

- 510 Incinerator Burning
- 520 Sulfur Compounds in Fuel
- 550 Preventing Particulate Matter from Becoming Airborne
- 560 Storage of Organic Liquid
- 580 Volatile Organic Compound Control

The following discussion highlights elements of NWAPA's rules that EPA is approving: Section 104.1—Adoption of State Laws and Rules, allows NWAPA to position itself as the primary enforcement agency for the three counties under its jurisdiction. Sections 132 and 133—Criminal Penalty and Civil Penalty, respectively, reflect changes in Washington's Clean Air Act. Maximum fines have increased from \$1,000 to \$10,000, and civil penalties have been adjusted based on the consumer price index. Timely submittal of information on emissions is the subject of Section 150, which states that if industries do not comply in a timely fashion, fees will be based on potential rather than actual emissions. Sections 300 through 310 establish a preconstruction review program which requires the submittal of a "Notice of Construction and Application for Approval" and receipt of an "Order of Approval" prior to the construction or modification of most air contaminant sources. An "Order of Approval" will be issued after public notice and opportunity for comment, if applicable, provided the new or modified source complies with all applicable State and Federal requirements. Note, however, that the NWAPA regulations do not contain any provisions to implement the major source permitting requirements of Title I, Part C, and Part D of the Act. There are currently no nonattainment areas in NWAPA's jurisdiction and the WDOE implements the Part C "Prevention of Significant Deterioration" permit program under a delegation from EPA. Sections 320 through 325 require the registration of air contaminant sources, and impose an annual registration fee and other fees to cover the costs of regulating sources. "Preventing Particulate Matter from Becoming Airborne," Section 550, aims at preventing material from being deposited in public roadways that may result in fugitive dust problems. Volatile organic compounds (VOCs) are controlled by Section 580, which establishes BACT for all new VOC sources. This section covers petroleum refineries, high vapor pressure volatile organic compound storage tanks, gasoline loading terminals, bulk gasoline plants, gasoline stations, cutback asphalt paving, petroleum refinery equipment leaks, high vapor pressure volatile organic compound storage in external floating roof tanks,

leaks from gasoline transport tanks and vapor control systems.

Finally, EPA is taking no action on the following sections which were included in the January 10, 1994 submittal but do not relate to the control of criteria air pollutants under section 110 of the Act.

- 104.2 Adoption of Federal rules
- 312 Environmental Policy Guidelines
- 324.121 Fees (operating permits)
- 326 Operating Permits
- 350 Variances
- 402 Particulate Fallout Standards
- 426 Hydrocarbons
- 428 Hazardous Air Pollutants
- 452.5 Motor vehicle standards for odor
- 465 Sulfuric Acid Plants
- 470 Fluorides
- 600 to 603 Objectives and Planning Criteria

In its January 10, 1994 submission, NWAPA did not submit its rules regarding open burning (Section 501—Outdoor Burning; Section 504—Outdoor Fires—Grass Seed Fields; Section 511—Refuse Burning Equipment—Time Restriction) and for concealment and masking (Section 540—Emission of Air Contaminant—Concealment and Masking) for inclusion in the SIP. Therefore, the statewide rules for open burning and concealment and masking apply within NWAPA's jurisdiction.

III. Summary of EPA Action

In this action, EPA approves the following sections of the NWAPA rules as revisions to the Washington SIP: 100, 101, 102, 103, 104.1, 105, 106, 110, 111, 112, 113, 114, 120, 121, 122, 123, 124, 130, 131, 132, 133, 134, 135, 140, 145, 150, 180, 200, 300, 301, 302, 303, 310, 320, 321, 322, 323, 324, 325, 340, 341, 342, 360, 365, 366, 400, 401, 410, 420, 421, 424, 450, 451, 452 (except for 452.5.), 455, 458, 460, 462, 466, 510, 520, 550, 560, and 580.

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 CAA 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 CAA, 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 in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 24, 1995 unless, by March 24, 1995, 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 document 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 April 24, 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 by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of