



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2012-0760: FRL – 9901-02-Region10]

#### **Revision to the Washington State Implementation Plan; Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard; Tacoma-Pierce County Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a request submitted by the Washington Department of Ecology (Ecology) dated November 28, 2012, to establish motor vehicle emission budgets for the Tacoma-Pierce County fine particulate matter (PM<sub>2.5</sub>) nonattainment area to meet transportation conformity requirements. Under the Clean Air Act (CAA), new transportation plans, programs, and projects, such as the construction of new highways, must “conform” to (i.e., be consistent with) the State Implementation Plan (SIP). The CAA requires federal actions in nonattainment and maintenance areas to “conform to” the goals of the SIP. This means that such actions will not cause or contribute to violations of the National Ambient Air Quality Standards (NAAQS), worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone.

Under the Transportation Conformity Rule, the EPA can approve motor vehicle emission budgets based on the most recent year of clean data if the EPA approves the request in the rulemaking that determines that the area has attained the NAAQS for which the area is designated nonattainment. In September 2012, the EPA finalized an attainment finding for the

Tacoma-Pierce County PM<sub>2.5</sub> nonattainment area (hereafter referred to as “Tacoma-Pierce County Area” or “the area”). This finding, also called a clean data determination, was based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing that the area had monitored attainment of the 2006 PM<sub>2.5</sub> NAAQS based on the 2009-2011 data available in the EPA’s Air Quality System. This action updates the previous finding of attainment with more recent 2010-2012 data and approves motor vehicle emission budgets under the Transportation Conformity Rule.

**DATES:** This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2012-0760. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553-0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or the above EPA, Region 10 address.

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

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### **I. Background**

On November 28, 2012, Ecology submitted a request for the EPA to approve motor vehicle emission budgets for the Tacoma-Pierce County area to meet transportation conformity requirements. As described in 40 CFR 93.109(c)(5) of the Transportation Conformity Rule, the EPA can approve motor vehicle emission budgets if the EPA approves the request in a rulemaking that determines that the area has attained the NAAQS for which the area is designated nonattainment. An explanation of the CAA requirements and implementing regulations that are met by this action, a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking on July 18, 2013, and will not be restated here. See 78 FR 42905. The public comment period for this proposed rule ended on August 19, 2013. The EPA did not receive any comments on the proposal.

### **II. Final Action**

The EPA has determined, based on the most recent three years of complete, quality-assured data meeting the requirements of 40 CFR part 50, appendix N, that the Tacoma-Pierce County area is currently attaining the 2006 24-hour PM<sub>2.5</sub> NAAQS. As explained in the proposal for this action, the EPA has determined that the following attainment-related planning requirements are not applicable for so long as the area continues to attain the PM<sub>2.5</sub> standard: the part D, subpart 4 obligations to provide an attainment demonstration pursuant to CAA section

189(a)(1)(B), the reasonably available control measures (RACM) provisions of CAA section 189(a)(1)(C), the reasonable further progress (RFP) provisions of CAA section 189(c), and related attainment demonstration, RACM, RFP and contingency measure provisions requirements of subpart 1 of CAA section 172. This action does not constitute a redesignation to attainment under CAA section 107(d)(3). In conjunction with this finding of attainment, the EPA is approving the motor vehicle emission budgets shown below in Table 1 below. The EPA is approving the motor vehicle emission budgets pursuant to 40 CFR 93.109(c)(5)(iii), as described in the Transportation Conformity Rule and the preamble of the Transportation Conformity Restructuring Amendments (77 FR 14982, March 14, 2012).

**Table 1: 2011 Motor Vehicle Emission Budgets for the Tacoma-Pierce County 2006 Fine Particulate Matter Nonattainment Area**

| <b>Pollutant</b>  | <b>Emissions (pounds per winter day)</b> |
|-------------------|--|
| PM <sub>2.5</sub> | 3,002                                    |
| NO <sub>x</sub>   | 71,598                                   |

### **III. Statutory and Executive Order Reviews**

Under the CAA, 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 CAA. Accordingly, this 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 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 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for 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 and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated December 11, 2012. The EPA did not receive a request for consultation.

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 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 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 [FEDERAL REGISTER OFFICE: 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. 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: September 3, 2013.

Dennis J. McLerran  
Regional Administrator  
Region 10.

40 CFR part 52 is 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:

a. In the table in paragraph (e) by adding two new entries “Particulate Matter (PM2.5) 2008 Baseline Emissions Inventory and SIP Strengthening Rules” and “Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard” at the end of the section with the heading “Attainment and Maintenance Planning—Particulate Matter”

b. In the table in paragraph (e) by removing entry “Particulate Matter (PM2.5) 2008 Baseline Emissions Inventory and SIP Strengthening Rules” and the heading “Recently Approved Plans”

§ 52.2470 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

**State of Washington Nonregulatory Provisions and Quasi-Regulatory Measures**

| Name of SIP provision   | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Comments |
|---|---|----------------------|-------------------|----------|
| * * * * *   |   |                      |                   |          |
| <b>Attainment and Maintenance Planning—Particulate Matter</b> |   |                      |                   |          |
| * * * * *   |   |                      |                   |          |

|   |                       |          |   |  |
|---|-----------------------|----------|---|--|
| Particulate Matter (PM <sub>2.5</sub> ) 2008 Baseline Emissions Inventory and SIP Strengthening Rules                     | Tacoma, Pierce County | 11/28/12 | 5/29/13, 78 FR 32131  |  |
| Approval of Motor Vehicle Emission Budgets and Determination of Attainment for the 2006 24-Hour Fine Particulate Standard | Tacoma, Pierce County | 11/28/12 | [Insert <u>Federal Register</u> publication date]<br>[Insert page number where the document begins] |  |
| * * * * *   |                       |          |   |  |

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[FR Doc. 2013-22738 Filed 09/18/2013 at 8:45 am; Publication Date: 09/19/2013]