

approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur dioxide.

Dated: September 9, 1997.

David A. Ullrich,
Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of 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 KK—Ohio

2. Section 52.1870 is amended as follows by adding paragraph (c)(115) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(115) On January 3, 1997, the Ohio EPA submitted a revision to the Hamilton County sulfur dioxide implementation plan for the Procter and Gamble Company, Ohio Administrative Code 3745–18–37(GG)(2), which limits combined average operating rate of all boilers (B001, B008, B021, and B022) to a maximum of 922 million BTU per hour for any calendar day. Boilers B001 and B008 are each allowed to emit 1.1 pounds of sulfur dioxide per million BTU actual heat input. Boiler B021 is limited to 1.50 pounds of sulfur dioxide per million BTU; and boiler B022 is limited to 2.0 pounds of sulfur dioxide per million BTU average heat input.

(I) Incorporation by reference.

(A) Ohio Administrative Code (OAC) Rule 3745–18–37(GG)(2), Hamilton County emission limits, dated December 17, 1996, for Procter and Gamble Company.

(B) Director's Findings and Orders in the matter of the adoption of amended Rule 3745–18–37 of the Ohio Administrative Code, dated December 17, 1996.

(ii) Additional Materials.

(A) Letter from Ohio EPA Director Donald R. Schregardus to Regional Administrator Valdas Adamkus, dated January 3, 1997.

(B) Letter from Ohio EPA Air Pollution Control Division Chief, Robert

Hodanbosi to EPA dated August 11, 1997.

[FR Doc. 97–25105 Filed 9–19–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA 13–6–6121; WA 55–7130; and WA 57–7132; FRL–5889–5]

Approval and Promulgation of State Implementation Plans: State of Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving parts of four revisions to the Washington State Implementation Plan (SIP) which were submitted by the Washington Department of Ecology (Washington) on January 22, 1993; September 14, 1993; and April 30, 1996 (two revisions), to address the attainment of the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO) in the Spokane, Washington urbanized area. In addition, EPA is deferring action on several parts of the SIP revisions and not addressing other parts in this action because they have been superseded by subsequent revisions and were or will be addressed in separate actions. The SIP revisions were submitted by Washington to satisfy certain Federal requirements for an approvable nonattainment area CO SIP for the Spokane nonattainment area in the State of Washington.

EFFECTIVE DATE: October 22, 1997.

ADDRESSES: Copies of Washington's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101; and the Washington Department of Ecology, Attention: Tami Dahlgren, Olympia, Washington 98504–7600, telephone (360) 407–6830; and the Spokane County Air Pollution Control Authority, West 1101 College, suite 403, Spokane, Washington 99201, telephone (509) 456–4727.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460, as well as the above addresses.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, Office of Air

Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

A. January 22, 1993, Submittal, Docket # WA 13–6–6121

On January 22, 1993, Washington submitted a SIP revision consisting of a plan for the attainment of the CO NAAQS in the Spokane area. This included a demonstration of attainment by December 31, 1995, of the CO NAAQS and provisions for forecasting and tracking vehicle miles traveled (VMT) in the Spokane area, with contingency measures to be implemented if any estimate of actual VMT in the nonattainment area, or any updated forecast of VMT contained in an annual report for any year prior to attainment, exceeds the number predicted in the most recent VMT forecast. Also included were provisions which have been superseded by subsequent SIP revisions: Reasonably Available Control Measures for residential wood combustion; Reasonably Available Control Technology for point sources; New Source Review; Vehicle Emission Inspection and Maintenance Program; oxygenated fuel; and transportation conformity. On September 14, 1993, Washington submitted a revision to the January 22, 1993, SIP submittal consisting of the 1990 base year emissions inventory and the 1995 projected year emissions inventory. Washington also submitted, on September 29, 1995, a 1993 updated (periodic) emissions inventory for the Spokane area, to meet the requirement of section 187(a)(5) of the CAA for periodic inventories.

