

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: April 16, 2015.  
**Susan Hedman**,  
*Regional Administrator, Region 5.*

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.*

■ 2. In § 52.770, the table in paragraph (e) is amended by adding an entry in alphabetical order for “Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS” to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*

**EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Indiana date	EPA Approval	Explanation
* * * Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS. * * *	12/12/2011	4/29/2015, [insert <b>Federal Register</b> citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) except visibility, (D)(ii), (E), (F), (G), (H), (J) except visibility, (K), (L), and (M). * * *

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R10–OAR–2014–0755; FRL–9926–95–Region 10]

**Approval and Promulgation of Implementation Plans; Washington: Prevention of Significant Deterioration and Visibility Protection**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) on January 27, 2014. These revisions implement the preconstruction permitting regulations for large industrial (major source) facilities in attainment and unclassifiable areas, called the Prevention of Significant Deterioration (PSD) program. The PSD program in Washington has been historically operated under a Federal Implementation Plan (FIP). This approval of Ecology’s PSD program narrows the FIP to include only those few facilities, emission sources, geographic areas, and permits for which Ecology does not have PSD permitting jurisdiction or authority. The EPA is also approving Ecology’s visibility protection permitting program which overlaps significantly with the PSD program.

**DATES:** This final rule is effective on May 29, 2015.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2014–0755. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553–0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or by using the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials “Act” or “CAA” mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words “EPA”, “we”, “us” or “our” mean or refer to the Environmental Protection Agency.  
 (iii) The initials “SIP” mean or refer to State Implementation Plan.  
 (iv) The words “Washington” and “State” mean the State of Washington.

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**I. Background Information**

On January 27, 2014, Ecology submitted revisions to update the general air quality regulations contained in Chapter 173–400 of the Washington Administrative Code (WAC) that apply to sources within Ecology’s jurisdiction, including minor new source review, major source nonattainment new source review (major NNSR), PSD, and the visibility protection (visibility) program. On October 3, 2014, the EPA finalized approval of provisions contained in Chapter 173–400 WAC that apply generally to all sources under Ecology’s jurisdiction, but stated that we would act separately on the major source-specific permitting programs in a phased approach (79 FR 59653). On November 7, 2014, the EPA finalized the second phase in the series, approving the major NNSR regulations contained in WAC 173–400–800 through 173–400–860, as well as other parts of Chapter 173–400 WAC that support major NNSR (79 FR 66291).

On January 7, 2015, the EPA proposed approval of the remainder of Ecology’s January 27, 2014 submittal, covering the PSD and visibility requirements for

major stationary sources under Ecology's jurisdiction (80 FR 838). An explanation of the Clean Air Act (CAA) requirements, submitted revisions, and the EPA's reasons for and limitations of the proposed approval are provided in the notice of proposed rulemaking, which, together with this document, provides the basis for our final action. The public comment period for this proposed rule ended on February 6, 2015. The EPA received two sets of similar comments on the proposal.

Before addressing the public comments, the EPA is clarifying its discussion in the January 7, 2015 proposal, regarding two important distinctions between the applicability of Ecology's minor NSR program and its PSD program. These differences arise from the State's definitions of the terms "modification" in WAC 173-400-030(48) and "major modification" in WAC 173-400-710 and -720, which adopt the Federal definitions in 40 CFR 52.21(b)(2) for Ecology's PSD program. See 80 FR at 840. The proposal first noted that the applicability test for "modifications" under Ecology's minor NSR program is based on the definition of modification in CAA section 111(a)(4) and the EPA's implementing rules at 40 CFR 60.14, and specifically, that a modification is an increase in the emission rate of an existing facility in terms of kilograms per hour. See WAC 173-400-030(48). The proposal then noted that the applicability test under the Federal PSD program is based on tons per year. The EPA is clarifying here that under Washington's PSD program, the determination of whether a project (as that term is defined in 40 CFR 52.21(b)(52) and which is adopted by reference at WAC 173-400-720(4)(a)(vi)) is a "major modification" is, consistent with the Federal PSD program, based on whether the project results in both a significant emissions increase and a significant net emissions increase in terms of tons per year. See WAC 400-173-720(4)(a)(vi) (which adopts by reference the Federal PSD applicability test and definitions in 40 CFR 52.21(a)(2) and (b)(2), respectively); see also WAC 173-400-710(a). Therefore, as stated in the proposal, for any physical or operational change at an existing stationary source, regulated sources and permitting authorities will need to calculate emission changes in terms of both kilograms per hour and tons per year to determine whether changes are subject to minor NSR, PSD, or both.

