



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2020-0650: FRL-10019-28-Region 10]

Air Plan Approval; Washington; Spokane Regional Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Washington State Implementation Plan (SIP) that was submitted by the Department of Ecology (Ecology) in coordination with the Spokane Regional Clean Air Agency (SRCAA). This proposed revision updates the SIP with local SRCAA regulations that apply in lieu of, or in supplement to, Ecology's statewide general air quality regulations for SRCAA's jurisdiction. We are also proposing to approve SRCAA's adoption by reference of certain Ecology general air quality regulations, which do not have local agency replacement corollaries, to apply in SRCAA's jurisdiction.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2020-0650 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA. This supplementary information section is arranged as follows:

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I. Background for Proposed Action

On January 27, 2014, Ecology submitted revisions to update the general air quality regulations contained in Chapter 173-400 Washington Administrative Code (WAC), which the EPA approved in three phases on October 3, 2014 (79 FR 59653), November 7, 2014 (79 FR 66291), and April 29, 2015 (80 FR 23721).¹ Under the revised applicability provisions of WAC 173-400-020 approved into the SIP on October 3, 2014, the regulations contained in Chapter 173-400 WAC 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

¹ The EPA approved subsequent, minor updates to Chapter 173-400 WAC on September 29, 2016 (81 FR 66823), October 6, 2016 (81 FR 69385), and February 24, 2020 (85 FR 10302).

jurisdiction as provided under Revised Code of Washington (RCW) 70.94.141 and 70.94.331.”² Therefore, the EPA’s approval of Ecology’s January 2014 submittal applied only to geographic areas and source categories under Ecology’s direct jurisdiction. We stated that we would address the revised Chapter 173-400 WAC regulations as they apply to local clean air agency jurisdictions on a case-by-case basis in separate, future actions.

On November 24, 2020, the Director of Ecology, as the Governor’s designee for SIP revisions, submitted a request to update the air quality regulations in the SIP as they apply to SRCAA’s jurisdiction in 40 CFR 52.2470(c), *Table 9 - Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction*. SRCAA’s jurisdiction applies within Spokane County, excluding certain facilities discussed in section III.D. *Scope of Proposed Action* of this document. SRCAA’s jurisdiction also excludes Indian reservation land or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

Appendix A of the SIP revision show how the submitted regulatory updates would apply to SRCAA’s jurisdiction. These revisions can be summarized in two categories. The first category consists of local SRCAA regulations submitted for approval into the SIP. These SRCAA provisions can apply in lieu of, or serve as a supplement to, the statewide Chapter 173-400 WAC provisions. The second category consists of Chapter 173-400 WAC provisions adopted by reference in SRCAA *Regulation I*, subsection 2.14(A)(1). The EPA’s proposed approval of the Chapter 173-400 WAC provisions adopted by reference for SRCAA’s jurisdiction would be subject to the same general exceptions that apply to Ecology’s direct jurisdiction. For example, as part of the January 2014 submittal of Chapter 173-400 WAC, Ecology did not submit for approval those provisions related to the regulation of toxic air pollutants or odor because such provisions are outside the scope of SIPs under Clean Air Act (CAA) section 110. Lastly, the EPA has not yet acted upon all updates to Chapter 173-400

² For a more detailed discussion see page 39352 of the EPA’s proposed approval of WAC 173-400-020 (79 FR 39351, July 10, 2014).

WAC. Therefore, SRCAA and Ecology only requested approval of those WAC provisions that the EPA already approved for Ecology's direct jurisdiction.³

II. The Submitted SRCAA Regulations

The EPA last approved updates to the SRCAA regulations on September 28, 2015 (80 FR 58216) and April 12, 2016 (81 FR 21471). The 2015 and 2016 SIP revisions pertained primarily to solid fuel burning devices and particulate matter controls. In this proposed revision to the SIP, SRCAA and Ecology submitted the following general provisions and corollaries to Chapter 173-400 WAC as described below.

