



## 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 [**insert date 30 days after date of publication in the Federal Register**].

**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](mailto:hunt.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background Information
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Orders Review

**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.<sup>1</sup> The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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**

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

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 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 (Public Law 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 [**insert date 60 days after date of publication in the Federal Register**]. 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
* * * * *				
<b>Washington Administrative Code, Chapter 173-476 -- Ambient Air Quality Standards</b>				
* * * * *				
173-476-020	Applicability	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
* * * * *				
173-476-150	Ambient Air Quality Standard for Ozone	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
* * * * *				
173-476-900	Table of Standards	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	



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**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
<b>Washington Administrative Code, Chapter 173-400 -- General Regulations for Air Pollution Sources</b>				
* * * * *				
173-400-025	Adoption of Federal Rules	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	
* * * * *				
173-400-040	General Standards for Maximum Emissions	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> 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	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal</u></b>	Except: 173-400-050(2); 173-400-050(4); 173-400-050(5);

			<b>Register</b> citation]	173-400-050(6).
173-400-060	Emission Standards for General Process Units	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
173-400-070	Emission Standards for Certain Source Categories	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	Except: 173-400-070(7); 173-400-070(8).
* * * * *				
173-400-105	Records, Monitoring, and Reporting	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
* * * * *				
173-400-111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> 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	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
* * * * *				
173-400-171	Public Notice and Opportunity for Public Comment	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [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”; 173-400-171(12).
* * * * *				
173-400-710	Definitions	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	
173-400-720	Prevention of Significant Deterioration (PSD)	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> 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	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	
173-400-740	PSD Permitting Public Involvement Requirements	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	
* * * * *				
173-400-810	Major Stationary Source and Major Modification Definitions	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	
* * * * *				
173-400-830	Permitting Requirements	07/01/16	[Insert date of publication in the <b><u>Federal Register</u></b> ], [Insert <b><u>Federal Register</u></b> citation]	

173-400-840	Emission Offset Requirements	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL)	07/01/16	[Insert date of publication in the <b>Federal Register</b> ], [Insert <b>Federal Register</b> citation]	
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**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
* * * * *				
<b>Washington Department of Ecology Regulations</b>				
<b>Washington Administrative Code, Chapter 173-400—General Regulations for Air Pollution Sources</b>				
173-400-025	Adoption of Federal Rules	07/01/16	[Insert date of publication in the Federal Register ], [Insert Federal Register citation]	
* * * * *				
173-400-040	General Standards for Maximum Emissions	07/01/16	[Insert date of publication in the Federal Register ], [Insert Federal	Except: 173-400-040(2)(c); 173-400-040(2)(d); 173-400-040(3);

			Register citation]	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	[Insert date of publication in the Federal Register ], [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	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
173-400-070	Emission Standards for Certain Source Categories	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Except: 173-400-070(7); 173-400-070(8).
* * * * *				
173-400-105	Records, Monitoring and Reporting	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
173-400-111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources	07/01/16	[Insert date of publication in the Federal Register], [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).
* * * * *				
173-400-171	Public Notice and Opportunity for Public Comment	07/01/16	[Insert date of publication in the Federal Register], [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).
* * * * *				
173-400-810	Major Stationary Source and Major Modification Definitions	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
173-400-830	Permitting Requirements	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
173-400-840	Emission Offset Requirements	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL)	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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**TABLE 1 – APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS**

State / local citation	Title/subject	State / local effective	EPA approval date	Explanations
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		date		
<b>Washington Department of Ecology Regulations</b>				
* * * * *				
173-400-260	Conflict of Interest	07/01/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				

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[FR Doc. 2016-23862 Filed: 10/5/2016 8:45 am; Publication Date: 10/6/2016]