methods for igniting the flare. You must pipe to the flare system used for H_2S all vents from production process equipment, tanks, relief valves, burst plates, and similar devices.

(7) *Corrosion mitigation.* You must use effective means of monitoring and controlling corrosion caused by acid gases (H_2S and CO_2) in both the downhole and surface portions of a production system. You must take specific corrosion monitoring and mitigating measures in areas of unusually severe corrosion where accumulation of water and/or higher concentration of H_2S exists.

(8) *Wireline lubricators.* Lubricators which may be exposed to fluids containing H_2S must be of H_2S-resistant materials.

(9) *Fuel and/or instrument gas.* You must not use gas containing H_2S for instrument gas. You must not use gas containing H_2S for fuel gas without the prior approval of the District Supervisor.

(10) *Sensing lines and devices.* Metals used for sensing line and safety-control devices which are necessarily exposed to H_2S-bearing fluids must be constructed of H_2S-corrosion resistant materials or coated so as to resist H_2S corrosion.

(11) *Elastomer seals.* You must use H_2S-resistant materials for all seals which may be exposed to fluids containing H_2S.

(12) *Water disposal.* If you dispose of produced water by means other than subsurface injection, you must submit to the District Supervisor an analysis of the anticipated H_2S content of the water at the final treatment vessel and at the discharge point. The District Supervisor may require that the water be treated for removal of H_2S. The District Supervisor may require the submittal of an updated analysis if the water disposal rate or the potential H_2S content increases.

(13) *Deck drains.* You must equip open deck drains with traps or similar devices to prevent the escape of H_2S gas into the atmosphere.

(14) *Sealed voids.* You must take precautions to eliminate sealed spaces in piping designs (e.g., slip-on flanges, reinforcing pads) which can be invaded by atomic hydrogen when H_2S is present.

5. In § 250.175, the section heading is revised and paragraph (f) is added to read as follows:

§ 250.175 Flaring or venting gas and burning liquid hydrocarbons.

* * * * *

(f) *Requirements for flaring and venting of gas containing H_2S*—(1) *Flaring of gas containing H_2S.* (i) The Regional Supervisor may, for safety or air pollution prevention purposes, further restrict the flaring of gas containing H_2S. The Regional Supervisor will use information provided in the lessee's H_2S Contingency Plan (§ 250.67(f)), Exploration Plan or Development and Production Plan, and associated documents in determining the need for such restrictions.

(ii) If the Regional Supervisor determines that flaring at a facility or group of facilities may significantly affect the air quality of an onshore area, the Regional Supervisor may require the operator(s) to conduct an air quality modeling analysis to determine the potential effect of facility emissions on onshore ambient concentrations of SO_2. The Regional Supervisor may require monitoring and reporting or may restrict or prohibit flaring pursuant to §§ 250.45 and 250.46.

(2) *Venting of gas containing H_2S.* You must not vent gas containing H_2S except for minor releases during maintenance and repair activities that do not result in a 15-minute time weighted average atmospheric concentration of H_2S of 20 ppm or higher anywhere on the platform.

(3) *Reporting flared gas containing H_2S.* In addition to the recordkeeping requirements of paragraphs (d) and (e) of this section, when required by the Regional Supervisor, the operator must submit to the Regional Supervisor a monthly report of flared and vented gas containing H_2S. The report must contain the following information:

(i) On a daily basis, the volume and duration of each flaring episode;

(ii) H_2S concentration in the flared gas; and

(iii) Calculated amount of SO_2 emitted.

[FR Doc. 97–1465 Filed 1–24–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA7–1–5542; WA38–1–6974; FRL–5675–7]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of Washington State Implementation Plan revision submittals for particulate matter for the Spokane and Wallula, Washington, particulate matter nonattainment areas. EPA is also granting temporary waivers of the attainment date for both areas. This action extends the attainment date for particulate matter air pollution from December 31, 1994, to December 31, 1997, in both nonattainment areas. The granting of the temporary waivers will provide the Washington Department of Ecology (Ecology) time to complete technical evaluations of the anthropogenic and nonanthropogenic sources of windblown dust in the area. The purpose of the submitted revisions is to bring about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plans were submitted by Ecology to satisfy certain federal Clean Air Act requirements for an approvable moderate PM_{10} nonattainment area SIPs for Spokane and Wallula, Washington.

