ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2007–0112; FRL–9144–9]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Washington, Department of Ecology (Ecology). These revisions pertain to the maintenance plan prepared by the State of Washington to maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in the Vancouver portion of the Portland/Vancouver Air Quality Maintenance Area (Pdx/Van AQMA). The 110(a)(1) maintenance plan for this area meets Clean Air Act (CAA) requirements and demonstrates that the Vancouver portion of the Pdx/Van AQMA will be able to remain in attainment for 1997 and 2008 ozone NAAQS through 2015. EPA is proposing full approval of the maintenance plan and supporting rules.

DATES: Written comments must be received on or before June 4, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2007–0112, by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Mail:* Krishna Viswanathan, EPA, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101

C. *Hand Delivery:* EPA, Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: Krishna Viswanathan, Office of Air Waste, and Toxics (AWT–107). 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–2007–0112. 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 *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 or e-mail. The *http://www.regulations.gov* Web site 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 *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 electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *i.e.,* 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 form. Publicly available docket materials are available either electronically in 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, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Krishna Viswanathan, (206) 553–2684, or by e-mail at *R10-Public_Comments@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. Information is organized as follows:

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I. Background

Section 110(a)(1) of the CAA requires, in part, that states submit to EPA plans to maintain any NAAQS promulgated by EPA. Areas that were maintenance areas for the 1-hour ozone NAAQS but attainment for the 8-hour ozone NAAQS are required to submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS. EPA established June 15, 2007, three years after the effective date of the initial 8-hour ozone designations, as the deadline for submission of plans for these areas.

On May 20, 2005, EPA issued guidance for States in preparing maintenance plans under section 110(a)(1) of the CAA for areas that are required to do so under 40 CFR 51.905(c) and (d). At a minimum, the maintenance plan should include the following five components:

1. An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) from a base year chosen by the State;
2. A maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of the designation;
3. A commitment to continue to operate ambient air quality monitors to verify maintenance of the 8-hour ozone standard;
4. A contingency plan that will ensure that any violation of the 8-hour ozone NAAQS will be promptly corrected; and
5. An explanation of how the State will verify continued attainment of the standard under the maintenance plan.

On January 17, 2007, EPA received a request from Ecology to approve under section 110 of the CAA, a SIP revision pertaining to the maintenance plan for the Vancouver portion of the Pdx/Van AQMA. On May 22, 2007, EPA received a request from the Oregon Department of Environmental Quality, to approve a SIP revision pertaining to the maintenance plan for the Portland portion of the Pdx/Van AQMA and the Salem Keizer Area Transportation Study Air Quality Area under section 110 of the CAA. As both these submissions from the States of Washington and Oregon pertain to the Pdx/Van AQMA, EPA is taking action on these submissions concurrently. However this action addresses only the Vancouver portion of the Pdx/Van AQMA.

The EPA has prepared a Technical Support Document (TSD) with more detailed information about the SIP revisions Ecology has submitted for approval. The TSD is available for review as part of the docket for this action.

II. Summary of SIP Revision

Ecology's 8-hour ozone maintenance plan addresses all five components of

the 8-hour ozone maintenance plan as outlined in EPA's May 20, 2005 guidance. Ecology has submitted the 8-hour ozone maintenance plan for Vancouver for approval, as well as implementing regulations that support the maintenance plan, for incorporation into the federally enforceable SIP and EPA proposes to approve these changes to the SIP.

1. Attainment Inventory

An emissions inventory is an itemized list of emission estimates for sources of air pollution in a given area for a specified time period. Ecology provided a comprehensive and current emissions inventory for NO_X and VOCs. Ecology has chosen to use 2002 as the base year from which it will project emissions. The maintenance plan also includes an explanation of the methodology used for determining the anthropogenic (area and mobile sources) emissions. The inventory is based on emissions from a "typical summer day." The term "typical summer day" refers to a typical weekday during the months when ozone concentrations are typically the highest.

2. Maintenance Demonstration

With regard to demonstrating continued maintenance of the 8-hour ozone standard, Ecology projects that the total emissions of ozone precursors from Vancouver will decrease during the 10-year maintenance period. Ecology has projected emissions for 2015, which is more than 10 years from the effective date of initial designations, as suggested in the EPA guidance for section 110(a)(1) maintenance plans. In 2002, the total anthropogenic emissions in Vancouver were 154,692 lbs/day for VOCs and 81,436 lb/day for NO_X. The projected 2015 anthropogenic emissions from Vancouver are expected to be 136,323 lb/day for VOCs and 59,381 lbs/day for NO_X. As such, the plan demonstrates that emissions are projected to decrease. This demonstrates that the net VOC emissions are expected to be about 13% lower, and NO_X emissions about 37% lower in 2015 compared to 2002 levels.

The formation of ozone is dependent on a number of variables which cannot be estimated through emissions growth and reduction calculations. A few of these variables include weather and the transport of ozone precursors from outside the maintenance area. In order to demonstrate continued maintenance of the standards, a State may utilize more sophisticated tools such as air quality modeling to support their analysis; Ecology used air quality modeling to assess the comprehensive impacts of growth through 2015 on ozone levels in the area. Results of modeling conducted by Ecology and submitted to EPA demonstrate that the highest predicted design value for Vancouver is 0.072 parts per million, which is below the 1997 and the 2008 ozone NAAQS, and is therefore in compliance with both the 8-hour ozone NAAQS.

EPA's Evaluation of CAA 110(l) Considerations

The maintenance demonstration discussed in the preceding section also meets the section 110(l) requirements of the CAA which states, "Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. 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 section 7501 of this title), or any other applicable requirement of this chapter." Ecology has submitted evidence to EPA that the State provided a reasonable notice and public hearing process prior to State adoption and submission of this plan to EPA.

