

or another provision of regulation 400, which will bring the source into compliance within a specified period of time. Section 171—Public Involvement, lists which types of application or other actions require public notice, and what constitutes public notice. The inclusion of Section 172—Technical Advisory Council, is not a requirement of the Clean Air Act, and does not directly apply to the regulation of the criteria pollutants, and thus is not being acted for inclusion into the SIP. Section 180—Variance, is being disapproved because it allows SWAPCA to grant a variance to the requirements governing the quality, nature, duration, or extent of discharges of air contaminants. Section 190—Requirements for Nonattainment Areas, requires consultation with local government and public involvement. Section 200—Credible Stack Height and Dispersion Techniques, explains how to determine a source's credible stack height. Section 205—Adjustment for Atmospheric Conditions, prohibits varying the emissions rate in response to the varying atmospheric conditions. Section 210—Emission Requirements of Prior Jurisdictions, requires that the more stringent standards apply when jurisdiction is transferred. Section 220—Requirements for Board Members, prohibits Board members from administering enforcement programs in which a significant portion of their income is derived. Section 230—Regulatory Actions, explains the enforcement actions to be taken by SWAPCA when its regulations have not been followed. Section 240—Criminal Penalties, subjects violators of SWAPCA's regulations to the provisions of RCW 70.94.430. Section 250—Appeals, explains who appeals may be made to and under what circumstances. Section 260—Conflict of Interest, explains that all board members and officials that vote on air pollution sources must comply with the Federal Clean Air Act.

SWAPCA's regulations are similar to the state of Washington's WAC 173-400, and therefore if a more detailed explanation of the approvals/disapprovals is wanted, one should refer to the January 15, 1993 (58 FR 4578) **Federal Register** notice.

III. Summary of EPA Action

EPA is approving the following sections, with the following exceptions, of SWAPCA 400—General Regulation for Air Pollution Sources: 010; 020; 030 except the second sentences of (14) and (43); 040 except (1)(c) and (1)(d) (2) (4) and the exception provision of (6)(a); 050 except the exception provision of (3); 052; 060; 070 except (7); 081; 090;

100 except the first sentence of (3)(a)(iv) and (5); 101; 105; 107; 110; 112; 113; 114; 151; 161; 171; 190; 200; 205; 210; 220; 230; 240; 250; and 260.

EPA is disapproving the following sections: 040(1) (c) and (d); the exception provision of 040(6)(a); the exception provision in 050(3); 120; 130; 131; 136; 141; and 180.

EPA is taking no action on the following sections: the second sentence of 030 (14) and (43); 040(2); 040(4); 070(7); 075; the first sentence of 100(3)(a)(iv); 100(3)(a)(v); 100(5); 115; and 172.

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 July 3, 1995 unless, by June 2, 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 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 July 3, 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 2 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 this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 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, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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.