

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[WA-23-1-6438a; FRL-5092-1]

Approval and Promulgation of State Implementation Plan:
Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State of Washington's contingency measure plan as a revision to Washington's State Implementation Plan (SIP) for carbon monoxide (CO). EPA's action is based upon a revision request which was submitted by the state to satisfy the requirement of the Clean Air Act Amendments (CAAA) for Vancouver, Washington.

DATES: This final rule is effective on December 30, 1994 unless adverse or critical comments are received by November 30, 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, Air & Radiation Branch (AT-082), EPA, Docket # WA23-1-6438, 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, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and the Washington State Department of Ecology, P.O. Box 47600, Olympia, Washington, 98504-7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, Air & Radiation Branch (AT-082), EPA, Seattle, Washington 98101, (206) 553-6917.

SUPPLEMENTARY INFORMATION:

I. Background

States containing CO nonattainment areas with design values of 12.7 ppm or less were required to submit, among other things, contingency measures to satisfy the provisions under section 172(c)(9). These provisions require contingency measures to be implemented in the event that an area fails to reach attainment by the applicable attainment date, December 31, 1995. Contingency measures were due by November 15, 1993, as set by EPA under section 172(b) of the Act.

Contingency measures must be implemented within 12 months after the finding of failure to attain the CO National Ambient Air Quality Standards (NAAQS). Once triggered they must take effect without further action by the state or EPA, therefore, all contingency measures must be adopted and enforceable prior to submittal to EPA.

The CAAA do not specify how many contingency measures are needed or the magnitude of emission reductions they must provide if an area fails to attain the CO NAAQS. The EPA believes that one appropriate choice of contingency measures would be to provide for the implementation of sufficient vehicle miles traveled (VMT) reductions or emissions reductions to counteract the effect of one year's growth in VMT while the state revises its SIP to incorporate all of the new requirements of a serious CO area.

II. This Action

In this action, EPA is approving Washington's SIP revision submitted to EPA on November 15, 1993 for Vancouver, Washington because it meets the applicable requirements of the Act.

The state of Washington held public hearings in Vancouver, Washington on November 9, 1993 to entertain public comment on the CO contingency measure SIP revision. Following the public hearing the plan was adopted by the Department of Ecology on November 15, 1993 and signed by the Governor's designee on November 15, 1993, becoming effective on December 15, 1993. Ecology submitted the plan to EPA on November 15, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria delineated at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete on April 13, 1994 and a letter dated May 6, 1994 was forwarded to the Director indicating the completeness of the submittal.

A. Analysis of State Submission

Washington's CO contingency plan for Vancouver calls for the early implementation of improvements to Washington State's basic inspection and maintenance (I/M) program. These improvements are part of Vancouver's inspection and maintenance program that began on June 1, 1993. While these technical enhancements are already being implemented, their use as a contingency measure is consistent with EPA guidance. The early implementation of the ``improved'' vehicle inspection and maintenance program helps to ensure that the area will attain the NAAQS. Ecology anticipates that improvements to the basic I/M program in Vancouver will reduce 1996 motor vehicle carbon monoxide emissions by an additional four percent when compared to the EPA program.

Washington's improved I/M program consists of the following elements: a loaded steady state test for light duty gasoline vehicles, two-speed test for heavy duty gas vehicles, and opacity check for diesels; biennial testing of all gasoline vehicles; tampering checks for 1981 and newer vehicles; a stringency rate of 28% for pre-1981 vehicles, a waiver rate of 15% of failed vehicles, a compliance rate of 90%. EPA's basic I/M program consists of the following elements: idle testing of 1968 and newer vehicles; annual testing of light duty gasoline vehicles; no tampering checks; a stringency rate of 20% for pre-1981 vehicles; no waiver rate; and a compliance rate of 100%.

III. 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.

do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on December 30, 1994 unless, by November 30, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 30, 1994.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 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 December 30, 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), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, 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: October 5, 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) (49) to read as follows:

Sec. 52.2470 Identification of plan.

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(c) * * *

(49) On November 10, 1993, the State of Washington Department of Ecology submitted a CO State Implementation Plan for Clark County, Washington.

(i) Incorporation by reference.

(A) November 10, 1993 letter from the State of Washington Department of Ecology to EPA Region 10 submitting the CO State Implementation Plan for Clark County, Washington.

(B) Supplement to a Plan for Attaining and Maintaining National Ambient Air Quality Standards for Carbon Monoxide in the Vancouver Air Quality Maintenance Area, Replacement Pages, as adopted by the Washington State Department of Ecology on November 15, 1993.

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