

TABLE 52.620.—EPA APPROVED STATE OF HAWAII REGULATIONS—Continued

State citation	Title/subject	Effective date	EPA approval date	Explanation
11-60-10	Permit system, reporting discontinuance or dismantlement.	11/29/1982	08/18/1983	48 FR 37403
11-60-11	Permit system, posting of permit to operate ..	11/29/1982	08/18/1983	48 FR 37403
11-60-12	Permit system, fees .....	11/29/1982	08/18/1983	48 FR 37403
11-60-13	Permit system, fee schedule for a permit to operate.	11/29/1982	08/18/1983	48 FR 37403
11-60-14	Permit system, period of permit .....	11/29/1982	08/18/1983	48 FR 37403
11-60-15	Sampling, testing, and reporting methods .....	11/29/1982	08/18/1983	48 FR 37403
11-60-16	Malfunction of equipment testing .....	11/29/1982	08/18/1983	48 FR 37403
11-60-17	Prohibition of air pollution .....	11/29/1982	08/18/1983	48 FR 37403
11-60-18	Control of open burning .....	11/29/1982	08/18/1983	48 FR 37403
11-60-19	Agricultural burning, permit requirement .....	11/29/1982	08/18/1983	48 FR 37403
11-60-20	Agricultural burning, applications .....	11/29/1982	08/18/1983	48 FR 37403
11-60-21	Agricultural burning, "No burn" days .....	11/29/1982	08/18/1983	48 FR 37403
11-60-22	Agricultural burning, recordkeeping and monitoring.	11/29/1982	08/18/1983	48 FR 37403
11-60-23	Agricultural burning, action on application .....	11/29/1982	08/18/1983	48 FR 37403
11-60-24	Visible emissions .....	11/29/1982	08/18/1983	48 FR 37403
11-60-25	Control of motor vehicles .....	11/29/1982	08/18/1983	48 FR 37403
11-60-26	Fugitive dust .....	11/29/1982	08/18/1983	48 FR 37403
11-60-27	Incineration .....	11/29/1982	08/18/1983	48 FR 37403
11-60-28	Bagasse-burn vehicles .....	11/29/1982	08/18/1983	48 FR 37403
11-60-29	Process industries .....	11/29/1982	08/18/1983	48 FR 37403
11-60-35	Prevention of air pollution emergency episodes.	11/29/1982	08/18/1983	48 FR 37403
11-60-37	Penalties and remedies .....	11/29/1982	08/18/1983	48 FR 37403
11-60-38	Severability .....	11/29/1982	08/18/1983	48 FR 37403

(d) EPA approved State source specific requirements.

Name of source	Permit No.	Effective date	EPA approval date	Explanation
None.				

(e) [Reserved].

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BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R10-OAR-2005-0004; FRL-7944-4]

**Approval and Promulgation of Implementation Plans; Washington**

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

**ACTION:** Final rule.

**SUMMARY:** In this action, EPA is approving revisions to the State of Washington Implementation Plan (SIP). The Director of the Washington State Department of Ecology (Ecology) submitted a request to EPA dated March 1, 2004 to revise the Washington SIP to include revisions to WAC Ch. 173-434, Solid Waste Incinerator Facilities. The revisions were submitted in accordance

with the requirements of section 110 of the Clean Air Act (hereinafter "the Act"). EPA is approving the revisions to WAC Ch. 173-434 as part of the SIP, with the exception of two submitted rule provisions which are inappropriate for EPA approval because they are unrelated to the purposes of the implementation plan.

**DATES:** The final rule is effective on September 6, 2005.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. R10-OAR-2005-0004. Some information is not publicly available (i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute). Publicly available docket materials are available either electronically in EDOCKET or in hard copy at EPA, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101, from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The Docket telephone number is (206) 553-4273.

**FOR FURTHER INFORMATION CONTACT:** Roylene A. Cunningham, EPA, Office of Air, Waste, and Toxics (AWT-107), Seattle, Washington 98101, (206) 553-0513, or e-mail address: [cunningham.roylene@epa.gov](mailto:cunningham.roylene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background
- II. Public Comments on the Proposed Action
- III. Final Action
- IV. Geographic Scope of SIP Approval
- V. Statutory and Executive Order Reviews

**I. Background**

On May 20, 2005, EPA solicited public comment on a proposal to approve for inclusion in the Washington SIP revisions to WAC Ch. 173-434, Solid Waste Incinerator Facilities. These changes became effective as a matter of State law on January 22, 2004. EPA last approved WAC Ch. 173-434 into the SIP on January 15, 1993 (58 FR 4578). A detailed description of our action was published in the **Federal Register** on May 20, 2005. The reader is referred to

the proposed rulemaking (70 FR 29239, May 20, 2005) for details.

## II. Public Comments on the Proposed Action

EPA provided a 30-day review and comment period and solicited comments on our May 20, 2005 proposal. EPA received a comment from one commenter stating that they support the proposed exclusion of tires and non-hazardous waste oil burned in cement kilns from the definition of solid waste.