Second, the proposal discussed a difference in minor NSR versus PSD review in Washington that arises from a limitation on the scope of the review of

a modification under Ecology's minor NSR program. The EPA first noted that, under Ecology's minor NSR program, new source review of a modification is limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification. See WAC 173-400-110(1)(d) ("New source review of a modification is limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification."). In contrasting this minor NSR provision with the requirements of Ecology's PSD program (and the Federal PSD program), the EPA incorrectly used the phrase "new and modified units" rather than the terms "new emissions units" and "existing emissions units," the terminology used in 40 CFR 52.21(a)(2), which is incorporated into Washington's PSD regulations and the subject of this final SIP approval. The EPA is emphasizing here that, under Ecology's PSD program (as under the Federal PSD program), review of a project that is a "major modification" must be done in accordance with the provisions of WAC 173-400-700 through 173-400-750, and that the limitation in WAC 173-400-110(1)(d) on the review of a "modification" does not apply to a "major modification." See WAC 173-400-110(1)(d) ("Review of a major modification must comply with WAC 173-400-700 through 173-400-750 or 173-400-800 through 173-400-860, as applicable.").

## II. Response to Comments

The EPA received two sets of similar comments from the Northwest Pulp & Paper Association and the Washington Forest Protection Association regarding carbon dioxide (CO<sub>2</sub>) emissions from industrial combustion of biomass.

### *A. CO<sub>2</sub> Emissions From Industrial Combustion of Both Fossil Fuel and Biomass*

*Comment:* The EPA must clearly explain in the final approval that, due to the limitations imposed by Revised Code of Washington (RCW) 70.235.020(3) concerning the industrial combustion of biomass,<sup>1</sup> the EPA is

<sup>1</sup> Note that one commenter refers to the exemption in RCW 70.235.020(3) as applying to "forest biomass" and points to the definition of that term in RCW 79.02.010(7)(a). RCW 70.235.020(3), however, uses the term "biomass," not "forest biomass," and nothing in RCW Ch. 70.235 indicates that the definitions in RCW Ch. 79.02 are to be used in interpreting RCW Ch. 70.235. We therefore continue to use the terminology in RCW Ch. 79.02 in describing the scope of the remaining Federal Implementation Plan for PSD in Washington.

retaining the authority to conduct the best available control technology (BACT) analysis for PSD permits only for biogenic CO<sub>2</sub> emissions from biomass and will coordinate its processing and issuance of PSD permits with the Department of Ecology. One of the commenters specifically requests clarity regarding situations where there are multiple combustion fuels producing CO<sub>2</sub> from a source and whether Ecology would retain PSD permitting authority for CO<sub>2</sub> emissions resulting from the industrial combustion of non-biomass fuels from such a source.

*Response:* As discussed in the proposal of this rule, RCW 70.235.020(3) statutorily bars Ecology from regulating CO<sub>2</sub> under Ecology's PSD program in some circumstances. That statute provides that "[e]xcept for purposes of reporting, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals shall not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased." The EPA has been actively examining whether under Federal law CO<sub>2</sub> emissions from the industrial combustion of biomass may be exempt from the PSD permitting requirements in a manner similar to RCW 70.235.020(3). In 2011, the EPA adopted a rule that deferred, for a period of three years, the application of the PSD and Title V permitting requirements to CO<sub>2</sub> emissions from bioenergy and other biogenic stationary sources (biogenic CO<sub>2</sub>). 76 FR 43490 (July 20, 2011) (Biomass Deferral Rule). During the three-year deferral period, the EPA conducted a detailed examination of the science associated with biogenic CO<sub>2</sub> emissions from stationary sources and developed a document entitled "Accounting Framework for Biogenic CO<sub>2</sub> Emissions from Stationary Sources," which the Agency submitted to the EPA Science Advisory Board (SAB) for peer review.

On July 12, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision overturning the Biomass Deferral Rule. *Center for Biological Diversity v. EPA*, 722 F.3d 421 (D.C. Cir. 2013). Although this decision has not yet taken effect because of matters still pending in the courts, the Biomass Deferral Rule expired on its own terms on July 21, 2014. The EPA was not able to issue an additional rule before this date addressing the regulation of biogenic CO<sub>2</sub> emissions from stationary sources in the PSD permitting program. However, the EPA plans to propose revisions to the PSD

rules to include an exemption from the BACT requirement for GHGs from waste-derived feedstocks and from non-waste biogenic feedstocks derived from sustainable forest or agricultural practices. For all other biogenic feedstocks, the EPA intends to propose that biogenic CO<sub>2</sub> emissions would remain subject to the GHG BACT requirement at this time. See Memorandum from Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation, to EPA Air Division Directors, Regions 1–10, “Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources,” (Nov. 19, 2014). In addition, to continue advancing our understanding of the role biomass can play in reducing overall GHG emissions, the EPA has developed a second draft of the Framework for Assessing Biogenic CO<sub>2</sub> Emissions from Stationary Sources, and is initiating a second round of targeted peer review through its SAB.

