the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(l) of the Clean Air Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended 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 this rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

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: May 31, 1996.

William J. Muszynski,

Acting 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 HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(89) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(89) Revisions to the New York State Implementation Plan (SIP) for carbon monoxide concerning the control of carbon monoxide from mobile sources, dated November 13, 1992 and March 21, 1994 submitted by the New York State Department of Environmental Conservation (NYSDEC).

(i) Incorporation by reference.

(A) Subpart 225–3 of Title 6 of the New York Code of Rules and Regulations of the State of New York, entitled ''Fuel Composition and Use—Gasoline,'' effective September 2, 1993 (as limited in section 1679).

(ii) Additional material.

(A) March 21, 1994, Update to the New York Carbon Monoxide SIP.

3. Section 52.1679 is amended by removing the existing entry for Subpart 225–3 and adding a new entry for Subpart 225–3 in numerical order to read as follows:

§ 52.1679 EPA—approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
* *	*	* *	* * * *
Subpart 225–3, Fuel Composition and Use— Gasoline.	9/2/93	[*insert date of publication and FR page citation*].	Section 225–3.4 applicable November 1 through last day of February. Variances adopted by the State pursuant to sections 225–3.8 and 225–3.9(a) become applicable only if approved by EPA as SIP revisions.
* *	*	* *	* * * *

[FR Doc. 96–18643 Filed 7–24–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA47–7120a; FRL–5538–3]

Clean Air Act Approval and Promulgation of Carbon Monoxide Implementation Plan for the State of Washington: Puget Sound Attainment Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the attainment demonstration portion of the Puget Sound carbon monoxide (CO) State implementation plan (SIP) revision submitted 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 implementation plan revision was submitted by the State 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 is set forth in this notice. Additional information is available at the address indicated below. Under the Clean Air Act (CAA), EPA must approve or disapprove SIPs or portions of SIPs within time frames specified in the CAA; failure to do so would render EPA liable to citizen suits to conduct rulemaking on those SIPs and would delay making approvable rules federally enforceable.

DATES: This action is effective on September 23, 1996 unless adverse or critical comments are received by August 26, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

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 Sixth Avenue (OAQ–107), Seattle, Washington 98101; Washington Department of Ecology, Attention Tami Dahlgren, Olympia, Washington 98504–7600, telephone (360) 407–6830; and the Puget Sound Air Pollution Control Authority, 110 Union Street, Suite 500, Seattle, Washington 98101–2038.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, EPA Region 10, Office of Air Quality, 1200 Sixth Avenue, M/S OAQ–107, Seattle, Washington 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 CAA 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. The 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 proposal 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 CO NAAQS is 9 ppm (10 mg/m^3). Washington's attainment demonstration predicted that the highest 8-hour design concentration as of the attainment date would be 9 ppm, thus demonstrating attainment of the 8-hour CO NAAQS. 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. The modeled attainment demonstration is discussed in greater detail below.

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.

The State of Washington Department of Ecology held a public hearing in Bellevue, Washington on September 8, 1994, to entertain public comment on the implementation plan for the Puget Sound CO nonattainment area. Following the public hearing the plan was adopted by the State and submitted to EPA on September 30, 1994, as a proposed revision to the SIP.

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 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.

In today's action EPA is approving the attainment demonstration portion of Washington's CO SIP submittal for the Puget Sound area and invites public comment on the action. EPA also finds that information and requirements provided in the attainment demonstration portion of the Department of Ecology SIP revision request for the Puget Sound nonattainment area demonstrate that the section 187(a)(7) requirements have been met for the entire Puget Sound area, including portions of the Tulalip, Puyallup, and Muckleshoot Indian Reservations.

2. Attainment Demonstration

As noted, CO moderate nonattainment areas with design values greater than 12.7 parts per million (ppm) were required to submit a demonstration by November 15, 1992, showing that the plan will provide for attainment by December 31, 1995. Washington conducted an attainment demonstration using a ''rollback'' modeling approach for the Puget Sound CO nonattainment area to show that emission reductions resulting from implementation of control measures were sufficient to ''roll back'' the design value to a concentration at or below the NAAQS for CO of 9 ppm.

The CO NAAQS are for 1-hour and 8-hour periods and are not to be exceeded more than once per year. The 8-hour CO NAAQS is 9 ppm (10 mg/m^3). As noted, no demonstration was required to be carried out for the 1-hour NAAQS, as the Puget Sound nonattainment area has

[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).

not violated the 1-hour NAAQS since before the CAAA were enacted. In the attainment demonstration portion of the SIP submittal, Washington showed that the 8-hour design value concentration of 9.0, predicted for 1995, the attainment year, documents attainment of the 8-hour CO NAAQS by the required date, December 31, 1995.

The rollback modelling used in the 1994 SIP submittal 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. Because of questions about whether the use of this split was adequately justified, Washington submitted additional information on May 10, 1996, documenting that the Puget Sound Air Pollution Control Agency (PSAPCA) had conducted additional rollback modelling using a 75/25 split, specifically attributing 75% of the CO emission sources to local traffic and 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 modelling were: (1) all sources included in the regional emission 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 modelling included the following four factors. First, the additional modeling 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 emission 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). And fourth, as noted, the estimated 1987 mobile source emissions were input into the rollback model 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 recalculation of the rollback modelling 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. The 1995 design value for the entire nonattainment area was 6.5, significantly below the modeled 1995 design value of 9.0 using the 90/10 split or the cold and warm weather predicted design values using the 75/25 split in the modeling developed by PSAPCA in 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 sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIP's 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 section 110(a)(2)(C)]. There are no specific enforceability issues related to EPA's approval of the Puget Sound CO attainment demonstration. General enforceability issues related to EPA's proposed approval of Washington's redesignation request and maintenance plan for the Puget Sound CO nonattainment area are discussed in the Federal Register, 61 FR 29515, June 11, 1996.

III. Final Action

EPA is approving the attainment demonstration portion of the Puget Sound CO attainment plan because it meets the requirements set forth in section 187(a)(7) of the CAA. 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, EPA is proposing to approve the SIP revision should adverse or critical comments be received. This action will be effective September 23, 1996 unless, by August 26, 1996, adverse or critical comments are received. If 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 then be addressed in a subsequent final rule based on this action serving as a proposed rule. 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 on September 23, 1996.

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).

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 any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. 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 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 today 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.

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended 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 section 804(2) of the APA as amended.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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: July 2, 1996.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows: 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 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 Puget Sound CO nonattainment area (adopted on September 30, 1994), and 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.

[FR Doc. 96–18651 Filed 7–24–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 372

[OPPTS–400062A; FRL–5372–3]

Hydrochloric Acid; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying the listing for hydrochloric acid on the list of toxic chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is deleting non-aerosol forms of hydrochloric acid because the Agency has concluded that the non-aerosol forms of hydrochloric acid meet the section 313(d)(3) deletion criterion. By promulgating this rule, EPA is relieving facilities of their obligation to report releases of and other waste management information on non-aerosol forms of hydrochloric acid that occurred during the 1995 reporting year, and for activities in the future.

DATES: This rule is effective July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Acting Petitions Coordinator, 202-260-3882, e-mail: bushman.daniel @epamail.epa.gov, for specific information on this final rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703–412-9877, or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION: