



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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September 5, 2014

Dennis McLerran  
Regional Administrator  
U.S. EPA Region 10  
1200 Sixth Avenue  
Suite 900  
Seattle, WA 98101

RE: PSD Permitting of Greenhouse Gases, Results of UARG v. EPA Supreme Court Decision and Washington's State Implementation Plan

Dear Mr. McLerran, *Dennis*

The Washington State Department of Ecology (Ecology) requests that the Environmental Protection Agency (EPA), Region 10 (R10) withdraw a portion of our request to approve the state PSD regulations into the State Implementation Plan (SIP). The specific provision that Ecology is withdrawing is that portion of WAC 173-400-720(4)(a)(vi) that incorporates §52.21(b)(49)(v) by reference.

The state regulation was submitted on January 14, 2014 to R10 for SIP approval. The minor New Source Review provisions in Chapter 173-400 WAC have previously been proposed for approval by R10.

The case UARG v. EPA, decided by the Supreme Court of the United States on June 23, 2014, determined EPA did not have the authority to require PSD permitting of new sources when only the greenhouse gases were above the permitting thresholds established for the program in 40 CFR 51.166(b)(48) and 52.21(b)(49).

Ecology adopted the federal PSD program at 40 CFR 52.21, as it existed on August 13, 2012, by reference into state regulations. EPA has assisted Ecology in identifying the specific subsection that the Supreme Court has indicated to be invalid. The Court Order with the final vacatur of the provision has not yet been issued, nor has action by EPA to remove the vacated text from 40 CFR 52.21 been proposed.

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However to align with the Supreme Court decision and to facilitate expeditious SIP approval of Ecology's PSD program, we ask that EPA endorse our request to remove the inconsistent language from consideration in Washington's SIP submittal.

Ecology is not proposing to remove this subsection from its own regulation. We are only withdrawing the provision from consideration as a component of the PSD program approved into Washington's SIP. Ecology plans on implementing the state rule as currently adopted, including the greenhouse gas permitting provisions adopted by reference by WAC 173-400-720(4)(a)(vi). Ecology will continue to work with applicants to clarify issues related to the specific differences between the EPA and Ecology PSD permitting program requirements.

If you have any questions or require additional information, please contact Alan Newman at (360) 407-6810.

Sincerely,



Stu Clark  
Air Quality Program Manager

Cc: Debra Suzuki, EPA Region 10  
Donna Deneen, EPA Region 10  
Jeff Hunt, EPA Region 10  
Maia Bellon, Director Ecology  
Alan Newman, Ecology

SAC/mt