Although the EPA is planning to initiate the rulemaking described above that would enable states to avoid applying BACT to GHG emissions from combustion of biogenic feedstocks derived from sustainable forest or agricultural practices, the CAA and EPA regulations presently require that PSD permitting programs address CO<sub>2</sub> emissions from the industrial combustion of biomass. CO<sub>2</sub> is a gas included in the definition of “greenhouse gas” used in the Federal PSD program.<sup>2</sup> Because GHGs are a pollutant subject to regulation under the CAA, section 165 of the Act requires GHG emissions from a major source obtaining a PSD permit to be subject to PSD requirements, particularly the requirement to meet emission limitations based on application of BACT. After the expiration of the three-year period in the EPA’s Biomass Deferral Rule, there is presently no EPA rule in place that exempts the CO<sub>2</sub> emissions from the industrial combustion of biomass from the requirements of the PSD permitting program. As discussed in our January 7, 2015 proposal (80 FR 838), because of the Supreme Court decision in *Utility Air Regulatory Group v. Environmental Protection Agency*, 134 S.Ct. 2427, the EPA is not applying the requirement that a state’s SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a

significant net emissions increase from a physical change or change in the method of operation of a major stationary source.<sup>3</sup> However, the BACT requirement remains applicable to GHGs from a source that is subject to PSD because it is major for another regulated NSR pollutant (what is known as an “anyway source”) and which would emit a significant amount of GHGs (*i.e.*, more than 75,000 tons per year CO<sub>2</sub> equivalent emissions, CO<sub>2</sub>e, as defined in 40 CFR 52.21(b)(49)). Absent an EPA rule establishing an exemption for CO<sub>2</sub> emissions from biomass combustion, the determination of BACT for a regulated NSR pollutant must consider all of the emissions of each pollutant subject to regulation under the Act. Because RCW 70.235.020(3) prohibits Ecology from establishing BACT limits for such sources that include CO<sub>2</sub> emissions resulting from the industrial combustion of biomass, Washington law is inconsistent with the EPA’s current regulations implementing the PSD provisions in the CAA in that regard.

As a result, the EPA must retain a FIP under 40 CFR 52.21 and issue partial PSD permits to ensure that major sources in Washington have a means to satisfy the CAA construction permit requirements for GHGs when CO<sub>2</sub> emissions from the industrial combustion of biomass in Washington cannot be considered or regulated by Ecology under its PSD rules.<sup>4</sup> Because Ecology does have authority to carry out all PSD requirements for GHGs except for sources permitted to engage in the industrial combustion of biomass, the EPA is approving Ecology’s regulations as part of the Washington PSD SIP for such purposes.

For sources subject to the FIP, the EPA is retaining the authority to conduct the BACT analysis for all GHGs when necessary, not just the biogenic CO<sub>2</sub> emissions not covered by the Washington permitting program under RCW 70.235.020(3). Because the regulated NSR pollutant is GHGs and not CO<sub>2</sub>, the Federal PSD permit issued by the EPA under the FIP will contain a BACT limit covering all GHG emissions from a subject emission unit

<sup>3</sup> Under this decision, the Supreme Court held that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source (or major modification thereof) required to obtain a PSD permit, but that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of BACT. See 80 FR at 842.

<sup>4</sup> PSD permitting of CO<sub>2</sub> emissions from such sources was also excluded from the 2013 Delegation Agreement between the EPA and Washington.

when that unit is permitted to emit biogenic CO<sub>2</sub> not covered by the Washington permitting program. The EPA believes it should retain authority over all GHG emissions at such sources to avoid difficulties that could arise if Ecology and the EPA each separately evaluated BACT for only a portion of the GHG emissions from an emission unit. For example, each agency could end up calculating cost values that would not reflect the true cost of the control options for GHG emissions because not all GHGs, as defined under the Federal PSD program, would be considered by either agency.

