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[FR Doc. 2017-10911 Filed 5-26-17; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2016-0785; FRL-9963-12-Region 10]

#### Air Plan Approval; Washington: General Regulations for Air Pollution Sources, Energy Facility Site Evaluation Council

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving updates to the Energy Facility Site Evaluation Council (EFSEC) air quality regulations in the Washington State Implementation Plan (SIP). The EFSEC regulations primarily adopt by reference the Washington Department of Ecology (Ecology) general air quality regulations, which the EPA approved in the fall of 2014 and spring of 2015. Consistent with our approval of the Ecology general air quality regulations, we are also approving revisions to EFSEC's air quality regulations to implement the preconstruction permitting regulations for large industrial (major source) energy facilities in attainment and unclassifiable areas, called the Prevention of Significant Deterioration (PSD) program. The PSD program for major energy facilities under EFSEC's jurisdiction has historically been operated under a Federal Implementation Plan (FIP), in cooperation with the EPA and Ecology. This final approval of the EFSEC PSD program transfers the authority for issuing PSD permits from EPA to EFSEC for all of the categories of energy facilities for which EFSEC has jurisdiction. This narrows the current FIP to cover only those energy facilities for which EFSEC does not have jurisdiction or authority. The EPA is also approving EFSEC's visibility protection permitting program which overlaps significantly with the PSD program in most cases.

**DATES:** This final rule is effective June 29, 2017.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2016-0785. 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).

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#### I. Background Information

On March 22, 2017, the EPA proposed to approve revisions to EFSEC's general air quality regulations in the SIP (82 FR 14648). An explanation of the Clean Air Act (CAA) 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 April 21, 2017. The EPA received one comment on the proposal.

#### II. Response to Comments

*Comment:* "We need to protect clean air. The regulations that decrease air pollution should be fully funded and enforced."

*Response:* The SIP revision package submitted jointly by Ecology and EFSEC discussed the personnel, funding, and authority provided by both agencies in operating the air quality program for sources under EFSEC's jurisdiction. As discussed in our proposal, the EPA has worked cooperatively with Ecology and EFSEC for over twenty years in issuing PSD and visibility permits, as well as meeting other air quality requirements. Therefore, consistent with our proposal,

we have determined that EFSEC has adequate personnel, funding, and authority to implement the PSD and visibility protection programs and that the revised EFSEC regulations meet the criteria for approval under CAA section 110.

#### III. Final Action

##### A. Regulations Approved and Incorporated by Reference Into the SIP

The EPA is approving, and incorporating by reference, the submitted revisions to Chapter 463-78 Washington Administrative Code (WAC) set forth below as amendments to 40 CFR part 52.

##### B. Approved But Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference, the EPA reviews and approves state submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing state enforcement and other general authorities are generally not incorporated by reference, so as to avoid potential conflict with the EPA's independent authorities. The EPA has reviewed and is approving WAC 463-78-135 *Criminal Penalties*, WAC 463-78-140 *Appeals Procedure* (except subsections 3 and 4 which deal with permits outside the scope of CAA section 110), WAC 463-78-170 *Conflict of Interest*, and WAC 463-78-230 *Regulatory Actions*, as providing EFSEC with adequate enforcement and other general authority for purposes of implementing and enforcing its SIP, but is not incorporating these sections by reference into the SIP codified in 40 CFR 52.2470(c). Instead, the EPA is including these sections in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures*, as approved but not incorporated by reference regulatory provisions.

##### C. Regulations To Remove From the SIP

As discussed in our July 10, 2014 proposed approval of revisions to Chapter 173-400 WAC, Ecology formerly relied on the registration program under WAC 173-400-100 for determining the applicability of the new source review (NSR) permitting program (see 79 FR 39351 at page 39354). By statutory directive, this means of determining NSR applicability was replaced by revisions to WAC 173-400-110 which set inconsequential unit, activity, and emissions thresholds. In our October 3, 2014 final action, we

approved WAC 173–400–110 as the means of determining NSR applicability, and at Ecology’s request, removed WAC 173–400–100 from the SIP (79 FR 59653). Consistent with our proposed and final approval of revisions to Chapter 173–400 WAC, we are now removing, at EFSEC’s request, WAC 463–39–100 *Registration* (recodified to WAC 463–78–100) from the SIP because it is no longer used as the means of determining NSR applicability.

As discussed in the proposal for this action, EFSEC adopted by reference most of the provisions in Chapter 173–400 WAC, but excluded certain provisions pertaining to authorities or source categories outside EFSEC’s jurisdiction. WAC 173–400–151 *Retrofit Requirements for Visibility Protection* is one such provision. The EPA’s May 23, 1996 approval of EFSEC’s regulations included the incorporation by reference of WAC 173–400–151 (61 FR 25791). These regulations establish Best Available Retrofit Technology (BART) as part of the visibility protection program for an “existing stationary facility.” Under WAC 173–400–151 an “existing stationary facility” is defined, among other factors, as a facility not in operation prior to August 7, 1962, and also in existence on August 7, 1977. EFSEC advised the EPA that there are no sources under EFSEC’s jurisdiction that meet the definition of BART-eligible sources. The EPA is therefore granting EFSEC’s request to remove the incorporation by reference of WAC 173–400–151 from the SIP.

