants: *Alsinidendron lychnoides* (kuawawaenohu), *Alsinidendron viscosum* (No common name (NCN)), *Cyanea remyi* (haha), *Cyrtandra cyaneoides* (mapele), *Delissea rivularis* ('oha), *Hibiscadelphus woodii* (hau kuahiwi), *Hibiscus waimeae* ssp. *hannerae* (koki'o ke'oke'o), *Kokia kauaiensis* (koki'o), *Labordia tinifolia* var. *wahiawaensis* (kamakahala), *Phyllostegia knudsenii* (NCN), *Phyllostegia wawrana* (NCN), *Pritchardia napaliensis* (loulu), *Pritchardia viscosa* (loulu), *Schiedea helleri* (NCN), *Schiedea membranacea* (NCN), *Schiedea stellarioides* (laulihilihi), and *Viola kauaensis* var. *wahiawaensis* (nani wai'ale'ale). The Service also determines threatened status for two plant species: *Cyanea recta* (haha) and *Myrsine linearifolia* (kolea). All of the species are endemic to the island of Kauai, Hawaiian Islands. The 19 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition, predation or habitat degradation from introduced species, natural disasters, and trampling by humans. This rule implements the Federal protection provisions provided by the Act. Listing under the Act also triggers listed status for these 19 taxa under State law.

EFFECTIVE DATE: This rule takes effect November 12, 1996.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3108, P.O. Box 5088, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Brooks Harper, Field Supervisor, Ecological Services (see **ADDRESSES**