## III. Final Action

EPA is taking final action to approve as part of the Washington SIP the following new and revised sections of WAC Ch. 173-434, Solid Waste Incinerator Facilities submitted by Ecology on March 1, 2004:

WAC 173-434-020, Applicability and Compliance; -030, Definitions; -110, Standards of Performance [except (1)(a)]; -130, Emission Standards [except (2)]; -160, Design and Operation; -170, Monitoring and Reporting; -190, Changes in Operation; and -200, Emission Inventory, State effective January 22, 2004.

EPA is not approving in this rulemaking certain provisions, which EPA believes are inconsistent with the requirements of the Act or not appropriate for inclusion in a SIP under section 110 of the Act:

WAC 173-434-110(1)(a), *Standards of Performance*. This subsection contains emission standards for cadmium, mercury, hydrogen chloride, and dioxin/furans. These types of provisions are inappropriate for SIP approval because they are not related to the criteria pollutants regulated under section 110 of the Act.

WAC 173-434-130(2), *Emission Standards*. This section contains emission standards for hydrogen chloride. These types of provisions are inappropriate for SIP approval because they are not related to the criteria pollutants regulated under section 110 of the Act.

Finally, EPA is removing the following provisions from the SIP because they have been previously repealed by the State:

WAC 173-434-050, New Source Review (NSR); -070, Prevention of Significant Deterioration (PSD); and -100, Requirement of BACT, State effective October 18, 1990.

## IV. Geographic Scope of SIP Approval

This SIP approval does not extend to sources or activities located in Indian Country, as defined in 18 U.S.C. 1151. Consistent with previous Federal program approvals or delegations, EPA

will continue to implement the Act in Indian Country in Washington because Ecology did not adequately demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas of Indian Country. The one exception is 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. Therefore, EPA's SIP approval applies to sources and activities on non-trust lands within the 1873 Survey Area.

## V. 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. section 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. section 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 October 3, 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 in 40 CFR Part 52**

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

Dated: July 15, 2005.

**Julie M. Hagensen,**

*Acting Regional Administrator, Region 10.*

■ 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 *et seq.*

**Subpart WW—Washington**

■ 2. Section 52.2470 is amended by adding paragraph (c)(88) to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(88) On March 1, 2004, the Washington State Department of Ecology submitted amendments to WAC Ch. 173–434, Solid Waste Incinerator Facilities, as revisions to the Washington State implementation plan.

(i) Incorporation by reference.

(A) The following new and revised sections of WAC Ch. 173–434, Solid Waste Incinerator Facilities: WAC 173–434–020, Applicability and Compliance; –030, Definitions; –110, Standards of

Performance [except (1)(a)]; –130, Emission Standards [except (2)]; –160, Design and Operation; –170, Monitoring and Reporting; –190, Changes in Operation; and –200, Emission Inventory, State effective January 22, 2004.

(B) Remove the following provisions from the current incorporation by reference: WAC 173–434–050, New Source Review (NSR); –070, Prevention of Significant Deterioration (PSD); and –100, Requirement of BACT, State effective October 18, 1990.

■ 3. Section 2.2.434 of § 52.2479 is revised to read as follows:

**§ 52.2479 Contents of the federally approved, State submitted implementation plan.**

\* \* \* \* \*

WASHINGTON STATE IMPLEMENTATION PLAN FOR AIR QUALITY; STATE AND LOCAL REQUIREMENTS

[Table of Contents]

*	*	*	*	*	*	*	*
2.2.434	WAC 173–434	Solid Waste Incinerator Facilities					
	173–434–010	Purpose [10/18/90]					
	173–434–020	Applicability and Compliance [1/22/04]					
	173–434–030	Definitions [1/22/04]					
	173–434–090	Operation and Maintenance Plan [10/18/90]					
	173–434–110	Standards of Performance, except (1)(a) [1/22/04]					
	173–434–130	Emission Standards, except (2) [1/22/04]					
	173–434–160	Design and Operation [1/22/04]					
	173–434–170	Monitoring and Reporting [1/22/04]					
	173–434–190	Changes in Operation [1/22/04]					
	173–434–200	Emission Inventory [1/22/04]					
	173–434–210	Special Studies [10/18/90]					
*	*	*	*	*	*	*	*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2005–0208; FRL–7727–5]

**Tebuconazole; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of tebuconazole in or on soybeans; poultry, meat; poultry, fat; poultry, meat byproducts; hog, meat; hog, fat; hog, meat byproducts; and eggs. This action is in conjunction with EPA’s granting of an emergency exemption under section

18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on soybeans. This regulation establishes maximum permissible levels for residues of tebuconazole in or on these food commodities. The tolerances will expire and are revoked on December 31, 2009.

**DATES:** This regulation is effective August 4, 2005. Objections and requests for hearings must be received on or before October 3, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under docket identification (ID) number OPP–2005–0208. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. 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 EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: