



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2020-0174, FRL-10014-77-Region 10]

Air Plan Approval; Washington: Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve revisions to the Washington State Implementation Plan (SIP) submitted by the State of Washington on June 2, 2019, through the Washington Department of Ecology. The proposed revision, applicable in Clark, King, Pierce, Snohomish, and Spokane Counties, Washington, removes the Inspection and Maintenance (I/M) program, which was previously approved into the SIP for use as a component of the State's plans to address on-road sources in nonattainment areas. The SIP revision also includes a demonstration that the requested revision to the vehicle model year coverage will not interfere with attainment or maintenance of any national ambient air quality standard (NAAQS) or with any other applicable requirement of the Clean Air Act (CAA or Act). The I/M program will be moved from the active portion of the SIP to the contingency portion of the applicable SIP for each area. The EPA evaluated whether this SIP revision would interfere with the requirements of the CAA. The EPA is proposing to determine that Washington's June 2, 2019 SIP revision is consistent with the applicable portions of the CAA.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2020-0174,

at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Karl Pepple, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-1778, or pepple.karl@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the NAAQS established by the EPA for the criteria pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, sulfur dioxide). The SIP contains such elements as air pollution control regulations, emission inventories, attainment demonstrations, and enforcement mechanisms. Section 110 of the CAA requires each state to periodically revise its SIP. As a result, the SIP is a living compilation of regulatory and non-regulatory elements that are updated to address federal requirements and changing air quality issues in the state.

The Washington Department of Ecology (Ecology) implements and enforces the Washington SIP through rules set out in the Washington Administrative Code (WAC). Chapter 173-422 WAC, which details Washington's I/M program, applies in parts of Clark, King, Pierce, Snohomish, and Spokane Counties. The Department of Ecology included an I/M program in nonattainment SIPs in the 1980s for CO, as required by the Clean Air Act Amendments of 1977.¹ The I/M program was later included in SIPs for ozone and PM₁₀ in the 1990s.^{2,3,4,5} These nonattainment SIPs accomplished their purpose, as these areas were all redesignated to attainment with approved maintenance plans. Currently there are no nonattainment areas in the state of Washington. Ecology has requested that EPA, in acting upon this SIP submission, remove these I/M program requirements from the above-referenced portions of the SIP.

The State Legislature adopted a modification to the Washington Emission Check I/M program in 2005, which established an end date for the state program of December 31, 2019. This same legislative action also adopted California's Low Emission Vehicle (LEV) program starting with model year 2009, and exempted both 2009 and newer vehicles as well as vehicles over 25 years old from I/M requirements. On June 2, 2019 Ecology submitted a SIP to the EPA moving the I/M program to the contingency portion of each relevant SIP.

In this submission, Ecology opted to move the I/M program to the contingency measure

¹ Ecology began an I/M program in King, Pierce, and Snohomish Counties (the Seattle-Tacoma area). In 1985 the program was extended to the Vancouver portion of the Portland nonattainment area (Clark County), and the Spokane area (Spokane County).

² Ozone is not directly emitted from mobile sources. These sources emit volatile organic compounds (VOCs) and nitrogen oxides (NO_x), which can react in the presence of sunlight to form ozone.

³ Ecology submitted ozone nonattainment SIPs for the Puget Sound area (King, Pierce, and Snohomish Counties) and the Vancouver portion (Clark County) of the Portland-Vancouver nonattainment area that listed I/M as a control measure.

⁴ PM₁₀ is particulate matter 10 micrometers and smaller in diameter.

⁵ Ecology submitted PM₁₀ nonattainment SIPs for the Seattle-Kent-Tacoma area (King, Pierce, and Snohomish Counties) that listed I/M as a control measure.

portion of the applicable SIP for all five counties. Clark, King, and Pierce Counties are beyond the 20-year maintenance period for CO. The 1-hour ozone NAAQS was revoked⁶, but the counties of Clark, King, and Pierce would be beyond the 20-year maintenance period had the NAAQS remained in place. Of the five impacted counties, only the King-Pierce-Snohomish PM₁₀ area and the Spokane carbon monoxide (CO) area are not beyond the 20-year maintenance period required by the CAA. Ecology is moving the I/M program to the contingency measure portion of each SIP for all areas in the state that had implemented I/M.

Under CAA section 175A and 40 CFR 51.372 of the I/M regulations, areas that have been redesignated to attainment may move control measures from the active portion of their SIP to the contingency measures portion of their maintenance plans if they can demonstrate that such a SIP revision would not interfere with attainment or maintenance of the NAAQS, per section 110(l) of the CAA. Some of these counties were redesignated to attainment more than 20 years ago for some of the pollutants at issue (e.g., Clark, King, and Pierce for CO and 1-hour ozone). The state is opting to retain I/M as a contingency measure for all counties and for all the applicable NAAQS.