A. Article I – Policy, Short Title, and Definitions

SRCAA and Ecology submitted sections 1.01 *Policy*, 1.02 *Name of Agency* and 1.03 *Short Title* for approval and incorporation in the SIP. Subsections 1.01(A) *Agency and Jurisdiction* and 1.01(B) *Public Policy* replace WAC 173-400-010 *Policy and Purpose*. We note that subsection 1.01(C)(1) *Applicability* supplements but does not replace WAC 173-400-020 *Applicability*. Therefore, the EPA is proposing to approve both subsection 1.01(C)(1) and the most recent update to WAC 173-400-020, adopted by reference, to apply within SRCAA's jurisdiction. Subsection 1.01(C)(2) specifies "Agency regulations that have been or will be approved by the United States Environmental Protection Agency (EPA) for inclusion in the Washington State Implementation Plan (SIP) apply for purposes of Washington's SIP, only to the following: (a) Those air contaminants for which the EPA has established National Ambient Air Quality Standards (NAAQS) and precursors to such NAAQS pollutants as determined by the EPA for the applicable geographic area; and (b) Any additional air contaminants that are required to be regulated under Part C of Title I of the Federal Clean Air Act (FCAA), relating to prevention of significant deterioration and visibility, but only for the purpose of meeting the

³ See 85 FR 10301 (February 24, 2020). For those Chapter 173-400 WAC provisions not requested for approval at this time, we will retain our prior June 2, 1995 (60 FR 28726) approval of those provisions for SRCAA's jurisdiction. These provisions include WAC 173-400-030(24) [subsequently renumbered to 173-400-030(32)], 173-400-040(1)(a)&(b) [subsequently renumbered to 173-400-040(2)(a)&(b)], 173-400-070, WAC 173-400-081, and WAC 173-400-107. We will also retain our June 2, 1995, approval for WAC 173-400-161, 173-400-190, 173-400-205, and 173-400-210 because these provisions have not changed since our last approval.

requirements of Part C of Title I of the FCAA or to the extent those additional air contaminants are regulated in order to avoid such requirements.” Subsection 1.01(C)(2) is consistent with the EPA’s prior approval of Chapter 173-400 WAC. (see 79 FR 59653, October 3, 2014).

SRCAA and Ecology submitted section 1.04 *General Definitions* to replace the corresponding definitions contained in WAC 173-400-030. A redline/strikeout analysis of the section 1.04 definitions compared to the WAC 173-400-030 definitions is included in the docket for this action. Both sets of definitions are consistent, with minor wording changes for clarity or to reflect local agency implementation. Although the definitions in section 1.04 generally mirror the WAC 173-400-030 definitions, not all WAC 173-400-030 definitions appear in section 1.04. In these instances, SRCAA adopted by reference the following WAC 173-400-030 definitions in subsection 2.14(A)(1) and submitted them for approval in the SIP: Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste. Consistent with our prior approvals of Chapter 173-400 WAC, SRCAA did not submit definitions related to toxic air pollutants or odors, because they are outside the scope of SIPs under CAA section 110. As previously noted, the EPA has not acted upon all updates to Chapter 173-400 WAC. Therefore, SRCAA and Ecology requested approval for only those WAC definitions, or SRCAA corollaries to those definitions, that the EPA already approved for Ecology’s direct jurisdiction.⁴

Lastly, SRCAA submitted section 1.05 *Acronym Index* for approval in the SIP. We note that many of the acronyms relate to program areas outside the scope of the SIP such as Toxic Air Pollutant (TAP) and are provided for informational purposes only.

B. Article II – General Provisions

⁴ For more information please see the EPA’s review of Article I included in the docket for this proposed action.

