

TABLE 2—SWINOMISH TRIBAL CODE APPROVED BUT NOT INCORPORATED BY REFERENCE

| Tribal citation  | Title/subject                                       | Tribal effective date | EPA approval date                                     | Explanations |
|--|---|-----------------------|---|--------------|
| <b>Swinomish Tribal Code Title 19 Environmental Protection, Chapter 2—Clean Air Act (Swinomish TIP for Open Burning Part II)</b> |   |                       |   |              |
| <b>Subchapter IV—Enforcement</b>   |   |                       |   |              |
| 19-02.190 .....  | Enforcement .....                                   | 3/9/12                | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-02.200 .....  | Penalties .....                                     | 3/9/12                | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-02.210 .....  | Damages .....                                       | 3/9/12                | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| <b>Subchapter V—Appeals</b>  |   |                       |   |              |
| 19-02.220 .....  | Appeals of Department Decisions                     | 3/9/12                | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-02.230 .....  | Tribal Administrative Remedies and Tribal Court.    | 3/9/12                | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| <b>Title 19—Environmental Protection, Chapter 4—Shorelines and Sensitive Areas Act</b>   |   |                       |   |              |
| <b>Subchapter IX—Hearings, Appeals, Computation of Time and Law Applicable</b>   |   |                       |   |              |
| 19-04.560 .....  | Request for Hearing Before the Planning Commission. | 8/18/05               | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-04.570 .....  | Hearings by the Planning Commission.                | 8/18/05               | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-04.580 .....  | Appeals of Planning Commission Decisions.           | 8/18/05               | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-04.590 .....  | Appeals of Senate Decisions .....                   | 8/18/05               | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |
| 19-04.600 .....  | Time and Finality .....                             | 8/18/05               | 11/24/14, [Insert <b>Federal Reg-ister</b> citation]. |              |

■ 5. Section 49.10960 is amended by removing and reserving paragraph (g) to read as follows:

**§ 49.10960 Federally-promulgated regulations and Federal implementation plans.**

\* \* \* \* \*

(g) [Reserved]

\* \* \* \* \*

[FR Doc. 2014-27634 Filed 11-21-14; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R10-OAR-2010-1071; FRL-9919-38-Region 10]

**Approval and Promulgation of Implementation Plans; State of Washington; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology for Alcoa Intalco Operations, Tesoro Refining and Marketing, and Alcoa Wenatchee**

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

**ACTION:** Direct final rule.

**SUMMARY:** In a final action published on June 11, 2014, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** concerning, in part, the promulgation of a Federal Implementation Plan (FIP) provision for regional haze in the State of Washington. This action identifies and corrects an error in that action by adding the factor to convert tons of sulfur dioxide (SO<sub>2</sub>) to pounds of SO<sub>2</sub> that was inadvertently left out of the rule language for the FIP for the Alcoa Inc. Wenatchee Works.

**DATES:** This rule is effective on January 23, 2015, without further notice, unless the EPA receives adverse comment December 24, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2010-1071, by any of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email:* [body.steve@epa.gov](mailto:body.steve@epa.gov).

- *Mail:* Steve Body, EPA Region 10, Office of Air, Waste and Toxics, AWT-150, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Steve Body, Office of Air, Waste and Toxics, AWT-150. 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-2010-1071. 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 [www.regulations.gov](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](http://www.regulations.gov) or email. The [www.regulations.gov](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 email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your email 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 docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available either electronically in [www.regulations.gov](http://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, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Steve Body at telephone number: (206) 553-0782, email address: [body.steve@epa.gov](mailto:body.steve@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we”, “us” or “our” are used, we mean the EPA.

This action corrects an inadvertent error in a final rule (79 FR 33438, June 11, 2014) related to the FIP requiring Best Available Retrofit Technology on Potline 5 at the Alcoa Inc. Wenatchee Works primary aluminum smelter (Alcoa Wenatchee Works) located in Malaga, Washington. The factor to convert tons of SO<sub>2</sub> to pounds of SO<sub>2</sub> was inadvertently left out of the rule language included in 40 CFR 52.2502(b)(1)(i). Today’s action corrects the formula Alcoa Wenatchee Works must use to demonstrate compliance with the SO<sub>2</sub> emission limitation for Potline 5, on a calendar month basis, by adding the factor “x (2000 pounds per ton)”. As corrected, the formula in 40 CFR 52.2502(b)(1)(i) now reads as set forth in the regulatory text of this final rule.

### 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. Where a SIP provision does not meet Federal requirements and is disapproved by the EPA, it has the authority to promulgate FIP provisions that meet the Federal requirements. This action merely corrects an inadvertent error in a previous FIP promulgation 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 (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 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).
- This rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because it merely corrects an

inadvertent error in a formula that applies to a single facility, the Alcoa, Inc. Wenatchee Works, and therefore does not have direct and substantial effects on Tribal governments. Thus Executive Order 13175 does not apply.