Contingency measures, in this case, are the list of measures that Ecology will consider if a violation of the NAAQS occurs in the future in one of these maintenance areas. In the event of a future violation, Ecology commits to work with the local clean air agency to determine the cause of the violation. If mobile source emissions are indicated and an I/M program could address the violation, Ecology commits to work with the state legislature to acquire the authority to adopt and implement the I/M program.

II. Applicable Authorities for Moving the I/M Program to a Contingency Measure in

⁶ 69 FR 23951; April 30, 2004.

the Washington SIP

Section 110(l) of the CAA requires that each revision to a SIP submitted by a State under the Act shall be adopted by the State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. The I/M regulations (40 CFR 51.372(c)) provide that I/M can be moved to the contingency portion of the SIP.

A State's obligation to comply with each of the NAAQS is considered as "any applicable requirement(s) concerning attainment." A demonstration is necessary to show that this revision will not interfere with attainment or maintenance of the NAAQS, including those for CO, ozone, or any other requirement of the Act.

Three areas in Washington state were formerly designated as CO nonattainment areas. Both the Spokane CO Nonattainment area (Spokane County) and the Puget Sound CO nonattainment area (King, Pierce, and portions of Snohomish Counties) were classified as "Moderate" with a design value over 12.7 ppm. The Vancouver CO nonattainment area was classified as a Moderate' area with a design value less than 12.7 ppm. Based on these nonattainment designations, classifications and the area populations, a basic I/M program was required in the Vancouver area, while enhanced I/M programs were required in the Puget Sound and Spokane CO nonattainment areas. The EPA redesignated the Puget Sound area to attainment for the CO standard in a final action effective November 11, 1996 (61 FR 53323, October 11, 1996). The Vancouver area was redesignated to attainment in a final action effective October 21, 1996 (61 FR 54560, October 21, 1996). Finally, the Spokane area was redesignated to attainment in a final action effective August 29, 2005 (70 FR 37269, June 29, 2005). All three of these areas

submitted the required second 10-year maintenance plans, with Spokane and Vancouver converting to Limited Maintenance Plans. The EPA approved these maintenance plans.⁷

Four counties in Washington were designated as nonattainment for the 1-hour ozone NAAQS: King, Pierce, and Snohomish Counties, making up the Seattle-Tacoma area, and Clark County, part of the Portland-Vancouver area. These counties in Washington were already implementing I/M due to earlier CO requirements. The EPA redesignated the Seattle-Tacoma area to attainment for the 1-hour ozone standard in a final action effective November 25, 1996 (61 FR 50438, September 26, 1996). The EPA approved the second 10-year maintenance plan for the Seattle-Tacoma before revocation of the 1-hour NAAQS.⁸ Regarding Clark County, the only county in Washington that was part of the Portland-Vancouver 1-hour ozone NAAQS nonattainment area, the EPA redesignated the area to attainment for the 1-hour ozone standard in a final action effective June 18, 1997 (62 FR 27204, May 19, 1997). The 1-hour ozone NAAQS was revoked before a second 10-year maintenance plan was submitted.

King, Pierce, and Snohomish Counties, the “Seattle-Kent-Tacoma area,” were formerly designated nonattainment for the PM₁₀ NAAQS. Designation as nonattainment for particulate matter does not trigger I/M requirements. However, in the development of the PM₁₀ nonattainment SIP, Ecology included reference to the existing I/M program as a measure to reduce other CO and ozone precursors. The EPA redesignated the Seattle-Kent-Tacoma area to attainment for the PM₁₀ standard in a final action effective May 14, 2001 (66 FR 14492, March 13, 2001).

III. Evaluation of Submission

⁷ Vancouver: 73 FR 36439, June 27, 2008; Spokane: 81 FR 45419, July 14, 2016.

⁸ 69 FR 47365, August 5, 2004.

A. Vehicle Emission Trends in Washington State

The June 2, 2019, Washington SIP submittal seeking removal of the I/M Program from the active portion of the SIP includes an evaluation of projected changes in mobile source emissions in the future. The analysis focuses on the emissions of: CO, NO_x and VOC (both of which are precursors to the 1-hour ozone), and PM_{2.5}.⁹ Ecology used the EPA's MOVES2014a model to assess emissions for years 2005, 2010, 2015, 2019, 2020, 2025, 2030, 2035, and 2040.