Article II primarily contains SRCAA’s general implementation and enforcement authorities. As noted in previous approval actions, 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 generally not incorporated by reference to avoid potential conflict with the EPA’s independent authorities.⁵ Therefore, we are proposing to approve, but not incorporate by reference into the SIP, sections 2.01 *Powers and Duties of the Board*, 2.02 *Control Office’s Duties and Powers* [section 2.02(E) replaces WAC 173-400-105(3)], 2.03 *Confidential or Proprietary Information*, 2.04 *Violations* [replaces WAC 173-400-230(1)&(6)], 2.05 *Orders and Hearings*, 2.06 *Appeal of Board Orders* [replaces WAC 173-400-250], 2.10 *Severability*, 2.11 *Penalties, Civil Penalties, and Additional Means for Enforcement* [replaces WAC 173-400-230(2)&(3)], and 2.12 *Restraining Orders – Injunctions* [replaces WAC 173-400-230(4)].

In addition to the Article II general implementation and enforcement authorities described above, SRCAA and Ecology submitted sections or subsections 2.08(E), 2.08(F), 2.09, 2.13, and 2.14(A)(1) to be approved and incorporated by reference into the SIP, making these provisions federally enforceable upon EPA approval. Specifically, subsection 2.08(E) *False Statements* replaces 173-400-105(6); subsection 2.08(F) *Render Inaccurate* replaces WAC 173-400-105(8); section 2.09 contains SRCAA’s source testing requirements and replaces WAC 173-400-105(4); and subsection 2.13(A) adopts by reference federal regulations cited in *Regulation I* as they existed on January 1, 2020. As part of SRCAA’s adoption by reference of the WAC in section 2.14, SRCAA explicitly did not adopt by reference WAC 173-400-025 *Adoption of Federal Rules* in order to avoid conflicting with subsection 2.13(A). Therefore, for this proposed approval, references to “in effect on the date in WAC 173-400-025” as part of the

⁵ See Benton Clean Air Agency (80 FR 71695, November 17, 2015), Energy Facility Site Evaluation Council (82 FR 24533, May 30, 2017), Northwest Clean Air Agency (85 FR 36154, June 15, 2020), Puget Sound Clean Air Agency (85 FR 22355, April 22, 2020), and Southwest Clean Air Agency (82 FR 17139, April 10, 2017).

SRCAA's adoption by reference of Chapter 173-400 WAC is understood to be January 1, 2020, consistent with subsection 2.13(A). Similarly, section 2.13(B) establishes the adoption by reference date of state regulations cited in section 2.14, as January 1, 2020, unless a different date is listed in section 2.14.

Subsection 2.14(A)(1) lists the specific Chapter 173-400 WAC provisions adopted by reference for SRCAA's jurisdiction. As previously noted, the regulations contained in Chapter 173-400 WAC apply statewide except for specific subsections where a local authority has adopted and implemented corresponding local rules. A table listing the Chapter 173-400 WAC provisions adopted by reference and proposed for approval in SRCAA's jurisdiction is included in section III of this proposal. We note that subsections 2.14(A)(2) through (11) apply in SRCAA's jurisdiction according to the terms of the relevant state regulations already approved into the SIP and do not need to be included as part of the local agency SIP submission.⁶ Similarly, the adoption by reference of federal provisions in sections 2.16, 2.17, 2.18 and 2.19 are already applicable as federal requirements and are typically not submitted or approved as part of a state or local air agency SIP.

C. Article IV – Registration

SRCAA uses a registration-based, source category approach in section 4.04 *Stationary Sources and Source Categories Subject to Registration* for determining new source review (NSR) applicability under Article V *New Source Review for Stationary Sources and Portable Sources*. This approach mirrors the Chapter 173-400 WAC structure currently approved by the EPA for SRCAA's jurisdiction (60 FR 28726, June 2, 1995). In our July 10, 2014, proposed approval of revisions to Chapter 173-400 WAC for Ecology's direct jurisdiction, Ecology requested, and the EPA approved, removal of Ecology's registration program as a means of determining NSR applicability in the SIP (see 79 FR 39351, at page 39354). Instead, Ecology

