

(A) Amendments to Forsyth County regulations Subchapter 3D .0104(a), .0531 (e)–(k), .0902 (a)–(h), .0907 (a)–(c), .0909 (a, c, d, e, and g), .0910 (a)–(d), .0911, .0950 (a and b), .0952 (a)–(c) and .0954 (f, h, k) adopted into the Air Quality Control Technical Code on November 13, 1995.

(B) Amendments to Forsyth County regulations Subchapter 3D .0501 (a)–(h), .0516 (a and b), .0518 (a)–(g), and .0530 (a)–(s), adopted into the Air Quality Control Technical Code on August 14, 1995.

(C) Subchapter 3D .0955, .0956, and .0957 adopted into the Air Quality Control Technical Code on August 14, 1995.

(ii) Other material. None.

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BILLING CODE 6560–50–P

40 CFR Part 52

[WA48–7121a; FRL–5506–3]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving in part, and disapproving in part, the Energy Facility Site Evaluation Council Regulations (EFSEC) as revisions to the Washington State Implementation Plan (SIP). These revisions were submitted to EPA by the Director of the Washington Department of Ecology (WDOE) on November 29, 1995 and in accordance with the requirements of Title I Section 110 and part D of the Clean Air Act (hereinafter referred to as the Act). EPA is taking no action on a number of the submitted provisions which are unrelated to the purposes of the implementation plan.

DATES: This action is effective on July 22, 1996 unless adverse or critical comments are received by June 24, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal

business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101; and, the State of Washington, Department of Ecology, 4550 Third Avenue SE, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Ed Jones, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–1743.

SUPPLEMENTARY INFORMATION

I. Background

The Energy Facility Site Evaluation Council (EFSEC) amended Chapter 463–39 of the Washington Administrative Code (WAC) on September 21, 1995. The Washington Department of Ecology (WDOE), on behalf of the Governor, submitted the amended regulations to EPA on November 29, 1995 as a revision to the Washington SIP. The amended regulations pertain to General and Operating Permit Regulations for Air Pollution Sources administered by EFSEC, and adopt by reference various other state regulations. Some of the regulations adopted by reference have been the subject of previous EPA actions on the SIP.

II. This Action

The state of Washington's November 29, 1995 request for SIP revision included fifteen regulations contained in Chapter 463–39 of the WAC. Certain of these regulations are amendments to those currently contained in the SIP; others are entirely new additions. As part of the submittal the state also requested that particular outdated WAC 463–39 regulations, currently in the approved SIP, be removed.

A. *Unchanged.* EPA approves two Chapter 463–39 regulations currently in the SIP, and unchanged by the November 29, 1995 revisions. These are WAC 463–39–135 and –170.

B. *Modifications.* EPA approves, with minor exception, the modification of five amended Chapter 463–39 regulations currently in the SIP. These are: WAC 463–39–010, –020, –030, –100, and –120. The language in three of these regulations—WAC 463–39–010 “Purpose,” 463–39–020 “Applicability,” and 463–39–100 “Registration”—has been modified only slightly over that used in versions currently in the SIP.

WAC 463–39–030 “Additional Definitions” has been modified to eliminate the listing of specific terms and their regulatory meanings. The modified regulation is brief and states that in addition to the definitions provided in WAC 173–400–030, 173–

401–200, and 173–406–101, “ecology” and “authority” shall be synonymous with EFSEC. WAC 173–400–030 has been previously approved for inclusion in the SIP, and EPA approves the use of these definitions for the purposes of defining terms in Chapter 463–39.

WAC 463–39–120 “Monitoring and Special Report” modifies language contained in the regulation so that: (a) Ecology may authorize a designee for operating its surveillance program; (b) the surveillance program must be in accord with Chapter 173–400 regulations; and, (c) subparts 2–7 of the previous regulation (concerning “investigation of conditions”, “source testing”, etc.) are removed. Although these six subparts are removed, however, they are substantively found in WAC 173–400–105 and –107, both of which are contained in the approved SIP, and adopted by reference in 463–39–005.

