Department of the Navy as to whether a proposed regulatory requirement originated by it comes within the purview of this paragraph and the corresponding provisions of 32 CFR part 336, and as to whether inviting public comment is warranted, shall be conclusive and final.

(b) *Classes of documents affected.* Each proposed regulation or other document of a class described in § 701.64(a) (or a proposed revision of an adopted document of any of those classes) which would "originate" within the Department of the Navy a requirement of general applicability and future effect for implementing, interpreting, or prescribing law or policy, or practice and procedure requirements constituting authority for prospective actions having substantial and direct impact on the public, or a significant portion of the public, must be evaluated to determine whether inviting public comment prior to issuance is warranted. Documents that merely implement regulations previously issued by higher naval authorities or by the Department of Defense will not be deemed to "originate" requirements within the purview of this section. If a proposed document is within the purview of this section, publication to invite public comment will be warranted unless, upon evaluation, it is affirmatively determined both that a significant and legitimate interest of the Department of the Navy or the public will be served by omitting such publication for public comment, and that the document is subject to one or more of the following exceptions:

(1) It pertains to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy;

(2) It relates to naval management, naval military or civilian personnel, or public contracts (e.g., Navy Procurement Directives), including nonappropriated fund contracts;

(3) It involves interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(4) It is determined with regard to the document, for good cause, that inviting public comment is impracticable, unnecessary, or contrary to the public interest.

(c) *Procedures*—(1) *Normal case.* Unless the official having cognizance of a proposed regulatory document determines under the criteria of § 701.66(b) that inviting public comment is not warranted, he or she shall cause it to be published in the **Federal Register** with an invitation for the public to submit comments in the form of written data, views, or arguments during a specified period of not less than 30 days following the date of publication. An opportunity for oral presentation normally will not be provided, but may be provided at the sole discretion of the official having cognizance of the proposed directive if he or she deems it to be in the best interest of the Department of the Navy or the public to do so. After careful consideration of all relevant matters presented within the period specified for public comment, the proposed document may be issued in final form. After issuance, the adopted document, and a preamble explaining the relationship of the adopted document to the proposed document and the nature and effect of public comments, shall be published in the **Federal Register** for the guidance of the public.

(2) *Where public comment is not warranted.* The official having cognizance of a proposed document within the purview of this paragraph shall, if he or she determines that inviting public comment concerning the document is not warranted under the criteria of § 701.66(b), incorporate that determination, and the basis therefor, in the document when it is issued or submitted to a higher authority for issuance. After issuance, such document shall be published in the **Federal Register** for the guidance of the public, if required under § 701.64(b).

§ 701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public

In accordance with the provisions of 32 CFR part 336, the Department of the Navy shall accord any interested person the right to petition, in writing, for the issuance, revision, or cancellation of regulatory document that originates, or would originate, for the Department of the Navy, a policy, requirement, or procedure which is, or would be, within the purview of § 701.66. The official having cognizance of the particular regulatory document involved, or having cognizance of the subject matter of a proposed document, shall give full and prompt consideration to any such petition. Such official may, at his or her absolute discretion, grant the petitioner an opportunity to appear, at his or her own expense, for the purpose of supporting the petition, if this is deemed to be compatible with orderly conduct of public business. The petitioner shall be advised in writing of the disposition, and the reasons for the disposition, of any petition within the purview of this section.

Dated: August 19, 1994.

Lewis T. Booker,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–21716 Filed 9–9–94; 8:45 am]

BILLING CODE 3810–AE–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH63–3–6652; OH64–3–6653; FRL–5068–9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule; removal.

SUMMARY: On July 26, 1994, the USEPA published a final rule, through the "direct final" procedure, approving two exemption requests from the requirements contained in Section 182(f) of the Clean Air Act (Act) for the Toledo and Dayton ozone nonattainment areas in Ohio. See 59 FR 37947. The USEPA is removing this final rule due to adverse comments received on this action. In a subsequent final rule, USEPA will summarize and respond to the comments received on these exemption requests from the State of Ohio.