⁶ Not all state regulations cited in subsections 2.14(A)(2) through (11) pertain to the regulation of criteria air pollutants under CAA section 110, nor do they apply universally to all geographic areas. Please see 40 CFR 52.2470(c) Table 1 for more information about the EPA's approval of the state regulations.

moved to an exemption-based NSR applicability structure using emission unit and activity exemptions in WAC 173-400-110(4) and exemptions based on emissions thresholds in WAC 173-400-110(5), which the EPA approved on October 3, 2014 (79 FR 59653). We note that subsection 4.04(A)(5)(a) contains emissions thresholds equivalent to, or more stringent than, the corresponding NSR applicability emission exemption levels in WAC 173-400-110(5). We also note that subsection 4.04(A)(5) applies to any stationary source or stationary source category not otherwise identified, making SRCAA's NSR program more stringent than the emission unit and activity exemptions in WAC 173-400-110(4). Because SRCAA's NSR program continues to be based on the applicability of its registration program, we are proposing to approve and incorporate by reference in the SIP section 4.04, except for those provisions related to the regulation of toxic air pollutants or odors which are outside the scope of the SIP. In addition to section 4.04, the other sections or subsections SRCAA submitted for approval are 4.03(B) *Exemption Documentation*, 4.03(C) *Compliance with Regulation I*, and 4.05 *Closure of a Stationary Source or Emission Units*, all provisions of its registration program used for NSR applicability.

The other provisions of SRCAA's registration program do not impose air pollution control requirements on sources or implement or enforce federal requirements. As discussed in the EPA's removal of WAC 173-400-100 *Registration* from the SIP for Ecology's direct jurisdiction, these remaining registration provisions are not required SIP elements (79 FR 59653, October 3, 2014).⁷ Therefore, SRCAA did not submit these other provisions as part of its SIP and requested that the EPA remove the citation to WAC 173-400-100 in the SIP for SRCAA's jurisdiction.

D. Article V – New Source Review for Stationary Sources and Portable Sources

As discussed above, section 4.04 in combination with section 5.02 *New Source Review – Applicability and when Required* replaces WAC 173-400-110 *New Source Review (NSR) for*

⁷ For a more detailed discussion, please see our proposed rulemaking (79 FR 39351, July 10, 2014, at page 39354).

Sources and Portable Sources in determining NSR applicability for sources under SRCAA's jurisdiction. Similarly, sections 5.04 *Information Required*, 5.06 *Application Completeness Determination*, 5.07 *Processing NOC Applications for Stationary Sources*, 5.10 *Changes to an Order of Approval or Permission to Operate*, 5.13 *Order of Approval Construction Time Limits*, and 5.14 *Appeals*, collectively, replace the permitting procedures in WAC 173-400-111 *Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources*. Lastly, sections 5.05 *Public Involvement* and 5.08 *Portable Sources* replace WAC 173-400-171 *Public Notice and Opportunity for Public Comment* and WAC 173-400-036 *Relocation of Portable Sources*, respectively. An analysis of the SRCAA provisions with the corresponding WAC corollaries they replace is included in the docket for this action. SRCAA and Ecology also submitted for approval sections 5.09 *Operating Requirements for Order of Approval and Permission to Operate*, 5.11 *Notice of Startup of a Stationary Source or a Portable Source*, 5.12 *Work Done Without an Approval*, and 5.15 *Obligation to Comply*, all of which have no direct corollary under Chapter 173-400 WAC. For other new source review permitting requirements SRCAA relies on the adoption by reference of Chapter 173-400 WAC.