#### *D. Transfer of Existing EPA-Issued PSD Permits*

As part of the SIP revision package, EFSEC requested approval to exercise its authority to fully administer the PSD program with respect to those sources under EFSEC’s permitting jurisdiction that have existing PSD permits issued by the EPA. This includes authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (e.g., modifications, amendments, or revisions of any nature), and authority to enforce such permits. Since 1993, EFSEC has had partial delegation of the PSD permitting program under the FIP and the EPA permits subject to transfer were also issued under state authority. EFSEC, in coordination with Ecology, has demonstrated adequate authority to enforce and modify these permits. Concurrent with our final approval of EFSEC’s PSD program into the Washington SIP, we are transferring the EPA-issued permits to EFSEC for the

Chehalis Generation Facility and Grays Harbor Energy Center facilities.

#### *E. Scope of Final Action*

The EFSEC PSD and visibility permitting programs primarily incorporate Chapter 173–400 by reference and the December 20, 2016 SIP revision package requested that the EPA approve the updated EFSEC regulations consistent with our prior approval of the Ecology regulations. As discussed in our April 29, 2015 approval of Ecology’s regulations under Chapter 173–400 WAC, Washington State does not regulate certain carbon dioxide emissions from industrial combustion of biomass under its PSD program. See 80 FR 23721, at page 23722. We are therefore revising the PSD FIP at 40 CFR 52.2497 and the visibility protection FIP at 40 CFR 52.2498 to reflect the approval of EFSEC’s PSD and visibility permitting programs, consistent with our prior approval of Chapter 173–400 WAC.

Also as discussed in our prior approval of Ecology’s updated Chapter 173–400 WAC regulations, the EPA is excluding from the scope of this approval of EFSEC’s PSD and visibility permitting programs all Indian reservations in the State, except for nontrust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. See 80 FR 23721, at page 23726. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local air agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving EFSEC’s PSD and visibility permitting programs into the SIP with respect to such lands.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference 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 SIP, 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 the 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 <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).

#### **V. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

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

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the state, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area), or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated July 1, 2016. The EPA did not receive a request for consultation.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2017. 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: May 17, 2017.

**Michelle L. Pirzadeh,**

*Acting 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 Table 3 of paragraph (c) and Table 1 of paragraph (e), to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION**

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Washington Administrative Code, Chapter 463–78—General and Operating Permit Regulations for Air Pollution Sources</b>				
78–005	Adoption by Reference	8/27/15	5/30/17, [Insert Federal Register citation].	Except: (2), (3), (4), and (5). See below for revised Chapter 173–400 WAC provisions incorporated by reference.
78–010	Purpose	8/27/15	5/30/17, [Insert Federal Register citation].	
78–020	Applicability	11/11/04	5/30/17, [Insert Federal Register citation].	
78–030	Additional Definitions	8/27/15	5/30/17, [Insert Federal Register citation].	Except references to 173–401–200 and 173–406–101.
78–095	Permit Issuance	8/27/15	5/30/17, [Insert Federal Register citation].	
78–120	Monitoring and Special Report.	11/11/04	5/30/17, [Insert Federal Register citation].	
<b>Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in WAC 463–78–005</b>				
173–400–030	Definitions	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–030(91).
173–400–036	Relocation of Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–040	General Standards for Maximum Emissions.	4/1/11	5/30/17, [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.