EFFECTIVE DATE: March 28, 1997.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Office of Air Quality (OAQ 107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Office of Air Quality (AT–082), EPA, Region 10, Seattle, Washington 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION:

I. Background

The Spokane and Wallula, Washington areas were designated nonattainment for $PM-_{10}$ and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

Act.[2] EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing materials to satisfy moderate PM_{10} nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

EPA published its proposed approval of the moderate nonattainment area PM–10 SIP for Spokane, Washington on July 9, 1996 (61 FR 35998–36004). On December 8, 1995, EPA announced its proposed approval of the moderate nonattainment area PM_{10} SIP for Wallula, Washington (60 FR 63019–63023). In those rulemaking actions, EPA described its interpretations of Title 1 and its rationale for proposing to approve temporary waivers of the PM–10 attainment date for the Spokane and Wallula areas taking into consideration the specific factual issues presented.

Those states containing initial moderate PM_{10} nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit an implementation plan that includes, among other things, the following by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

II. Response To Comments

EPA received four letters containing comments on the July 9, 1996, proposal for Spokane (61 FR 35998). All comments were either positive in nature, requested further explanation on certain aspects of the proposed rulemaking, or indicated minor factual errors in the proposal. EPA appreciates the positive comments received from the Spokane Chamber of Commerce, City of Spokane, Kaiser Aluminum and the Spokane County Air Pollution Control Authority (SCAPCA).

Comment: Both the City of Spokane and the Spokane Area Chamber of Commerce letters, while generally supportive of EPA's proposal, commented that they consider using less traction sand and additional street sweeping as reasonable but an unfunded federal mandate.

Response: EPA understands the concern about costs of implementing these measures; however, it is necessary to point out that the federal Clean Air Act does not mandate specific control measures for particulates. Under the CAA, the state and local governments determine which sources of particulates are to be controlled and how those controls will be implemented. In Spokane's situation several miles of unpaved roads were paved using federal Department of Transportation funding and it is EPA's understanding that the purchase of street sweepers can be an eligible cost under certain conditions. EPA encourages the city to further investigate that funding source.

Comment: SCAPCA pointed out that a SCAPCA regulation for controlling emissions from paved surfaces should be referenced.

Response: EPA is adopting into the SIP Section 6.14 of SCAPCA Regulation 1, as the control measure for paved roads.

Comment: SCAPCA provided two comments regarding the new Natural Events Policy (May 30, 1996, Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, regarding ''Areas Affected by PM–10 Natural Events''). First, SCAPCA questioned the EPA requirement that RACM for nonanthropogenic sources of PM–10 be evaluated as part of the Columbia Plateau PM–10 study. SCAPCA's interpretation of the new policy is that EPA will not impose RACM requirements on nonanthropogenic sources. The second comment related to the options available to EPA once the temporary waiver expires. SCAPCA thinks that EPA should apply the new Natural Events Policy after expiration of the temporary waiver.

Response: Specific issues regarding the application of the Natural Events Policy to the Spokane and/or Wallula nonattainment areas is not within the purpose and scope of this rulemaking. EPA intends to address the above comments along with other issues related to the application of the policy, in close cooperation with both SCAPCA and Ecology in the near future.

Comment: SCAPCA's final comment related to the federal enforceability of the SCAPCA Orders 96–03, #96–04, #96–05 and #96–06 (all dated April 24, 1996) which lowered the potential to emit for the Kaiser Aluminum—Trentwood facility. SCAPCA reasoned that since the orders were issued under WAC 173–400–091, ''Voluntary Limits on Emissions'', they were automatically adopted into the SIP and therefore there was no need for EPA to specifically adopt the orders into the Spokane nonattainment area SIP.

