



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## **Washington State Implementation Plan**

### **Infrastructure SIP Certification for the 1997 8-hour Ozone National Ambient Air Quality Standard**

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Sections 110(a)(1) - (2) of the Clean Air Act

Public Review Draft

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## Background Information

On July 18, 1997 the United States Environmental Protection Agency (EPA) promulgated new 8-hour ozone National Ambient Air Quality Standards (NAAQS). Within 3 years following the promulgation of a new standard, states must submit a State Implementation Plan (SIP) revision addressing the state's capacity and regulatory framework for implementing the new standards, i.e. infrastructure elements. Intervening litigation that followed the issuance of the new NAAQS in 1997 led to some uncertainty regarding the timing and requirements of the infrastructure SIP submittal and resulted in late submittals among the states.

On October 2, 2006 EPA issued the "Guidance on SIP Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 1997 8-hour Ozone and PM2.5 National Ambient Air Quality Standards." In this guidance, EPA stated that existing SIP may already meet the infrastructure SIP requirements. Thus, upon evaluation of its SIP, a state may submit a certification for those infrastructure SIP elements that have already been addressed. In this submittal, Washington provides certification showing how Washington's SIP (40 CFR Part 52, Subpart WW) meets the infrastructure requirements under the CAA.

## Washington Statutes

To support Washington's assurance of adequate authorities to develop and implement infrastructure SIP elements, this submittal relies upon the most current version (2011) of the state laws codified in the Revised Code of Washington (RCW). To facilitate EPA's review, a copy of each pertinent statute is provided with the submittal. The statutes can also be found on-line at the Washington State Legislature Web Site: <http://apps.leg.wa.gov/rcw/default.aspx>

This submittal refers to provisions in the following RCW Chapters:

- [Chapter 70.94 RCW](#): *Washington clean air act*
- [Chapter 43.21 RCW](#): *Department of ecology*
- [Chapter 34.05 RCW](#): *Administrative Procedure Act*
- [Chapter 42.30 RCW](#): *Open public meetings act*
- [Chapter 42.17 RCW](#): *Public Disclosure Act*

## Section 110(a)(2) Elements

The infrastructure SIP must address the requirements under sections 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA). Section 110(a)(1) requires this plan to be submitted to EPA after a reasonable public notice and comment period and within three years after the promulgation of a national ambient air quality standard (or any revision thereof). Section 110(a)(2) lists specific infrastructure elements:

- A. Emission limits and other control measures
- B. Ambient air quality monitoring and data analysis system
- C. Program to enforce control measures, regulate modification and construction of stationary sources and a permit program
- D. Interstate transport and interstate and international pollution abatement\*
- E. Adequate personnel, funding and authority to carry our plan; comply with state boards; oversee local and regional governmental agencies
- F. Stationary source emissions monitoring and reporting system
- G. Authority to declare air pollution emergency and notify public
- H. Future SIP revisions
- I. Nonattainment areas\*
- J. §121 consultation; §127 public notification; and PSD and visibility protection
- K. Air quality modeling / data
- L. Major stationary source permitting fees
- M. Consultation / participation by affected local entities

\*This submittal does not address two elements listed under section 110(a)(2). These elements are:

- Section 110(a)(2)(D)(i), pertaining to the interstate transport. The Department of Ecology (Ecology) addressed this element by submitting a SIP revision *“Addressing the Interstate Transport of Ozone and Fine Particulate Matter”*. EPA approved that submission on January 13, 2009 (74 FR 1591).
- Section 110(a)(2)(I), which pertains to the nonattainment planning requirements of the Title I, Part D of the Clean Air. This element is addressed when a state has a nonattainment area for the NAAQS in question. Currently, Washington State has no nonattainment areas for the 8-hour ozone NAAQS promulgated in 1997. The two nonattainment areas for the previous 1-hour ozone standard Central Puget Sound and Vancouver were redesignated to attainment by EPA on September 26, 1996 (61 FR 50438) and May 19, 1997 (62 FR 27204), respectively.

Below is a discussion showing how Washington SIP satisfies the required elements of the section 110(a)(2)(A)-(M) of the Clean Air Act.