B. April 30, 1996, Submittal, Docket # WA 57–7132 (Re VMT, Emissions Estimates, and Oxygenated Fuel Contingency Measure)

On April 30, 1996, Washington submitted a SIP revision consisting of revisions to the previously submitted vehicle emission estimates portion of the 1990 base year emissions inventory and of the 1995 projected year inventory; the emissions budget; VMT estimates and forecasts; and the attainment demonstration. The revision also added a contingency measure (3.5% oxygenated fuel) for failure to attain the NAAQS.

C. April 30, 1996, Submittal (Removal of Two Transportation Control Measures (TCMs)), Docket # WA 55–7130

On April 30, 1996, Washington submitted a SIP revision consisting of

the removal of two unimplemented TCMs which had previously been approved by EPA on March 22, 1982, as part of the 1982 Spokane CO SIP.

II. Response To Comments

No comments were received on the June 9, 1997, Notice of Proposed Rulemaking in this matter.

III. Final Action

A. Emissions Inventories (Base Year and Periodic)

EPA is approving that part of the SIP revision submitted by Washington on January 22, 1993, consisting of the 1990 Base Year emissions inventory, and the revisions to that inventory submitted by Washington on April 30, 1996, as meeting the requirements of section 187(a)(1) of the CAA. EPA is also approving the 1993 periodic emissions inventory submitted by Washington on September 29, 1995, as meeting the requirements of section 187(a)(5) of the CAA.

B. VMT/VMT Contingency Measures

EPA is approving that part of the SIP revision submitted by Washington on January 22, 1993, for the purpose of forecasting and tracking VMT in the Spokane area. This approval includes the VMT contingency measures submitted with this revision. EPA is also approving that part of the SIP revision submitted on April 30, 1996, consisting of revisions to the VMT estimates and forecasts.

C. Contingency Measures (3.5 Percent Oxygenated Fuel)

EPA is approving that part of the SIP revision submitted by Washington on April 30, 1996, consisting of a contingency measure which implements a 3.5 percent oxygenated fuel requirement during the CO season in the event that the Spokane area failed to reach attainment of the CO NAAQS by December 31, 1995. It should be noted that EPA has proposed to determine that the Spokane CO nonattainment area did not attain the CO NAAQS by December 31, 1995, as required, and to reclassify the Spokane CO nonattainment area as a "serious" nonattainment area. See 61 FR 33879, July 1, 1996. No final action has been taken by EPA to date on that proposal. The oxygenated fuel contingency measure was implemented starting with the 1996/1997 CO season.

D. TCM Deletions

EPA is approving the SIP revision submitted by Washington on April 30, 1996, consisting of the deletion of two unimplemented TCMs from the Spokane CO portion of the SIP. These

TCMs were projects involving the widening of Rowan Avenue and the installation of traffic lights along Rowan Avenue; and the construction of an additional part of North River Drive, both of which had been previously approved as part of a SIP revision on March 22, 1982.

E. Attainment Demonstration

EPA is deferring action on that part of the SIP revision submitted by Washington on January 22, 1993, and revised by the SIP revision submitted by Washington on April 30, 1996, which consists of the Spokane CO Attainment Demonstration. EPA has not promulgated a final action on its July 1, 1996, proposal to determine that the Spokane, Washington CO nonattainment area did not attain the CO NAAQS by December 31, 1995, and is unable to take action on the attainment demonstration until a final action is taken on that proposal.

F. Emissions Budget

EPA is deferring action on that part of the SIP revision submitted by Washington on April 30, 1996, consisting of the CO emissions budget. Approval of the emissions budget cannot occur until an attainment demonstration is approved by EPA in the SIP.

