

(b) *Failure to sign return.* (1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(2) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of such return or claim for refund shall be considered to be the income tax return preparer for purposes of this paragraph.

(3) The application of this paragraph is illustrated by the following examples:

*Example 1.* X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his Federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which performs the mathematical computations and prints the return by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

*Example 2.* X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the proper application of the tax laws to such information, and the performance of the necessary mathematical computations, C, a supervisory employee of X, reviews the return. As part of this review, C reviews the information provided and the application of the tax laws to this information. The mathematical computations and carried-forward amounts are proved by D, an employee of X's comparing and proving department. The policies and practices of X require that P, a partner, finally review the return. The scope of P's review includes reviewing the information provided by

applying to this information his knowledge of T's affairs, observing that X's policies and practices have been followed, and making the final determination with respect to the proper application of the tax laws to determine T's tax liability. P may or may not exercise these responsibilities, or may exercise them to a greater or lesser extent, depending on the degree of complexity of the return, his confidence in C (or A and B), and other factors. P is the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

*Example 3.* C corporation maintains an office in Seattle, Washington, for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several States to collect information from taxpayers and to make determinations with respect to the proper application of the tax laws to the information in order to determine the tax liabilities of such taxpayers. E, an individual, who has such an arrangement in Los Angeles with C, collects information from T, a taxpayer, and completes a worksheet kit supplied by C which is stamped with E's name and an identification number assigned to E by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed worksheet kit signed by E is then mailed to C. D, an employee in C's office, reviews the worksheet kit to make sure it was properly completed. D does not review the information obtained from T for its validity or accuracy. D may, but did not, make the final determination with respect to the proper application of tax laws to the information. The data from the worksheet is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer.

*Example 4.* X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for 1 week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that (i) C reviews the information obtained by A relative to the taxpayer, and (ii) C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

(4) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty of \$50 for each failure to sign, with a maximum of \$25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. If the preparer asserts reasonable cause for failure to sign, the

Internal Revenue Service will require a written statement in substantiation of the preparer's claim of reasonable cause. For purposes and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15(a)(2) and (b) of this chapter on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b)(3) of this chapter on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(5) *Effective date.* This paragraph (b) applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002.

(c) through (f) [Reserved]. For further guidance, see § 1.6695–1(c) through (f).

**David A. Mader,**

*Assistant Deputy Commissioner of Internal Revenue.*

Approved: April 7, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OR–03–004a and ID–03–001a; FRL–7487–2]

### Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Idaho and Oregon

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to amend the State implementation plans (SIPs) for Idaho and Oregon concerning the PSD program mandated by part C of title I of the Clean Air Act (CAA or Act). The amendments clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plans for Indian Country in Idaho and Oregon. The amendments also clarify that the newly published provisions of the Federal PSD rule are incorporated into the applicable implementation plan for other sources in Idaho that were permitted under the Federal PSD program prior to August

22, 1986, the effective date of EPA's approval of Idaho's PSD program as part of the Idaho SIP.

**DATES:** This direct final rule will be effective on June 23, 2003 without further notice, unless EPA receives relevant adverse comment by May 27, 2003. If relevant adverse comments are 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:** Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies of information relevant to this action are available for inspection during normal business hours at the following location: EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Connie Robinson, (206) 553-1086.

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA. Please note that if EPA receives relevant adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

### I. What Action Is EPA Taking?

On December 31, 2002, EPA published in the **Federal Register** (67 FR 80186) revisions to the Federal PSD rule in 40 CFR 52.21 that incorporate new applicability provisions for baseline emissions determinations, actual-to-projected-actual methodology, plantwide applicability limitations, clean units, and pollution control projects. In finalizing these new applicability provisions, the relevant parts of the Federal PSD rule, 40 CFR part 52.21, were extended from 52.21(b) through (w) to 52.21(a)(2) and (b) through (bb). The revisions to the Federal PSD rule became effective on March 3, 2003. On March 10, 2003, EPA published in the **Federal Register** revisions to the applicable implementation plans that apply in States or parts of States that do not have an approvable PSD SIP in place, and in Indian Country. The purpose of that action, which became effective on March 3, 2003, was to incorporate into the Federal implementation plan portion of SIPs the revisions to the Federal PSD rule that became effective on March 3, 2003. (See 68 FR 11316, March 10, 2003.) In revising the

applicable implementation plans for these areas, the references to the Federal PSD rule were changed from 40 CFR 52.21(b) through (w) to 40 CFR 52.21(a)(2) and (b) through (bb).

