

December 13, 2002, and ending September 30, 2003. Since this period has now expired, the proposed changes to 38 CFR 36.4312 are no longer necessary to reflect the increase.

The proposed rule provided for a 60-day comment period that ended November 10, 2003. We received three comments. The three commenters generally support the proposal for VA guaranteed hybrid ARM loans. Two believe the current ceiling on the annual adjustment cap of one percent is not in line with comparable conventional loans with a fixed-rate period of five or more years. They believe legislation should be enacted to remove the one percent annual adjustment cap limitation for loans with a fixed-rate period of five years or more. One requested that if such legislation is enacted VA implement the change as quickly as possible. This suggestion has been noted and will be considered in the event of future legislation.

The third commenter requested that VA clarify language in the proposal regarding the increase in the fee payable to VA by a person assuming a VA guaranteed loan. The increase was effective for the period beginning December 13, 2002, and ending September 30, 2003, and was being carried out under the authority of the statute. As the effective period has now expired, the proposed change to § 36.4312(e)(2) has been dropped from the final rule.

Based on the rationale set forth in the proposed rule we are affirming as a final rule the change made to § 36.4311 of title 38, Code of Federal Regulations.

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

#### Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The addition of hybrid adjustable rate mortgages will benefit lenders by providing an additional loan product for use in making VA-guaranteed loans. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers applicable to this rule are 64.114 and 64.119.

#### List of Subjects in 38 CFR Part 36

Condominiums, Flood insurance, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: December 17, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble 38 CFR part 36 is amended as set forth below.

#### PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

■ 2. Section 36.4311 is amended by:

- a. Revising paragraph (d) introductory text;
- b. In paragraph (d)(2), revising the first sentence;
- c. Revising paragraph (d)(4) introductory text;
- d. Revising paragraph (d)(5) introductory text;
- e. Revising the authority citation at the end of the section.

The revisions read as follows:

#### § 36.4311 Interest rates.

\* \* \* \* \*

(d) Effective October 1, 2003, adjustable rate mortgage loans which comply with the requirements of this paragraph (d) are eligible for guaranty.

\* \* \* \* \*

(2) \* \* \* Interest rate adjustments must occur on an annual basis, except that the first adjustment may occur no sooner than 36 months from the date of

the borrower's first mortgage payment.

\* \* \*

\* \* \* \* \*

(4) *Initial rate and magnitude of changes.* The initial contract interest rate of an adjustable rate mortgage shall be agreed upon by the lender and the veteran. Annual adjustments in the interest rate shall correspond to annual changes in the interest rate index, subject to the following conditions and limitations:

\* \* \* \* \*

(5) *Pre-loan disclosure.* The lender shall explain fully and in writing to the borrower, at the time of loan application, the nature of the obligation taken. The borrower shall certify in writing that he or she fully understands the obligation and a copy of the signed certification shall be placed in the loan folder and furnished to VA upon request.

\* \* \* \* \*

(Authority: 38 U.S.C. 3707A)

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R10–OAR–2004–WA–0001; FRL–7894–7]

#### Approval and Promulgation of Implementation Plans; Wallula, Washington PM<sub>10</sub> Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM<sub>10</sub> Standards

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is taking final action to approve Washington's State Implementation Plan for the Wallula, Washington serious nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). Wallula was initially classified as a moderate nonattainment area for PM<sub>10</sub> pursuant to the Clean Air Act Amendments of 1990. In 2001, it was reclassified as a serious nonattainment area for PM<sub>10</sub>. As a result, Washington was required to submit a serious area plan for bringing the area into attainment. Washington submitted a serious area plan on November 30, 2004. We are approving this plan for Wallula, Washington because it meets the Clean Air Act requirements for PM<sub>10</sub> serious nonattainment areas.

**DATES:** Effective June 1, 2005.

**ADDRESSES:** Copies of the State's request and other supporting information used in developing this action are available for inspection during normal business hours at the following locations: EPA, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen, Office of Air, Waste, and Toxics (AWT-107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553-6706.

#### **SUPPLEMENTARY INFORMATION:**

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- I. What Is the Background of This Rulemaking?
- II. What Comments Did We Receive on the Proposed Action?
- III. What Is Our Final Action?
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#### **I. What Is the Background for This Action?**

On November 30, 2004, the State of Washington, Department of Ecology (Ecology) submitted a State Implementation Plan revision entitled "A Plan for Attaining Particulate Matter (PM<sub>10</sub>) Ambient Air Quality Standards in the Wallula Serious Nonattainment Area" (Wallula serious area plan or Plan). This plan was submitted to meet subparts 1 and 4 Clean Air Act (CAA or Act) planning requirements for the Wallula PM<sub>10</sub> serious nonattainment area. A detailed description of our proposed action to approve this plan was published in a proposed rulemaking in the **Federal Register** on February 1, 2005. (70 FR 5086).