## **§110(a)(2)(A) Emission limits and other control measures**

*Element summary: Include enforceable emission limitations (permits and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this Act.*

### **Washington Requirement:**

The emissions limitation regulations were adopted in the Washington Administrative Code (WAC) under the Chapters 173-400 through -492 and codified in 40 CFR 52.WW. These regulations are (in parenthesis: State adopted date; EPA effective date; and FR Citation):

- WAC 173-400 *General Regulations for Air Pollution Sources.* (3/22/91; 6/2/95; 60 FR 28726)
- WAC 173-405 *Kraft Pulping Mills.*( 3/22/91; 1/15/93; 58 FR 4578)
- WAC 173-410 *Sulfite Pulping Mills.*( 3/22/91; 1/15/93; 58 FR 4578)
- WAC 173-415 *Primary Aluminum Plants.* (3/22/91; 1/15/93; 58 FR 4578)
- WAC 173-425 *Open Burning.* (10/18/90; 1/15/93; 58 FR 4578)
- WAC 173-433 *Solid Fuel Burning Device Standards.* (various dates from 12/16/87 to 10/18/90; 1/15/93; 58 FR 4578)
- WAC 173-434 *Solid Waste Incinerator Facilities.* (various dates from 12/16/87 to 1/22/04; 1/15/93; 58 FR 4578)
- WAC 173-490 *Emission Standards and Controls for Sources Emitting Volatile Organic Compounds.* (3/22/91; 9/10/93; 58 FR 37426)

Washington State has an EPA-approved air quality permitting program for minor sources which ensures that all applicable requirements are included in the source's permit. For major sources, EPA has a Federal Implementation Plan (FIP) in place to implement the Prevention of Significant Deterioration (PSD) program (40 CFR 52.2497)<sup>1</sup>.

Under the Washington Clean Air Act, general authority to adopt enforceable emission standards and limitations and other measures necessary for the attainment and maintenance of NAAQS is contained in RCW 70.94.331, *Powers and duties of department.* The following sections of the statute address various components of the state's emissions control measures and permitting program:

- RCW 70.94.152 *Notice may be required of construction of proposed new contaminant source — Submission of plans — Approval, disapproval — Emission control — "De minimis new sources" defined.*
- RCW 70.94.153 *Existing stationary source — Replacement or substantial alteration of emission control technology.*

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<sup>1</sup> Pursuant to 40 CFR 52.21(u), EPA has delegated authority to implement and enforce the federal PSD program to the Energy Facility Site Evaluation Council (EFSEC) and the Washington State Department of Ecology (Ecology) in separate delegation agreements: *Agreement for the Delegation of the Federal Prevention of Significant Deterioration (PSD) Regulations by the EPA, Region 10 to the State of Washington Department of Ecology, February 23, 2005.* *Agreement for Partial Delegation of the Federal Prevention of Significant Deterioration (PSD) Program, between EPA and EFSEC dated January 25, 1993.* Ecology applies PSD regulations to most facilities in Washington; EFSEC applies PSD regulations to large energy industry facilities.

- RCW 70.94.161 *Operating permits for air contaminant sources — Generally — Fees, report to legislature.*
- RCW 70.94.162 *Annual Fees from Operating Permit Program.*
- RCW 70.94.380 *Emission control requirements.*
- RCW 70.94.395 *Air contaminant sources — Regulation by department; authorities may be more stringent — Hearing — Standards.*
- RCW 70.94.430 *Penalties.*
- RCW 70.94.431 *Civil penalties — Excusable excess emissions.*
- RCW 70.94.850 *Emission credits banking program — Amount of credit.*

### **§110(a)(2)(B) Ambient air quality monitoring and data analysis system**

*Element summary: Provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the Administrator.*

#### **Washington Requirement:**

The relevant SIP-approved regulations that implement the monitoring systems are found in WAC 173-400-105, *Records, Monitoring and Reporting* (State adopted 9/20/93; EPA effective 6/2/95; 60 FR 28726).

RCW 70.94.331(5) requires Ecology to provide for or conduct surveillance program that:

- Monitors the quality of the ambient atmosphere
- Monitors the concentrations and movements of air contaminants
- Determines the quantity of emissions to the atmosphere.