G. Reasonably Available Control Measures (RACM)/Reasonably Available Control Technology (RACT)

The SIP revision related to RACM submitted by Washington on January 22, 1993, was superseded by a revision submitted on December 9, 1994, which was approved by EPA on January 27, 1997. See 62 FR 3800. The RACT requirements were approved by EPA in the redesignation to attainment of the Puget Sound and Vancouver CO nonattainment areas. See 61 FR 53323, October 11, 1996, and 61 FR 54560, October 21, 1996.

H. New Source Review

The SIP revision relating to New Source Review which was submitted by Washington on January 22, 1993, was superseded by a revision submitted by Washington on March 8, 1994, which was approved by EPA on June 2, 1995. See 60 FR 28726.

I. Vehicle Emission Inspection and Maintenance Program

The SIP revision relating to the Vehicle Emission Inspection and Maintenance Program which was submitted by Washington on January 22, 1993, was superseded by a revision submitted by Washington on August 21,

1995, which was approved by EPA on September 25, 1996. See 61 FR 50235.

J. Oxygenated Fuels

The SIP revision related to oxygenated fuels submitted by Washington on January 22, 1993, was approved by EPA on January 20, 1994. See 59 FR 2994.

K. Transportation Conformity

EPA is taking no action at this time on that part of the SIP revision relating to transportation conformity submitted by Washington on January 22, 1993. This was superseded by a revision submitted by Washington on May 30, 1995, which was further revised by a SIP revision submitted by Washington on November 30, 1995. EPA will act on this submittal separately from this action.

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

IV. 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 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 Regional 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 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).

C. Unfunded Mandates Reform Act

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 herein 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 November 21, 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

Dated: August 25, 1997.

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)(75) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(75) On January 22, 1993, September 14, 1993, and April 30, 1996, the Director of the Washington Department of Ecology (Washington) submitted to the Regional Administrator of EPA four revisions to the State Implementation Plan consisting of amendments to the Spokane CO SIP.

(i) Incorporation by reference.

(A) Letter dated January 22, 1993, from Washington to EPA requesting approval of revisions to the Spokane CO portion of the Washington State Implementation Plan; the "Supplement to the State Implementation Plan for Washington State, Spokane Carbon Monoxide Nonattainment Area," dated January 1993, Sections 6.0, 6.1, 6.3, and 6.4.

(B) Letter dated September 14, 1993, from Washington to EPA providing supplementary information to that submitted on January 22, 1993; "Spokane County Carbon Monoxide Non-attainment Area 1990 Base Year Emissions Inventory," dated November 1992.

(C) Two letters dated April 30, 1996, from Washington to EPA submitting two revisions to the State Implementation Plan; "Supplement to A Plan for Attaining and Maintaining National Ambient Air Quality Standards for the Spokane Carbon Monoxide Nonattainment Area," dated March 1995; and "Supplement to the State Implementation Plan for Washington State, Spokane County Carbon

Monoxide Nonattainment Area, Supplement 1 of 2," replacement pages for Sections 2.5 and 6.2 of Section 4.5.2.CO.1 of the State Implementation Plan, dated January 1996; and "Supplement to the State Implementation Plan for Washington State, Spokane County Carbon Monoxide Nonattainment Area, Supplement 2 of 2," new Section 10.0, Contingency Measures, of Section 4.5.2.CO.1 of the State Implementation Plan, dated January 1996.

(ii) Additional material.

(A) Letter of September 29, 1995, submitting CO Periodic Emission Inventory Reports; "Spokane County Carbon Monoxide Nonattainment Area, 1993 Periodic Update Emissions Inventory," dated September 1995.

[FR Doc. 97-24420 Filed 9-19-97; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5893-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Union Pacific Railroad Sludge Pit Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces the deletion of the Union Pacific Railroad Sludge Pit site from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Idaho Division of Environmental Quality have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

EFFECTIVE DATE: September 22, 1997.

FOR FURTHER INFORMATION CONTACT: Deborah J. Yamamoto, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Mailstop ECL-113, Seattle, WA 98101, (206) 553-7216 or 1-800-424-4372.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: