



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2025-0320; FRL-12328-01-R10]

Air Plan Approval; WA; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Washington State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by Washington and approved by the EPA. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The SIP materials for which incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following locations: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101; and *www.regulations.gov*. To view the materials at the Region 10 Office, the EPA requests that you email the contact 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or *hunt.jeff@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to the EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, "Approval and Promulgation of Implementation Plans," of Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by the EPA is not reproduced in its entirety in 40 CFR part 52 but is "incorporated by reference." This means that the EPA has approved a given State regulation or specified changes to the given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows the EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action for violations of the SIP.

The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the State. Therefore, the EPA from time to time must take action on proposed revisions containing new or revised State regulations. A submission from a State can revise one or more rules in their entirety, or portions of rules. The State indicates the changes in the submission (such as by using redline/ strikethrough text) and the EPA then takes action on the requested changes. The EPA establishes a docket for its actions using a unique Docket Identification Number, which is

listed in each action. These dockets and the complete submission are available for viewing on www.regulations.gov.

On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by the EPA into each SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing the EPA approval of revisions to a SIP, and streamlined the mechanisms for the EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for the EPA to maintain "SIP Compilations" that contain the federally approved regulations and source-specific permits submitted by each State agency.

The EPA generally updates these SIP Compilations every few years. Under the revised procedures, the EPA must periodically publish an informational document in the rules section of the *Federal Register* notifying the public that updates have been made to a SIP Compilation for a particular state. The EPA began applying the 1997 revised procedures to the Washington SIP on March 20, 2013 ((78 FR 17108). The EPA subsequently published updates to the IBR materials for Washington on December 8, 2014 (79 FR 72548), April 12, 2016 (70 FR 21470), February 8, 2019 (84 FR 2738), August 3, 2021 (86 FR 41716), and August 19, 2024 (89 FR 67158).

A. Approved and Incorporated by Reference Regulatory Materials

Since the last IBR update, the EPA approved and incorporated by reference the following regulatory materials into the Washington SIP:

Table 3—Additional Regulations Approved for the Energy Facilities Site Evaluation Council (EFSEC) Jurisdiction

- Washington Administrative Code, Chapter 463–78, General and Operating Permit Regulations for Air Pollution Sources, section 78–005 (Adoption by Reference).

For more information, see 89 FR 105456 (December 27, 2024).

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–030 (Definitions), 173–400–081 (Startup and Shutdown), 173–400–082 (Alternative Emissions Limit That Exceeds an Emission Standard in the SIP), 173–400–136 (Use of Emission Reduction Credits (ERC)), and 173–400–171 (Public Notice and Opportunity for Public Comment). For more information, see 89 FR 105456 (December 27, 2024).

Table 6—Additional Regulations Approved for the Olympic Region Clean Air Agency (ORCAA) Jurisdiction

- Olympic Region Clean Air Agency Regulations, Rule 6.2 Outdoor Burning, section 6.2.7 (Recreational Burning). For more information, see 90 FR 5693 (January 17, 2025).

Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SRCAA) Jurisdiction

- Southwest Clean Air Agency Regulations, General Regulations for Air Pollution Sources, sections 400–040 (General Standards for Maximum Emissions), 400–070 (General Requirements for Certain Source Categories), 400–081 (Startup and Shutdown), and 400–107 (Excess Emissions). For more information, see 90 FR 19650 (May 9, 2025).

Table 9—Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction

- Spokane Regional Clean Air Agency Regulation I, sections 1.01 (Policy), 1.04 (General Definitions), 2.08 (Falsification of Statements or Documents, and Treatment of Documents), 2.13 (Federal and State Regulation Reference Date), 4.04 (Stationary Sources and Source Categories Subject to Registration), 5.02 (New Source Review—Applicability and when Required), 5.04 (Information Required), 5.05 (Public Involvement), 5.07 (Processing NOC Applications

for Stationary Sources), 5.08 (Portable Sources), 5.10 (Changes to an Order of Approval or Permission to Operate), 5.13 (Order of Approval Construction Time Limits), 6.04 (Emission of Air Contaminant: Detriment to Person or Property), 8.01 (Purpose), 8.02 (Applicability), 8.03 (Definitions), 8.04 (Emission Performance Standards), 8.05 (Opacity Standards), 8.06 (Prohibited Fuel Types), 8.07 (Curtailement), 8.08 (Exemptions), 8.09 (Procedure to Geographically Limit Solid Fuel Burning Devices), and 8.10 (Restrictions on Installation of Solid Fuel Burning Devices). For more information, see 90 FR 15930 (April 16, 2025).

B. Regulatory Materials Removed from Incorporation by Reference in the SIP

Table 3—Additional Regulations Approved for the Energy Facilities Site Evaluation Council (EFSEC) Jurisdiction

- Washington Administrative Code, Chapter 173–400, General Regulations for Air Pollution Sources, sections 173–400–070 (Emission Standards for Certain Source Categories) and 173–400–107 (Excess Emissions). For more information, see 89 FR 105456 (December 27, 2024).

II. EPA Action

In this action, the EPA is providing notification of an update to the materials incorporated by reference into the Washington SIP as of June 1, 2025, and identified in 40 CFR 52.2470(c) and (d). This update includes SIP materials submitted by Washington and approved by the EPA since the last IBR update. *See* 89 FR 67158 (August 19, 2024).

III. Good Cause Exemption

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby

avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs, makes corrections and clarifying changes to the tables in the CFR, and makes ministerial changes to the prefatory heading to the tables in the CFR. Under section 553 of the APA, an agency may find good cause where procedures are “impracticable, unnecessary, or contrary to the public interest.” Public comment for this administrative action is “unnecessary” and “contrary to the public interest” since the codification (and corrections) only reflect existing law. Immediate notice of this action in the *Federal Register* benefits the public by providing the public notification of the updated Washington SIP Compilation and notification of corrections to the Washington “Identification of Plan” portion of the CFR. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR “Identification of plan” section (which includes table entry corrections).

IV. Incorporation by Reference

In this document, 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 regulations promulgated by Washington and local clean air agencies located in Washington, previously approved by the EPA and Federally effective before June 1, 2025, contained in 40 CFR 52.2470(c), *EPA-approved regulations* described in section I of this preamble. The EPA has made, and will continue to make, these materials generally available through *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 Clean Air Act, the Administrator is required to approve a SIP

submission that complies with the provisions of the Clean Air 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, this action is not approved to apply on any Indian reservation land or 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).

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).

The EPA also believes that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the Washington SIP Compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA believes judicial review of this action under section 307(b)(1) is not available.

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: August 8, 2025.

Emma Pokon,
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. Amend § 52.2470 by revising paragraph (b) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(b) *Incorporation by reference.*

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to June 1, 2025, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and notification of any change in the material will be published in the *Federal Register*. Entries in paragraphs (c) and (d) of this section with EPA approval dates after June 1, 2025, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 10 certifies that the rules/regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference may be inspected at the Region 10 EPA Office at 1200 Sixth Avenue, Suite 155, Seattle, WA 98101. To obtain the material, please call (206) 553–0256. You may inspect the material with an EPA approval date prior to June 1, 2025, for Washington at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA

email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/>

[ibr-locations.html](#).

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