During this same period, EPA published in the **Federal Register** revisions to the SIPs for Idaho and Oregon. Both SIP revisions included revisions to the PSD programs for those States and stated that the Federal PSD rule, rather than the State PSD rules, would continue to apply in Indian Country in those States and, in the case of Idaho, would continue to apply to other sources in Idaho that were permitted under the Federal PSD program prior to August 22, 1986 for the purpose of administering the EPA-issued permits.<sup>1</sup> The SIP revision for Idaho was published on January 16, 2003, and became effective on February 18, 2003. (See 68 FR 2217.) The SIP revision for Oregon was published on January 22, 2003 (68 FR 2891), in a direct final rulemaking and became final on March 24, 2003, because no comments were received during the public comment period on the proposal. In promulgating the applicable implementation plan for Indian Country in both the Idaho and Oregon SIP actions and, in the case of Idaho, for other sources that were subject to the Federal PSD program prior to August 22, 1986, EPA incorporated by reference the relevant provisions of the Federal PSD rule in effect prior to March 3, 2003, rather than the Federal PSD rule published on December 31, 2002, and effective March 3, 2003.

In the case of Idaho, EPA's action on March 10, 2003, incorporated the newly published provisions of the Federal PSD rule as part of the applicable implementation plan for Indian Country in Idaho and with respect to other sources in Idaho that were subject to the Federal PSD program prior to August 22, 1986. See 68 FR 2217. The March 10, 2003 action, however, inadvertently failed to include minor changes to the language in 40 CFR 52.683(b) and (c) that EPA had made in the Idaho SIP revision that became effective on February 18, 2003, because the changes effective on February 18, 2003 had not yet been codified in the Code of Federal Regulations. In this action, EPA is amending the language in 40 CFR 52.683(b) and (c), as published on March 10, 2003, and effective on March 3, 2003, to include the minor changes to those provisions that became effective on February 18, 2003.

<sup>1</sup> August 22, 1986 is the effective date of EPA's initial approval of Idaho's PSD program as part of the Idaho SIP.

In the case of Oregon, EPA's action on March 10, 2003 (68 FR 2891), which incorporated the newly published provisions of the Federal PSD rule as part of the applicable implementation plan for Indian Country in Oregon into 40 CFR 52.1987(c), was amended by the revision to the Oregon SIP that was published before the March 10, 2003, action but became effective after that date. Therefore, the reference to relevant provisions of the Federal PSD rule in 40 CFR 52.1987(c) was erroneously changed back to 40 CFR 52.21(b) through (w) and therefore no longer incorporates EPA's recent revisions to the Federal PSD rule. Therefore, EPA is amending the language in 40 CFR 52.1987(c) to refer to the Federal PSD rule published on December 31, 2002, and effective March 3, 2003, that is 40 CFR 52.21(a)(2) and (b) through (bb).

### II. 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). 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.*). This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 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 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.

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 June 23, 2003. 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, Administrative practices and procedures, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particular matter, Sulfur oxides.

Dated: April 16, 2003.

**L. John Iani,**

*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 N—Idaho

■ 2. Section 52.683 is amended by revising paragraphs (b) and (c) to read as follows:

##### § 52.683 Significant deterioration of air quality.

\* \* \* \* \*

(b) The requirements of title 1, part C, subpart 1 of the Clean Air Act are not met for Indian country in Idaho because Idaho has not demonstrated authority to implement and enforce under the Clean Air Act Idaho State rules in Indian country. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian country in the State of Idaho.

(c) The requirements of section 165 of the Clean Air Act are not met for sources permitted under the prevention of significant deterioration requirements prior to August 22, 1986, the effective date of EPA's original approval of Idaho's prevention of significant deterioration regulations. Therefore, the provisions of § 52.21(a)(2), (b), (c), (d), and (h) through (bb) are hereby incorporated and made part of the applicable plan for sources permitted under § 52.21 prior to August 22, 1986 for the purpose of administering the EPA-issued permits.

#### Subpart MM—Oregon

■ 3. Section 52.1987 is amended by revising paragraph (c) to read as follows:

##### § 52.1987 Significant deterioration of air quality.

\* \* \* \* \*

(c) The requirements of title 1, part C, subpart 1 of the Clean Air Act are not met for Indian country in Oregon because Oregon has not demonstrated authority to implement and enforce under the Clean Air Act Oregon State rules in Indian country. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian country in the State of Oregon.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FL—88-200227(a); FRL-7486-7]

### Approval and Promulgation of Implementation Plans

#### Florida: Revision to Jacksonville, Florida Ozone Air Quality Maintenance Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (DEP) on November 28, 2001, for Jacksonville, Florida (Duval County) 1-hour ozone maintenance plan. More specifically, EPA is approving the state's new Motor Vehicle Emissions Budgets (MVEB) for volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) for 2005. This submittal updates the maintenance plan by establishing new transportation conformity MVEB for the year 2005, for use by the Metropolitan Planning Organization (MPO). The MVEB represent the VOCs and the NO<sub>x</sub> emissions currently projected by the MPO for the year 2005, plus a small allocation from the areas' "safety margin" for each pollutant to accommodate any further refinements that the MPO may need to make these projections. This allocation will still maintain the total emissions for the area at or below the attainment level for this maintenance area.

**DATES:** This direct final rule is effective June 23, 2003 without further notice, unless EPA receives adverse written comment by May 27, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Lynorae Benjamin, Air Quality Modeling and Transportation Section; Air, Pesticides, and Toxics Management Division; Region 4, EPA, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (Lynorae Benjamin, (404)