A statewide surveillance system consists of a network of State and Local Air Monitoring Stations<sup>2</sup>, a number of Special Purpose Monitors, and one National Core (NCore) site at Beacon Hill. The stations are maintained by Ecology with the assistance of local agencies. The network meets the requirements under 40 CFR Part 58.

Washington's ozone monitoring network comprises eleven sites statewide. Data obtained by this network are used to determine air quality trends and determine the compliance status of an area with the NAAQS and Washington Air Quality Standards (WAAQS) and are reported to the Administrator, via EPA's Air Quality System (AQS) database in accordance with 40 CFR 58.16. Ecology conducts periodic systems and performance audits as well as annual network reviews of the air quality surveillance system. EPA approved Washington State's 2010 Ambient Air Monitoring Network Report on October 14, 2010.

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<sup>2</sup> Ecology maintains an on-line map of the Washington air monitoring sites:  
<https://fortress.wa.gov/ecy/enviwa/Default.htm>.

### **§110(a)(2)(C) Program to enforce control measures, regulate modification and construction of stationary sources and a permit program**

*Element summary: Include a program to provide for the enforcement of the measures described in subparagraph (A) and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.*

#### **Washington Requirement:**

The following SIP-approved state regulations provide Washington State with civil and criminal enforcement authority for violations of Title 173 WAC under the approved SIP:

- WAC 173-400-230 *Regulatory Actions* (State adopted date 3/20/93; EPA effective date 6/2/95; 60 FR 28726)
- WAC 173-400-240 *Criminal Penalties* (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726)

Ecology's enforcement powers are derived from provisions in Chapter 70.94 RCW:

- RCW 70.94.141 *Air pollution control authority — Powers and duties of activated authority.*
- RCW 70.94.200 *Investigation of conditions by control officer or department -- Entering private, public property.*
- RCW 70.94.211 *Enforcement actions by air authority -- Notice to violators*
- RCW 70.94.332 *Enforcement actions by department -- Notice to violators.*
- RCW 70.94.425 *Restraining orders -- Injunctions.*
- RCW 70.94.430 *Penalties.*
- RCW 70.94.431 *Civil penalties — Excusable excess emissions.*
- RCW 70.94.435 *Additional means for enforcement of chapter.*

### **§110(a)(2)(D)(ii) Interstate and international pollution abatement**

*Element summary: Contain adequate provisions insuring compliance with the applicable requirements of sections 126<sup>3</sup> and 115<sup>4</sup> (relating to interstate and international pollution abatement).*

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<sup>3</sup> §126 (a) Each plan shall (1) require each major proposed new or modified source (A) subject to Part C or (D) which may significantly contribute to pollution in excess of the NAAQS in any AQCR outside the State in which such source intends to locate or modify, to provide written notice to all nearby States the pollution levels of which may be affected by such source 60 days prior to the date on which commencement of construction is to be permitted by the State, and (2) identify all major existing stationary sources which may have the impact described in (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources. (b) Any State may petition EPA for a finding that any major source or group of stationary sources emits or would emit any pollutant in violation of the prohibition of § 110(a)(2)(D)(ii) or this section. (c) Notwithstanding any permit which may have been granted by the State, it shall be a violation of this section and the plan - (1) for any major proposed new or modified source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of this section and the prohibition of § 110(a)(2)(D)(ii) or this section, or (2) for any major existing source to operate more than 3 months after such finding has been made. EPA may permit the continued operation of a source beyond the expiration of the 3-month period if the source complies with the emission limitations and compliance schedules as may be provided by EPA to bring about compliance with the requirements of § 110(a)(2)(D)(ii). Nothing shall be construed to preclude any such source from being eligible for an enforcement order under § 113(d) after the expiration of such period during which EPA has permitted continuous operation.

**Washington Requirement:**

- The notification requirements of CAA section 126(a) pertain only to major proposed new or modified sources. As previously discussed, the major source PSD program in Washington is operated under a Federal Implementation Plan.
- Washington does not have any outstanding obligations under sections 126 or 115. Should the Administrator notify the state about an issue triggering the requirements under the section 110(a)(2)(H)(ii) to revise SIP, Washington has the authority and is required to comply with the requirements of the federal Clean Air Act (RCW 70.94.011).