Thus, the EPA FIP addresses the impact of the Washington statutory provision in two ways. First, the Ecology and the EPA definitions of GHGs are effectively different, with the EPA’s definition being more inclusive (*i.e.*, it does not exclude CO<sub>2</sub> emissions from the industrial combustion of biomass) so an “anyway source” could be subject to PSD for GHGs under the FIP when it would not be subject to PSD under the SIP. In this situation, the EPA will issue a Federal PSD permit under 40 CFR 52.21 for the new major stationary source or major modification that would require BACT for GHGs for all subject emission units at the source, regardless of whether CO<sub>2</sub> emissions were from the industrial combustion of biomass or from other sources of GHG emissions at the facility. Second, if an “anyway source” is subject to PSD for GHG emissions under both the SIP and the FIP, but there are CO<sub>2</sub> emissions from the industrial combustion of biomass that cannot be addressed in the Ecology PSD permit, the EPA will issue a Federal PSD permit under 40 CFR 52.21 requiring BACT for GHGs for each subject emissions unit with CO<sub>2</sub> emissions from the industrial combustion of biomass. Note that the Ecology PSD permit issued under the SIP will address all other subject emission units that do not have CO<sub>2</sub> emissions from the industrial combustion of biomass. We have revised the language of 40 CFR 52.2497 to reflect this clarification.

Given this dual CAA PSD permitting authority in situations where there are multiple combustion fuels producing CO<sub>2</sub> from a source engaged in the industrial combustion of biomass in Washington, the EPA will coordinate closely with Ecology during the PSD permit issuance process.

#### B. EPA Guidance

*Comment:* The EPA should also clarify that it will follow the EPA’s existing guidance on BACT for biogenic emissions, “Guidance for Determining

<sup>2</sup> See 40 CFR 52.21(b)(49)(definition of “subject to regulation”).

Best Available Control Technology for Reducing Carbon Dioxide Emissions from Bioenergy Production” (March 2011 guidance).

*Response:* The March 2011 guidance is the EPA’s most recent guidance on the topic of BACT determinations for bioenergy production and the EPA will consider it, as appropriate, in issuing PSD permits under the FIP. The EPA will also consider prior BACT determinations for GHGs at biomass facilities, such as the one reflected in the permit EPA Region 9 issued to Sierra Pacific Industries. In the November 19, 2014 Memorandum cited above, the EPA has also stated that the Agency anticipates providing additional guidance to sources undergoing BACT analyses involving biogenic feedstocks. To the extent that guidance is available at the time the EPA issues permits under the FIP discussed in this rule, the EPA will consider that guidance as well.

*C. The EPA’s Next Steps on Biogenic CO<sub>2</sub> Emissions From Stationary Sources*

*Comment:* One commenter referenced the EPA’s memorandum, “Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources,” from Janet McCabe, Acting Assistant Administrator, Office of Air and

Radiation, to EPA Air Division Directors, Regions 1–10, November 19, 2014, regarding biogenic CO<sub>2</sub> emissions and urged the EPA to complete rulemaking regarding this issue in an expeditious manner.

*Response:* The EPA will endeavor to complete this rulemaking in a timely manner. After considering public comments on the proposal for that rule, if the final rule contains an exemption that aligns with the scope of RCW 70.235.020(3), the EPA will reevaluate the extent to which the FIP established in this rule should remain applicable to Washington facilities with CO<sub>2</sub> emissions from the industrial combustion of biomass. To enable the EPA to remove such sources from the FIP, Washington may need to consider whether an amendment to RCW 70.235.020(3) is appropriate to match the scope of any final rule adopted by the EPA.

**III. Final Action**

For the reasons set forth in our proposed rulemaking at 80 FR 838, January 7, 2015, as further discussed above, the EPA is approving and incorporating by reference the PSD and visibility permitting regulations submitted by Ecology on January 27,

2014. This action is the third and final in a series approving the remaining elements contained in Ecology’s January 27, 2014 submittal. The previous two actions consisted of the EPA’s October 3, 2014 (79 FR 59653) approval of general provisions that apply to all air pollution sources and the EPA’s November 7, 2014 (79 FR 66291) approval of requirements that implement major source NNSR.

*A. Rules Approved and Incorporated by Reference Into the SIP*

The EPA is approving and incorporating by reference into Washington’s SIP at 40 CFR part 52, subpart WW, the PSD and visibility permitting regulations listed in the table below. A full copy of the regulations is included in the docket for this action. The EPA has also determined that the general air quality regulations at WAC 173–400–036, WAC 173–400–110, WAC 173–400–111, WAC 173–400–112, WAC 173–400–113, WAC 173–400–171, and WAC 173–400–560, to the extent they relate to implementation of Ecology’s PSD and visibility programs, also meet the EPA’s requirements for subject sources.<sup>5</sup>

