



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0636: FRL -10002-84-Region 10]

Air Plan Approval; WA; Updates to Source-Category Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology). In 1991, Ecology established source-category regulations for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. These source-category regulations contain requirements specific to these types of facilities. However, the source-category regulations also rely upon cross-references to the general air quality regulations to implement program elements such as new source review permitting. Since 1991, many of the cross-references to the general regulations for air pollution sources have changed. In this action, the EPA is proposing to revise the SIP to update the cross-references and other miscellaneous changes.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2019-0636 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or hunt.jeff@epa.gov.

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

I. Background

In 1991, Washington established rules for kraft pulp mills, sulfite pulp mills, and primary aluminum plants and submitted the rules to the EPA for approval into the Washington SIP. The EPA approved Chapters 173-405 *Kraft Pulping Mills*, 173-410 *Sulfite Pulping Mills*, and 173-415 *Primary Aluminum Plants* Washington Administrative Code (WAC) on January 15, 1993 (58 FR 4578). These regulations established source-category specific requirements with cross-references to Chapter 173-400 WAC *General Regulations for Air Pollution Sources* to meet general requirements. Since the EPA’s last approval in 1993, many of the cross-references contained in Chapters 173-405, 173-410, and 173-415 WAC have changed. On November 5, 2019, Ecology submitted updated portions of Chapters 173-405, 173-410, and 173-415 WAC for approval into the SIP.

II. Analysis of Rule Updates

Washington's SIP submission consists primarily of minor changes to the rules, with a few more substantive changes described below. The relatively minor changes to Chapters 173-405, 173-410, and 173-415 WAC include updating cross-references to the requirements in Chapter 173-400 WAC and making clarifying changes to definitions and supporting rule language. Redline / strikeout analyses of Ecology's 2019 rule revisions proposed for approval are included in the docket for this action. The more significant changes include revising WAC 173-405-072 *Monitoring Requirements* and 173-410-062 *Monitoring Requirements* to extend the timeframe for submission of source testing reports from fifteen days to sixty days for kraft and sulfite pulping mills. Ecology's SIP submission explains that the change was made to provide a more realistic timeframe to complete and submit a quality-assured performance test report. The sixty-day timeframe is the same as the federal performance report submission timeline established for the pulp and paper industry in 40 CFR part 63, subpart S. See 40 CFR. 63.455(h)(2). Similarly, Ecology revised WAC 173-415-060 *Monitoring Requirements* to extend the time allowed for submission of source testing reports from thirty to sixty days for primary aluminum plants. This sixty-day timeframe is the same as the federal performance report submission timeline for primary aluminum plants in 40 CFR pat 63, subpart LL. See 40 CFR 63.850(b) for primary aluminum plants.

In addition to the 2019 regulatory changes described above, effective September 23, 2005, Ecology revised Chapter 173-415 WAC, which was not submitted for SIP revision at that time. Specifically, Ecology revised WAC 173-415-020 *Definitions* and WAC 173-415-060 *Monitoring and Reporting* to better align with the federal definitions and requirements in 40 CFR part 63, subpart LL. Ecology also added WAC 173-415-015 *Applicability* that clarified the

general provisions of Chapter 173-400 WAC apply to all emission sources, including all primary aluminum reduction plants. This revision allowed Ecology to repeal the redundant provisions of WAC 173-415-045 *Creditable Stack Height & Dispersion Techniques*, WAC 173-415-050 *New Source Review (NSR)*, 173-415-051 *Prevention of Significant Deterioration (PSD)*, and 173-415-080 *Emission Inventory*, which cited to older, subsequently revised provisions of Chapter 173-400 WAC. A copy of the 2005 changes (WSR 05-17-169) is included in the docket for this action. We are proposing to approve these changes. We also note, as described below, that Ecology's 2005 revisions related to the regulation of fluorides are outside the scope of Clean Air Act (CAA) section 110 requirements for SIPs.

Consistent with our January 15, 1993 approval, Ecology did not submit requirements related to total reduced sulfur, fluorides, or cross-references to toxic air pollutants regulated under Chapter 173-460 WAC, because they are outside the scope of CAA section 110 requirements for SIPs. Similarly, Chapters 173-405, 173-410, and 173-415 WAC cross-reference Chapter 173-400 WAC; however, not all provisions of Chapter 173-400 WAC are contained in the SIP.¹ Lastly, Ecology did not submit all revisions to Chapters 173-405, 173-410, and 173-415 WAC as part of the current SIP update. Please see Appendix A of Ecology's November 5, 2019, SIP revision request for a full listing of updates submitted for approval.

III. Proposed Action

We are proposing to approve and incorporate by reference the revisions to the Washington SIP shown in the table below. We are also proposing to remove from the SIP the outdated and subsequent repealed provisions of WAC 173-415-045, 173-415-050, 173-415-051, and 173-415-080.

¹ See 40 CFR 52.2470(c), Table 2 – *Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction*.

State citation	Title/subject	State effective date	Explanations
Washington Administrative Code, Chapter 173-405 – Kraft Pulping Mills			
173-405-021	Definitions	5/24/19	
173-405-072	Monitoring Requirements	5/24/19	Except 173-405-072(2).
173-405-086	New Source Review (NSR)	5/24/19	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113.
173-405-087	Prevention of Significant Deterioration (PSD)	5/24/19	Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
Washington Administrative Code, Chapter 173-410 – Sulfite Pulping Mills			
173-410-021	Definitions	5/24/19	
173-410-062	Monitoring Requirements	5/24/19	
173-410-086	New Source Review (NSR)	5/24/19	Except provisions related to WAC 173-400-114 and provisions excluded from our approval of WAC 173-400-110 through 173-400-113.
173-410-087	Prevention of Significant Deterioration (PSD)	5/24/19	Except 173-400-720(4)(a)(i through iv), 173-400-720(4)(b)(iii)(C), and 173-400-750(2) second sentence.
Washington Administrative Code, Chapter 173-415 – Primary Aluminum Plants			
173-415-015	Applicability	5/24/19	Except 173-415-015(3).
173-415-020	Definitions	5/24/19	Except 173-415-020(6).
173-415-060	Monitoring and Reporting	5/24/19	Except 173-415-060(1)(b).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include, in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is

proposing to incorporate by reference the regulatory changes described in section III above. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov.

V. Statutory and Executive Orders Review

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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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 provided a consultation opportunity to the Puyallup Tribe in a letter dated May 16, 2019.

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.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 22, 2019

Chris Hladick,
Regional Administrator,
Region 10.

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