



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2013-0088: FRL -9901-34-Region 10]

### Approval and Promulgation of Implementation Plans; Washington: Thurston County Second 10-Year PM<sub>10</sub> Limited Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a limited maintenance plan submitted by the State of Washington on July 1, 2013, for the Thurston County maintenance area (Thurston County) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). The EPA is also approving both local and state regulatory updates related to this maintenance plan.

**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-2013-0088. 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 4:30p.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.

## **Table of Contents**

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### **I. Background**

An explanation of the Clean Air Act requirements and implementing regulations that are met by this State Implementation Plan (SIP), a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking published on August 5, 2013, and will not be restated here. See 78 FR 42480. The public comment period for this proposed rule ended on September 4, 2013. The EPA did not receive any comments on the proposal.

### **II. Final Action**

The EPA is approving the second 10-year limited maintenance plan for Thurston County submitted by Washington State on July 1, 2013. Washington’s submittal also included a request to approve state regulatory updates to the original control measures included in Chapter 173-433 Washington Administrative Code (WAC) as well as corresponding local Olympic Region Clean

Air Agency regulations. The EPA is approving these regulatory changes, as well as other minor corrections described in the EPA's proposed rule, because these changes strengthen the SIP.

### **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.

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, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 12, 2013

Dennis J. McLerran  
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 52.2470 is amended:

a. In paragraph (c) Table 1—Washington Department of Ecology Regulations

by:

i. Revising entries 173-433-030 through 173-433-120;

ii. Adding in numerical order entry 173-433-140;

iii. Revising entry 173-433-150; and

iv. Removing entries 173-433-170 and 173-433-200;

b. In paragraph (c) by adding a table at the end titled “TABLE 8 – Olympic Region Clean Air Agency Regulations” with the entries 6.2.3, 6.2.6, 6.2.7, and 8.1.1 through 8.1.8;

c. In paragraph (e) by

i. Removing the existing table heading “State of Washington Nonregulatory Provisions and Quasi-Regulatory Measures” and replacing it with “Table 2 – Attainment, Maintenance, and Other Plans” respectively

ii. Adding a table after the introductory text titled “Table 1 – Approved but not incorporated by reference statutes and regulations”; and

ii. Adding an entry in the newly designated Table 2 – Attainment, Maintenance, and Other Plans with entry “Particulate Matter (PM<sub>10</sub>) 2<sup>nd</sup> 10-year Limited Maintenance Plan” at the end of the section with the heading “Attainment and Maintenance Planning – Particulate Matter.”

The revised and added text reads as follows:

**§ 52. 2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

TABLE 1 – WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * * * *				
<b>Washington Administrative Code, Chapter 173-433 -- Solid Fuel Burning Device Standards</b>				
* * * * *				
173-433-030	Definitions	4/20/91	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-100	Emission Performance Standards	3/6/93	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-110	Opacity Standards	3/6/93	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-120	Prohibited Fuel Types	4/20/91	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	

* * * * *				
173-433-140	Impaired Air Quality Criteria	4/20/91	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-150	Curtailment	4/20/91	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
* * * * *				

\* \* \* \* \* TABLE 8 – OLYMPIC REGION CLEAN AIR  
AGENCY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Rule 6.2 Outdoor Burning</b>				
6.2.3	No Residential or Land Clearing Burning	2/4/12	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	Only as it applies to the cities of Olympia, Lacey, and Tumwater
6.2.6	Curtailment	3/18/11	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
6.2.7	Recreational Burning	3/18/11	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
<b>Rule 8.1 Wood Heating</b>				
8.1.1	Definitions	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
8.1.2 (b) and (c)	General Emission Standards	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number	

			where the document begins]	
8.1.3	Prohibited Fuel Types	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
8.1.4	Curtailement	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
8.1.5	Exceptions	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
8.1.7	Sale and Installation of Uncertified Woodstoves	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
8.1.8	Disposal of uncertified woodstoves	5/22/10	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	

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(e) \* \* \*

TABLE 1 – APPROVED BUT NOT INCORPORATED BY REFERENCE  
STATUTES AND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Washington Department of Ecology Regulations</b>				
173-433-200	Regulatory Actions and Penalties	10/18/90	1/15/93, 58 FR 4578	
<b>Olympic Region Clean Air Agency Regulations</b>				
8.1.6	Penalties	5/22/10	[Insert <u>Federal Register</u> publication date]	

			[Insert page number where the document begins]	
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TABLE 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS

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>10</sub> ) 2 <sup>nd</sup> 10-year Limited Maintenance Plan	Thurston County	7/1/13	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
* * * * *				

[FR Doc. 2013-23511 Filed 10/02/2013 at 8:45 am; Publication Date: 10/03/2013]