EFFECTIVE DATE: September 12, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location:

United States Environmental Protection Agency, Region 5, Air Enforcement Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Environmental Engineer, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–5089.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: August 30, 1994.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter 1, 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 KK—Ohio

§ 52.1879 Review of new sources and modifications.

§ 52.1879 [Amended]

2. Section 52.1879 is amended by removing paragraph (f).

§ 52.1885 Control Strategy: Ozone.

§ 52.1885 [Amended]

3. Section 52.1885 is amended by removing paragraph (r).

[FR Doc. 94–22399 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[WA17–1–5867a and WA16–1–5866a; FRL–5065–3]

Approval and Promulgation of Emission Statement Implementation Plan; Washington State

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submitted by the State of Washington for the purpose of implementing an emission statement program for stationary sources within the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Area. The implementation plan was submitted by the State to satisfy the Federal requirements for an emission statement program as part of the SIP for Washington State.

DATES: This final rule will be effective on November 14, 1994 unless adverse or critical comments are received by October 12, 1994. 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, EPA, Region 10, Air Programs Development Section (AT–082), 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, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Development Section, 1200 Sixth Avenue, Seattle, Washington 98101, and the Washington State Department of Ecology, 300 Desmond Drive, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, EPA, Region 10, Air Programs Development Section (AT–082), Seattle, Washington 98101, (206) 553–6917.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA or "the Act"). EPA has published 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, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: NO_x Supplement to the General Preamble")).

EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this document, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify part 40 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in subsections (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program in paragraph (3) of that subsection for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x). This paragraph provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

The CAA requires facilities to submit the first emission statement to the State within three years after November 15, 1990, and annually thereafter. EPA requests that the States submit the emission data to EPA through the Aerometric Information Retrieval System (AIRS). The minimum emission statement data should include: certification of data accuracy; source identification information; operating schedule; emissions information (to include annual and typical ozone season day emissions); control equipment information; and process data. EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

In addition to the submission of the emission statement data to AIRS, States should provide EPA with a status report that outlines the degree of compliance with the emissions statement program. Beginning July 1, 1993, States should report quarterly to EPA the total number of sources affected by the emission statement provisions, the number that have complied with the provisions, and the number that have not. This status report should also include the total annual and typical ozone season day emissions from all reporting sources, both corrected and non-corrected for rule-effectiveness (RE). States should include in their status report a list of sources that are delinquent in submitting their emission statement and that emit 500 tons per year (tpy) or more of VOC or 2500 tpy or more of NO_x. This report should be a quarterly submittal until all the regulated sources have complied for the reporting year. Suggested submittal dates for the quarterly status reports are July 1, October 1, January 1, and April 1.

II. Analysis of State Submission

There are several key general and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting by the sources and the State. In general, the program must include, at a minimum, provisions for applicability, definitions, compliance, and specific source requirements detailed below.

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Sections 110(a)(l) and 110(a)(2) of the Act provide that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.

The State of Washington held a public hearing on January 5, 1993 in Vancouver, and January 6, 1993 in SeaTac to solicit public comment on the implementation plan for the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Areas, respectively. Following the public hearing, the plan was signed by the Director of the Washington State Department of Ecology (the Governor's designee) on January 22, 1993. EPA received an official revision to the SIP on January 28, 1993 which supersedes the SIP submittal of November 16, 1992. Additionally, replacement pages were submitted July 5, 1994 to clarify which sources are subject to the emission statement program.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). A letter dated April 8, 1993 was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process. In today's action, EPA approves Washington's emission statement program SIP submittal and invites public comment on the action.