**§110(a)(2)(E) Adequate personnel, funding and authority to carry out plan; comply with state boards; oversee local and regional governmental agencies.**

*Element summary: Provide (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof);*

*(ii) requirements that the state comply with the requirements respecting state boards under section 128, and*

*(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.*

**Washington Requirement:**

- (i) Chapter 43.21A RCW provides authority for the director to employ personnel necessary for administration of this chapter. Chapters 43.21A and 70.94 RCW provide for Ecology's rule-making authority. Ecology's Air Quality Program is funded through the following funding sources: the state General Fund, Section 105 of the CAA grant program, Air Operating Permit Account (permit fees from large industrial sources), and Air Pollution Control Account (permit fees for burning and annual

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<sup>4</sup> § 115 (a) Whenever EPA, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any pollutants emitted in the US cause or contribute to pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests it to do so, EPA shall give formal notification to the Governor of the State in which such emissions originate. (b) The EPA notice shall be deemed to be a finding under § 110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable plan as is inadequate to prevent or eliminate the endangerment. Any foreign country so affected by such emission of pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable plan. (c) This section shall apply only to a foreign country which EPA determines has given the US the same rights with respect to the prevention or control of air pollution occurring in that country. (d) Recommendations issued following any abatement conference conducted prior to CAA 1977 shall remain in effect with respect to any pollutant for which no NAAQS has been established under § 109 unless EPA, after consultation with all agencies, which were party to the conference, rescinds any such recommendation.

fees for small industrial air pollution sources)<sup>5</sup>. The funding is appropriated biennially by the state's Legislature.

Washington utilized the above authorities in developing SIP-approved rules and regulations, the EPA-approved monitoring program, and other documents and actions specified throughout this submittal.

- (ii) The SIP-approved provisions of WACs 173-400-220 *Requirements for Board Members* and 173-400-260 *Conflict of Interest* (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726) provide that no state board or body which approves operating permits or enforcement orders, either in the first instance or upon appeal, shall be constituted of less than a majority of members who represent the public interest and who do not derive a significant portion of their income from persons subject to operating permits. State law also provides that any potential conflicts of interest by members of such board or body or the head of any executive agency with similar powers be adequately disclosed.<sup>6</sup> See RCW 34.05.425 *Administrative Procedure Act*; RCW 42.17 *Public Disclosure Act*; RCW 70.94.100 *Composition of Local Air Authorities' Board; Conflict of Interest Requirements*.

SIP-approved WAC 173-400-240 *Criminal Penalties* (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726) specifies that any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

- (iii) Ecology works with other organizations and agencies and may enter into agreements allowing for implementation of the air pollution controls by another agency. However, RCW 70.94.370 states that no provision of this chapter or any recommendation of the state board or of any local or regional air pollution program is a limitation on the power of a state agency in the enforcement, or administration of any provision of law which it is specifically permitted or required to enforce or administer.

### **§110(a)(2)(F) Stationary source emissions monitoring and reporting system**

*Element summary: Require, as may be prescribed by the Administrator*

- (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources,*
- (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and*
- (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection.*

#### **Washington Requirement:**

Under the federally approved SIP listed below, Ecology is authorized to require sources to (i) install, maintain and replace equipment, (ii) monitor emissions, and (iii) submit reports for review by the agency. The requirements are implemented through permits and compliance orders issued under

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<sup>5</sup> Also see "Department of Ecology Budget & Program Overview 2009-2011" at <http://www.ecy.wa.gov/biblio/0901014.html>.

<sup>6</sup> The Attorney General's legal opinion, State of Washington Title V program (full approval effective September 12, 2001, 66 FR 42439 (August 13, 2001), with a revision approved on January 2, 2003).

Chapter 70.94 RCW. As previously discussed, the major source PSD program in Washington is operated under a Federal Implementation Plan.

