



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0669, FRL-10007-28-Region 10]

Air Plan Approval; Washington; Wallula Second 10-Year Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a plan for the Wallula area in Washington State that addresses the second 10-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀).

This plan relies upon the control measures contained in the first 10-year maintenance plan, with revisions to reflect updated permits and agreements, also approved in this action. Concurrently, we are taking final agency action on high wind and wildfire exceptional events associated with the Wallula area.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0669. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 at

https://www.regulations.gov, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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, wherever “we,” “us,” or “our” is used, it means the EPA.

I. Background

The Wallula area was designated nonattainment for the 24-hour PM₁₀ national ambient air quality standards (NAAQS) and classified as a Moderate area upon enactment of the Clean Air Act Amendments of 1990 (56 FR 56694, November 6, 1991). The Washington Department of Ecology (Ecology) submitted a Moderate area attainment plan for the Wallula area on November 13, 1991, and a Serious area plan on November 30, 2004. The EPA acted on the plans on January 27, 1997 and May 2, 2005, respectively (62 FR 3800 and 83 FR 22597). During the planning process, the EPA determined that the area attained the PM₁₀ NAAQS based on 1999 through 2001 air quality monitoring data (67 FR 64815, October 22, 2002).

The PM₁₀ emissions inventory for the Wallula area has remained relatively consistent over time, with agricultural dust and point sources contributing the bulk of anthropogenic impact within the area. As discussed in more detail in the proposal and later in this preamble, high wind events carrying dust from both within and outside the Wallula area play a significant role on days that exceed the PM₁₀ NAAQS. On-road motor vehicles make up only approximately 1% of the overall inventory. The transportation conformity rule at 40 CFR 93.109(f) allows areas to forego establishment of motor vehicle emissions budgets where it is demonstrated that the regional motor vehicle emissions for a particular pollutant or precursor are an insignificant contributor to

the air quality problem in an area. The EPA's rationale for providing for insignificance determinations may be found in the July 1, 2004, revision to the Transportation Conformity Rule (69 FR 40004). As provided in 40 CFR 93.109(f), the general criteria for insignificance determinations are based on a number of factors, including the percentage of motor vehicle emissions in the context of the total SIP inventory; the current state of air quality as determined by monitoring data for the relevant NAAQS; the absence of SIP motor vehicle control measures; and the historical trends and future projections of the growth of motor vehicle emissions in the area. Using these regulatory criteria, the EPA granted Washington's request for an exemption from conducting a regional emissions analysis for transportation conformity because motor vehicles were an insignificant source of PM₁₀ emissions (70 FR 5085, 5092, February 1, 2005 (proposed action); 70 FR 22597, May 2, 2005 (final action)).

Under the Clean Air Act (CAA), specific exceedances due to natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. From 1996 to 2007, EPA's Natural Events Policy¹ governed the process by which states could request exclusion of monitored values that exceeded the NAAQS due to "natural events" in making attainment determinations. As part of the EPA's finding of attainment for the Wallula area in 2002, the EPA determined that all exceedances that occurred in 1999 through 2001 qualified as high wind natural events under the EPA's Natural Events Policy. (67 FR 64815, October 22, 2002).

Subsequently, Ecology conducted a final review of high wind natural events for the area. Ecology found that there had been nine reported PM₁₀ exceedances in the Wallula area since

¹ See Memorandum from the EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled "Areas Affected by Natural Events," dated May 30, 1996 (EPA's Natural Events Policy), in effect at that time.

January 1, 1995, and all but one was reasonably attributed to dust raised by unusually high winds.² On March 29, 2005, Ecology submitted the state's plan to maintain the PM₁₀ NAAQS in the Wallula area for 10 years, in accordance with section 175A of the CAA , and requested that the EPA redesignate the Wallula area to attainment for the PM₁₀ NAAQS. The EPA approved Ecology's submitted maintenance plan and redesignation request on August 26, 2005 (70 FR 50212).

On November 22, 2019, Ecology submitted a maintenance plan to cover the second 10-year maintenance period, asserting that existing control measures were adequate to maintain the PM₁₀ NAAQS, after excluding specific exceptional events documented in the submission. On December 20, 2019, we proposed to approve the second 10-year maintenance plan as satisfying the requirements of section 175A of the CAA (84 FR 70130).

II. Response to Comments

The public comment period for our proposed rule ended on January 21, 2020. We received one comment letter from the J.R. Simplot Company (Simplot), the owner and operator of the Simplot Feeders cattle feedlot, a facility located in the Wallula area and identified in the state's second 10-year maintenance plan. The comment letter generally supported approval of the State Implementation Plan (SIP) revision for the Wallula area. However, Simplot's letter also requested clarification on the following three issues: the feedlot Fugitive Dust Control Plan (FDCP), the emissions inventory, and the projected future design value concentrations used in the maintenance demonstration.

Comment 1: "Simplot offers clarifications to EPA's summary of the FDCP provided in the FR notice (84 FR 70132). Simplot's FDCP does not 'prevent dust from any fugitive or point

² The one exceedance not attributed to high winds occurred on July 3, 1997, and was attributed to an unusual and

source from crossing the Simplot property line,’ nor does it ‘require road dust suppression, better staff training, etc.’ The FDCP meets the WAC requirements for fugitive dust and ‘fall-out’ and identifies best management practices (BMPs) that have been found to be the most effective in minimizing fugitive dust emissions from the facility. Examples of those BMPs that are implemented as appropriate include water application to pens and roads, application of dust suppression on facility roads, as well as pen cleaning and maintenance. The FDCP also identifies the training provided to facility employees who have responsibility with implementing BMPs.”

Response 1: The EPA disagrees with the commenter. The Simplot Feeders’ cattle feedlot is subject to a federally-enforceable new source review permit (Approval Order No. 18AQ-E018, issued March 5, 2018) that specifically requires Simplot to have and implement a fugitive dust control plan. Specifically, facility-wide permit condition 2.2.1. states, “During operation of the feedlot, Simplot shall follow the fugitive dust control plan submitted to Ecology, and modified annually in accordance with the facility Operations and Maintenance (O&M) Plan. Fugitive dust control measures shall be sufficient to prevent dust from any fugitive or point sources from crossing the Simplot property line.” Additionally, permit condition 9 states, “A site-specific O&M manual for the hay processing filters, any feedlot sprinklers or cross fencing systems or other feedlot Best Management Practices (BMPs), monitoring equipment, monitoring procedures, and monitoring schedules for the feedlot control (BMPs) measures shall be developed and followed...The O&M manual shall at a minimum include: ...9.4 The current Fugitive Dust Control Plan (FDCP).” Simplot’s FDCP, in turn, specifically provides for road dust suppression, better staff training, daily observations, and daily adaptive best management

nonrecurring activity involving the transport of multiple loads of composting material near the monitor.

practices to control fugitive dust.³ Therefore, the language in the proposal accurately reflects Simplot’s legal obligations with respect to Simplot’s FDCP and no clarification is required.

Comment 2: “Simplot appreciates EPA's recognition that Ecology's revised emission factor for the cattle feedlots is a conservative approach (84 FR 70132); however, Simplot believes use of Ecology's updated emission factor mischaracterizes the change in emissions between baseline years presented in the SIP.

Specifically, Ecology failed to provide context regarding the effect of the new emission factor with respect to the 2002 emission inventory in the SIP. During the public comment period of the draft SIP, Simplot provided comments to Ecology (Attachment 2) that the activity levels, including cattle headcount was higher at the feedlot in 2002 than in 2014. As such, the relative emissions for the feedlot were higher in 2002 than in 2014. Simplot identified that applying the updated emission factor to the 2002 data would show a relative decrease rather than the increase Ecology presented in Table 7 of the SIP.”

Response 2: Simplot’s clarification is noted. However, we believe this issue was already adequately addressed in our proposed rulemaking when we stated, “The overall source mix and emissions levels are generally consistent with the 2002 attainment emissions inventory contained in the first 10-year maintenance plan. While there has been some increase in emissions activity since 2002, Ecology explained and the EPA verified that much of the difference between the 2002 and 2014 inventories is due to revised emissions inventory methodology. For example, Ecology revised the emissions factor for cattle feedlots by increasing it approximately eightfold, a conservative approach.” See page 70131.

³ Road dust suppression (see FDCP “Water Trucks” and “Road Treatment” page 7); staff training (see FDCP “Training” page 9); daily observations (see FDCP “Sprinkler System” page 6, “Water Trucks” page 7, “Daily

We note two factors related to Simplot's comment. First, it is not unusual for emissions inventory methodologies or emissions factors to change over time at the state or federal level with additional research or source test data. Second, the conservative methodology used by Ecology yielded a 2025 projected design value concentration of $145 \mu\text{g}/\text{m}^3$, below the $150 \mu\text{g}/\text{m}^3$ threshold for demonstrating continued attainment the PM_{10} NAAQS in the Wallula area. Any argument for using a less conservative approach, yielding a lower projected design value concentration, would therefore not change the EPA's approval of Ecology's maintenance demonstration because the worst-case scenario is already below $150 \mu\text{g}/\text{m}^3$.

Comment 3: "Simplot agrees with EPA's position that Ecology took a conservative approach for emission projections (years 2025 and 2030) by including highest actual emissions, potential to emit, and maximum permitted capacity (84 FR 70132). EPA discusses that Ecology used the most conservative methodology in determining the 2025 design concentration, where the design concentration was determined to be $145 \mu\text{g}/\text{m}^3$, below the 24-hour PM_{10} NAAQS of $150 \mu\text{g}/\text{m}^3$. EPA goes on to state that using 'a less conservative methodology factoring the natural events and using maximum 5-year actual rather than maximum allowable permit limits, the projected 2025 design concentration would be $82 \mu\text{g}/\text{m}^3$ ' (84 FR 70132) ... There is no additional value to including an analysis of Simplot's actual maximum head count for an alternative 2025 Design Value. Simplot recommends that EPA, in its final action on the Wallula SIP, drop the alternative 2025 Design Value based on Simplot's actual maximum heat count."

Response 3: As discussed previously, Ecology used a generally conservative, worst-case scenario methodology in projecting potential future emissions and PM_{10} concentrations. Specifically, as it relates to Simplot, the 2025 projected future design concentration of $145 \mu\text{g}/\text{m}^3$

Adaptive Management" pages 8-9); and daily adaptive management (see FDCP "Daily Adaptive Management"

represented no consideration of potential natural events and assumed the Simplot facility would be operating at maximum permitted capacity (80,000 head of cattle). Because of concerns that the general public might not understand the worst-case scenario methodology, Ecology provided supplemental future design concentrations using less conservative methodologies for informational, rather than regulatory purposes. These supplementary projected concentrations ranged from 71 $\mu\text{g}/\text{m}^3$ to 132 $\mu\text{g}/\text{m}^3$, more consistent with historical and current concentrations monitored in the Wallula area if potential natural events are considered. However, the EPA's proposed approval was based on our determination that the 2025 projected future design concentration of 145 $\mu\text{g}/\text{m}^3$, calculated in the maintenance demonstration, was below the 150 $\mu\text{g}/\text{m}^3$ threshold for demonstrating continued attainment the PM_{10} NAAQS in the Wallula area.

We have determined the commenter's requested clarifications are not warranted at this time because we have explained our rationale for approval in our proposed rule and in the response to comments provided in this preamble, and the additional analysis is not necessary in light of our approval at the higher projected emissions levels. Therefore, we are finalizing our action as proposed.

III. Final Action

The EPA is approving Ecology's second 10-year maintenance plan for the Wallula area as satisfying the requirements of section 175A of the CAA. We are taking final agency action on Ecology's request to exclude wildfire and high wind event-influenced data from August 14, 2015, and September 5 and 6, 2017, with the determination that the PM_{10} exceedances on the identified dates were due to exceptional events and can be excluded in determining the attainment status of the area.

We are also approving and incorporating by reference into the SIP at 40 CFR 52.2470(d), updated source-specific requirements for Tyson Fresh Meats, Boise White Paper, now known as Packaging Corporation of America (Wallula Mill),⁴ and Simplot Feeders. In addition, we are updating the list of supplementary documents in 40 CFR 52.2470(e) to include the 2003 “Columbia Plateau Windblown Dust Natural Events Action Plan” and Ecology’s 2018 update of the “Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices.”

In taking final action to approve Ecology’s second 10-year maintenance plan for the Wallula area, we note, as discussed previously, that the first 10-year maintenance plan for the area did not contain any control measures on direct PM₁₀ emissions from on-road vehicles because the emissions inventory was so heavily dominated by direct PM₁₀ emissions from agricultural dust sources and a small set of point sources. In comparing the 2002 inventory used in the first 10-year maintenance plan to the 2014 inventory used in the second 10-year maintenance plan, mobile source emissions continued to remain steady at 1% of the overall emissions inventory. Because on-road emissions of direct PM₁₀ continue to be insignificant, a regional emissions analysis is not required as part future transportation conformity determinations. However, a conformity determination that meets other applicable criteria in Table 1 of 40 CFR 93.109(b) is still required (e.g., consultation). Hot-spot requirements for projects in PM₁₀ areas in 40 CFR 93.116 must also be satisfied, subject to certain exceptions. *See* 40 CFR 93.109(f). In 2017, the boundaries of the Walla Walla Valley Metropolitan Planning Organization were modified to include the Wallula PM₁₀ maintenance area. As such, the area is