B. Components of Emission Statement Program

1. Program Elements

Washington's emission statement program includes provisions covering applicability of the regulations, definitions for key terms used in the regulations, a compliance schedule for sources covered by the regulations, and the specific reporting requirements for sources. Under Washington State law, the Revised Code of Washington (RCW) sections 70.94.141 and 70.94.331 authorize Ecology and local authorities to "require access to records, books, files, and other information specific to the control, recovery, or release of air contaminants into the atmosphere." The Washington Administrative Code (WAC) 173–400–105 states that "the owner or operator of a source shall upon notification by the director of Ecology, maintain records ... deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures."

2. Reporting Requirements for Sources

In accordance with the Act, Washington's emission statement program requires sources to submit certification that the information is accurate to the best knowledge of the individual certifying the statement, source identification information, operating information, process rate data, control equipment information, and emissions information.

3. Reporting Requirements for State

Washington's emission statement program includes a provision for the State to provide the identifying information for the sources covered by the emission statement program, the value for rule effectiveness utilized by the State in its SIP calculations, the source data elements entered into AIRS, and quarterly emission statement status reports. The quarterly reports should show the total number of facilities that met the State's emission statements program requirements and the number of facilities that failed to meet the requirements. Washington has submitted quarterly emissions statement status reports since July 1, 1993. The emissions statement status reports contain all required data elements. Ecology and the local air pollution control authorities require emission statement data for the annual emission inventory update.

4. Sources Covered

Section 182(a)(3)(B) of the Act requires that States with areas designated as nonattainment for ozone (O_3) require emission statement data from sources of volatile organic compounds (VOC) or oxides of nitrogen (NOx) in the nonattainment areas. Washington's Emission Statement Program applies the source reporting requirements as outlined in EPA's "Draft Guidance on the Implementation of an Emission Statement Program." Sources subject to this requirement are: (1) Sources in O3 nonattainment areas that emit 25 (tpy) or more of NOx; and (2) sources in O3 nonattainment areas that emit 25 tpy or more of VOC. Additionally, if a source emits at least the minimum established reporting level of VOC or NOx (for example, 25 tpy or more in an O3 nonattainment area), and the other pollutant is emitted at less than 25 tpy, then the other pollutant should also be included in the emission statement.

5. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA. The EPA criteria addressing the enforceability of SIPs 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). SIP 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) of the Act).

The State of Washington has a program in its SIP that will ensure that the requirements of sections 182(a)(3)(B), 182(f), and 184(b)(2) of the Act for emission statement measures contained in the SIP are adequately enforced. Submission of emission statement data is enforced through the Southwest Air Pollution Control Authority (SWAPCA) and the Puget Sound Air Pollution Control Agency (PSAPCA). PSAPCA requires submission by April 15 of each year, and SWAPCA requires submission by March 15 of each year. EPA expects that the state's existing air enforcement program will be adequate.

III. Final Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). In this action, EPA is granting approval of the emission statement plan revision submitted to EPA on January 28, 1993 because it meets all of the applicable requirements of the CAA.

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 economic 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, I certify that it does not have a significant impact on 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 become effective on November 14, 1994 unless, by October 12, 1994, adverse or critical comments are received.

Nothing is 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 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 November 14, 1994. 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 bechallenged later in proceedings to enforce its requirements. (See 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Nitrogen dioxide, Reporting and recordkeeping requirements, 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.

Dated: August 25, 1994.

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)(46) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(46) On January 28, 1993 the State of Washington submitted a SIP revision for the purpose of implementing an emission statement program for stationary sources within the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Area. The implementation plan was submitted by the State to satisfy the Federal requirements for an emission statement program as part of the SIP for Washington State.

(i) Incorporation by reference.

(A) Letters dated January 22, 1993 from the Director of the Washington Department of Ecology to EPA Region 10 amending the Washington SIP for both the Vancouver and Central Puget Sound areas.

(B) "Supplement to the SIP for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Ozone in Central Puget Sound," sections 6.0, 6.1, and 6.2, adopted January 22, 1993.

(C) "Supplement to the SIP for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Ozone in the Vancouver Air Quality Maintenance Area," sections 7.0, 7.1, 7.2, and 7.3, adopted January 22, 1993.