Table 1 of this preamble, shows the percent difference in the mobile source emissions reductions between calendar year 2019, the last year of I/M implementation, with 2020, the first year without I/M. The I/M program in 2019 applied to vehicle model years 1994 through 2008. The assumptions in Table 1 account for increases in vehicle miles of travel in each county. The assessments in Table 1 correspond to the seasons in which the former nonattainment area had established motor vehicle emissions budgets.

Assessed wintertime CO emissions continue to decrease in King, Pierce, Snohomish, and Spokane Counties. These reductions are the result of fleet turnover, and the implementation of more stringent engine standards in the newer vehicles. There is a projected 0.4% increase in wintertime CO emissions from Clark County in calendar year 2020.

Projected summertime CO emissions demonstrate a similar pattern, with all counties except for Clark demonstrating continued reductions. Clark County is projected to experience a 2.5% increase in CO emissions in calendar year 2020. Clark County experiences a slight increase in both winter and summer CO emissions with removal of the I/M program. This seems to be the result of a combination of the growth rate in Clark County, combined with a generally older

⁹ PM₁₀ was not analyzed due to on-road sources contributing a small percentage to the overall PM₁₀ concentrations.

vehicle fleet. As these older vehicles are replaced with new vehicles, the emissions reductions are projected to resume, but at a slightly slower rate than with an I/M program.

Ozone, a criteria pollutant, is formed in photochemical reactions in the atmosphere involving NOx and VOCs. Ecology projected differences in ozone precursor emissions for 2019 and 2020. All assessed counties are projected to continue to experience reductions in NOx. Most counties are also projected to experience reductions in VOCs as well. The exception is Clark County, which is projected to experience a 0.3% increase in VOC emissions in calendar year 2020. As explained earlier, this temporary increase is due to the combination of the growth rate in Clark County and a slightly older vehicle population.

Ecology also calculated winter PM_{2.5} impacts for Pierce County. An I/M program is not required by the CAA for PM areas. In fact, the MOVES model calculates no benefit to PM concentrations from an I/M program. The PM_{2.5} benefits represented in Table 1 are due to fleet turnover and continued implementation of new engine and fuel standards.

Table 1: Percent difference in on-road emissions between 2019 (with I/M) and 2020 (without I/M)

Pollutant	County				
	Clark	King	Pierce	Snohomish	Spokane
Winter CO	0.4	-1.6	-1.8	-1.6	-1.6
Summer CO	2.5	-0.3	-0.5	-0.4	-
Summer NOx	-4.7	-7.5	-6.9	-7.1	-
Summer VOC	0.3	-2.0	-1.7	-1.7	-
Winter PM _{2.5}	-	-	-6.2	-	-

Ecology also estimated long-term emission reductions in these counties. The MOVES modeling looked at an outlying year of 2040. Despite increased vehicle miles traveled in each county, emissions continue to decrease after removal of the I/M program.

Table 2: Percent difference in on-road VMT and emissions between 2000 and 2040

	County
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	Clark	King	Pierce	Snohomish	Spokane
Average Daily VMT	126	17	38	36	45
Winter CO emissions	-88	-91	-91	-91	-91
Summer CO emissions	-86	-91	-91	-90	-
Summer NOx emissions	-90	-95	-95	-94	-
Summer VOC emissions	-85	-90	-88	-88	-
Winter PM _{2.5} emissions	-	-		-	-

In summary, emissions in the five Washington Counties are generally projected to decrease even if the I/M program is discontinued. Emissions of CO and VOC are projected to increase in Clark County in 2020; however, the overall downward trend of emissions continues after 2020. This continued decrease in emissions, despite increases in VMT, are the result of fleet turnover, with old vehicles being replaced with new vehicles that meet more stringent engine standards. In addition, because the I/M program was applying to a decreasing population of vehicles in the five counties¹⁰ emissions reductions associated with the program also were expected to decrease. In sum, emissions are anticipated to continue decreasing into the future as the fleet turns over, despite projected increases in vehicle miles of travel in these areas.

The EPA reviewed the on-road modeling performed by the Washington Department of Ecology. These emissions trends agree with EPA projections of on-road emissions. This emission trends analysis shows that emission decreases are expected even if the proposed SIP revision is approved. It thus demonstrates generally that any change in emissions associated with the removal of the I/M program are relatively minor compared to the emission reductions associated with the turnover of older, higher emitting vehicles for newer, lower-emitting vehicles.

¹⁰ Vehicle model years 2009 and newer were exempted from the I/M program, as well as vehicles 25 years old and older.