As discussed in section III.D *Scope of Proposed Action* of this document, Ecology and the Energy Facility Site Evaluation Council (EFSEC) have direct permitting authority for certain source categories, including the Prevention of Significant Deterioration (PSD) new source review permitting program for major stationary sources in attainment and unclassifiable areas. In these cases, SRCAA retains citations to the PSD program, implemented under WAC 173-400-700 through 173-400-750, for purposes such as working on permit coordination with Ecology, enforcing existing PSD permit conditions not yet incorporated into Title V permits, and determining violations for inspected facilities that failed to obtain the necessary PSD permits. However, SRCAA is not requesting, and the EPA is not proposing to approve, the authority to issue PSD permits under WAC 173-400-700 through 173-400-750 for SRCAA's direct permitting jurisdiction.

With respect to stationary sources in nonattainment areas, SRCAA does not currently have a designated nonattainment area. In the event that a nonattainment area is designated in the future, SRCAA adopts by reference the following WAC provisions for implementation of the nonattainment new source review (NNSR) program, and the accompanying visibility permitting requirements for major stationary sources: WAC 173-400-112 *Requirements for New Sources in Nonattainment Areas - Review for Compliance with Regulations*, WAC 173-400-117 *Special Protection Requirements for Federal Class I Areas*, WAC 173-400-131 *Issuance of Emission Reduction Credits*, 173-400-136 *Use of Emission Reduction Credits (ERC)*, as well as the major stationary source NNSR provisions contained in WAC 173-400-800 through 173-400-860.⁸

E. Article VI – Emissions Prohibited

As part of the SIP revision, SRCAA and Ecology submitted only those Article VI provisions which are corollaries to, or supplement, certain SIP-approved provisions contained in WAC 173-400-040 *General Standards for Maximum Emissions*. Specifically, SRCAA and Ecology submitted subsection 6.04(C) *Emissions Detrimental to Persons or Property* as a direct replacement for the equivalent corollary in WAC 173-400-040(6). SRCAA and Ecology also submitted 6.04 subsections (A), (B), and (H) to supplement and implement subsection 6.04(C). However, SRCAA and Ecology did not submit the odor-related provisions of section 6.04 because these provisions are outside the scope of the SIP.⁹ SRCAA and Ecology also submitted

⁸ The EPA approved WAC 173-400-800 through 173-400-860 for Ecology's direct permitting jurisdiction on November 7, 2014 (79 FR 59653), with minor revisions to reflect updated federal citations on October 6, 2016 (81 FR 69385). In connection with our November 7, 2014 approval, we reviewed WAC 173-400-800 through 173-400-860 pursuant to the federal regulatory requirements in existence at that time, and discussed the fact that the EPA's 2008 PM_{2.5} New Source Review Rule (73 FR 28321, May 16, 2008), had been remanded to the EPA by the U.S. Court of Appeals for the District of Columbia Circuit. See 79 FR 43345, 43347 (July 25, 2014) (proposed action); 79 FR 59653 (final action). EPA's 2008 PM_{2.5} New Source Review Rule has since been replaced by a revised implementation rule published August 24, 2016, which imposed additional NNSR requirements for PM_{2.5} nonattainment areas (81 FR 58010). Because there are currently no nonattainment areas within NWCAA's jurisdiction or Washington State for any criteria pollutant, including PM_{2.5}, the EPA did not review WAC 173-400-800 through 173-400-860 for consistency with the newly revised PM_{2.5} implementation rule; nor does Ecology or NWCAA have an obligation to submit rule revisions to address the 2016 PM_{2.5} implementation rule at this time. However, we note that the federal major stationary source NNSR requirements remain unchanged for all other criteria pollutants since our review and approval of WAC 173-400-800 through 173-400-860.

⁹ In our approval of WAC 173-400-040 for Ecology's direct jurisdiction, Ecology did not submit, and the EPA did not approve, WAC 173-400-040(5) *Odors* because that section was not related to criteria pollutants regulated under

sections 6.05 *Particulate Matter and Preventing Particulate Matter from Becoming Airborne* (except subsection A), 6.14 *Standards for Control of Particulate Matter on Paved Surfaces*, and 6.15 *Standards for Control of Particulate Matter on Unpaved Roads* to supplement but not replace corresponding corollary provisions in WAC 173-400-040(4) and (9). We note that the EPA previously approved these provisions on April 12, 2016 (81 FR 21471). The resubmitted versions contain minor edits to clarify geographic applicability and improve readability. Lastly, SRCAA and Ecology submitted section 6.07 *Emission of Air Contaminant Concealment and Masking Restricted* which is a nearly verbatim replacement of WAC 173-400-040(8) *Concealment and Masking*. An analysis of the Article VI provisions submitted for approval is included in the docket for this action.