The proposed plan demonstrates maintenance of all applicable ozone NAAQS, namely the 2008 and 1997 8-hour standards. The Vancouver, Washington area is within the compliance levels for the remaining criteria pollutants [1] based on historical monitoring.

Based on the VOC, NO_X, and carbon monoxide emissions information submitted with this plan, EPA concludes that approval of the changes in this proposed plan will not cause an increase of direct or precursor emissions that will interfere with the Portland area's maintenance of any criteria pollutant NAAQS. Therefore, an approval of this plan revision will not interfere with any applicable requirement concerning attainment or maintenance of any NAAQS.

3. Ambient Air Quality Monitoring

With regard to the ambient air monitoring component of the maintenance plan, Ecology commits to continue operating air quality monitoring stations in accordance with 40 CFR part 58 throughout the maintenance period to verify maintenance of the 8-hour ozone standard, and will submit quality-assured ozone data to EPA through the Air Quality System. EPA finds this to satisfy the requirements of CAA section 110(a).

4. Contingency Measures

Section 110(a)(1) of the CAA requires the State to develop a contingency plan that will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency measures, such as those included in the State's submitted maintenance plan, is to provide a range of response actions that may be selected for implementation in the event of any violation of the 1997 8-hour ozone NAAQS.

5. Verification of Continued Attainment

Ecology will continue to monitor ambient air quality ozone levels in the Portland-Vancouver AQMA as described in Contingency Plan. Ecology will update countywide emission inventories every three years as required by the Consolidated Emission and Reporting Rule (CERR) to update the National Emissions Inventory. If ambient ozone levels increase, Ecology will compare CERR updates with the 2002 and 2015 emissions inventories and evaluate the assumptions used in the 2015 emissions projections to determine whether emissions are increasing at a rate not anticipated in the maintenance plan.

EPA's Evaluation of Supporting Rules

Ecology submitted several rules that would create control programs to support the emissions reductions and the maintenance demonstration proposed in the submission. Ecology also submitted several sections of the Washington Administrative code (WAC) 173–422 pertaining to the Motor Vehicle Emission Inspection Program for approval by EPA. These proposed changes do not interfere with the maintenance demonstration for this SIP and merely reflect the changes in the program as a result of technology upgrades in automobiles. After a review of these regulatory provisions, EPA proposes to approve the changes to WAC 173–422 and to incorporate them into the federally enforceable SIP.

Additionally, EPA is proposing to approve the new industrial growth allowances that have been used in the maintenance demonstration for this submission and is relying on the current Southwest Clean Air Agency SIP approved rules, 400–030, 400–101, 400–111 and 400–113 (62 FR 27204; Effective 6/18/97) to support this maintenance plan demonstration.

[1] EPA's AirData Database—*http://www.epa.gov/oar/data/reports.html.*

1-Hour NAAQS Obligations That No Longer Apply in This Area

Two additional amendments to Ecology's existing 1-hour maintenance plan have also been submitted for approval pursuant to 40 CFR 51.905(e)(1). In this submission, Ecology has submitted a maintenance SIP for the 8 hour NAAQS for this area that meets the requirements of CAA section 110(l) and section 193 of the CAA. Therefore, EPA proposes to approve these two amendments to the existing 1-hour ozone maintenance plan:

1. Removal of the obligation to submit a maintenance plan for the 1-hour NAAQS eight years after approval of the initial 1-hour maintenance plan; and

2. Removal of the State's obligation to implement contingency measures upon a violation of the 1-hour NAAQS.

Washington's SIP submittal meets the CAA requirements for SIP submittals with respect to these two changes.

III. Proposed Action

EPA is proposing to approve the section 110(a)(1) ozone maintenance plan, including its correlating implementing regulations, for Vancouver, Washington, submitted on January 17, 2007, as revisions to the federally enforceable Washington SIP. EPA is proposing to approve the maintenance plan and supporting rules for the Vancouver portion of the Portland-Vancouver AQMA because they meet the requirements of section 110(a)(1) and section 110(l) of the CAA. EPA is soliciting public comments on this proposed approval. EPA will consider these comments and address them before taking final action.

IV. Washington Notice Provision

Washington's Regulatory Reform Act of 1995, codified at Chapter 43.05 Revised Code of Washington (RCW), precludes "regulatory agencies", as defined in RCW 43.05.010, from assessing civil penalties under certain circumstances. EPA has determined that Chapter 43.05 of the RCW, often referred to as "House Bill 1010," conflicts with the requirements of CAA section 110(a)(2)(A) and (C) and 40 CFR 51.230(b) and (e). Based on this determination, Ecology has determined that Chapter 43.05 RCW does not apply to the requirements of Chapter 173–422 WAC. See 66 FR 35115, 35120 (July 3, 2001). The restriction on the issuance of civil penalties in Chapter 43.05 RCW does not apply to local air pollution control authorities in Washington because local air pollution control authorities are not "regulatory agencies" within the meaning of that statute. See 66 FR 35115, 35120 (July 3, 2001).

In addition, EPA is relying on the State's interpretation of another technical assistance law, RCW 43.21A.085 and .087, to conclude that the law does not impinge on the State's authority to administer Federal Clean Air Act programs. The Washington Attorney Generals' Office has concluded that RCW 43.21A.085 and .087 do not conflict with Federal authorization requirements because these provisions implement a discretionary program. EPA understands from the State's interpretation that technical assistance visits conducted by the State will not be conducted under the authority of RCW 43.21A.085 and .087. See 66 FR 16, 20 (January 2, 2001); 59 FR 42552, 42555 (August 18, 1994).

V. 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. 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 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 (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);
- 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 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 3, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2010–10644 Filed 5–4–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0218; FRL–9135–4]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD), Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic