

**Subpart VV—Virginia**

■ 3. In §52.2420, the table in paragraph (e) is amended by adding the entry for

the Non-Regulatory Voluntary Emission Reduction Program at the end of the table to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* * *	* * *	* * *	* * *
Non-Regulatory Voluntary Emission Reduction Program.	Washington, DC severe 1-hour ozone nonattainment area.	2/25/2004	5/12/05 [Insert page number where the document begins].	The nonregulatory measures found in section 7.6 and Appendix J of the plan.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WA-01-003; FRL-7906-3]

#### Approval and Promulgation of State Implementation Plans; State of Washington; Spokane Carbon Monoxide Attainment Plan

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving State Implementation Plan (SIP) revisions submitted to EPA by the State of Washington that consist of A Plan for Attaining Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) in the Spokane Serious CO Nonattainment Area and changes to the Washington State Inspection and Maintenance Program.

The EPA is also approving certain source-specific SIP revisions relating to Kaiser Aluminum and Chemical Corporation of Spokane.

**DATES:** This final rule is effective on June 13, 2005.

**ADDRESSES:** EPA has established a docket for this action under Docket I.D. No. WA-01-003. Publicly available docket materials are available in hard copy at the Office of Air, Waste, and Toxics, Environmental Protection Agency, 1200 Sixth Ave., Seattle, Washington 98101. This Docket Facility is open from 8:30 a.m.-4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (206) 553-4273.

**FOR FURTHER INFORMATION CONTACT:**

Connie Robinson, Office of Air, Waste and Toxics (OAWT-107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101; telephone number: (206) 553-1086; fax number: 206-553-

0110; e-mail address:

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**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever “we,” “us,” or “our” is used, we mean the EPA. Information is organized as follows:

#### I. Background Information

On March 8, 2005, EPA published in the **Federal Register**, a proposal to approve the Spokane, Washington CO serious Attainment Plan, revisions to the Washington State Inspection and Maintenance (I/M) Program, and certain source-specific SIP revisions relating to Kaiser Aluminum and Chemical Corporation. See 70 FR 11179.

#### II. Public Comments on the Proposed Action

EPA provided a 30-day review and comment period and solicited comments on our proposal published in the March 8, 2005, **Federal Register**. No comments were received on the proposed rulemaking. EPA is now taking final action on the SIP revisions consistent with the published proposal.

#### III. Final Action

In this action, the EPA is approving revisions to the Washington State Implementation Plan. Specifically, we are approving the following elements of the Spokane CO Attainment Plan, submitted on September 20, 2001 and November 22, 2004:

A. Procedural requirements, under section 110(a)(2) of the Act;

B. Base year emission inventory, under sections 172(c)(3) and 187(a)(1) and periodic inventories under 187(a)(5) of the Act;

C. Attainment demonstration, under section 187(a)(7) of the Act;

D. The TCM program under 187(b)(2)182(d)(1) and 108(f)(1)(A) of the Act;

E. VMT forecasts under section 187(a)(2)(A) of the Act;

F. Contingency measures under section 187(a)(3) of the Act;

G. The conformity budget under section 176(c)(2)(A) of the Act and § 93.118 of the transportation conformity rule (40 CFR part 93, subpart A),

H. Administrative Order No. DE 01AQIS-3285 and Order No. DE 01AQIS-3285, Amendment #1 relating to Kaiser Aluminum and Chemical Corporation, Mead Works.

We are also approving a SIP revision submitted on September 26, 2001, to two sections of Washington Administrative Code (WAC) 173-422, Motor Vehicle Emission Inspection, to provide an inspection schedule for motor vehicles between 5 and 25 years old.

A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the Spokane Serious Area Carbon Monoxide Plan and the WAC revisions.

#### 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. section 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. section 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 11, 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, Carbon monoxide, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping requirements.

Dated: April 20, 2005.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

■ 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 *et seq.*

#### Subpart WW—Washington

■ 2. Section 52.2470 is amended by adding paragraph (c)(87) to read as follows:

##### § 52.2470 Identification of plan

\* \* \* \* \*

(c) \* \* \*

(87) On September 20, 2001, and November 22, 2004, the Washington State Department of Ecology submitted revisions to the Washington State Implementation Plan consisting of A Plan for Attaining Carbon Monoxide National Ambient Air Quality Standards in the Spokane Serious Nonattainment Area. On September 26, 2001, the Washington State Department of Ecology submitted minor revisions to the Washington State Inspection and Maintenance Program.

(i) Incorporation by reference.

(A) Kaiser Aluminum and Chemical Corporation Administrative Order No. DE 01AQIS-3285 dated October 24, 2001, and Kaiser Aluminum and Chemical Corporation Administrative Order No. DE 01AQIS-3285, Amendment #1 dated April 9, 2003.

(B) Washington Administrative Code 173-422-031, "Vehicle emission inspection schedules," and Washington Administrative Code 173-422-170, "Exemptions," as effective 12/2/2000.

(ii) Additional material.

A Plan for Attaining Carbon Monoxide National Ambient Air Quality Standards in the Spokane Serious Nonattainment Area, adopted September 19, 2001, and November 17, 2004.

■ 3. Paragraph (a) (2) of § 52.2475 is revised to read as follows:

##### § 52.2475 Approval of plans.

(a) \* \* \*

(2) Spokane.

(i) EPA approves as a revision to the Washington State Implementation Plan, A Plan for Attaining Carbon Monoxide National Ambient Air Quality Standards in the Spokane Serious Nonattainment Area submitted by the Washington Department of Ecology on September 20, 2001 and November 22, 2004.

(ii) [Reserved]

\* \* \* \* \*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 041126332-5039-02; I.D. 050605D]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Alaska Plaice in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Prohibition of retention.

**SUMMARY:** NMFS is prohibiting retention of Alaska plaice in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of Alaska plaice in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2005 total allowable catch (TAC) of