**REGULATIONS APPROVED AND INCORPORATED BY REFERENCE**

State citation	Title/Subject	State effective date	Explanation
<b>Chapter 173–400 WAC, General Regulations for Air Pollution Sources</b>			
173–400–036 173–400–110	Relocation of Portable Sources ..... New Source Review (NSR) for Sources and Portable Sources.	12/29/12 12/29/12	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC;”; The part of 400–110 (4)(e)(iii) that says, • “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”; The part of 400–110(4)(e)(f)(i) that says, • “that are not toxic air pollutants listed in chapter 173–460 WAC”; The part of 400–110 (4)(h)(xviii) that says, • “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”; The part of 400–110 (4)(h)(xxiii) that says, • “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”; The part of 400–110(4)(h)(xxxiv) that says, • “, or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; The part of 400–110(4)(h)(xxxv) that says, • “or ≤ 1% (by weight) toxic air pollutants”; The part of 400–110(4)(h)(xxxvi) that says, • “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”; 400–110(4)(h)(xl) , second sentence; and

<sup>5</sup> The EPA previously approved these regulations as part of our October 3, 2014 approval of Ecology’s minor new source review (NSR) program. Approval of these regulations for purposes of implementing the PSD and visibility programs is subject to the

exceptions and explanations described in the EPA’s July 10, 2014 proposed (79 FR 39351) and October 3, 2014 final action (79 FR 59653), and the January 7, 2015 proposed action (80 FR 838) on the general air quality regulations contained in WAC 173–400–

036, WAC 173–400–110, WAC 173–400–111, WAC 173–400–112, WAC 173–400–113, WAC 173–400–171, and WAC 173–400–560.

REGULATIONS APPROVED AND INCORPORATED BY REFERENCE—Continued

State citation	Title/Subject	State effective date	Explanation
173-400-111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	The last row of the table in 173-400-110(5)(b) regarding exemption levels for Toxic Air Pollutants. Except: 173-400-111(3)(h); 173-400-111(3)(i); The part of 173-400-111(8)(a)(v) that says, • “and 173-460-040,”; and 173-400-111(9).
173-400-112	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	Except: 173-400-112(8).
173-400-113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	Except: 173-400-113(3), second sentence.
173-400-116	Increment Protection .....	9/10/11	
173-400-117	Special Protection Requirements for Federal Class I Areas.	12/29/12	
173-400-171	Public Notice and Opportunity for Public Comment.	12/29/12	Except: The part of 173-400-171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173-460 WAC”; and 173-400-171(12).
173-400-560	General Order of Approval .....	12/29/12	Except: The part of 173-400-560(1)(f) that says, “173-460 WAC”.
173-400-700	Review of Major Stationary Sources of Air Pollution.	4/1/11	
173-400-710	Definitions .....	12/29/12	
173-400-720	Prevention of Significant Deterioration (PSD).	12/29/12	Except: 173-400-720(4)(a)(i through iv); 173-400-720(4)(b)(iii)(C); and 173-400-720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v), 52.21(i)(5)(i), and 52.21(k)(2).
173-400-730	Prevention of Significant Deterioration Application Processing Procedures.	12/29/12	
173-400-740	PSD Permitting Public Involvement Requirements.	12/29/12	
173-400-750	Revisions to PSD Permits .....	12/29/12	Except: 173-400-750(2) second sentence.

*B. Transfer of Existing EPA-Issued PSD Permits*

As discussed in the proposal, Ecology requested approval to exercise its authority to fully administer the PSD program with respect to those sources under Ecology’s permitting jurisdiction that have existing PSD permits issued by the EPA since August 7, 1977. 80 FR 843, January 7, 2015. Upon the effective date of this approval of Ecology’s PSD program into the SIP, we transfer the EPA-issued PSD permits issued on and after August 7, 1977 to Ecology. The EPA retains authority to administer PSD permits issued by the EPA in Washington prior to August 7, 1977. *Id.*

*C. Scope of Final Action*

1. WAC 173-400-700 Through 173-400-750

Under WAC 173-400-700, Ecology’s PSD regulations contained in WAC 173-400-700 through 173-400-750 apply

statewide, except where a local clean air agency has received delegation of the Federal PSD program from the EPA or has a SIP-approved PSD program. At this time, no local clean air agencies in Washington have a delegated or SIP-approved PSD program. For the reasons provided in the preambles to the proposed and final notices of rulemaking, the EPA is therefore approving WAC 173-400-700 through 173-400-750 to apply statewide, with the three exceptions described below. For the following exceptions, the PSD FIP codified at 40 CFR 52.2497 and 40 CFR 52.21 will continue to apply, and the EPA will retain responsibility for issuing PSD permits to and implementing the Federal PSD program for such sources:

a. Sources Under the Energy Facilities Site Evaluation Council (EFSEC) Jurisdiction

By statute, Ecology does not have authority to issue PSD permits to sources under the jurisdiction of EFSEC. See Chapter 80.50 of the Revised Code of Washington (RCW). Therefore, the EPA’s approval of Ecology’s PSD program, under WAC 173-400-700 through 173-400-750, excludes projects under the jurisdiction of EFSEC. Such sources will continue to be subject to the PSD FIP codified at 40 CFR 52.2497 and 40 CFR 52.21, until such time that EFSEC’s PSD rules are approved into the SIP.

