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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2016-0394; FRL-9953-50-Region 10]

Approval and Promulgation of Implementation Plans; Washington: Updates to Incorporation by Reference and Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan revisions submitted by the Washington State Department of Ecology (Ecology) on July 11, 2016. The revisions update the incorporation by reference of federal provisions cited in Ecology's general air quality regulations. The revisions also reflect changes to the primary and secondary National Ambient Air Quality Standards (NAAQS) for ozone, promulgated since Ecology's last update. Ecology also made minor corrections to typographical errors and non-substantive edits for clarity, such as standardizing the citation format.

DATES: This final rule is effective November 7, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2016-0394. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information 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 is publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA

Region 10, Office of Air and Waste, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency, Region 10, 1200 Sixth Ave., Suite 900, Seattle, WA 98101; telephone number: (206) 553-0256; email address: hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background Information

On August 12, 2016, the EPA proposed to approve revisions to Ecology's general air quality regulations contained in Chapter 173-400 Washington Administrative Code (WAC) and the State ambient air quality standards contained in Chapter 173-476 WAC (81 FR 53362). An explanation of the Clean Air Act requirements, a detailed analysis of the revisions, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on September 12, 2016. The EPA received no comments on the proposal.

II. Final Action

The EPA is approving, and incorporating by reference, the submitted revisions to Chapters 173-400 and 173-476 WAC set forth below as amendments to 40 CFR part 52. We are also approving, but not incorporating by reference, the revised version of WAC 173-400-260 *Conflict of Interest*, state effective July 1, 2016. Consistent with prior actions on the Washington SIP, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are typically not incorporated

by reference so as to avoid potential conflict with the EPA's independent authorities.

III. 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 as described in the amendments to 40 CFR part 52 set forth below. These materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Orders Review

Under the Clean Air Act, 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 Clean Air Act. 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

¹ 62 FR 27968 (May 22, 1997).

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 application of those requirements would be inconsistent with the Clean Air Act; 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 July 13, 2016.

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 19, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

Subpart WW—Washington

- 2. In § 52.2470:
 - a. Amend paragraph (c):
 - i. "Table 1—Regulations Approved Statewide", by revising entries 173-476-020, 173-476-150, and 173-476-900.
 - ii. "Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction", by adding entry 173-400-025 in numerical order, and revising entries 173-400-040, 173-400-050, 173-400-060, 173-400-070, 173-400-105, 173-400-111, 173-400-116, 173-400-171, 173-400-710, 173-400-720, 173-400-730, 173-400-740, 173-400-810, 173-400-830, 173-400-840, and 173-400-850.
 - iii. "Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction", by adding entry 173-400-025 in numerical order, and revising entries 173-400-040, 173-400-050, 173-400-060, 173-400-070, 173-400-105, 173-400-111, 173-400-171, 173-400-810, 173-400-830, 173-400-840, and 173-400-850.
 - b. Amend paragraph (e), "Table 1—Approved but Not Incorporated by Reference Regulations", by revising entry 173-400-260.

The additions and revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 1—REGULATIONS APPROVED STATEWIDE

[Not applicable in 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]

| State citation | Title/Subject | State effective date | EPA Approval date | Explanations |
|--|---|----------------------|--|--------------|
| * | * | * | * | * |
| Washington Administrative Code, Chapter 173–476—Ambient Air Quality Standards | | | | |
| 173–476–020 | Applicability | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | * |
| 173–476–150 | Ambient Air Quality Standard for Ozone. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | * |
| 173–476–900 | Table of Standards | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | * |
| * | * | * | * | * |

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, 173–405–012, 173–410–012, and 173–415–012]

| State citation | Title/Subject | State effective date | EPA Approval date | Explanations |
|--|--|----------------------|--|---|
| Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources | | | | |
| 173–400–025 | Adoption of Federal Rules | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | * |
| 173–400–040 | General Standards for Maximum Emissions. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(5); 173–400–040(7), second paragraph. |
| 173–400–050 | Emission Standards for Combustion and Incineration Units. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6). |
| 173–400–060 | Emission Standards for General Process Units. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–070 | Emission Standards for Certain Source Categories. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | Except: 173–400–070(7); 173–400–070(8). |
| 173–400–105 | Records, Monitoring, and Reporting. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | * |
| 173–400–111 | Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | Except: 173–400–111(3)(h); The part of 173–400–111(8)(a)(v) that says, • “and 173–460–040;”; 173–400–111(9). |
| 173–400–116 | Increment Protection | 07/01/16 | 10/06/16, [Insert Federal Register 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, 173–405–012, 173–410–012, and 173–415–012]

| State citation | Title/Subject | State effective date | EPA Approval date | Explanations |
|----------------|---|----------------------|---|---|
| 173–400–171 | Public Notice and Opportunity for Public Comment. | 07/01/16 | 10/06/16, [Insert Federal Register 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”; 173–400–171(12). |
| 173–400–710 | Definitions | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–720 | Prevention of Significant Deterioration (PSD). | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | Except: 173–400–720(4)(a)(i through iv) and 173–400–720(4)(b)(iii)(C). |
| 173–400–730 | Prevention of Significant Deterioration. Application Processing Procedures. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–740 | PSD Permitting Public Involvement. Requirements | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–810 | Major Stationary Source and Major Modification Definitions. | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–830 | Permitting Requirements | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–840 | Emission Offset Requirements | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
| 173–400–850 | Actual Emissions Plantwide Applicability Limitation (PAL) | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |

* * * * *

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

| State/local citation | Title/Subject | State/local effective date | EPA Approval date | Explanations |
|----------------------|---------------|----------------------------|-------------------|--------------|
| | | | | |