The following SIP-approved regulations address stationary source emissions monitoring and reporting system requirements of the infrastructure SIP:

- WAC 173-400-105 *Records, Monitoring, and Reporting* (State adopted date 9/20/93; EPA effective date 6/2/95; 60 FR 28726)
- WAC 173-400-110 *New Source Review (NSR)* (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726)
- WAC 173-400-112 *Requirements for New Sources in Nonattainment Areas*(State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726)
- WAC 173-400-113 *Requirements for New Sources in Attainment or Unclassifiable Areas* (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726)

### **§110(a)(2)(G) Authority to declare air pollution emergency and notify public**

*Element summary: Provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.*

#### **Washington Requirement:**

State statutes providing for the air pollution emergency response authority are located in RCW 70.94.710 through 70.94.730. Washington's Emergency Episode Plan is contained in WAC 173-435 (State effective date 1/3/89; EPA effective date 1/15/1993; 58 FR 4578.)

Ecology's existing Emergency Episode Plan provisions are consistent with EPA's regulatory requirements for the 1997 8-hour ozone NAAQS. In particular, the significant harm level for ozone under the SIP approved WAC 173-435 is identical to the level contained in 40 CFR 51.151.

### **§110(a)(2)(H) Future SIP revisions**

*Element summary: Provide for revision of such plan*

*(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and*

*(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements, or to otherwise comply with any additional requirements established under this Act.*

#### **Washington Requirement:**

Under the Washington Clean Air Act (RCW 70.947), Ecology has the authority to promulgate rules and regulations to maintain and protect Washington's air quality and to comply with the federal requirements, including revisions of NAAQS, SIPs, and responding to EPA's findings.

RCW 70.94.510 specifies Washington's policy to cooperate with the federal government in order to coordinate and take necessary actions to secure to the state the benefits of the federal clean air act.

Washington utilized the above authority in developing SIP-approved rules and regulations specified throughout this submittal. This and other SIP submittals are the result of Washington's ability to provide for SIP revisions as specified in CAA.

### **§110(a)(2)(J) §121 consultation; §127 public notification; and PSD and visibility protection**

*Element summary: Meet the applicable requirements of section 121 (relating to consultation), meet the applicable requirements of section 127 (relating to public notification), meet the applicable requirements of ... part C (relating to prevention of significant deterioration of air quality and visibility protection).*

#### **Washington Requirement:**

The public involvement process is codified in SIP-approved WAC 173-400-171 *Public involvement* (State effective date 9/20/93; EPA effective date 6/2/95; 60 FR 28726).

Section 70.94.141(10)RCW authorizes Ecology to advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups. After drafting a plan for regulating emissions such as a State Implementation Plan revision, Ecology or local air authority responsible for the plan development must issue a public notice informing the residents and affected parties of the proposed changes. The public and all interested parties are then provided with an opportunity to review and comment on the proposal and participate in public hearing(s). In addition to the formal public involvement procedures, Ecology often hosts workshops or creates advisory committees to solicit input from the affected stakeholders.

Additional statutory authorities and requirements for consultation and public involvement are found in the RCW 34.05 *Administrative Procedure Act*; RCW 42.30 *Open public meetings act*; and RCW 70.94.240 *Air pollution control advisory council*.

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<sup>7</sup> RCW 70.94.011. *Declaration of public policies and purpose.*

“It is declared to be the public policy to preserve, protect, and enhance the air quality for current and future generations. Air is an essential resource that must be protected from harmful levels of pollution. Improving air quality is a matter of statewide concern and is in the public interest. It is the intent of this chapter to secure and maintain levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal clean air act, to prevent injury to plant, animal life, and property, to foster the comfort and convenience of Washington's inhabitants, to promote the economic and social development of the state, and to facilitate the enjoyment of the natural attractions of the state.”

Every calendar year, Ecology publishes on-line an *Ambient Air Monitoring Network Report* informing the public whether a NAAQS is exceeded or was exceeded during the preceding calendar year. EPA approved Ecology's 2010 *Ambient Air Monitoring Network Report* on October 14, 2010.

The Action Procedures under WAC 173-435-050 (State effective date 1/3/89; EPA effective date 1/15/93; 58 FR 4578) provide public warnings during periods of adverse air quality. In addition to these SIP measures, Ecology uses the Washington Air Quality Advisory (WAQA) tool for informing people about the health effects of air pollution. The public can access up-to-date WAQA information on-line at <https://fortress.wa.gov/ecy/enwiwa/Default.htm>.