III. The EPA’s Proposed Action

A. Regulations to Approve and Incorporate by Reference into the SIP

The EPA is proposing to approve and incorporate by reference into the Washington SIP at 40 CFR 52.2470(c), *Table 9 – Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction*, the SRCAA and Ecology regulations listed in Tables 1 and 2 for sources under SRCAA’s jurisdiction.

Table 1: Spokane Regional Clean Air Agency (SRCAA) Regulations for Proposed Approval and Incorporation by Reference

State/Local Citation	Title/Subject	State/Local Effective Date	Explanation
1.01	Policy	09/01/20	Subsections (A) and (B) replace WAC 173-400-010.
1.02	Name of Agency	09/01/20	
1.03	Short Title	09/01/20	
1.04	General Definitions	09/01/20	Except subsections (17), (41), (52), (60), (74), (101), (112), (119), and (122). Section 1.04 replaces WAC 173-400-030 except the WAC 173-400-030 definitions list below.
1.05	Acronym Index	09/01/20	

title I of the CAA, not essential for meeting and maintaining the NAAQS, or not related to the requirements for SIPs under section 110 of the CAA. See 79 FR 39351, July 10, 2014, at page 39353.

2.08	Falsification of Statements or Documents, and Treatment of Documents	09/01/20	Subsections (E) and (F) only. Subsection (E) replaces WAC 173-400-105(6). Subsection (F) replaces WAC 173-400-105(8).
2.09	Source Tests	09/01/20	Section 2.09 replaces WAC 173-400-105(4).
2.13	Federal and State Regulation Reference Date	09/01/20	Subsection (A) replaces WAC 173-400-025.
2.14	Washington Administrative Codes (WACS)	09/01/20	Subsection (A)(1) only, and only with respect to those revised Chapter 173-400 WAC provisions that are identified for incorporation by reference in the table below.
4.03	Registration Exemptions	09/01/20	Subsections (B) and (C) only.
4.04	Stationary Sources and Source Categories Subject to Registration	09/01/20	Except subsections (A)(3)(u), (A)(3)(v), (A)(5)(b), (A)(5)(e)(9), or any other provision as it relates to the regulation of toxic air pollutants or odors.
4.05	Closure of a Stationary Source or Emissions Unit(s)	09/01/20	
5.02	New Source Review – Applicability and when Required	09/01/20	Except subsections (C)(5) and (I). Section 5.02 Replaces WAC 173-400-110. Subsection (F) replaces WAC 173-400-111(2).
5.03	NOC and PSP Fees	09/01/20	
5.04	Information Required	09/01/20	Except subsection (A)(8). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111.
5.05	Public Involvement	09/01/20	Except subsection (C)(15). Section 5.05 replaces WAC 173-400-171.
5.06	Application Completeness Determination	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111.
5.07	Processing NOC Applications for Stationary Sources	09/01/20	Except subsections (A)(1)(g) and (B). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111, and subsection 5.07(A)(7)

			replaces WAC 173-400-110(2)(a).
5.08	Portable Sources	09/01/20	Except subsection (A)(6). Section 5.08 replaces WAC 173-400-036.
5.09	Operating Requirements for Order of Approval and Permission to Operate	09/01/20	Except subsection (C).
5.10	Changes to an Order of Approval or Permission to Operate	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111.
5.11	Notice of Startup of a Stationary Source or a Portable Source	09/01/20	
5.12	Work Done Without an Approval	09/01/20	
5.13	Order of Approval Construction Time Limits	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111.
5.14	Appeals	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173-400-111.
5.15	Obligation to Comply	09/01/20	
6.04	Emission of Air Contaminant: Detriment to Person or Property	09/01/20	Subsections (A), (B), (C), and (H) only and excepting provisions in RCW 70.94.640 (incorporated by reference) that relate to odor. Subsection (C) replaces WAC 173-400-040(6).
6.05	Particulate Matter and Preventing Particulate Matter from Becoming Airborne	09/01/20	Except subsection (A). Section 6.05 supplements but does not replace WAC 173-400-040(4) and (9).
6.07	Emission of Air Contaminant Concealment and Masking Restricted	09/01/20	Section 6.07 replaces WAC 173-400-040(8).
6.14	Standards for Control of Particulate Matter on Paved Surfaces	09/01/20	Section 6.14 supplements but does not replace WAC 173-400-040(9).
6.15	Standards for Control of Particulate Matter on Unpaved Roads	09/01/20	Section 6.15 supplements but does not replace WAC 173-400-040(9).

Table 2 shows the Chapter 173-400 WAC provisions adopted by reference in *Regulation I*, subsection 2.14(A)(1) that SRCAA and Ecology submitted to apply within SRCAA’s jurisdiction. We note that many of the exclusions listed below are identical to the exclusions for Ecology’s direct jurisdiction. We also note that SRCAA and Ecology did not submit updates to all the Chapter 173-400 WAC provisions. For these remaining provisions we will retain our prior approval of the WAC (60 FR 28726, June 2, 1995).

Table 2: Washington Department of Ecology Regulations for Proposed Approval and Incorporation by Reference

State/Local Citation	Title/Subject	State/Local Effective Date	Explanation
Chapter 173-400 WAC, General Regulations for Air Pollution Sources.			
173-400-020	Applicability	12/29/12	
173-400-030	Definitions	9/16/18	Only the following definitions: Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste.
173-400-040	General Standards for Maximum Emissions	9/16/18	Except: 173-400-040(2); 173-400-040(3); 173-400-040(5); 173-400-040(6); 173-400-040(8).
173-400-050	Emission Standards for Combustion and Incineration Units	9/16/18	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	11/25/18	

173-400-091	Voluntary Limits on Emissions	4/1/11	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173-400-105	Records, Monitoring, and Reporting	11/25/18	Except: 173-400-105(3); 173-400-105(4); 173-400-105(6); 173-400-105(8).
173-400-112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations	12/29/12	
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.
173-400-117	Special Protection Requirements for Federal Class I Areas	12/29/12	
173-400-118	Designation of Class I, II, and III Areas	12/29/12	
173-400-131	Issuance of Emission Reduction Credits	4/1/11	
173-400-136	Use of Emission Reduction Credits (ERC)	4/1/11	
173-400-151	Retrofit Requirements for Visibility Protection	2/10/05	
173-400-175	Public Information	2/10/05	
173-400-200	Creditable Stack Height and Dispersion Techniques	2/10/05	
173-400-560	General Order of Approval	12/29/12	Except: The part of 173-400-560(1)(f) that says, “173-460 WAC”.
173-400-800	Major Stationary Source and Major Modification in a Nonattainment Area	4/1/11	EPA did not review WAC 173-400-800 through 860 for consistency with the August 24, 2016 PM _{2.5} implementation rule (81 FR 58010); nor does SRCAA have an obligation to submit rule revisions to address the 2016 PM _{2.5} implementation rule at this time.

