



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R10-OAR-2014-0343; FRL-9918-84-Region 10

Approval and Promulgation of Implementation Plans; Washington: Nonattainment New Source Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) on January 27, 2014. These revisions update the preconstruction permitting regulations for large industrial (major source) facilities located in designated nonattainment areas, referred to as the Nonattainment New Source Review (major nonattainment NSR or major NNSR) program. While these revisions update Ecology's major NNSR program generally, the most significant change is the incorporation of regulations to implement major NNSR for fine particulate matter, particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}). The major NNSR program is designed to ensure that major stationary sources of air pollution are constructed or modified in a manner that is consistent with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

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 ID No. EPA-R10-OAR-2014-0343. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g.,

Confidential Business Information (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 will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials “Act” or “CAA” mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words “EPA”, “we”, “us” or “our” mean or refer to the Environmental Protection Agency.

(iii) The initials “SIP” mean or refer to State Implementation Plan.

(iv) The words “Washington” and “State” mean the State of Washington.

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I. Background Information

On January 27, 2014, Washington submitted revisions updating the general air quality regulations that apply to sources within Ecology's jurisdiction, including the major nonattainment NSR permitting program. On July 25, 2014, the EPA proposed to approve the major nonattainment NSR-related provisions contained in the submittal (79 FR 43345). An explanation of the CAA requirements, a detailed explanation of the revisions, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on August 25, 2014. We did not receive any comments on the proposal.

II. Final Action

The EPA is approving the major nonattainment NSR-related provisions listed in the table below. As discussed in the proposed rulemaking, the EPA intends to take action on the remaining provisions included in Ecology's January 27, 2014 submittal, related to the Prevention of Significant Deterioration and visibility permitting requirements for major stationary sources, in a separate, future action. The EPA is also approving the general air quality regulations contained in Washington Administrative Code (WAC) 173-400-110 through -112 and WAC 173-400-171, which were previously approved by the EPA for purposes of minor new source review, as consistent with the EPA's requirements for major nonattainment NSR. For more information see 79 FR 59653, October 3, 2014.

At this time, the EPA's approval of the major nonattainment NSR-related provisions listed in the table below is limited to only those counties or sources where Ecology has direct

jurisdiction. This approval excludes sources subject to Energy Facility Site Evaluation Council (EFSEC) or local clean air agency jurisdiction, as described in the proposed rulemaking. The counties where Ecology has direct jurisdiction are: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman. The EPA also notes that under the SIP-approved provisions of WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012, Ecology has statewide, direct jurisdiction for kraft pulping mills, sulfite pulping mills, and primary aluminum plants, including the RockTenn facility located in the Tacoma-Pierce County fine particulate matter nonattainment area.

Washington State Department of Ecology Regulations for Approval

State Citation	Title/Subject	State Effective Date	Explanation
Chapter 173-400 WAC, General Regulations for Air Pollution Sources.			
173-400-131	Issuance of Emission Reduction Credits.	4/1/11	
173-400-136	Use of Emission Reduction Credits (ERC).	12/29/12	
173-400-800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	
173-400-810	Major Stationary Source and Major Modification Definitions.	12/29/12	
173-400-820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	
173-400-830	Permitting Requirements.	12/29/12	
173-400-840	Emission Offset Requirements.	12/29/12	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	
173-400-860	Public Involvement Procedures.	4/1/11	

III. Statutory and Executive Orders Review

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 Clean Air Act. 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 this action does not involve technical standards; 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).

The SIP is not approved to apply on any Indian reservation land in Washington except for as specifically noted below and is also not approved to apply 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law. 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 nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated February 25, 2014. 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. 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 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 **[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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 22, 2014.

Dennis J. McLerran,
Regional Administrator,
Region 10.

For the reasons stated 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. Section 52.2470 is amended in paragraph (c), table 2, by:

a. Adding in numerical order entries for 173-400-131, 173-400-136, and 173-400-800 through 173-400-860.

b. Revising the footnote at the bottom of the table.

The additions and revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 2 – ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

(Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012).

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173-400 -- General Regulations for Air Pollution Sources				
* * * * * *				
173-400-131	Issuance of Emission Reduction Credits.	4/1/11	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-136	Use of Emission Reduction Credits (ERC).	12/29/12	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
* * * * * *				
173-400-800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-810	Major Stationary Source and Major Modification Definitions.	12/29/12	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-820	Determining if a New Stationary Source or Modification to a	12/29/12	[Insert the date of publication in the <u>Federal Register</u>]	

	Stationary Source is Subject to these Requirements.		[Insert <u>Federal Register</u> citation]	
173-400-830	Permitting Requirements.	12/29/12	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-840	Emission Offset Requirements.	12/29/12	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
173-400-860	Public Involvement Procedures.	4/1/11	[Insert the date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	

* The EPA's approval of the WAC 173-400-110 through -113, 173-400-036, 173-400-171, and 173-400-560 is not a determination that these regulations meet requirements for a SIP-approved Prevention of Significant Deterioration permitting program (40 CFR 51.166) or a SIP-approved visibility program (40 CFR 51.307) for major sources.

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[FR Doc. 2014-26451 Filed 11/06/2014 at 8:45 am; Publication Date: 11/07/2014]