* * * * *

[FR Doc. 94–22400 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[TX-23-1-6390; FRL-5063-6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan (SIP) Addressing Carbon Monoxide (CO) for El Paso

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the Texas SIP addressing CO for El Paso. Certain elements of the complete El Paso CO SIP were submitted by the Governor of Texas to the EPA in order to meet the November 15, 1992, deadline for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for CO. These elements satisfy certain Federal requirements for an approvable nonattainment area CO SIP for El Paso. This Federal Register (FR) action approves some of the elements of the complete El Paso CO SIP, including the 1990 base year CO emissions inventory and the oxygenated fuels program. The remaining elements of the complete El Paso CO SIP have been or will be acted upon in separate FR actions.

EFFECTIVE DATE: This final rule will become effective on October 12, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Air Quality Planning Annex, 12118 North IH–35, Park 35 Technology Center, Building A, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Cupp, Planning Section (6T–AP), Air Programs Branch, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–8015.

SUPPLEMENTARY INFORMATION:

Background

A segment of El Paso, Texas, was designated nonattainment for CO and classified as moderate with a design value below 12.7 parts per million (ppm.) (specifically 12.6), under sections 107(d)(4)(A) and 186(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments of 1990.[1] Please reference 56 FR 56694 (November 6, 1991), 57 FR 13498, and 13529 (April 16, 1992). The air quality planning requirements for moderate CO nonattainment areas with a design value less than or equal to 12.7 ppm. are set out in subparts one and three of part D, title I of the CAA.

The EPA has issued a "General Preamble" describing the EPA's preliminary views on how the EPA intends to review SIPs and SIP revisions submitted under title I of the CAA, including those State submittals containing moderate CO nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

Moderate CO nonattainment areas less than 12.7 ppm., such as El Paso, were required to submit SIPs to the EPA by November 15, 1992, containing specifically: (1) A comprehensive, accurate, and current inventory of actual emissions from all sources of CO in the nonattainment area (sections 172(c)(3) and 187(a)(1) of the CAA); (2) no later than September 30, 1995, and no later than the end of each three year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of sections 187(a)(1) and 187(a)(5) of the CAA; (3) a permit program to be submitted by November 15, 1993, which meets the requirements of section 173 for the construction and operation of new and modified major stationary sources of CO (section 172(c)(5)); (4) contingency measures due November 15, 1993, that are to be implemented if the EPA determines that the area has failed to attain the primary standards by the applicable date (section 172(c)(9)); (5) a commitment to upgrade the current I/M program and submit a SIP revision for the I/M program by November 15, 1993, (section 187(a)(4)); and (6) an oxygenated fuels program (section 211(m)).

[1] The 1990 Amendments to the CAA made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the CO NAAQS (see Public Law Number 101–549, 104 Stat. 2399). References herein are to the CAA, as amended, 42 U.S.C. 7401 *et seq.*

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submittals (see 57 FR 13565–13566). The EPA announced its proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (58 FR 15683–15686) and requested public comments. No comments were received. In this FR action, the EPA is approving two of the elements of the complete El Paso CO SIP, specifically the 1990 base year CO emissions inventory, and the oxygenated fuels program. The remaining elements of the complete El Paso CO SIP will be acted upon in separate FR actions.

Response to Comments

As stated previously, the EPA proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (59 FR 15683–15686), and no comments were received regarding the proposed approval.

Final Action

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submittals (see 57 FR 13565–13566). The EPA in this action is approving the following elements of the complete El Paso CO SIP: the 1990 base year CO emissions inventory and the oxygenated fuels program. These two elements meet all of the applicable requirements of the CAA. The remaining elements of the complete El Paso CO SIP that were submitted to the EPA by November 15, 1992, or by November 15, 1993, will be or have been acted upon in separate FR actions.