B. Monitoring Values and Event Data

All areas in the state of Washington are either designated as attainment/unclassifiable, unclassifiable, or attainment for the NAAQS.¹¹ Areas are designated as attainment/unclassifiable when the design value shows it is below the NAAQS for the criteria pollutant in question. Areas are designated unclassifiable when there is insufficient data for either an attainment/unclassifiable or a nonattainment classification. Areas designated attainment have been redesignated to attainment with an approved maintenance plan. At this time, there are no nonattainment areas in Washington. Designations are based on design values, which are calculated from monitoring data. The Washington Department of Ecology meets all monitoring requirements.

Ecology addressed air quality design values for CO, NO₂, and ozone in the five I/M counties as part of this submittal. The 2017 design values included in this submittal were based on 2015-2017 data, which represent the latest available data when the SIP was developed and submitted. Design values for CO and NO₂ were well below the NAAQS. It should be noted that some monitors have been discontinued due to consistent low concentrations as compared to the NAAQS.

Ozone design values for Clark (63 ppb) and Spokane (62 ppb) Counties were below the 2015 8-hour ozone NAAQS of 70 ppb. However, the 3-year design value for the Enumclaw monitor in King County had a design value of 76 ppb, which is above the NAAQS. This design value is the result of wildfire impacts in addition to typical emissions in King County. Here, “typical emissions” refers to usual anthropogenic emissions produced by mobile sources, area

¹¹ For a review of the National Ambient Air Quality Standards, averaging time, and form, please visit <https://www.epa.gov/criteria-air-pollutants/naaqs-table>. For a review of current and historical designations in the State of Washington by criteria pollutant, please visit <https://www.epa.gov/green-book>.

sources, and point sources on a representative seasonal day.

C. Clean Air Act Section 110(l)

Section 110(l) of the Clean Air Act (CAA) provides that "... The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in [CAA section 171]) or any other applicable requirement of [the CAA]." 42 U.S.C. 7410(l). Section 110(l) applies to all requirements of the CAA and to all areas of the country, whether attainment, nonattainment, unclassifiable or maintenance for one or more of the six criteria pollutants. EPA interprets section 110(l) as applying to all NAAQS that are in effect, including those for which SIP submissions have not been made. EPA considers the impact of the SIP revision on emissions and/or ambient concentrations of any pollutant. Additionally, a state may substitute equivalent emissions reductions to compensate for any change to a plan to ensure actual emissions to the air are not increased and thus preserve status quo air quality.

All areas within the state of Washington are designated attainment for all NAAQS. These areas are attaining with current on-road emission levels. On-road emissions will continue to decrease as older vehicles are replaced with newer, lower-emitting vehicles. Continued emissions decreases are projected to occur despite population growth due to engine and fuel standards. These same controls will continue the downward trend in on-road emissions even if this SIP revision is approved.

The emission trends analysis for King County also shows that on-road emissions generally will continue to decrease even if the proposed SIP revision is approved. In addition, Ecology provided a detailed analysis of the causes for the high values at the Enumclaw monitor in King County. As illustrated by Ecology, the Enumclaw monitor was significantly impacted by

wildfire smoke in 2017. The 4th highest ozone value at the Enumclaw monitor in 2017 was 94 ppb. In comparison, the 4th highest value in 2018 at the same monitor was 77 ppb. There was significantly less wildfire smoke in 2018 compared to 2017. The 4th highest value in 2019 was 55 ppb. The higher values in Enumclaw were a result of wildfire smoke related impacts and unrelated to any anthropogenic sources of emissions (mobile, area, or stationary) that occur on a typical day.

Based on our evaluation of the analysis submitted by the state of Washington, the EPA proposes to conclude that the removal of the I/M program will not interfere with attainment or maintenance of the NAAQS.

IV. What Action is EPA Proposing?

The EPA is proposing to approve and incorporate by reference in the Washington SIP at 40 CFR 52.2470(c) the submittal moving the I/M program located at WAC 173-422 from the actively implemented portion of the Washington SIP to the contingency measure portion of the SIP. The EPA believes Ecology's demonstration of continued attainment meets Section 110(l) requirements. The EPA is requesting comments on the proposed approval.

V. Incorporation by Reference

In this document, the EPA is proposing to remove, in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to remove the current incorporation by reference of WAC Chapter 173-422 as identified in Section I of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 it does not involve technical standards; 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).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted further down in this paragraph and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989*, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated August 9, 2019.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 20, 2020.

Christopher Hladick,
Regional Administrator,
Region 10.

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