



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2020-0174, FRL-10018-23-Region 10]

#### **Air Plan Approval; Washington: Inspection and Maintenance Program**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Washington State Implementation Plan (SIP) submitted by the State of Washington on June 2, 2019, through the Washington Department of Ecology. The revision, applicable in Clark, King, Pierce, Snohomish, and Spokane Counties, Washington, removes the Inspection and Maintenance (I/M) program from the active control measure portion of the SIP. The I/M program was previously approved into the SIP for use as a component of the State's plans to address on-road sources in certain former nonattainment areas and is now part of the contingency portion of the applicable SIP for each area. The EPA has determined that Washington's June 2, 2019 SIP revision is consistent with the applicable portions of the Clean Air Act (CAA).

**DATES:** This final rule is effective [**Insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2020-0174. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**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](mailto:pepple.karl@epa.gov).

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

## **I. Background Information**

On October 30, 2020, the EPA proposed to approve Washington’s June 2, 2019 SIP revision moving the I/M program located at Washington Administrative Code (WAC) 173-422 from the actively implemented portion of the Washington SIP to the contingency measure portion of the SIP (85 FR 68822). The reasons for our proposed approval are included in the proposal and will not be restated here. The public comment period for our proposal closed on November 30, 2020. We received no public comments and are finalizing our action as proposed.

## **II. Final Action**

The EPA is moving the I/M program located at WAC 173-422 from the actively implemented portion of the Washington SIP incorporated by reference at 40 CFR 52.2470(c) to the contingency measure and attainment planning portion of the SIP at 40 CFR 52.2470(e).

## **III. Incorporation by Reference**

In this document, the EPA is removing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is removing the current incorporation by reference of WAC Chapter 173-422 in 40 CFR 52.2470(c) as identified in Section II 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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully Federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by

reference in the next update to the SIP compilation.<sup>1</sup>

#### **IV. 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 that 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);
- 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 (Pub. L. 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);

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

- 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 the requirements would be inconsistent with the CAA; 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).

In addition, the SIP is not approved to apply on any Indian reservation land or 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.

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. The EPA will submit a report containing this action 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 CAA, 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 after date of publication 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. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 9, 2021.

Michelle L. Pirzadeh,  
Acting Regional Administrator,  
Region 10.

For the reasons set forth in the preamble, 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. In § 52.2470:

a. Amend Table 1 in paragraph (c) by:

i. Removing the heading “Washington Administrative Code, Chapter 173-422—Motor Vehicle Emission Inspection”; and

ii. Removing the entries “173-422-010”, “173-422-020”, “173-422-030”, “173-422-031”, “173-422-035”, “173-422-040”, “173-422-050”, “173-422-060”, “173-422-065”, “173-422-070”, “173-422-075”, “173-422-090”, “173-422-095”, “173-422-100”, “173-422-120”, “173-422-145”, “173-422-160”, “173-422-170”, “173-422-175”, “173-422-090”, and “173-422-095”; and

b. Amend Table 2 in paragraph (e) by:

i. Under the heading “Attainment and Maintenance Planning – Carbon Monoxide”:

A. Revising the entries “Carbon Monoxide Maintenance Plan 10-Year Update”

(Applicable Geographic or Nonattainment Area, Puget Sound); and “Carbon Monoxide Maintenance Plan 10-Year Update” (Applicable Geographic or Nonattainment Area, Vancouver); and

B. Revising the entry for “Carbon Monoxide 2nd 10-Year Limited Maintenance Plan”;  
and

ii. Under the heading “Attainment and Maintenance Planning – Ozone” revising the entries

for “8-Hour Ozone 110(a)(1) Maintenance Plan” (Applicable Geographic or

Nonattainment Area, Seattle—Tacoma); and “8-Hour Ozone 110(a)(1) Maintenance Plan” (Applicable Geographic or Nonattainment Area, Vancouver);

- iii. Under the heading “Attainment and Maintenance Planning—Particulate Matter (PM<sub>10</sub>)” revising the entry for “Particulate Matter (PM<sub>10</sub>) 2nd 10-Year Limited Maintenance Plan” (Applicable Geographic or Nonattainment Area, Kent, Seattle, and Tacoma); and
- iv. Under the heading “Other Federally Mandated Plans” removing the entry for “Motor Vehicle Inspection & Maintenance Program”.

The revisions read as follows:

**§ 52.2470 Identification of plan.**

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(e) \* \* \*

**TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS**

Name of SIP Provision	Applicable Geographic or Nonattainment Area	State submittal date	EPA approval date	Explanations
<b>Attainment and Maintenance Planning—Carbon Monoxide</b>				
* * * * *				
Carbon Monoxide Maintenance Plan 10-year Update	Puget Sound	12/17/03; 6/3/19	8/5/04, 69 FR 47365; <b>[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]</b>	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
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Carbon Monoxide Maintenance Plan 10-year Update	Vancouver	4/25/07; 6/3/19	6/27/08, 73 FR 36439; <b>[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]</b>	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
Carbon Monoxide 2nd 10-Year	Spokane	5/11/16; 6/3/19	7/14/16, 81 FR 45419; <b>[Insert date of</b>	6/3/19 submission moved Motor Vehicle Inspection and

Limited Maintenance Plan			<b>publication in the <u>Federal Register</u>],</b> <b>[Insert <u>Federal Register</u> citation]</b>	Maintenance Program from control measure to contingency measure.
*	*	*	*	*
<b>Attainment and Maintenance Planning—Ozone</b>				
*	*	*	*	*
8-Hour Ozone 110(a)(1) Maintenance Plan	Seattle—Tacoma	2/5/08; 6/3/19	5/2/14, 79 FR 25010; <b>[Insert date of publication in the <u>Federal Register</u>],</b> <b>[Insert <u>Federal Register</u> citation]</b>	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
8-Hour Ozone 110(a)(1) Maintenance Plan	Vancouver	1/17/07; 6/3/19	8/11/15, 80 FR 48033; <b>[Insert date of publication in the <u>Federal Register</u>],</b> <b>[Insert <u>Federal Register</u> citation]</b>	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
<b>Attainment and Maintenance Planning—Particulate Matter (PM<sub>10</sub>)</b>				
*	*	*	*	*
Particulate Matter (PM <sub>10</sub> ) 2nd 10-Year Limited Maintenance Plan	Kent, Seattle, and Tacoma	11/29/13; 6/3/19	8/20/14, 79 FR 49244; <b>[Insert date of publication in the <u>Federal Register</u>],</b> <b>[Insert <u>Federal Register</u> citation]</b>	6/3/19 submission moved Motor Vehicle Inspection and Maintenance Program from control measure to contingency measure.
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