173-400-810	Major Stationary Source and Major Modification Definitions	7/1/16	
173-400-820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements	12/29/12	
173-400-830	Permitting Requirements	7/1/16	
173-400-840	Emission Offset Requirements	7/1/16	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL)	7/1/16	
173-400-860	Public Involvement Procedures	4/1/11	

B. Approved but Not Incorporated by Reference Regulations

As discussed above, we are proposing to approve the following updates to SRCAA’s general provisions for inclusion in 40 CFR 52.2470(e), *Table 1 – Approved but Not Incorporated by Reference Regulations*: sections 2.01 *Powers and Duties of the Board*, 2.02 *Control Office’s Duties and Powers* [section 2.02(E) replaces WAC 173-400-105(3)], 2.03 *Confidential or Proprietary Information*, 2.04 *Violations* [replaces WAC 173-400-230(1)&(6)], 2.05 *Orders and Hearings*, 2.06 *Appeal of Board Orders* [replaces WAC 173-400-250], 2.10 *Severability*, 2.11 *Penalties, Civil Penalties, and Additional Means for Enforcement* [replaces WAC 173-400-230(2)&(3)], and 2.12 *Restraining Orders – Injunctions* [replaces WAC 173-400-230(4)]. We also note that SRCAA adopts by reference WAC 173-400-220 *Requirements for Board Members*, 173-400-230 *Regulatory Actions*, 173-400-240 *Criminal Penalties*, 173-400-250 *Appeals*, and 173-400-260 *Conflict of Interest* to apply within its jurisdiction in the approved but not incorporated by reference section of the SIP.

C. Regulations to Remove from the SIP

We are proposing to remove from the SIP for SRCAA’s jurisdiction any formerly approved Chapter 173-400 WAC provisions which are replaced by local agency corollaries as described above. We are also proposing to remove WAC 173-400-100 *Registration* from the SIP

for SRCAA's jurisdiction because it is not a required SIP element as described above in the discussion of Article IV. Lastly, we are proposing to remove the outdated and subsequently repealed Regulation II, section 4.01 because these requirements were replaced by SRCAA's adoption by reference of WAC 173-400-050 and WAC 173-400-060.¹⁰

D. Scope of Proposed Action

This proposed revision to the SIP applies specifically to the SRCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c) – Table 9. As discussed in our October 3, 2014 action, local air agency jurisdiction in Washington is generally defined on a geographic basis; however, there are exceptions (79 FR 59653, at page 59654). By statute, SRCAA does not have authority for sources under the jurisdiction of EFSEC. See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173-405-012, 173-410-012, and 173-415-012, SRCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology and EFSEC also retain statewide, direct jurisdiction for issuing PSD permits, as previously discussed. Therefore, the EPA is not approving into 40 CFR 52.2470(c) – Table 9 those provisions of Chapter 173-400 WAC related to the PSD program. Specifically, these provisions are WAC 173-400-116 and WAC 173-400-700 through 173-400-750, which the EPA has already approved as applying state-wide under 40 CFR 52.2470(c) – Tables 2 and 3.

As described in our April 29, 2015 action, jurisdiction to implement the visibility permitting program contained in WAC 173-400-117 varies depending on the situation. Ecology retains authority to implement WAC 173-400-117 as it relates to PSD permits. See 80 FR 23721. However, for facilities that may be subject to major NNSR under the applicability provisions of WAC 173-400-800, adopted by reference, we are proposing that SRCAA would be responsible for implementing those parts of WAC 173-400-117 as they relate to major NNSR permits. See 80 FR 23726. If finalized, the EPA is also proposing to modify the visibility protection Federal

¹⁰ See “Repeal of Regulation II, Section 4.01” included in the docket.

Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173-400-117 as it applies to implementation of the major NNSR program in SRCAA's jurisdiction.

Lastly, this SIP revision is not approved to apply on any Indian reservation land within Spokane County 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.

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the regulations shown in the tables in section III.A of this document. *Regulations to Approve and Incorporate by Reference into the SIP* and the rules proposed for removal from the SIP in section III.C. *Regulations to Remove from the SIP* of this document. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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 proposes to approve 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 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).

As discussed above, the SIP is not approved to apply on any Indian reservation land in within Spokane county, or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction as described above in section III.D of this document. 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).

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: February 9, 2021.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

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