⁴ Note that, subsequent to EPA’s proposed action, Ecology submitted a modified air operating permit for the Wallula Mill, which was issued on December 9, 2019. The only changes to the permit relevant for purposes of this action are that the name of the permittee was changed from Boise White Paper L.L.C. to Packaging Corporation of America and that Permit Condition Q.1, which we had proposed to approve into the SIP, is now numbered Condition P.1. No substantive changes have been made to the provision proposed for incorporation by reference into the SIP.

now considered to be a metropolitan area for transportation conformity purposes and must meet the applicability requirements in 40 CFR 93.102(a) and the frequency requirements in 40 CFR 93.104.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁵

V. Statutory and Executive Order Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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:

⁵ 62 FR 27968 (May 22, 1997).

- 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 it does not address 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 or 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).

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 CAA, 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 after date of publication 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.

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

Christopher Hladick,
Regional Administrator,
Region 10.

Dated: April 10, 2020.

For the reasons set forth 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. In § 52.2470:

a. Amend the table in paragraph (d) by:

i. Removing the entries “IBP (now known as Tyson Foods, Inc.)”, “Boise White Paper LLC Permit”, and “Fugitive Dust Control Plan for Simplot Feeders Limited Partnership”; and

ii. Adding the entries “Tyson Fresh Meats, Inc.”, “Packaging Corporation of America, Wallula Mill”, and “Simplot Feeders Limited Partnership” at the end of the table; and

b. In paragraph (e) amend Table 2 by:

i. Adding a fourth entry for “Particulate Matter (PM₁₀) 2nd 10-Year Maintenance Plan” immediately below the entry “Particulate Matter (PM₁₀) 2nd 10-Year Limited Maintenance Plan”, “Spokane” and

ii. Adding the entries “2003 Columbia Plateau Windblown Dust Natural Events Action Plan” and “2018 Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices” at the end of the table.

The additions read as follows:

§ 52.2470 Identification of plan.

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(d) * * *

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS¹

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
* * * * *				
Tyson Fresh Meats, Inc.	13AQ-E526	4/16/2014	<p>[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]</p>	<p>Except: 1. Decontamination Cabinets; 2. Meat Cutting/Packing; 6. Wastewater Flootation; 8. Utility Equipment; 10. Other; References to “WAC 173-460-040” in Determinations”; The portion of Approval Condition 2.a which states, “and consumption of no more than 128 million cubic feet /of natural gas per year. Natural gas consumption records for the dryer shall be maintained for the most recent 24 month period and be available to Ecology for inspection. An increase in natural gas consumption that exceeds the above level may require a Notice of Construction.”; Approval Condition 3; Approval Condition 4; Approval Condition 5; Approval Condition 6.e; Approval Condition 9.a.ii; Approval Condition 9.a.iv; Approval Condition 9.a.v; Approval Condition 9.a.vi;</p>

				Approval Condition 10.a.ii; Approval Condition 10.b; Approval Condition 11.a; Approval Condition 11.b; Approval Condition 11.e; Approval Condition 12; Approval Condition 15; The section titled “Your Right to Appeal”; and The section titled “Address and Location Information.”
Packaging Corporation of America (Wallula Mill)	0003697	4/1/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Condition P.1 only.
Simplot Feeders Limited Partnership	Fugitive Dust Control Plan	3/1/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	

¹The EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Washington Department of Ecology may request removal by submitting such a demonstration to the EPA as a SIP revision.

(e) * * *

TABLE 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
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* * * * *				
Attainment and Maintenance Planning—Particulate Matter (PM₁₀)				
* * * * *				
Particulate Matter (PM ₁₀) 2nd 10-Year Maintenance Plan	Wallula	11/22/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
Supplementary Documents				
* * * * *				
2003 Columbia Plateau Windblown Dust Natural Events Action Plan		11/22/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
2018 Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices		11/22/19	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	

[FR Doc. 2020-08123 Filed: 4/30/2020 8:45 am; Publication Date: 5/1/2020]