b. CO<sub>2</sub> Emissions From Industrial Combustion of Biomass

As discussed above, under a provision contained in RCW 70.235.020, Greenhouse Gas Emissions Reductions—Reporting Requirements, Ecology is statutorily barred from

regulating certain GHG emissions. As a result, the EPA is retaining a FIP under 40 CFR 52.21 and will issue partial PSD permits to ensure that major sources in Washington have a means to satisfy the CAA construction permit requirements for GHGs when CO<sub>2</sub> emissions from the industrial combustion of biomass in Washington are not being considered or regulated by Ecology under its PSD rules. Because Ecology does have authority to carry out all PSD requirements for GHGs except for sources permitted to engage in the industrial combustion of biomass, the EPA is approving Ecology's regulations as part of the Washington PSD SIP for such purposes.

#### c. Sources in Certain Areas of Indian Country

Excluded from the scope of this final approval of Ecology's PSD program are all Indian reservations in the State, except as specifically noted below, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Sources on such lands will continue to be subject to the PSD FIP codified at 40 CFR 52.2497 and 40 CFR 52.21.

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 exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) and the EPA is therefore proposing to approve Ecology's PSD regulations into the SIP with respect to such lands.

#### d. Scope of PSD FIP in Washington

Consistent with the limitations on the scope of the EPA's final approval of WAC 173-400-700 through 173-400-750 in the Washington SIP, the EPA retains, but significantly narrows, the scope of the current PSD FIP codified at 40 CFR 52.2497. The EPA will continue to implement the current PSD FIP as provided in III.C.1.a., b., and c. of this document.

#### 2. WAC 173-400-116 and 173-400-117

With respect to the EPA's approval of WAC 173-400-116 and WAC 173-400-117, the SIP-approved provisions of WAC 173-400-020 govern jurisdictional applicability for those sections. WAC 173-400-020 states, "[t]he provisions of this chapter shall apply statewide, except for specific subsections where a local authority has adopted and implemented corresponding local rules that apply only to sources subject to local jurisdiction as provided under RCW 70.94.141 and 70.94.331." Because

Ecology will be the only authority in Washington with a SIP-approved PSD program that would implement WAC 173-400-116, *Increment Protection*, the EPA's approval of WAC 173-400-116 applies statewide, with the two exceptions discussed below. Similarly, the scope of our approval of WAC 173-400-117, *Special Protection Requirements for Federal Class I Areas*, applies statewide for PSD permits issued by Ecology under WAC 173-400-700 through 173-400-750, noting the two exceptions discussed below. However, for visibility-related elements associated with permits issued under the major NNSR program, the applicability of WAC 173-400-117 is more complicated because local clean air agencies have the authority under state law to have alternative, but no less stringent, permitting requirements. Therefore, consistent with the EPA's November 7, 2014 approval of Ecology's major NNSR program, our approval of WAC 173-400-117, as it relates to NNSR permits issues under WAC 173-400-800 through 173-400-860, is limited to only those counties or sources where Ecology has direct jurisdiction. The counties where Ecology has direct jurisdiction are: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman Counties, with the two exceptions discussed below. The EPA also notes that under the SIP-approved provisions of WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012, Ecology has statewide, direct jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants, excluding certain areas of Indian country as discussed further. The EPA is therefore approving WAC 173-400-117 in all areas of the state under Ecology's jurisdiction for those specified source categories.

For the following exceptions the visibility FIP codified at 40 CFR 52.2498 will continue to apply and the EPA will retain responsibility for issuing visibility permits for such sources:

#### a. Sources Under the Energy Facilities Site Evaluation Council (EFSEC) Jurisdiction

By State statute, Ecology does not have authority to issue permits to sources under the jurisdiction of EFSEC. See Chapter 80.50 of the Revised Code of Washington (RCW). Therefore, the EPA's approval of WAC 173-400-116 and 173-400-117 excludes projects under the jurisdiction of EFSEC. Such sources will continue to be subject to the visibility FIP codified at 40 CFR

52.2498, until such time that EFSEC's corollaries to WAC 173-400-116 and 173-400-117 are approved into the SIP.

#### b. Sources in Certain Areas of Indian Country

Excluded from the scope of this final approval of the visibility permitting program are all Indian reservations in the State, except as specifically noted below, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Sources on such lands will continue to be subject to the visibility FIP codified at 40 CFR 52.2498.

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 exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) and the EPA is therefore proposing to approve Ecology's visibility regulations into the SIP with respect to such lands for those facilities where Ecology has direct jurisdiction.