Response: WAC–173–400–091 provides that an order issued under its authority shall be federally enforceable. However, the fact that the requirements of the orders may be federally enforceable does not make them federally enforceable without EPA approval of the orders as part of the SIP. Since these orders were submitted as part of the state's SIP revision, EPA is acting to approve submittals that are consistent with the Act. Under the Act, EPA must approve SIPs in order to assure that the SIP requirements will be both federally enforceable and permanent. SCAPCA issues orders under WAC 173–400–091 at the request of a source to limit a source's potential to emit, but SCAPCA also must revise or revoke the orders if the source proposes to deviate from any conditions in the order, so long as those limits are less than the limits approved into the SIP. Here, SCAPCA relies upon the potential to emit limitations of these orders in its attainment demonstration. The Clean Air Act requires that emission limitations and other measures relied on to ensure attainment and maintenance of the NAAQS be permanent. The voluntary nature of orders issued pursuant to WAC 173–400–091 does not ensure permanence of the potential to emit limits for the Kaiser Trentwood facility. Even though there is no reason to think the source would choose to increase the voluntary limits, the source could request and, under state law, SCAPCA would revise or revoke those limits without seeking EPA approval. Therefore, EPA is adopting the specific April 24, 1996, orders as part of the

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's notice and supporting information.

Spokane attainment plan in order to make them a permanent part of the Washington SIP. Any changes to the conditions of the orders that would result in an increase in emissions above those specified in the order approved today will have to be approved by EPA as a revision to the SIP.

EPA received no comments on its December 8, 1995, (60 FR 63019–63023) **Federal Register** proposal to approve the Wallula moderate nonattainment area PM_{10} SIP as a revision.

III. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). For PM–10 nonattainment areas Section 188(f) of the Act (Waivers for Certain Areas) can apply as well.

In this action, EPA is granting a temporary waiver of the attainment date for the Spokane and the Wallula nonattainment areas. Specific discussion of EPA's requirements for a temporary waiver are detailed in 59 FR 41998–42017 (August 16, 1994). This EPA guidance provides certain flexibility for areas where the relative significance of anthropogenic and nonanthropogenic sources is unknown. Ecology has presented preliminary data, based on an analysis of the relative contributions of anthropogenic and nonanthropogenic sources of PM–10 contributing to eastern Washington exceedences, indicating that nonanthropogenic sources may be significant in the Spokane and Wallula nonattainment areas during windblown dust events. EPA accepts this preliminary information and grants temporary waivers of the moderate area attainment date to December 31, 1997 to allow Ecology to evaluate further the Spokane and Wallula nonattainment areas. Once that evaluation is completed, and/or the temporary waiver expires, EPA will make final determinations on the designations and other requirements.

The Memorandum of Agreement signed in August 1995, by Chuck Clarke, Regional Administrator EPA, Region 10, and Mary Riveland, Director, Washington State Department of Ecology will be in effect though the temporary waiver timeframe. This agreement outlines the approach each agency will take in completing work on the PM–10 problems in both the Spokane and Wallula nonattainment areas. The agreement states that ''the Spokane and Wallula nonattainment areas will retain the classification of a moderate PM–10 nonattainment area, until 12/31/97 unless PM–10 air quality data indicates that the area has failed to attain the 24-hour health standard because of exceedences that cannot be primarily attributed to windblown dust.'' As required in the EPA guidance, Ecology and EPA are proceeding under written agreements which include a protocol for both technical analysis (emission inventory, emission factor development, dispersion modeling, receptor modeling, etc.) and evaluation of alternative control measures, including Best Available Control Measures. The activities required under the protocol are generally referred to as the Columbia Plateau PM–10 Project funded by EPA, Ecology, and the U.S. Department of Agriculture (USDA).

Today's action does not relieve the areas from the Clean Air Act requirement to implement RACM. In the Spokane situation, EPA has concluded that agricultural windblown dust, residential wood combustion, and paved and unpaved roads have been reasonably controlled. In the Wallula situation, EPA has concluded that the dominant significant source of PM–10, agricultural windblown dust, as well as the two less significant sources, Boise Cascade papermill and Simplot Feeders Limited Partnership feedlot, in the nonattainment area have been reasonably controlled. Thus, EPA thinks it would not be reasonable to require other smaller sources of PM–10 in the areas to implement potentially available control measures or technology. Further, EPA believes implementation of such additional controls in the areas would not expedite attainment.

The 1991 SIP revision for Wallula contained a commitment from Ecology to adopt provisions of the federal Food Security Act (FSA) into state regulation. Although Ecology did not develop such a regulation EPA now determines that Ecology need not develop, adopt and submit state regulations that accomplish the same results as the current federal law and regulations. Such action would be unnecessary since the federal government (U.S. Department of Agriculture) has the primary responsibility for implementation, and enforcement, of provisions of the FSA.