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 January 23, 2015. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, and Volatile organic compounds.

Dated: October 27, 2014.

**Michelle Pirzadeh,**

*Acting Regional Administrator, Region 10.*

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. Section 52.2502(b)(1)(i) is revised to read as follows:

**§ 52.2502 Best available retrofit technology requirements for the Alcoa Inc.—Wenatchee Works primary aluminum smelter.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(i) *Compliance demonstration.* Alcoa must determine SO<sub>2</sub> emissions, on a

calendar month basis using the following formulas:

$$\text{SO}_2 \text{ emissions in pounds} = (\text{carbon ratio}) \times (\text{tons of aluminum produced during the calendar month}) \times (\% \text{ sulfur in baked anodes}/100) \times (\% \text{ sulfur converted to SO}_2/100) \times (2 \text{ pounds of SO}_2 \text{ per pound of sulfur}) \times (2000 \text{ pounds per ton})$$

$$\text{SO}_2 \text{ emissions in pounds per ton of aluminum produced} = (\text{SO}_2 \text{ emissions in pounds during the calendar month}) / (\text{tons of aluminum produced during the calendar month})$$

(A) The carbon ratio is the calendar month average of tons of baked anodes consumed per ton of aluminum produced as determined using the baked anode consumption and aluminum production records required in paragraph (h)(2) of this section.

(B) The % sulfur in baked anodes is the calendar month average sulfur content as determined in paragraph (b)(1)(ii) of this section.

(C) The % sulfur converted to SO<sub>2</sub> is 90%.

\* \* \* \* \*

[FR Doc. 2014-27502 Filed 11-21-14; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-HQ-OAR-2014-0337; FRL-9919-67-OAR]

RIN 2060-AS33

### Findings of Failure To Submit a Complete State Implementation Plan for Section 110(a) Pertaining to the 2010 Nitrogen Oxide (NO<sub>2</sub>) Primary National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action finding that the District of Columbia and seven states (Alaska, Arkansas, Hawaii, Minnesota, New Jersey, Vermont and Washington) have not submitted complete infrastructure State Implementation Plans (SIPs) that provide the basic Clean Air Act (CAA) program elements necessary to implement the 2010 nitrogen dioxide (NO<sub>2</sub>) primary national ambient air quality standard (NAAQS). Three out of the seven states (Alaska, Arkansas and Vermont) have not made any submittals. The District of Columbia and the

remaining four out of the seven states (Hawaii, Minnesota, New Jersey and Washington) have made submittals that are partially incomplete due to the lack of complete SIP approved Prevention of Significant Deterioration (PSD) permit programs. The purpose of an infrastructure SIP submission is to assure that a state, local or tribal air agency's SIP contains the necessary structural requirements for any new or revised NAAQS. The remaining 43 states have made complete submissions. Each finding of failure to submit a complete infrastructure SIP establishes a 24-month deadline for the EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to the EPA promulgating a FIP, the affected air agency submits, and the EPA approves, a revised SIP that corrects the deficiency. In those areas without a state-adopted PSD permit program, the FIP obligation has already been met through federal regulations that govern PSD permits issued in some cases by the EPA and in other cases by state or local agencies under delegation agreements.

**DATES:** Effective date of this action is December 24, 2014.

#### FOR FURTHER INFORMATION CONTACT:

General questions concerning this document should be addressed to Ms. Mia South, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C504-2, 109 TW Alexander Drive, Research Triangle Park, NC 27709; telephone (919) 541-5550; email: [south.mia@epa.gov](mailto:south.mia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Notice and Comment Under the Administrative Procedures Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

##### B. How can I get copies of this document and other related information?

The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2014-0337. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742.

##### C. How is the preamble organized?

#### Table of Contents

- I. General Information
  - A. Notice and Comment Under the Administrative Procedures Act (APA)
  - B. How can I get copies of this document and other related information?
  - C. How is the preamble organized?
  - D. Where do I go if I have specific state questions?
- II. Background and Overview
  - A. Infrastructure SIPs
  - B. Mandatory Duty Suit for the EPA's Failure To Make Findings of Failure To Submit for Areas That Did Not Submit Infrastructure SIPs by January 22, 2013
  - C. What elements are outside the scope of infrastructure SIP actions?
- III. Findings of Failure To Submit for States That Failed To Make an Infrastructure SIP Submission in Whole or in Part for the 2010 NO<sub>2</sub> NAAQS
- IV. Environmental Justice Considerations
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Paperwork Reduction Act (PRA)
  - C. Regulatory Flexibility Act (RFA)
  - D. Unfunded Mandates Reform Act of 1995 (UMRA)
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority and Low Income Populations
  - K. Congressional Review Act (CRA)
  - L. Judicial Review