In approving the modifications noted above, it must be noted that reference to Chapter 173–401 is made in four of the amended regulations: WAC 463–39–020, –030, –100, and –120. Chapter 173–401 concerns Title V “Operating Permit Regulation” and regulations in this Chapter have not been included in the SIP. In addition, reference is made to: Chapter 173–406 “Acid Rain Regulation” in WAC 463–39–020, –030, and –120; and, Chapter 173–460 “Controls for New Sources of Toxic Air Pollutants” in WAC 463–39–020 and –120. These regulations are also not a part of the approved SIP. As a consequence, EPA is not taking action on the particular Chapter 173–401, 173–406, and 173–460 references embodied within the four regulations noted.

C. *Additions.* The state of Washington has requested that eight new Chapter 463–39 regulations be added to the SIP. These are: WAC 463–39–005, –070, –090, –095, –105, –115, –140, and –230.

New regulation WAC 463–39–005 “Adoption by Reference” adopts twenty-four of the state's Chapter 173–400 regulations. On June 2, 1995 EPA approved, disapproved, and took no action on various state regulations contained in Chapter 173–400, submitted by the state for the purpose of inclusion in the implementation plan (60 FR 28726). The rationale for EPA's decisions on these regulations is described in the February 22, 1995 Federal Register (60 FR 9802) proposing the rulemaking. Of the twenty-four Chapter 173–400 regulations referenced in WAC 463–39–005, thirteen are presently contained, in whole, in the approved SIP. These are: WAC 173–400–030 “Definitions,” –060 “Emission Standards for General Process Units,”

–081 “Startup and Shutdown,” –091 “Voluntary Limits on Emissions,” –105 “Records, Monitoring, and Reporting,” –107 “Excess Emissions,” –110 New Source Review,” –151 “Retrofit Requirements for Visibility Protection,” –161 Compliance Schedules,” –171 “Public Involvement,” –190 “Requirements for Nonattainment Areas,” –200 “Creditable Stack Height and Dispersion Techniques,” and –205 “Adjustment for Atmospheric Conditions.” Four others are contained in the SIP, but are qualified with exceptions (i.e., not all parts of the regulations are included within the implementation plan). These are: WAC 173–400–040, –050, –112, and –113. Five of the adopted 173–400 regulations are regulations disapproved from SIP inclusion in EPA’s June 2, 1995 action. These are: WAC 173–400–120 “Bubble Rules,” –131 “Issuance of Emission Reduction Credits,” –136 “Use of Emission Reduction Credits,” –141 “Prevention of Significant Deterioration,” and –180 “Variance.” Of the remainder, one regulation (WAC 173–400–114 “Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source”) was not previously submitted by the state for inclusion into the SIP, and the other (WAC 173–400–075 “Emission Standards for Pollutants Emitting Hazardous Air Pollutants”), though submitted, was not acted upon by EPA.

As noted above, four state regulations were previously only partially approved for inclusion into the SIP. Portions of WAC 173–400–040 “General Standards for Maximum Emissions,” adopted by reference in 463–39–005 to replace WAC 463–390–040, were excluded from the SIP. Specifically, provisions (1)(c) and (1)(d), exceptions to meeting the opacity standard; provision (2), regarding fallout of PM; provision (4), regarding odor generation; and, the second paragraph of provision (6), regarding SO₂, were all excluded. Similarly, WAC 463–39–050 “Minimum Emission Standards for Combustion and Incineration Sources” was replaced by reference to WAC 173–400–050 “Emission Standards for Combustion and Incineration Sources” (again, adopted in 463–39–005). The exception to the use of the oxygen correction factor in 173–400–050(3), however, was excluded from the SIP. Finally, section (8) of WAC 173–400–112 “Requirements for New Sources in Nonattainment Areas” and section (5) of 173–400–113 “Requirements for New Sources in Attainment or Unclassifiable Areas”

were also not approved by EPA for inclusion in the SIP.

In approving WAC 463–39–005, therefore, EPA notes the same exceptions noted in the previous rulemaking. That is, only those Chapter 173–400 regulations and portions of regulations, approved in earlier EPA actions which are adopted by reference within WAC 463–39–005, are hereby approved for the purposes of the implementation plan. As a consequence, WAC 173–400–075, –114, –120, –131, –136, –141, and –180 are disapproved, and 173–400–040, –050, –112, and –113 are only approved in part.

Besides referencing Chapter 173–400, regulation WAC 463–39–005 also adopts numerous Chapter 173–401, 173–406, and 173–460 regulations. As previously explained, none of these regulations is currently in the implementation plan. Since EPA has taken no action on these provisions, corresponding paragraphs (2), (3), and (4) of WAC 463–39–005 are not approved for inclusion in the implementation plan.

EPA approves with exception WAC 463–39–095 “Permit Issuance.” This provision requires that permits be attached to site certification agreements, and that permits become effective upon the governor’s approval and upon execution of the site certification agreement. In approving WAC 463–39–095 EPA excepts those references to WAC regulations not contained in the SIP. Specifically, WAC 463–39–095 refers to Permits issued in accord with Chapters 173–401, 173–406, and 173–460; EPA is not taking action on these particular references.

EPA also approves WAC 463–39–230 “Regulatory Actions” into the SIP. This regulation, though new, modifies and expands upon language contained in WAC 463–39–130 (which has subsequently been repealed), previously approved for inclusion in the SIP.

EPA is taking no action on new regulation WAC 463–39–070 “Radioactive Emissions.” This provision is not related to the criteria pollutants regulated under the SIP.

EPA is taking no action on new regulation WAC 463–39–105 “Fees.” The regulation asserts that fees shall be assessed to recover various operating-permit program costs. Since the focus of the provision is on Title V programs, its requirements are unrelated to the SIP.

EPA is also taking no action on WAC 463–39–090 “Permit Application Form” and –140 “Appeals Procedure.” The substantive requirements of both of these regulations depend on references to other state regulations which have not been included in the SIP. WAC 463–39–090 refers to Chapters 173–401 and

173–406; WAC 463–39–140 refers to WAC 463–54–070.

Finally, EPA is taking no action on WAC 463–39–115 “Standards of Performance for New Stationary Sources.” This provision implements provisions of section 111 of the Act and is unrelated to the SIP.

D. *Deletions.* EPA approves the deletion of seven repealed Chapter 463–39 regulations currently in the SIP. These are: WAC 463–39–040, –050, –060, –080, –110, –130, and –150. Five of these regulations have been replaced by similar Chapter 173–400 regulations, adopted by reference in WAC 463–39–005, and approved (at least in part) for inclusion into the SIP. Specifically, WAC 463–39–040 “General Standards for Maximum Permissible Emissions” has been superseded by WAC 173–400–040 “General Standards for Maximum Emissions,” WAC 463–39–050 “Maximum Emission Standards for Combustion and Incineration Sources” by WAC 173–400–050 “Emission Standards for Combustion and Incineration Units,” WAC 463–39–060 “Maximum Emission Standards for General Process Sources” by WAC 173–400–060 “Emission Standards for General Process Units,” WAC 463–39–080 “Compliance Schedules” by WAC 173–400–161 of the same name, and WAC 463–39–110 “New Source Review” by WAC 173–400–110 of the same name.

WAC 463–39–150 “Variance” has been replaced by reference to WAC 173–400–180 (of the same name), but the latter was previously disapproved for inclusion into the SIP in EPA’s June 2, 1995 action (60 FR 28726). WAC 463–39–130 “Regulatory Actions,” as noted above, has been replaced by WAC 463–39–230 of the same name.