Washington Department of Ecology Regulations

Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources

| | | | | |
|-------------|---------------------------|----------|---|--|
| 173–400–025 | Adoption of Federal Rules | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |
|-------------|---------------------------|----------|---|--|

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION—
Continued

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173-400-700, 173-405-012, 173-410-012, and 173-415-012]

| State/local citation | Title/Subject | State/local effective date | EPA Approval date | Explanations |
|----------------------|--|----------------------------|---|--|
| 173-400-040 | General Standards for Maximum Emissions. | 07/01/16 | 10/06/16, [Insert ister citation]. | Except: 173-400-040(2)(c); 173-400-040(2)(d); 173-400-040(3); 173-400-040(4); 173-400-040(5); 173-400-040(7), second paragraph; 173-400-040(9)(a); 173-400-040(9)(b). |
| 173-400-050 | Emission Standards for Combustion and Incineration Units. | 07/01/16 | 10/06/16, [Insert ister citation]. | Except: 173-400-050(2); 173-400-050(4); 173-400-050(5); 173-400-050(6). |
| 173-400-060 | Emission Standards for General Process Units. | 07/01/16 | 10/06/16, [Insert ister citation]. | |
| 173-400-070 | Emission Standards for Certain Source Categories. | 07/01/16 | 10/06/16, [Insert ister citation]. | Except: 173-400-070(7); 173-400-070(8). |
| 173-400-105 | Records, Monitoring and Reporting. | 07/01/16 | 10/06/16, [Insert ister citation]. | |
| 173-400-111 | Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources. | 07/01/16 | 10/06/16, [Insert ister citation]. | Except: 173-400-111(3)(h);— The part of 173-400-111(8)(a)(v) that says, “and 173-460-040,”; 173-400-111(9). |
| 173-400-171 | Public Notice and Opportunity for Public Comment. | 07/01/16 | 10/06/16, [Insert ister 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”; 173-400-171(12). |
| 173-400-810 | Major Stationary Source and Major Modification Definitions. | 07/01/16 | 10/06/16, [Insert ister citation]. | |
| 173-400-830 | Permitting Requirements | 07/01/16 | 10/06/16, [Insert ister citation]. | |
| 173-400-840 | Emission Offset Requirements | 07/01/16 | 10/06/16, [Insert ister citation]. | |
| 173-400-850 | Actual Emissions Plantwide Applicability Limitation (PAL). | 07/01/16 | 10/06/16, [Insert ister citation]. | |

* * * * *

(e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

| State/local citation | Title/Subject | State/local effective date | EPA Approval date | Explanations |
|---|----------------------|----------------------------|---|--------------|
| Washington Department of Ecology Regulations | | | | |
| 173-400-260 | Conflict of Interest | 07/01/16 | 10/06/16, [Insert Federal Register citation]. | |

* * * * *

[FR Doc. 2016-23862 Filed 10-5-16; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0240; FRL-9950-74-Region 9]

Approval and Limited Approval and Limited Disapproval of Air Quality Implementation Plans; California; Northern Sonoma County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing action on five permitting rules submitted as a revision to the Northern Sonoma County Air Pollution Control District (NSCAPCD or District) portion of the applicable state implementation plan (SIP) for the State of California pursuant to requirements under the Clean Air Act (CAA or Act).

We are finalizing a limited approval and limited disapproval of two rules; we are finalizing approval of the remaining three permitting rules; and we are deleting three rules. The amended rules govern the issuance of permits for stationary sources, including review and permitting of minor sources, major sources and major modifications under part C of title I of the Act. The limited disapproval actions trigger an obligation for EPA to promulgate a Federal Implementation Plan (FIP) for the specific New Source Review (NSR) program deficiencies unless California submits and we approve SIP revisions that correct the deficiencies within two years of the final action.

DATES: This rule will be effective on November 7, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2016-0240. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, by phone: (415) 972-3534 or by email at yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

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I. Proposed Action

On May 19, 2016 (81 FR 31567), the EPA proposed a limited approval and limited disapproval (LA/LD) or a full approval (as noted in the table) of the following rules that were submitted for incorporation into the Northern Sonoma County portion of the California SIP.

TABLE 1—SUBMITTED NSR RULES

| Rule No. | Rule title | Amended | Submitted | Proposed action |
|----------|------------------------|----------|-----------|-----------------|
| 130 | Definitions | 11/14/14 | 12/11/14 | LA/LD. |
| 200 | Permit Requirements | 11/14/14 | 12/11/14 | Full Approval. |
| 220 | New Source Review | 11/14/14 | 12/11/14 | LA/LD. |
| 230 | Action on Applications | 11/14/14 | 12/11/14 | Full Approval. |
| 240 | Permit to Operate | 2/22/84 | 10/16/85 | Full Approval. |

We proposed a full approval of Rules 200, 230 and 240 because we determined that these rules improve the SIP and are consistent with the relevant CAA requirements. We proposed a limited approval of Rules 130 and 220 because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval of Rules

130 and 220 because some rule provisions conflict with section 110 and part C of the Act. These provisions include the following:

A. The definition of Significant in Rule 130 does not include lead as a pollutant or provide a significant emission rate. The rule also does not provide a public notice threshold for lead.

B. Rule 220 does not contain any provisions specifying that required air

quality modeling shall be based on the applicable models, databases, and other requirements specified in Part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.

C. The text in Rule 220, Subsection (b)(3) contains a significant typographical error (the word “not” is missing) concerning the requirements pertaining to stack height.