As previously discussed, the major source PSD program in Washington is operated under a Federal Implementation Plan (FIP). The ongoing review of new major sources under the permitting program (PDS FIP) and the long-term Regional Haze program address visibility protection requirements. SIP-approved visibility protection regulations are found in WAC 173-400-15 (State effective date 12/22/91; EPA effective Date 6/2/95; 60 FR 28726). In 2003 EPA approved Ecology's 1999 Visibility Plan (68 FR 34821). The most current visibility protection requirements are included in Washington's Regional Haze SIP submitted to EPA in 2010.

### **§110(a)(2)(K) Air quality modeling / data**

*Element summary: Provide for: (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.*

#### **Washington Requirement:**

In accordance with the SIP-approved minor source NSR permitting provisions in WAC 173-400-110, -112, and -113 (State adopted date 3/22/91; EPA effective date 6/2/95; 60 FR 28726), modeling work and estimates of pollutant concentrations in the ambient air are based on EPA's guidance and latest methodologies and techniques and are compliant with the requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models).

Ecology provided modeling data to EPA to support redesignation request for the Portland – Vancouver interstate ozone nonattainment area for the 1-hour ozone NAAQS. EPA redesignated the area and approved Maintenance plan for it on May 19, 1997 (62 FR 27204).

In addition, Ecology does modeling work for the major source PSD program under the delegation agreement (see response to §110(a)(2)(A) above). The protocol to do the dispersion modeling is provided to EPA for review and comment. The final modeling results are shared with EPA as part of the permit applications (for PSD projects) and upon request for other new source review projects.

Washington's Clean Air Act (specifically RCW 70.94.011 *Declaration of public policies and purpose* and RCW 70.94.510 *Policy to cooperate with federal government*) directs Ecology to cooperate with the federal government in order to coordinate and implement federal and state clean air acts, which would include the submission of data related to air quality modeling to the Administrator.

### **§110(a)(2)(L) Major stationary source permitting fees**

*Element summary: Require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover*

*(i) the reasonable costs of reviewing and acting upon any application for such a permit, and*

*(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.*

#### **Washington Requirement:**

Ecology collects permitting fees for new source review (WAC 173-400-455). The fees are to support the permitting (new source review) of new major and minor air pollution sources. The fee regulation is not part of the SIP and is periodically revised to reflect actual permitting cost experience.

State law includes a source registration program (RCW 70.94.151, codified in regulation as WAC 173-400-099 through 104) which includes the collection of fees (listed in WAC 173-400-455) to support the agency's costs to determine compliance with emission limitations and enforcement of violations of those limitations. The registration program is not included in the SIP.

For major stationary sources subject to the Title V air operating permit program, Ecology's statutory authority to collect permit fees is established under RCW 70.94.162 *Annual fees from operating permit program source to cover cost of program.*

EPA granted Ecology, along with the seven local agencies and EFSEC, interim approval of its Title V program effective December 9, 1994, and full approval effective September 12, 2001, (66 FR 42439, August 13, 2001), with a revision approved on January 2, 2003. EPA periodically reviews Ecology's Title V fee program to ensure the collected fees are sufficient and used to cover the costs of developing and administering the program. Ecology's Title V fees and certification regulations are found in Washington Administrative Code (WAC) 173-401, Part X.

### **§110(a)(2)(M) Consultation and participation**

*Element summary: Provide for consultation and participation by local political subdivisions affected by the plan.*

#### **Washington Requirement:**

After drafting a regulatory document such as a State Implementation Plan revision, Ecology or local air authority responsible for the document development must issue a public notice informing the residents and affected parties of the proposed changes. The public and all interested parties are then provided with an opportunity to review and comment on the proposal and participate in public hearing(s). In addition to the formal public involvement procedures, Ecology often hosts workshops or creates advisory committees to solicit input from the affected stakeholders.

SIP-approved regulations:

- WAC 173-400-171 *Public involvement* (State effective date 9/20/93; EPA effective date 6/2/95; 60 FR 28726).

Relevant statutes:

- RCW 34.05 *Administrative Procedure Act*.
- RCW 42.30 *Open public meetings act*.
- RCW 70.94.240 *Air pollution control advisory council*.