#### **II. What Comments Did We Receive on the Proposed Action?**

EPA provided a 30-day review and comment period on our proposal published in the **Federal Register** on February 1, 2005. No comments were received on the proposed rulemaking.

#### **III. What Is Our Final Action?**

We are taking final action to approve the Wallula PM<sub>10</sub> serious area plan because it meets all the requirements for a serious area plan under the Clean Air Act. After further consideration, however, we have decided not to approve as part of this action to approve the State's revised definition of "major stationary source" in WAC 173-400-112 (effective September 15, 2001). This revised definition was submitted by the State on June 29, 2004 as part of a larger

rulemaking package, and was proposed for approval in order to meet the serious area planning requirements of CAA section 189(b)(3). Upon further review, we have determined that it is unnecessary to take action on this revision at this time because federally-approved WAC 173-400-030(40) (approved at 60 FR 28726, June 2, 1995) already meets the requirements of CAA section 189(b)(3). In light of this fact and our desire to avoid the potential confusion that could arise by acting on only a small portion of the June 29, 2004 SIP submittal, we have decided to not take final action on the revised definition at this time.

EPA's decision to not take final action at this time on the definition of "stationary source" in the June 29, 2004 rulemaking package does not in any way impact the existing federally-approved new source review requirements for the State of Washington. Rather, we believe it is more efficient and less confusing to act on this provision at the same time we are acting on other parts of the June 2004 submittal.

#### **IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175

(65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 1, 2005.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: March 22, 2005.

**Michael F. Gearheard,**

*Acting Regional Administrator, Region 10.*

■ 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 *et seq.*

#### Subpart WW—Washington

■ 2. Section 52.2470 is amended by adding paragraph (c)(86) to read as follows:

##### § 52.2470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(86) On November 30, 2004, the Washington Department of Ecology (Ecology) submitted a serious area plan for the Wallula serious nonattainment area for PM<sub>10</sub>.

(i) Incorporation by reference.

(A) The following terms and conditions limiting particulate matter emissions in the following permits or administrative orders:

(1) Washington Department of Ecology Administrative Order No. 02AQER-5074 for IBP, Inc. (now known as Tyson Foods Inc.) dated December 6, 2002 except for the following: Finding number 4 (“T-BACT”), found on page 5 of document and item 3.3 of Approval Condition number 3 (“Emission Limits and Test Methods”) found on page 7 of the document.

(2) Washington State Department of Ecology Air Operating Permit for Boise White Paper, L.L.C. Permit No. 000369-7, dated December 1, 2004, the following condition only: 1.Q.1 (“Particulate-fugitive dust”) of item Q (“Landfill/Compost Operation”).

(3) Washington State Department of Ecology Administrative Order for Boise

Cascade Corporation, Wallula Mill, Order No. 1614-AQ04, dated August 19, 2004 and effective September 15, 2004, the following condition only: No. 1 (“Approval Conditions”) and Appendix A (“Dust Control Plan” for Boise Paper—Wallula Mill, “Landfill and Composting Areas”) dated February 18, 2004.

(4) Fugitive Dust Control Plan for Simplot Feeders Limited Partnership, dated December 1, 2003.

(B) [Reserved.]

(ii) Additional Material.

(A) Washington State Department of Ecology Columbia Plateau Windblown Dust Natural Events Action Plan, dated 2003.

(B) Washington State Department of Ecology Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices, dated December 13, 1995.

■ 3. Section 52.672 is amended by revising paragraph (e) to read as follows:

##### § 52.2475 Approval of plans.

\* \* \* \* \*

(e) Particulate Matter.

(1) Wallula.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Wallula Serious Area Plan for PM<sub>10</sub> adopted by the State on November 17, 2004 and submitted to EPA on November 30, 2004.

(ii) [Reserved.]

(2) [Reserved.]

\* \* \* \* \*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 70

[R07-OAR-2005-IA-0002; FRL-7906-9]

#### Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of clarifying that only untreated wood, seeds, pellets and other vegetative matter may be burned in fuel burning equipment and residential heating units; to remove a reference to a boiler that was removed at a power and water facility, and to clarify the language with regard to continuous emissions monitoring. One

administrative correction to the operating permit program is also included in this revision. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

**DATES:** This direct final rule will be effective July 1, 2005, without further notice, unless EPA receives adverse comment by June 1, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07-OAR-2005-IA-0002, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select “quick search;” then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

4. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier.* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to RME ID No. R07-OAR-2005-IA-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the [Federal regulations.gov](http://www.regulations.gov) Web site are “anonymous access” systems, which means EPA will not know your identity or contact information unless you