EPA's approval of the temporary waiver of the attainment date defers approval/disapproval actions on several otherwise required elements of the moderate area plans for both Spokane and Wallula. EPA will take final action on the attainment demonstration, emission inventory, and contingency measures after the Columbia Plateau analysis is completed and/or the temporary waiver expires or if the new natural events policy is applied to these nonattainment areas.

Finally, EPA concludes that due to the small relative contribution of stationary sources to both the Spokane and Wallula nonattainment areas, stationary sources of PM–10 precursors provide an insignificant contribution to the areas ambient PM–10 concentrations. EPA grants the areas an exclusion from PM–10 precursor control requirements authorized under section 189(e) of the act for both nonattainment areas. Note that while EPA is making a general finding for the areas, this finding is based on the current character of the areas including, for example, the existing mix of sources in the areas. It is possible, therefore, that future growth could change the significance of precursors in the areas.

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 Review

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 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

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 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. section 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 March 28, 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

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.

Dated: December 23, 1996.

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)(69) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(69) EPA received from the Washington Department of Ecology PM_{10} nonattainment area plans for Wallula and Spokane, Washington, as revisions to the Washington state implementation plan.

(i) Incorporation by reference.

(A) November 13, 1991 letter from Washington Department of Ecology (WDOE) to EPA Region 10 submitting the *State Implementation Plan for Particulate Matter in the Wallula Study Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standard for PM_{10}* (including Appendices ''D'' (Exceptional Events Analysis), ''E'' (Reasonably Available Control Measure Analysis), ''F'' (Reasonably Available Control Technical Analysis of Boise Cascade, Wallula), and ''H'' (Discussion of Modified Attainment Demonstration)), adopted November 14, 1991; May 18, 1993 letter from WDOE forwarding a report titled, ''Addendum to the State Implementation Plan for the Wallula PM–10 Nonattainment Area, Reasonably Available Control Measure Analysis'', further describing the control measures being implemented in the area; June 23, 1994 letter from WDOE providing additional information describing the status of the control measures and forwarding an analysis of windblown dust in the area; April 28 and May 18, 1995, letters from WDOE to EPA Region 10, providing additional information on the allowable and fugitive emissions for point sources and air quality dispersion modeling; June 1, 1995, letter from WDOE providing information on allowable emissions; and a September 6, 1995, letter from WDOE forwarding a revised emission inventory for point sources within the Wallula nonattainment area.

(B) December 9, 1994, letter from WDOE submitting the Spokane PM_{10} Attainment Plan (including Appendices ''C'' (Analysis of PM_{10} Data/Exceedances of the 24-Hour Standard), ''E'' (Detailed Analysis of Dust Storms/Analysis of the Impact of Biogenic PM_{10} Sources), ''F'' (Analysis of PM_{10} Data/Exceedances of the 24–Hour Standard, Excluding Dust Storms), ''I'' (Reasonable Available Control Measures Analysis), ''J,'' (Additional Controls/Contingency Measures), ''K,'' (Dispersion Modelling and Attainment Demonstration), and ''L,'' (Demonstration of Attainment of the Annual Standard)), dated December 1994, and adopted December 12, 1994;

(C) Spokane County Air Pollution Control Authority (SCAPCA) Order No. 91–01 providing for an alternate opacity limit for the Kaiser Aluminum and Chemical Corporation, Trentwood aluminum facility; SCAPCA Orders 96–03, 96–04, 96–05 and 96–06 (all dated April 24, 1996) lowering the potential to emit for the Kaiser Aluminum—Trentwood facility; and

(D) SCAPCA regulations: Article VI, section 6.05, ''Particulate Matter and Preventing Particulate Matter from Becoming Airborne,'' section 6.14, ''Standards for Control of Particulate Matter on Paved Surfaces,'' and section 6.15, ''Standards for Control of Particulate Matter on Unpaved Roads;'' (effective November 12, 1993); and Article VIII, ''Solid Fuel Burning Device Standards,'' (adopted April 7, 1988).

(ii) Additional material.

(A) SCAPCA's zoning ordinance provisions requiring the paving of new parking lots (4.17.059 and 4.802.080 of the Zoning Code of Spokane County, dated 5/24/90).

[FR Doc. 97–1847 Filed 1–24–97; 8:45 am]

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