

revocable with the consent of the Commissioner.

(d) *Effective date.* The rules set forth in this section regarding the net capital gain election are effective December 12, 1996. The rules set forth in this section regarding the qualified dividend income election apply to any taxable year beginning after December 31, 2002, but before January 1, 2009.

**Nancy J. Jardini,**

*Acting Deputy Commissioner for Services and Enforcement.*

Approved: July 29, 2004.

**Gregory F. Jenner,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 04-17796 Filed 8-4-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket No. WA-04-001; FRL-7792-5]

#### Approval and Promulgation of State Implementation Plans: State of Washington; Central Puget Sound Carbon Monoxide and Ozone Second 10-Year Maintenance Plans

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

**ACTION:** Final rule.

**SUMMARY:** In this action, the EPA is approving the Central Puget Sound carbon monoxide (CO) and Ozone Second 10-Year Maintenance Plans. Specifically EPA is approving Washington's demonstration that the Central Puget Sound area will maintain air quality standards for CO and ozone through the year 2016; a revised CO motor vehicle emissions budget for transportation conformity purposes using the MOBILE6.2 emissions model and latest growth and planning assumptions; updates and enhancements of state implementation plan (SIP) control measures and contingency measures; and identification of emissions associated with the Seattle Tacoma International Airport included in the area-wide emissions inventory through the maintenance period.

**DATES:** This final rule is effective on September 7, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. WA-04-001. Publicly available docket materials are available in hard copy at the EPA, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, WA. This Docket

facility is open from 8:30-4, Monday through Friday, excluding legal holidays. The Docket telephone number is (206) 553-4273.

#### FOR FURTHER INFORMATION CONTACT:

Connie L. Robinson, Office of Air, Waste and Toxics (OAQ-107), EPA Region 10, 1200 Sixth Avenue, Seattle, WA; telephone number: (206) 553-1086; fax number: (206) 553-0110; e-mail address: [robinson.connie@epa.gov](mailto:robinson.connie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

- I. Background
- II. Public Comments on the Proposed Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

On June 1, 2004, EPA published in the **Federal Register**, a proposal to approve the Central Puget Sound CO and Ozone second 10-year maintenance plans. A detailed description of our action was published in the **Federal Register** on June 1, 2004. The reader is referred to the proposed rulemaking (69 FR 30847, June 1, 2004) for details.

#### 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 June 1, 2004, **Federal Register**. No comments were received for the proposed rulemaking. EPA is now taking final action on the SIP revision consistent with the published proposal.

#### III. Final Action

In this action, the EPA is approving the Central Puget Sound CO and Ozone Second 10-Year Maintenance Plans. Specifically EPA is approving Washington's demonstration that the Central Puget Sound area will maintain air quality standards for CO and ozone through the year 2016; a revised CO motor vehicle emissions budget for transportation conformity purposes using the MOBILE6.2 emissions model and latest growth and planning assumptions; updates and enhancements of state implementation plan (SIP) control measures and contingency measures; and identification of emissions associated with the Seattle Tacoma International Airport included in the area-wide emissions inventory through the maintenance period. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the

Central Puget Sound CO and Ozone Second 10-Year Maintenance Plans.

#### 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 (Public Law 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. 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. 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 October 4, 2004. 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 relations, Ozone, Reporting and recordkeeping requirements.

Dated: July 27, 2004.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations are 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)(83) to read as follows:

##### § 52.2470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(83) On December 17, 2003, the Washington Department of Ecology submitted carbon monoxide and ozone second 10-year maintenance plans. The State's maintenance plans, meet the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Puget Sound Clean Air Agency, Regulation I, Section 8.06, Outdoor Burning Ozone Contingency Measure, as in effect December 19, 2002.

(B) Puget Sound Clean Air Agency, Regulation II, Section 2.09, Oxygenated Gasoline Carbon Monoxide Contingency Measures and Fee Schedule, as in effect December 19, 2002.

(C) Puget Sound Clean Air Agency, Regulation II, Section 2.10, Gasoline Station Ozone Contingency Measure, as in effect December 19, 2002.

■ 3. Amend § 52.2475 by adding paragraph (a)(3) to read as follows:

##### § 52.2475 Approval of plans.

(a) \* \* \*

(3) Central Puget Sound.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Central Puget Sound Carbon Monoxide and Ozone Second 10-Year Maintenance Plans submitted by the State on December 17, 2003.

(ii) [Reserved]

\* \* \* \* \*

[FR Doc. 04-17782 Filed 8-4-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[PA217-4230a; FRL-7797-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Withdrawal of Direct Final Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to adverse comments, EPA is withdrawing the direct final rule

to amend Pennsylvania's ten-year plan to maintain the 1-hour ozone national ambient air quality standard (NAAQS) in the Pittsburgh-Beaver Valley ozone maintenance area (the Pittsburgh area). In the direct final rule published on July 1, 2004 (69 FR 39854), we stated that if we received adverse comment by August 2, 2004, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments. EPA will address the comments received in a subsequent final action based upon the proposed action also published on July 1, 2004. EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The Direct final rule is withdrawn as of August 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Larry Budney, Energy, Radiation and Indoor Environment Branch, Mail code 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or by phone at (215) 814-2184.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 28, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ Accordingly, the addition of § 52.2020(c)(226) is withdrawn as of August 5, 2004.

[FR Doc. 04-17781 Filed 8-4-04; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[CO-001-0076a, CO-001-0077a; FRL-7784-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Lamar and Steamboat Springs

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado on July 31, 2002, for the purpose of redesignating the Lamar, Colorado and Steamboat Springs, Colorado areas from