On October 23, 1992, the Governor of Texas submitted to the EPA a SIP narrative revision for CO concerning El Paso, which included the general SIP revision and the oxygenated fuels regulations. The State also submitted to the EPA a completed emissions inventory on November 17, 1992, and a commitment to upgrade the existing I/M program on November 15, 1992.

The EPA announced its proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (59 FR 15683–15686) and requested public comments. No comments were received. In that rulemaking action, the EPA described in detail its interpretation of title I and its rationale for proposing to approve these elements of the El Paso CO SIP after taking into consideration the specific factual issues presented. It is important to note that the El Paso CO 1990 base year inventory consists of the following list of the CO peak season daily emissions estimates in tons per day (t/d): Point Sources, nine t/d; Area Sources, three t/d; Mobile On-Road Sources, 291 t/d; Mobile Nonroad Sources, 67 t/d; Total Sources, 370 t/d.

This final action on the El Paso CO SIP is unchanged from the April 4, 1994, proposed approval action. The EPA prepared a detailed analysis in its Technical Support Document as a part of its proposed approval and which is available for review along with the current FR document at the locations referenced in the beginning of this FR document. The discussion herein provides only a broad overview of the proposed action that the EPA is now finalizing. The public is referred to the April 4, 1994, proposed approval FR action for a full discussion of the action that the EPA is now finalizing.

Nothing in this action should be construed as permitting, 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, economical, and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed at 59 FR 15683 (April 4, 1994). As noted elsewhere in this action, the EPA received no public comments on the proposed action. As a direct result, the Regional Administrator has reclassified this action from table two to table three under the processing procedures established at 54 FR 2214, January 19, 1989, and revised via memorandum from the Assistant Administrator for Air and Radiation to the Regional Administrators dated October 4, 1993.

The EPA has reviewed these revisions to the El Paso CO SIP and is approving the El Paso CO emission inventory and the oxygenated fuels regulations in this action. Other elements described above will be or have been addressed in separate FR documents.

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1994. 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)).

Executive Order 12866

This action has been classified as a Table Three 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 Office of Management and Budget (OMB) 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, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 10, 1994.

W.B. Hathaway,

Acting Regional Administrator.

40 CFR part 52 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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(84) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(84) A revision to the Texas SIP for the El Paso moderate carbon monoxide nonattainment area which has a design value less than 12.7 parts per million was submitted by the Governor of Texas to meet the November 15, 1992, CAA deadline. The elements in this incorporation include the general SIP revision and the oxygenated fuels regulations submitted to the EPA on October 23, 1992, and the completed emissions inventory submitted to the EPA on November 17, 1992.

(i) Incorporation by reference.

(A) Addition of a new Section 114.13, "Oxygenated Fuels" to the Texas Air Control Board (TACB), Regulation IV.

(B) TACB Board Order Number 92–15, as adopted by the TACB on September 18, 1992.

(C) SIP narrative plan entitled "Revisions to the State Implementation Plan (SIP) for Carbon Monoxide (CO), 1992 CO SIP for Moderate Area—El Paso," adopted by the Texas Air Control Board September 18, 1992, addressing: 3. 1992 CO SIP Revisions for Moderate Area El Paso (new.) e. Attainment Demonstration, pages 9–10; f. Oxygenated Fuels 3) Administrative Requirements, page 13, b) Clerical Reviews, page 15, c) Field Inspections, page 15; and e) enforcement (i)–(iv), pages 17–19.

(ii) Additional material.

(A) SIP narrative plan entitled "Revisions to the State Implementation Plan (SIP) for Carbon Monoxide (CO), 1992 CO SIP for Moderate Area—El Paso," adopted by the Texas Air Control Board September 18, 1992.

(B) Governor of Texas submittal of November 13, 1992, regarding the El Paso CO emissions inventory.

(C) The TACB certification letter dated October 1, 1992, and signed by William R. Campbell, Executive Director, TACB.

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[FR Doc. 94–22398 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 185

[OPP–2600053C; FRL–4909–8]

RIN 2070–AB78

Benomyl and Trifluralin; Reinstatement of Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Reinstatement of Food Additive Regulations.

SUMMARY: In the **Federal Register** of June 30, 1994, EPA issued a final judicially reviewable rule revoking the food additive regulations for benomyl (processed tomato products and raisins) and trifluralin (peppermint and spearmint oil). The Circuit Court of Appeals for the D.C. Circuit ordered EPA on August 24, 1994, to stay the effectiveness of those revocations. By this document, EPA is implementing the Court's order by reinstating the food additive regulations for benomyl and trifluralin pending judicial review of EPA's June 1994 Order by that Court.

EFFECTIVE DATE: The effective date of these regulations is on September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Niloufar Nazmi or Lisa Engstrom, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Station #1, 2800 Crystal Drive, Arlington, VA. Telephone: (703) 308-8010.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 1994 (59 FR 33684) ("June 1994 Order"), EPA issued a final judicially reviewable rule revoking the food additive regulations for benomyl (processed tomato products and raisins), trifluralin (peppermint and spearmint oil), mancozeb (bran of wheat), and phosmet (cottonseed oil). On July 14, 1994, the registrants for benomyl and trifluralin filed a petition for review of EPA's June 1994 Order with the Circuit Court of Appeals for the D.C. Circuit. In addition, DuPont and DowElanco filed with the Court a "Motion for Summary Reversal, or in the Alternative, Stay Pending Review." On August 24, 1994, the Court denied Petitioners' Motion for a Summary Reversal, but granted the Motion for a Stay Pending Judicial Review.

By this document, EPA is implementing the Court's Order granting a stay by reinstating the benomyl (processed tomato products and raisins) and trifluralin (peppermint and spearmint oil) food additive regulations pending judicial review of

EPA's decision. These regulations, therefore, will remain in place until the stay is terminated, EPA is otherwise ordered by the D.C. Circuit Court of Appeals or another court, or EPA takes further administrative action.

EPA is not reinstating the food additive regulations for mancozeb (bran of wheat) and phosmet (cottonseed oil) because they were not the subject of the Court's August 24, 1994 decision. Therefore, those regulations continue to be revoked.

Until otherwise acted upon by EPA, the Code of Federal Regulations text will continue to include the full text of the food additive regulations for benomyl and trifluralin (40 CFR 185.350 and 185.5900).

List of Subjects in 40 CFR Part 185

Environmental protection, Administrative practice and procedure, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 1, 1994.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

1. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

2. By adding § 185.350, to read as follows:

§ 185.350 Benomyl.

Tolerances of 50 parts per million are established for combined residues of the fungicide benomyl (methyl-1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in raisins and concentrated tomato products when present therein as a result of application of the fungicide to growing grapes and tomatoes.

3. By adding § 185.5900, to read as follows:

§ 185.5900 Trifluralin

Tolerances are established for residues of the herbicide trifluralin in or on peppermint oil and spearmint oil at 2 parts per million when present therein as a result of application to the herbicide to the growing crops.

[FR Doc. 94–22440 Filed 9–7–94; 12:20 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 93–22; FCC 94–200]

Interstate Pay-Per-Call Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted this Order on Reconsideration to rule on petitions for reconsideration of a Report and Order which amended the Commission's pay-per-call regulations to implement the Telephone Disclosure and Dispute Resolution Act (TDDRA). The Commission affirmed these rules with minor modifications, consistent with the TDDRA. The rules are intended to maximize telephone subscribers' protection against fraudulent and abusive practices without unduly burdening common carriers and providers of legitimate pay-per-call services.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order on Reconsideration in CC Docket No. 93–22 [FCC 94–200], adopted August 2, 1994 and released August 31, 1994. The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street NW., Washington, D.C. The full text of this Order on Reconsideration may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street NW., Suite 140, Washington, D.C. 20037, (202) 857–3800. For a document relating to this Order on Reconsideration, see a proposed rule involving interstate information services published elsewhere in this issue.

Summary of Order on Reconsideration

1. On August 2, 1994, the Commission adopted an Order on Reconsideration in CC Docket No 93–22 (released August 31, 1994; FCC 94–200) (Order) ruling on petitions for reconsideration of a Report and Order, 58 FR 44769 (Aug. 25, 1993), which amended the Commission's pay-per-call regulations to implement the Telephone Disclosure and Dispute Resolution Act of 1992, 47 CFR 228 (TDDRA). As explained below, the Commission affirmed, with minor modifications, regulations governing interstate pay-per-call and similar information services.

2. The Commission modified § 64.1506 to clarify that services specifically exempted from the TDDRA's definition of "pay-per-call" need not be offered exclusively through 900 numbers. The Commission stated that it had not intended to negate the express exclusions from pay-per-call status enacted by Congress in the TDDRA, and, accordingly, amended § 64.1506 to require that any interstate services possessing the basic pay-per-call attributes set forth in the statute and § 64.1501(a)(1)–(2), and not subject to the exclusions stated in that section, must be offered only through telephone numbers beginning with the 900 service access code.

3. The Commission affirmed § 64.1508(c) which requires local exchange carriers (LECs) to file federal tariffs for services that offer subscribers the option of blocking access to 900 numbers and also declined to permit LECs to satisfy the federal tariffing requirement by cross-referencing applicable state tariffs. The Commission found that it could implement the TDDRA's mandate that blocking services be reasonably priced most effectively by requiring the filing of federal tariffs. Federal tariffs assure that the Commission need not review individual state tariffs or await subscriber complaints to ensure that 900 number blocking is offered to subscribers at a reasonable charge.

4. Finally, the Commission affirmed, with minor modifications, § 64.1510(b) of its rules. This section requires common carriers billing subscribers for information services provided on either a collect basis or under a presubscription or comparable arrangement to separate the charges for those services from charges for ordinary telephones services, to the extent possible, and include in each bill assessing such charges a brief statement of subscriber rights and responsibilities. Although the Commission recognized that these provisions are not required by the TDDRA, it concluded that they are necessary to protect consumers from fraudulent and deceptive practices associated with the provision of interstate information services.

5. The Commission noted that subscriber complaints filed with the Common Carrier Bureau over the past several months confirm and highlight the need for separate billing and consumer notification requirements, particularly when 800 numbers are used to provide information services, purportedly under a presubscription or

comparable arrangement. The Commission's rules require that a valid presubscription arrangement be established as a contractual agreement between a caller and an information provider (IP) after the caller is fully informed of the rates and conditions for using the information service and agrees to take the service on the terms offered. The IP must require use of a personal identification number (PIN) to guard against access by unauthorized persons. However, the complaints received by the Commission indicate that information providers apparently read the Automatic Number Identification (ANI) of the originating telephone line and issue a PIN to the caller without ascertaining that that individual is both the subscriber to the originating line and legally capable of entering into a contractual agreement. The subscriber to the originating line is then charged for a call to the IP on the basis of ANI and, unless the bill segregates such charges, the subscriber to the originating line may not be aware that charges for information services have been billed. The Commission emphasized that this practice does not establish a valid presubscription arrangement and that unless an IP has ascertained that the subscriber to the originating line is, in fact, the caller who agreed to purchase information services, the IP may not use ANI in order to bill charges to the originating line. The Commission also noted that LECs have often used confusing or misleading language in displaying charges for 800 number information services and, accordingly, directed carriers to render bills that accurately reflect the charges assessed.

6. The Commission also ruled that, while IPs generally appear to have abandoned collect calls as a means of providing information services, LECs should include in their billing contracts a requirement that entities on whose behalf collect calls are billed take reasonable steps to segregate any collect calls for information services.

7. The Commission amended § 64.1510(b) to remove the requirement that carriers inform subscribers billed for collect or presubscribed information services that 900 number blocking is available upon request since that fact could confuse subscribers because 900 number blocking would not block collect calls or most presubscribed services, which are typically offered through 800 numbers. The Commission also modified slightly the terminology used in the rule to reflect more clearly the type of calls it was designed to cover. Thus, the amended rule deletes the term "interstate tariffed collect information services" and instead refers to "interstate information services provided on a collect basis." To ensure consistency, Sections 64.1507(c) and 64.1511(a) were also amended to incorporate this changed terminology.

Ordering Clauses

8. Accordingly, It Is Ordered, pursuant to sections 1, 4(i), 4(j), 201–205, 228, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 228 and 405, that the petitions for reconsideration filed in this proceeding Are Denied, except as provided in this Order.

9. It Is Further Ordered, that part 64 of the Commission's rules, 47 CFR part 64 Is Amended as set forth below, effective 30 days from publication of the text thereof in the **Federal Register**.

List of Subjects in 47 CFR Part 64

Communications common carrier, Computer technology, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply sections 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Section 64.1501 is revised to read as follows:

§ 64.1501 Definitions.

(a) *Pay-per-call service* means any service:

(1) In which any person provides or purports to provide:

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to simultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 number;

(4) Provided, however, such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

(b) *Presubscription or comparable arrangement* means a contractual agreement in which:

(1) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(2) The service provider agrees to notify the consumer of any future rate changes;

(3) The consumer agrees to use the service on the terms and conditions disclosed by the service provider;

(4) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers; and

(5) Provided, however, that disclosure of a credit or charge card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if the credit or charge card is subject to the dispute resolution procedures of the Truth in Lending Act and Fair Credit Billing Act, as amended, 15 U.S.C. 1601 *et seq.* No other action taken by a consumer during the course of a call to an information service, for which charges are assessed, can create a presubscription or comparable arrangement.

3. Section 64.1506 is revised to read as follows:

§ 64.1506 Number designation.

Any interstate service described in § 64.1501(a)(1)–(2), and not subject to the exclusions contained in § 64.1501(a)(4), shall be offered only through telephone numbers beginning with a 900 service access code.

4. In Section 64.1507, Paragraph (c) is revised to read as follows:

§ 64.1507 Prohibition on disconnection or interruption of service for failure to remit pay-per-call or similar service charges.

* * * * *

(c) Charges for interstate information services provided on a collect basis which have been disputed by the subscriber.

5. In Section 64.1510, Paragraph (b) is revised to read as follows:

§ 64.1510 Billing and collection of pay-per-call and similar charges.

* * * * *

(b) Any common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement, or on a collect basis, shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i) (A), (B), (D) and (a)(2)(ii) of this section.

6. In Section 64.1511, the first sentence of paragraph (a) is revised to read as follows:

§ 64.1511 Forgiveness of charges and refunds.

(a) Any carrier assigning a telephone number to a provider of interstate pay-per-call services or providing transmission for interstate information services provided pursuant to a presubscription or comparable arrangement or on a collect basis, and providing billing and collection for such services, shall establish procedures for the handling of subscriber complaints regarding charges for those services. * * *

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[FR Doc. 94–22565 Filed 9–9–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100–4043; I.D. 090694A]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by trawl vessels using non-pelagic trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the BSAI bycatch allowance of halibut specified for the trawl pollock/Atka mackerel/ "other species" fishery category.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), September 6, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1994 bycatch allowance of halibut specified for the trawl pollock/ Atka mackerel/"other species" fishery category which is defined at § 675.21(b)(1)(iii)(F), was established as 957 metric tons by the final 1994 initial specifications (59 FR 7656, February 16, 1994).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the bycatch allowance of halibut specified for the trawl pollock/Atka mackerel/"other species" fishery category has been reached. Therefore, NMFS is prohibiting directed fishing for pollock by trawl vessels using non-pelagic trawl gear in the BSAI from 12 noon, A.l.t., September 6, 1994, until 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 6, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–22376 Filed 9–6–94; 4:05 pm]

BILLING CODE 3510–22–F