

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
March 25, 2004	February 8, 2005	CSR 38–2–3.12.a.1; 7.6 (except the word “excessive” at 7.6.e.1); 7.7 (except the word “excessive” at 7.7.e.1); 9.3.g; 14.15.a.1; 14.15.g; 20.1.a.6; 22.5.a; 23 (deleted); and 24. Reduced Inspection Frequency Policy dated November 3, 2004.

■ 4. Section 948.16 is amended by removing and reserving paragraph (oooo).

[FR Doc. 05–2411 Filed 2–7–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA–04–006; FRL–7866–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington; Yakima PM–10 Nonattainment Area Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve the Limited Maintenance Plan (LMP) for Yakima PM–10 nonattainment area (Yakima NAA) in the State of Washington and grant a request by the State to redesignate the Yakima NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). In a concurrent notice of final rulemaking published today, EPA is correcting the boundary of the Yakima NAA to exclude a small portion that lies within the exterior boundary of the Yakama Indian Reservation. The State Implementation Plan (SIP) that we are approving with this action does not extend to lands which are within the boundaries of the Yakama Indian Reservation.

EFFECTIVE DATE: This rule is effective March 10, 2005.

ADDRESSES: Copies of the State’s request and other supporting information used in developing this action are available for inspection during normal business hours at the following locations: EPA, Office of Air, Waste and Toxics (OAWT–107), 1200 Sixth Avenue,

Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino, Office of Air Quality (OAWT–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–2970.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we,” “us” or “our” is used, we mean EPA. Information is organized as follows:

Table of Contents

- I. Background
- II. Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

Under the authority of the Federal Clean Air Act (Clean Air Act or the Act) EPA is taking final action to approve the Limited Maintenance Plan (LMP) for the Yakima County PM–10 Nonattainment Area (Yakima NAA) in the State of Washington and to redesignate the area to attainment for PM–10. The action to redesignate the Yakima NAA to attainment is based on valid monitoring data and analysis of ambient air quality made in the demonstration that accompanies the LMP. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS or standards) for PM–10 for at least 10 years beyond this redesignation, as required by the Act. In addition, EPA believes that the area will continue to meet the Limited Maintenance Plan design value criteria outlined in the LMP policy¹. A detailed description of our proposed action to approve the Yakima NAA LMP and redesignation request was published in a proposed rulemaking in the **Federal Register** on November 29, 2004. See 69 FR 69342.

¹ August 9, 2001 memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled “Limited Maintenance Plan Option for Moderate PM–10 Nonattainment Areas.”

II. Public Comments

EPA provided a 30-day review and comment period and solicited comments on our proposal published in the November 29, 2004, **Federal Register**. See 69 FR 69342. No comments were received for the proposed rulemaking. EPA is now taking final action on the SIP revision consistent with the published proposal.

III. Final Action

EPA is taking final action to approve the Yakima County PM–10 Limited Maintenance Plan and to redesignate the Yakima County nonattainment area to attainment for PM–10. Washington has demonstrated compliance with the requirements of section 107(d)(3)(E) based on information provided by the Washington Department of Ecology and contained in the Washington SIP and Yakima NAA PM–10 Limited Maintenance Plan.

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 rule 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 rule 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 rule 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 Clean Air Act. This rule 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 rule 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 March 10, 2005. 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 21, 2005.

Ronald A. Kreizenbeck,
Acting Regional Administrator, Region 10.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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 WW—Washington

■ 2. In § 52.2475 is amended by adding paragraph (e) to read as follows:

§ 52.2475 Approval of plans.

(e) Particulate matter.

(1) Yakima.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Yakima County PM-10 Nonattainment Area Limited Maintenance Plan adopted by the Yakima Regional Clean Air Authority on June 9, 2004, and adopted and submitted by the Washington Department of Ecology on July 8, 2004.

(ii) [Reserved]

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PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.348, the table entitled "Washington —PM-10" is amended by revising the entry for "Yakima County" to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON—PM-10

Designated area	Designation		Classification	
	Date	Type	Date	Type
Yakima County The area bounded on the south by a line from UTM coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN, excluding the area within the exterior boundary of the Yakama Indian Reservation.	March 10, 2005	Attainment.		

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[FR Doc. 05-1995 Filed 2-7-05; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR PART 0**

[DA 05-43]

Freedom of Information Act**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's rules that implement the Freedom of Information Act (FOIA) Fee Schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

DATES: Effective February 8, 2005.**FOR FURTHER INFORMATION CONTACT:**

Shoko B. Hair, Freedom of Information Act Officer, Office of Performance Evaluation and Records Management, Room 1-A827, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418-1379 or via Internet at shoko.hair@fcc.gov.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the FOIA. The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA Fee Schedule on the grade level of the employee who processes the request. Thus, the Fee Schedule was computed at a Step 5 of each grade level based on the General Schedule effective January 1987 (including 20 percent for personnel benefits). The Commission's rules provide that the Fee Schedule will be modified periodically to correspond

with modifications in the rate of pay approved by Congress. See 47 CFR 0.467(a)(1) note.

In an Order adopted on January 14, 2005 and released on January 24, 2005 (DA 05-43), the Managing Director revised the schedule of fees set forth in 47 CFR 0.467 for the recovery of the full, allowable direct costs of searching for and reviewing agency records requested pursuant to the FOIA and the Commission's rules, 47 CFR 0.460, 0.461. The revisions correspond to modifications in the rate of pay, which was approved by Congress.

These modifications to the Fee Schedule do not require notice and comment because they merely update the Fee Schedule to correspond to modifications in rates of pay, as required under the current rules. The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the rules are a matter of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

Accordingly, pursuant to the authority contained in § 0.231(b) of the Commission's rules, 47 CFR 0.231 (b), *it is hereby ordered*, that, effective on February 8, 2005, the Fee Schedule contained in § 0.467 of the Commission's rules, 47 CFR 0.467, is amended, as described herein.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

Andrew S. Fishel,
Managing Director.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 155, unless otherwise noted.

■ 2. Section 0.467 is amended by revising the last sentence of paragraph (a)(1), the table in paragraph (a)(1) and its note, and paragraph (a)(2) to read as follows:

§ 0.467 Search and review fees.

(a)(1) * * * The fee is based on the grade level of the employee(s) who conduct(s) the search or review, as specified in the following schedule:

Grade	Hourly fee
GS-1	12.10
GS-2	13.18
GS-3	14.84
GS-4	16.67
GS-5	18.65
GS-6	20.78
GS-7	23.10
GS-8	25.58
GS-9	28.26
GS-10	31.12
GS-11	34.19
GS-12	40.98
GS-13	48.73
GS-14	57.59
GS-15	67.74

Note: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a) (1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 2005 and include 20 percent for personnel benefits.

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[FR Doc. 05-2426 Filed 2-7-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 76**

[MB Docket No. 05-28; DA 05-169]

Inquiry Regarding the Impact of Certain Rules on Competition in the Multichannel Video Programming Distribution Market**AGENCY:** Federal Communications Commission.**ACTION:** Review of rules and statutory provisions; solicitation of comments.

SUMMARY: This document solicits public comment on the impact of certain provisions of the Communications Act of 1934, as amended, and Commission rules on competition in the multichannel video programming distribution market. The Commission is required by legislative mandate to submit a report to Congress based on the results of this inquiry no later than September 8, 2005.

DATES: Comments may be filed on or before March 1, 2005, and reply comments may be filed on or before March 16, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Media Bureau,