



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2020-0732; FRL-10022-93-Region 10]

Air Plan Approval; WA; Regional Haze Best Available Retrofit Technology Revision for TransAlta Centralia Generation Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a source-specific State Implementation Plan (SIP) revision submitted by the Washington State Department of Ecology (Ecology) on December 18, 2020. The SIP revision makes changes to nitrogen oxide control requirements for the TransAlta Centralia Generation Plant (TransAlta). These requirements were established in an order issued to TransAlta by the State to satisfy the Clean Air Act Best Available Retrofit Technology Requirements (BART) put in place by Congress to reduce regional haze and restore visibility in national parks and wilderness areas. The changes submitted by the State improve the operation of pollution control equipment at TransAlta while continuing to meet BART requirements.

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-2020-0732. All documents in the docket are listed on the <https://www.regulations.gov> website. 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

On March 8, 2021, we proposed to approve the source-specific SIP revision submitted by Ecology for the TransAlta Centralia Generation Plant (86 FR 13256). The reasons for our proposed approval were stated in the proposed rulemaking and will not be re-stated here. The public comment period for our proposed action ended on April 7, 2021. We received no comments. Therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving, and incorporating by reference into the Washington SIP, BART Order 6426 for the TransAlta Centralia Generation Plant, state effective July 29, 2020.¹ The EPA is also removing from incorporation by reference the previous BART Order 6426 for the TransAlta Centralia Generation Plant, State effective December 13, 2011.² The EPA has determined that the changes improve the operation of pollution controls at the plant and are consistent with regional haze and other Clean Air Act (CAA) requirements.

III. 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 changes to the incorporation by reference as described in section II of this preamble. The EPA has made, and

¹ In the Matter of an Administrative Order Against, TransAlta Centralia Generation LLC, Second Revision: Order No. 6426, except the undesignated introductory text, the section titled “Findings,” and the undesignated text following condition 9, State effective July 29, 2020.

² In the Matter of an Administrative Order Against, TransAlta Centralia Generation LLC, First Revision: Order No. 6426, except the undesignated introductory text, the section titled “Findings,” and the undesignated text following condition 13, State effective December 13, 2011.

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 rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³

IV. 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:

- 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);
- 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);

³ 62 FR 27968 (May 22, 1997).

- 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 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, and other tribes located in Washington, in a letter dated September 4, 2020.

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.

Dated: April 28, 2021.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

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, amend the table in paragraph (d) by:

- a. Removing the entry “TransAlta Centralia BART”; and
- b. Adding the entry “TransAlta Centralia BART – Second Revision” to the end of the table.

The addition reads as follows:

§ 52.2470 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS¹

Name of source	Order/permit No.	State effective date	EPA approval date	Explanations
* * * * *				
TransAlta Centralia BART – Second Revision	#6426	7/29/2020	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Except the undesignated introductory text, the section titled “Findings,” and the undesignated text following condition 9.

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.

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