

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of the categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule falls under the provisions of paragraph (34)(g) because the rule establishes a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–079 to read as follows:

#### § 165.T01–079 Safety Zone: Foundation Amistad Fireworks, East Hampton, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Three Mile Harbor off of East Hampton, NY within an 800-foot radius of the fireworks barge located in approximate position 41°1'5" N, 072°11'55" W.

(b) *Definitions.* The following definitions apply to this section:

*Designated on-scene patrol personnel,* means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels in the enforcement of this safety zone.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound or his designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10:30 p.m. on Saturday, July 14, 2007 and if the fireworks display is postponed, from 8:30 p.m. to 10:30 p.m. on Sunday, July 15, 2007.

Dated: June 15, 2007.

**D.A. Ronan,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. E7–12289 Filed 6–25–07; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2007–0110; FRL–8330–9]

### Approval and Promulgation of Implementation Plans; Idaho and Washington; Interstate Transport of Pollution

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the actions of the Idaho Department of Environmental Quality (IDEQ) and the Washington State Department of Ecology (Ecology) to address the provisions of Clean Air Act section 110(a)(2)(D)(i) for the 8-hour ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). These provisions require each state to submit a State Implementation Plan (SIP) revision that prohibits emissions that adversely affect another state's air quality through

interstate transport. IDEQ and Ecology have each adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants for their states. These include prohibiting emissions that contribute significantly to nonattainment of the NAAQS in another state, interfere with maintenance of the NAAQS by another state, interfere with plans in another state to prevent significant deterioration of air quality, or interfere with efforts of another state to protect visibility.

**DATES:** This direct final rule will be effective August 27, 2007, without further notice, unless EPA receives adverse comment by July 26, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2007-0110, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Mail*: Dana Warn, Office of Air, Waste and Toxics, AWT-107, EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.

3. *Hand Delivery or Courier*: EPA, Region 10 Mail Room, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Attention: Dana Warn, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2007-0110. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure 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 in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Dana Warn at telephone number: (206) 553-6390 or Donna Deneen at (206) 553-6706, e-mail address: *deneen.donna@epa.gov*, fax number: (206) 553-0110, or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. Information is organized as follows:

#### Table of Contents

- I. Background of Submittal
- II. How Idaho's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)
- III. How Washington's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)
- IV. Statutory and Executive Order Reviews

#### I. Background of Submittal

EPA is approving IDEQ's and Ecology's SIP revisions to address the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i). This CAA section requires each state to submit a SIP that prohibits emissions that could adversely affect another state, addressing four key elements. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state, (2) interfere with maintenance of the NAAQS by

another state, (3) interfere with plans in another state to prevent significant deterioration of air quality, or (4) interfere with efforts of another state to protect visibility.

EPA issued guidance on August 15, 2006, entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards," relating to SIP submissions to meet the requirements of CAA section 110(a)(2)(D)(i). As discussed below, Idaho's and Washington's analyses of their respective SIPs with respect to the statutory requirements of CAA section 110(a)(2)(D)(i) are consistent with the guidance. The discussion below covers how Idaho and Washington have addressed the four key requirements of CAA section 110(a)(2)(D)(i).

#### II. How Idaho's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)

IDEQ addressed the first two elements of CAA section 110(a)(2)(D)(i) by submitting a technical demonstration supporting the conclusion that emissions from Idaho do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone and PM<sub>2.5</sub> NAAQS in another state. IDEQ relied on analysis by EPA that determined that it was reasonable to exclude the western United States, including Idaho, from the Clean Air Interstate Rule (CAIR), 70 FR 25162 (May 12, 2005). In the proposal for CAIR, EPA determined that because of geographical, meteorological, and topological factors, PM<sub>2.5</sub> and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across these state's boundaries. See 69 FR 4566, 4581 (January 30, 2004).

IDEQ also relied on information on the nearest nonattainment areas. For PM<sub>2.5</sub>, the closest nonattainment area is 25 miles away in Libby, Montana. 70 FR 944, 986 (January 5, 2005). IDEQ noted that the Technical Support Document (TSD) for the PM<sub>2.5</sub> designation of the Libby area contains a description of the nonattainment area and sources. The Libby TSD states that PM<sub>2.5</sub> levels in the Libby, Montana area are localized due to topography and meteorological factors.

For ozone, the closest nonattainment area to Idaho is Las Vegas, Nevada. Las Vegas is over 400 miles away. See 69 FR 23858, 23919 (April 30, 2004). IDEQ noted that the supporting documentation for the designation of this nonattainment area demonstrates

that the Las Vegas, Nevada area is geologically and topologically separate from surrounding areas. Based on this and other information provided by IDEQ in its SIP submittal, EPA believes the state has sufficiently demonstrated that emissions from Idaho do not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state. Additional supporting information can be found in IDEQ's submittal included in the docket.

The third element IDEQ addressed is prevention of significant deterioration (PSD). For 8-hour ozone, the state has met the obligation by confirming that major sources in the state are currently subject to PSD programs that implement the 8-hour ozone standard and that the state is working on adopting any relevant requirements of the Phase II ozone implementation rule. For PM<sub>2.5</sub>, IDEQ confirmed that the state's PSD program is being implemented in accordance with EPA's interim guidance calling for the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> for the purposes of PSD review.

