



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R10-OAR-2010-1071; FRL-9919-38-Region 10]**

**Approval and Promulgation of Implementation Plans; State of Washington; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology for Alcoa Intalco Operations, Tesoro Refining and Marketing, and Alcoa Wenatchee**

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

**ACTION:** Direct final rule.

**SUMMARY:** In a final action published on June 11, 2014, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** concerning, in part, the promulgation of a Federal Implementation Plan (FIP) provision for regional haze in the State of Washington. This action identifies and corrects an error in that action by adding the factor to convert tons of sulfur dioxide (SO<sub>2</sub>) to pounds of SO<sub>2</sub> that was inadvertently left out of the rule language for the FIP for the Alcoa Inc. Wenatchee Works.

**DATES:** This rule is effective on [**Insert date 60 days after date of publication in the Federal Register**], without further notice, unless the EPA receives adverse comment by [**Insert date 30 days after date of publication in the Federal Register**]. If the EPA receives adverse

comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2010-1071, by any of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [body.steve@epa.gov](mailto:body.steve@epa.gov)
- Mail: Steve Body, EPA Region 10, Office of Air, Waste and Toxics, AWT-150, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- Hand Delivery / Courier: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Steve Body, Office of Air, Waste and Toxics, AWT-150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R10-OAR-2010-1071. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

**FOR FURTHER INFORMATION CONTACT:** Steve Body at telephone number: (206) 553-0782, e-mail address: [body.steve@epa.gov](mailto:body.steve@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we”, “us” or “our” are used, we mean the EPA.

This action corrects an inadvertent error in a final rule (79 FR 33438, June 11, 2014) related to the FIP requiring Best Available Retrofit Technology on Potline 5 at the Alcoa Inc. Wenatchee Works primary aluminum smelter (Alcoa Wenatchee Works) located in Malaga, Washington. The factor to convert tons of SO<sub>2</sub> to pounds of SO<sub>2</sub> was inadvertently left out of the rule language included in 40 CFR 52.2502(b)(1)(i). Today’s action corrects the formula Alcoa Wenatchee Works must use to demonstrate compliance with the SO<sub>2</sub> emission limitation for Potline 5, on a calendar month basis, by adding the factor “ x (2000 pounds per ton)”. As

corrected, the formula in 40 CFR 52.5202(b)(1)(i) now reads as set forth in the regulatory text of this final rule.

### **Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Where a SIP provision does not meet Federal requirements and is disapproved by the EPA, it has the authority to promulgate FIP provisions that meet the Federal requirements. This action merely corrects an inadvertent error in a previous FIP promulgation and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because it merely corrects an inadvertent error in a formula that applies to a single facility, the Alcoa, Inc. Wenatchee Works, and therefore does not have direct and substantial effects on Tribal governments. Thus Executive Order 13175 does not apply.

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 **[insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this

direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, and Volatile organic compounds.

Dated: October 27, 2014.

Michelle Pirzadeh,  
Acting Regional Administrator, Region 10.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 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 52.2502(b)(1)(i) is revised to read as follows:

**§52.2502 Best available retrofit technology requirements for the Alcoa Inc.—Wenatchee Works primary aluminum smelter.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *Compliance demonstration.* Alcoa must determine SO<sub>2</sub> emissions, on a calendar month basis using the following formulas:

$$\text{SO}_2 \text{ emissions in pounds} = (\text{carbon ratio}) \times (\text{tons of aluminum produced during the calendar month}) \times (\% \text{ sulfur in baked anodes}/100) \times (\% \text{ sulfur converted to SO}_2/100) \times (2 \text{ pounds of SO}_2 \text{ per pound of sulfur}) \times (2000 \text{ pounds per ton})$$

$$\text{SO}_2 \text{ emissions in pounds per ton of aluminum produced} = (\text{SO}_2 \text{ emissions in pounds during the calendar month})/(\text{tons of aluminum produced during the calendar month})$$

(A) The carbon ratio is the calendar month average of tons of baked anodes consumed per ton of aluminum produced as determined using the baked anode consumption and aluminum production records required in paragraph (h)(2) of this section.

(B) The % sulfur in baked anodes is the calendar month average sulfur content as determined in paragraph (b)(1)(ii) of this section.

(C) The % sulfur converted to SO<sub>2</sub> is 90%.

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[FR Doc. 2014-27502 Filed 11/21/2014 at 8:45 am; Publication Date: 11/24/2014]