In summary, then, EPA approves without exception the inclusion of the following Chapter 463–39 regulations into the SIP: amended –010, new –230, –135, and –170. The latter two regulations have been approved previously, have not been modified, and will remain in the implementation plan. EPA approves the inclusion of new WAC 463–39–005(1) with the exception of those Chapter 173–400 regulations, or portions of regulations, adopted by reference in –005(1) which themselves are not contained in the SIP. EPA also approves the inclusion of amended WAC 463–39–020, amended –030, new –095, amended –100, and amended –120 with the exception of requirements within those six regulations which refer to other Chapter 173 or 463 state regulations not contained in the SIP.

Certain repealed Chapter 463–39 regulations will, as part of this action,

be removed from the SIP. These are: WAC 463-39-040, -050, -060, -080, -110, -130, and -150. EPA is taking no action on new WAC 463-39-005(2)-(4), new -070, new -090, new -105, -115, and new -140.

III. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements

under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 22, 1996 unless, by June 24, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 22, 1996.

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 July 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: May 6, 1996.

Jane S. Moore,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(60) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(60) On November 29, 1995 the Director of WDOE submitted to the Regional Administrator of EPA the Energy Facility Site Evaluation Council Regulations (EFSEC) as a revision to the Washington State Implementation Plan (SIP).

(i) Incorporation by reference.

(A) The November 29, 1995 letter from WDOE to EPA submitting requests for revisions to the Washington SIP to include the Energy Facility Site Evaluation Council Regulations; EFSEC Regulation Chapter 463-39 Washington Administrative Code General and Operating Permit Regulations for Air Pollution Sources, (excluding the following sections: 005 (2) through (4); -070; -090; -105; -115; -140; those portions of -005(1), -020, -030, -095, -100, and -120 containing any reference to regulations or provisions of regulations in Chapters 173-400, 173-

401, 173–406, 173–460, or 463–58a) adopted on November 16, 1995.

[FR Doc. 96–12892 Filed 5–22–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5508–3]

Tennessee; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revisions consist of the provisions contained in certain rules promulgated between February 21, 1991, and September 30, 1992, which fall within RCRA Clusters I–III. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Tennessee's application and has made a decision, subject to public review and comment, that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Tennessee's hazardous waste program revisions. Tennessee's application for program revisions is available for public review and comment.

DATES: Final authorization for Tennessee's program revisions shall be effective July 22, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Tennessee's program revision application must be received by the close of business, June 24, 1996.

ADDRESSES: Copies of Tennessee's program revision application are available during normal business hours at the following addresses for inspection and copying: Tennessee Department of

Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; U.S. EPA Region 4, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–3555 vmx 2018.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–268 and 124 and 270.

B. Tennessee

Tennessee initially received final authorization for its base RCRA program effective on February 8, 1985. Tennessee

has received authorization for revisions to its program on August 11, 1987, October 1, 1991, November 6, 1991, July 31, 1992, and July 7, 1995. On December 5, 1994, Tennessee submitted a program revision application for additional approvals. Today, Tennessee is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Tennessee's application and has made an immediate final decision that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Tennessee. The public may submit written comments on EPA's immediate final decision up until June 24, 1996.

Copies of Tennessee's application for these program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Tennessee's program revisions shall become effective July 22, 1996, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Tennessee is today seeking authority to administer the following Federal requirements promulgated on February 21, 1991, through September 30, 1992.

| Checklist | Federal requirement | FR Reference | FR Promulgation date | State authority |
|-----------|--|--------------|----------------------|---|
| 85 | Burning of Hazardous Waste in Boilers and Industrial Furnaces. | 56 FR 7134 | 2/21/91 | TCA 68–212–104(7); TCA 68–212–106(a)(1); TCA 68–212–107(a), (d)(1), (3)&(4); TRC 1200–1–11–.01(2)(a)&(b)1; .02(1)(b); .02(1)(d)1(x); .02(1)(d)3(ii)(I–IV); .02(1)(f); .06(7)(a); .06(15)(a); .05(7)(a); .05(15)(a); .09(1)(a); .07(5)(b); .07(9)(c)5; .07(10)(a); .07(1)(j); .07(3)(a). |