

explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the proposal and will not restated here. The public comment period for the proposal ended on April 11, 2016. The EPA received no comments.

II. Final Action

The EPA is approving Oregon's October 20, 2015 submittal as meeting the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2008 Pb and 2010 NO₂ NAAQS. The remainder of the submittal, with respect to the 2010 sulfur dioxide and 2012 fine particulate matter NAAQS, will be addressed in separate, future actions.

III. Statutory and Executive Orders 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 (Pub. L. 104-4);
- 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 this action does not involve 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).

In addition, the SIP is not approved to apply on any Indian reservation land or 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 July 15, 2016. 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Reporting and recordkeeping requirements.

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

Dated: May 4, 2016.

Dennis J. McLerran,
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 MM—Oregon

- 2. Section 52.1991 is amended by adding paragraph (e) to read as follows:

§ 52.1991 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) The EPA approves Oregon's October 20, 2015 submittal as meeting the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 lead and 2010 nitrogen dioxide NAAQS.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2012-0360; FRL-9946-32-OAR]

RIN 2060-AR47

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations: Action Denying a Petition for Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of action denying a petition for reconsideration.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for reconsideration of a final rule published in the **Federal Register** on March 18, 2015. The rule promulgated amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP): Off-Site Waste and Recovery Operations (OSWRO) based on our residual risk and technology review (RTR) conducted for the OSWRO source category. The agency previously granted reconsideration of one issue raised in the petition. The Administrator denied the second issue raised in the petition in letters to the petitioners dated May 5, 2016.

DATES: May 16, 2016.

FOR FURTHER INFORMATION CONTACT: Emily Seidman, U.S. EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone (202) 564-0906; email at seidman.emily@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How can I get copies of this document and other related information?

This **Federal Register** document, the petition for reconsideration, and the letters granting and denying the petition for reconsideration are available in the docket the EPA established for the OSWRO NESHAP under Docket ID No. EPA-HQ-OAR-2012-0360. The document identification number for the petition for reconsideration is EPA-HQ-OAR-2012-0360-0128. The document identification numbers for the EPA's response letters are EPA-HQ-OAR-2012-0360-0122 and EPA-HQ-OAR-2012-0360-0123.

All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 through <http://www.regulations.gov> or in hard copy at the EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Air Docket is (202) 566-1742.

This **Federal Register** document, the petition for reconsideration, and the letters granting and denying the petition can also be found on EPA's Web site at <http://www.epa.gov/ttn/atw/offwaste/oswrog.html>. The amended OSWRO NESHAP was published in the **Federal Register** on March 15, 2015, at 80 FR 14248.

II. Judicial Review

Section 307(b)(1) of the Clean Air Act (CAA) indicates which Federal Courts of Appeals have venue for petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the Court of Appeals for the District of Columbia

Circuit if: (i) The agency action consists of "nationally applicable regulations promulgated, or final action taken, by the Administrator," or (ii) such actions are locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

The EPA has determined that its denial of the petition for reconsideration is nationally applicable for purposes of CAA section 307(b)(1) because the actions directly affect the OSWRO NESHAP, which is a nationally applicable regulation. Thus, any petitions for review of the EPA's decision denying the petitioners' request for reconsideration must be filed in the United States Court of Appeals for the District of Columbia Circuit by July 15, 2016.

III. Description of Action

On March 18, 2015, the EPA promulgated a final rule amending the OSWRO NESHAP based on the RTR conducted for the OSWRO source category. 80 FR 14248, March 18, 2015. The EPA amended the OSWRO NESHAP to revise provisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance testing; to add monitoring requirements for pressure relief devices (PRDs); to revise routine maintenance provisions; to clarify provisions for open-ended valves and lines and for some performance test methods and procedures; and to make several minor clarifications and corrections. Subsequent to publishing the final rule, the EPA received a petition for reconsideration submitted jointly by Eastman Chemical Company and the American Chemical Council (dated May 18, 2015). This petition sought reconsideration of two of the amended provisions of the OSWRO NESHAP: (1) The equipment leak provisions for connectors, and (2) the requirement to monitor PRDs on portable containers. The EPA considered the petition and supporting information along with information contained in the OSWRO NESHAP amendment rulemaking docket (Docket ID No. EPA-HQ-OAR-2012-0360) in reaching a decision on the petition. The Agency granted reconsideration of the PRD monitoring requirement in a letter to the petitioners dated February 8, 2016. In separate letters to the petitioners dated May 5, 2016, the Administrator denied reconsideration of the equipment leak provisions for connectors and explained

the reasons for the denial in these letters. These letters are available in the OSWRO NESHAP amendment rulemaking docket.

Dated: May 5, 2016.

Gina McCarthy,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 123, 131, 233 and 501

[EPA-HQ-OW-2014-0461; FRL-9946-33-OW]

Revised Interpretation of Clean Water Act Tribal Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interpretive rule.

SUMMARY: Section 518 of the Clean Water Act (CWA), enacted as part of the 1987 amendments to the statute, authorizes EPA to treat eligible Indian tribes with reservations in a manner similar to states (TAS) for a variety of purposes, including administering each of the principal CWA regulatory programs and receiving grants under several CWA authorities. Since 1991, EPA has followed a cautious interpretation that has required tribes, as a condition of receiving TAS regulatory authority under section 518, to demonstrate inherent authority to regulate waters and activities on their reservations under principles of federal Indian common law. The Agency has consistently stated, however, that its approach was subject to change in the event of further congressional or judicial guidance addressing tribal authority under CWA section 518. Based on such guidance, EPA in the interpretive rule we are finalizing today concludes definitively that section 518 includes an express delegation of authority by Congress to Indian tribes to administer regulatory programs over their entire reservations, subject to the eligibility requirements in section 518. This reinterpretation streamlines the process for applying for TAS, eliminating the need for applicant tribes to demonstrate inherent authority to regulate under the Act and allowing eligible tribes to implement the congressional delegation of authority. The reinterpretation also brings EPA's treatment of tribes under the CWA in line with EPA's treatment of tribes under the Clean Air Act, which has similar statutory language addressing tribal regulation of Indian reservation areas. This interpretive rule