#### c. Scope of Visibility FIP in Washington

Consistent with the limitations on the scope of our approval of Ecology's major NNSR program (79 FR at 43349), the EPA retains, but significantly narrows, the scope of the current visibility FIP codified at 40 CFR 52.2498.

#### D. The EPA's Oversight Role

As discussed in the proposal, 80 FR at 845, in approving state new source review rules into SIPs, the EPA has a responsibility to ensure that all states properly implement their SIP-approved preconstruction permitting programs. The EPA's approval of Ecology's PSD rules does not divest the EPA of the responsibility to continue appropriate oversight to ensure that permits issued by Ecology are consistent with the requirements of the CAA, Federal regulations, and the SIP. The EPA's authority to oversee permit program implementation is set forth in sections 113, 167, and 505(b) of the CAA. For example, section 167 provides that the EPA shall issue administrative orders, initiate civil actions, or take whatever other action may be necessary to prevent the construction or modification of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) of the CAA provides for administrative orders and civil actions whenever the EPA finds that a state "is not acting in compliance with" any requirement or prohibition of the CAA regarding the construction of new

sources or modification of existing sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever the EPA finds that a person is in violation of an applicable implementation plan.

In making judgments as to what constitutes compliance with the CAA and regulations issued thereunder, the EPA looks to (among other sources) its prior interpretations regarding those statutory and regulatory requirements and policies for implementing them. It follows that state actions implementing the Federal CAA that do not conform to the CAA may lead to potential oversight action by the EPA.

#### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Washington State Department of Ecology regulations listed in section II.A. *Rules Approved and Incorporated by Reference into the SIP* of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### V. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land 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. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated February 25, 2014. The EPA did not receive a request for consultation.

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 June 29, 2015. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 13, 2015.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

For the reasons stated 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 WW—Washington

- 2. Section 52.2470 is amended in paragraph (c), Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction by:
  - a. Revising the heading;
  - b. Revising the entries 173-400-036, 173-400-110, 173-400-111, 173-400-112, and 173-400-113;
  - c. Adding in numerical order entries for 173-400-116 and 173-400-117;
  - d. Revising the entries 173-400-171 and 173-400-560;
  - e. Adding in numerical order entries for 173-400-700, 173-400-710, 173-

400-720, 173-400-730, 173-400-740, and 173-400-750; and  
 ■ f. Removing the footnote at end of Table 2.

The revisions and additions read as follows:

§ 52.2470 Identification of plan.  
 \* \* \* \* \*  
 (c) \* \* \*

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173-400-700, WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources</b>				
173-400-036 ..	Relocation of Portable Sources.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	
173-400-110 ..	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173-400-110(1)(c)(ii)(C); 173-400-110(1)(e); 173-400-110(2)(d); The part of WAC 173-400-110(4)(b)(vi) that says, • “not for use with materials containing toxic air pollutants, as listed in chapter 173-460 WAC;”; The part of 400-110 (4)(e)(iii) that says, • “where toxic air pollutants as defined in chapter 173-460 WAC are not emitted”; The part of 400-110(4)(e)(f)(i) that says, • “that are not toxic air pollutants listed in chapter 173-460 WAC”; The part of 400-110 (4)(h)(xviii) that says, • “, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted”; The part of 400-110 (4)(h)(xxxiii) that says, • “where no toxic air pollutants as listed under chapter 173-460 WAC are emitted”; The part of 400-110(4)(h)(xxxiv) that says, • “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; The part of 400-110(4)(h)(xxxv) that says, • “or ≤ 1% (by weight) toxic air pollutants”; The part of 400-110(4)(h)(xxxvi) that says, • “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; 400-110(4)(h)(xl), second sentence; and The last row of the table in 173-400-110(5)(b) regarding exemption levels for Toxic Air Pollutants.
173-400-111 ..	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173-400-111(3)(h); 173-400-111(3)(i); The part of 173-400-111(8)(a)(v) that says, • “and 173-460-040,”; and 173-400-111(9).
173-400-112 ..	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173-400-112(8).
173-400-113 ..	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173-400-113(3), second sentence.
173-400-116 ..	Increment Protection	9/10/11	04/29/15 [Insert <b>Federal Register</b> citation].	



TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION—Continued

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, WAC 173–405–012, WAC 173–410–012, and WAC 173–415–012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–117 ..	Special Protection Requirements for Federal Class I Areas.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
173–400–171 ..	Public Notice and Opportunity for Public Comment.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: The part of 173–400–171(3)(b) that says, • “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC”; and 173–400–171(12).
* * *	* * *	* * *	* * *	* * *
173–400–560 ..	General Order of Approval.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–700 ..	Review of Major Stationary Sources of Air Pollution.	4/1/11	04/29/15 [Insert <b>Federal Register</b> citation].	
173–400–710 ..	Definitions .....	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	
173–400–720 ..	Prevention of Significant Deterioration (PSD).	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173–400–720(4)(a)(i–iv); 173–400–720(4)(b)(iii)(C); and 173–400–720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v), 52.21(i)(5)(i), and 52.21(k)(2).
173–400–730 ..	Prevention of Significant Deterioration Application Processing Procedures.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	
173–400–740 ..	PSD Permitting Public Involvement Requirements.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	
173–400–750 ..	Revisions to PSD Permits.	12/29/12	04/29/15 [Insert <b>Federal Register</b> citation].	Except: 173–400–750(2) second sentence.
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*

■ 3. Section 52.2497 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 52.2497 Significant deterioration of air quality.**

(a) The requirements of sections 160 through 165 of the Clean Air Act are not fully met because the plan does not include approvable procedures for preventing the significant deterioration of air quality from:

(1) Facilities subject to the jurisdiction of the Energy Facilities Site Evaluation Council pursuant to Chapter 80.50 Revised Code of Washington (RCW);

(2) Facilities with carbon dioxide (CO<sub>2</sub>) emissions from the industrial

combustion of biomass in the following circumstances:

(i) Where a new major stationary source or major modification would be subject to Prevention of Significant Deterioration (PSD) requirements for greenhouse gases (GHGs) under § 52.21, but would not be subject to PSD under the state implementation plan (SIP) because CO<sub>2</sub> emissions from the industrial combustion of biomass are excluded from consideration as GHGs as a matter of state law under RCW 70.235.020(3); or

(ii) Where a new major stationary source or major modification is subject to PSD for GHGs under both the Washington SIP and the FIP, but CO<sub>2</sub> emissions from the industrial combustion of biomass are excluded

from consideration in the Ecology PSD permitting process because of the exclusion in RCW 70.235.020(3);

(3) Indian reservations in Washington, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) as provided in the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and

(4) Sources subject to PSD permits issued by the EPA prior to August 7, 1977, but only with respect to the general administration of any such permits still in effect (e.g., modifications, amendments, or revisions of any nature).

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of § 52.21, except paragraph (a)(1), are hereby incorporated and made a part of the applicable plan for Washington for the facilities, emission sources, geographic areas, and permits listed in paragraph (a) of this section. For situations addressed in paragraph (a)(2)(i) of this section, the EPA will issue a Federal PSD permit under § 52.21 to the new major stationary source or major modification addressing PSD requirements applicable to GHGs for all subject emission units at the source, regardless of whether CO<sub>2</sub> emissions resulted from the industrial combustion of biomass or from other sources of GHGs at the facility. For situations addressed in paragraph (a)(2)(ii) of this section, the EPA will issue a Federal PSD permit under § 52.21 addressing PSD requirements applicable to GHGs for each subject emissions unit that is permitted to emit CO<sub>2</sub> from the industrial combustion of biomass.

\* \* \* \* \*

■ 4. Section 52.2498 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 52.2498 Visibility protection.**

(a) The requirements of section 169A of the Clean Air Act are not fully met because the plan does not include approvable procedures for visibility new source review for:

(1) Facilities subject to the jurisdiction of the Energy Facilities Site Evaluation Council pursuant to Chapter 80.50 Revised Code of Washington;

(2) Sources subject to the jurisdiction of local air authorities;

(3) Indian reservations in Washington except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) as provided in the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

(b) *Regulations for visibility new source review.* The provisions of § 52.28 are hereby incorporated and made a part of the applicable plan for Washington for the facilities, emission sources, and geographic areas listed in paragraph (a) of this section.

\* \* \* \* \*

[FR Doc. 2015-09889 Filed 4-28-15; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2014-0418; FRL-9925-78]

**Phenol, 2-(2H-benzotriazol-2-yl)-6-dodecyl-4-methyl-; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation amends an exemption from the requirement of a tolerance for residues of phenol, 2-(2H-benzotriazol-2-yl)-6-dodecyl-4-methyl- (CAS Reg. No. 23328-53-2) to allow its use on all growing crops as an inert ingredient (ultraviolet (UV) stabilizer) at a maximum concentration of 10% in pesticide formulations, Loveland Products Inc., submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA). This regulation eliminates the need to establish a maximum permissible level for residues of phenol, 2-(2H-benzotriazol-2-yl)-6-dodecyl-4-methyl-.

**DATES:** This regulation is effective April 29, 2015. Objections and requests for hearings must be received on or before June 29, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2014-0418, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. 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 OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Susan Lewis, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. How can I file an objection or hearing request?*

Under Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2014-0418 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 29, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2014-0418, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online