The fourth element IDEQ addressed is protection of visibility. EPA's regional haze regulations, 64 FR 35714 (July 1, 1999), require states to submit regional haze SIPs to EPA by December 17, 2007. Since Idaho has not yet completed or submitted its regional haze SIP, it is not possible at this time for the State of Idaho to determine whether Idaho interferes with measures to protect visibility in the applicable SIP of another state.

### III. How Washington's Submittal Addresses the Provisions of Clean Air Act Section 110(a)(2)(D)(i)

Ecology addressed the first two elements of CAA section 110(a)(2)(D)(i) by submitting a technical demonstration supporting the conclusion that emissions from Washington do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone and PM<sub>2.5</sub> NAAQS in another state. Ecology relied on analysis by EPA that determined that it was reasonable to exclude the western United States, including Washington, from CAIR. As discussed in the proposal for CAIR, EPA determined that because of geographical, meteorological, and topological factors, PM<sub>2.5</sub> and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across these State's boundaries. See 69 FR at 4581.

Ecology also relied on information on the nearest nonattainment areas. For PM<sub>2.5</sub>, the closest nonattainment area is

Libby, Montana. 70 FR at 986. Libby is over 150 miles away from Spokane, the nearest major city in Washington. Ecology noted that the TSD for the PM<sub>2.5</sub> designation of the Libby area contains a description of the nonattainment area and sources. The Libby TSD states that PM<sub>2.5</sub> levels in the Libby, Montana area are localized due to topography and meteorological factors.

For ozone, the closest nonattainment area to Washington is the San Francisco Bay area in California. See 69 FR at 23887. San Francisco is over 600 miles away from Vancouver, the closest major urban area in Washington. Ecology noted that the supporting documentation for the designation of the San Francisco Bay nonattainment area contains information showing that the San Francisco airshed is separate from areas to the north.

Ecology also discussed the Portland-Vancouver Interstate Ozone area. The Portland-Vancouver Interstate Ozone area comprises Portland, Oregon and Vancouver, Washington. The area was a maintenance area for the 1-hour ozone standard. It has been meeting the 8-hour ozone NAAQS since the standard was promulgated in 1997. Ecology explains that the Southwest Clean Air Agency (SWCAA), the local CAA planning agency for the Vancouver area, and the Oregon Department of Environmental Quality (ODEQ) worked together on modeling that demonstrates that the Portland-Vancouver area will continue to attain the 8-hour ozone NAAQS through 2015. Both SWCAA and Oregon have developed 110(a)(1) maintenance plans for the 8-hour ozone NAAQS based on the modeling to meet EPA implementation requirements. The modeling also demonstrates as part of the 110 (a)(1) plan that the Salem-Keizer area to the south of Portland will continue to maintain the 8-hour ozone NAAQS through 2015. Ecology notes that both Washington and Oregon will submit the plans to EPA for approval this year. The draft plans are available on the SWCAA and ODEQ websites.

Based on this and other information provided by Washington in its SIP submittal, EPA believes the state has sufficiently demonstrated that emissions from Washington do not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state. Additional supporting information can be found in the state's SIP submittal included in the docket.

The third element Ecology addressed is PSD. For 8-hour ozone, the state has met the obligation by confirming that major sources in the state are currently subject to PSD programs that implement the 8-hour ozone standard and that the

state is working on adopting any relevant requirements of the Phase II ozone implementation rule. For PM<sub>2.5</sub>, Ecology confirmed that the state's PSD program is being implemented in accordance with EPA's interim guidance calling for the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> for the purposes of PSD review.

The fourth element Ecology addressed is protection of visibility. EPA's regional haze regulations require states to submit regional haze SIPs to EPA by December 17, 2007. Since Washington has not yet completed or submitted its regional haze SIP, it is not possible at this time for the State of Washington to determine whether Washington interferes with measures to protect visibility in the applicable SIP of another state.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This action also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 August 27, 2007. 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).)

#### List of Subjects in 40 CFR Part 52

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

Dated: June 14, 2007.

**Michael F. Gearheard,**

*Acting Regional Administrator, Region 10.*

■ 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 *et seq.*

#### Subpart N—Idaho

■ 2. In § 52.670(e) the table is amended by adding an entry at the end of the table to read as follows:

#### § 52.670 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*

#### EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
CAA 110(a)(2)(D)(i) SIP—Interstate Transport.	Statewide .....	1/30/07	6/26/07, [insert FR page number where the document begins].	

#### Subpart WW—Washington

■ 3. Section 52.2470 is amended by adding paragraph (c)(89) to read as follows:

#### § 52.2470 Identification of plan.

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(c) \* \* \*

(89) On January 17, 2007, the Washington State Department of Ecology submitted a SIP revision to meet the requirements of Clean Air Act section 110(a)(2)(D)(i). EPA is approving this submittal.

[FR Doc. E7-12234 Filed 6-25-07; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R07-OAR-2007-0457; FRL-8330-7]

#### Approval and Promulgation of Implementation Plans; State of Iowa

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Iowa State Implementation Plan (SIP). The purpose of this revision is to update the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. These revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the

applicable local agency rules and Federally-approved rules.

**DATES:** This direct final rule will be effective August 27, 2007, without further notice, unless EPA receives adverse comment by July 26, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-0457, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901