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–050	Emission Standards for Combustion and Incineration Units.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5).
173–400–060	Emission Standards for General Process Units.	2/10/05		
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–070(1); 173–400–070(2); 173–400–070(3); 173–400–070(4); 173–400–070(6); 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–091	Voluntary Limits on Emissions	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–105	Records, Monitoring, and Reporting.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, “not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,”;. The part of 400–110 (4)(e)(iii) that says, “where toxic air pollutants as defined in chapter 173–460 WAC are not emitted”;. The part of 400–110(4)(f)(i) that says, “that are not toxic air pollutants listed in chapter 173–460 WAC”;. The part of 400–110 (4)(h)(xviii) that says, “, to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted”;. The part of 400–110 (4)(h)(xxxiii) that says, “where no toxic air pollutants as listed under chapter 173–460 WAC are emitted”;. The part of 400–110(4)(h)(xxxiv) that says, “, or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”;. The part of 400–110(4)(h)(xxxv) that says, “or ≤ 1% (by weight) toxic air pollutants”;. The part of 400–110(4)(h)(xxxvi) that says, “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC”;. 400–110(4)(h)(xl) , second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–111 .....	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–111(3)(h); 173–400–111(5)(a) (last six words); 173–400–111(6); The part of 173–400–111(8)(a)(v) that says, “and 173–460–040.”; 173–400–111(9).
173–400–112 .....	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–113 .....	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–113(3), second sentence.
173–400–116 .....	Increment Protection .....	9/10/11	5/30/17, [Insert Federal Register citation].	
173–400–117 .....	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–131 .....	Issuance of Emission Reduction Credits.	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–136 .....	Use of Emission Reduction Credits (ERC).	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–161 .....	Compliance Schedules .....	3/22/91	6/2/95, 60 FR 28726	
173–400–171 .....	Public Notice and Opportunity for Public Comment.	12/29/12	5/30/17, [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).
173–400–175 .....	Public Information .....	2/10/05	5/30/17, [Insert Federal Register citation].	
173–400–190 .....	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200 .....	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/30/17, [Insert Federal Register citation].	
173–400–205 .....	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–700 .....	Review of Major Stationary Sources of Air Pollution.	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–710 .....	Definitions .....	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–720 .....	Prevention of Significant Deterioration (PSD).	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–720(4)(a)(i) through iv); 173–400–720(4)(b)(iii)(C); and 173–400–720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v). * For the purpose of EFSEC’s incorporation by reference of 40 CFR 52.21, the date in WAC 173–400–720(4)(a)(vi) is May 1, 2015.
173–400–730 .....	Prevention of Significant Deterioration Application Processing Procedures.	12/29/12	5/30/17, [Insert Federal Register citation].	Except 173–400–730(4).
173–400–740 .....	PSD Permitting Public Involvement Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–750 .....	Revisions to PSD Permits .....	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–750(2) second sentence.
173–400–800 .....	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	5/30/17, [Insert Federal Register citation].	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–810 .....	Major Stationary Source and Major Modification Definitions.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–820 .....	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–830 .....	Permitting Requirements .....	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–840 .....	Emission Offset Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–850 .....	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–860 .....	Public Involvement Procedures.	4/1/11	5/30/17, [Insert Federal Register citation].	

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

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
<b>Washington Department of Ecology Regulations</b>				
173–400–220 .....	Requirements for Board Members.	3/22/91	6/2/95, 60 FR 28726 .....	
173–400–230 .....	Regulatory Actions .....	3/20/93	6/2/95, 60 FR 28726 .....	
173–400–240 .....	Criminal Penalties .....	3/22/91	6/2/95, 60 FR 28726 .....	
173–400–250 .....	Appeals .....	9/20/93	6/2/95, 60 FR 28726 .....	
173–400–260 .....	Conflict of Interest .....	07/01/16	10/6/16, 81 FR 69385 .....	
173–433–200 .....	Regulatory Actions and Penalties.	10/18/90	1/15/93, 58 FR 4578 .....	
<b>Energy Facility Site Evaluation Council Regulations</b>				
463–78–135 .....	Criminal Penalties .....	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	Except (3) and (4).
463–78–140 .....	Appeals Procedure .....	3/26/06	5/30/17, [Insert FEDERAL REGISTER citation].	
463–78–170 .....	Conflict of Interest .....	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	
463–78–230 .....	Regulatory Actions .....	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	
<b>Benton Clean Air Agency Regulations</b>				
2.01 .....	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695 .....	
2.02 .....	Requirements for Board of Directors Members.	12/11/14	11/17/15, 80 FR 71695 .....	
2.03 .....	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695 .....	
2.04 .....	Powers and Duties of the Control Officer.	12/11/14	11/17/15, 80 FR 71695 .....	
2.05 .....	Severability .....	12/11/14	11/17/15, 80 FR 71695 .....	
2.06 .....	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695 .....	
<b>Olympic Region Clean Air Agency Regulations</b>				
8.1.6 .....	Penalties .....	5/22/10	10/3/13, 78 FR 61188 .....	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
<b>Southwest Clean Air Agency Regulations</b>				
400–220 .....	Requirements for Board Members.	3/18/01	04/10/17, 82 FR 17136 .....	
400–230 .....	Regulatory Actions and Civil Penalties.	10/9/16	04/10/17, 82 FR 17136 .....	
400–240 .....	Criminal Penalties .....	3/18/01	04/10/17, 82 FR 17136 .....	
400–250 .....	Appeals .....	11/9/03	04/10/17, 82 FR 17136 .....	
400–260 .....	Conflict of Interest .....	3/18/01	04/10/17, 82 FR 17136 .....	
400–270 .....	Confidentiality of Records and Information.	11/9/03	04/10/17, 82 FR 17136 .....	
400–280 .....	Powers of Agency .....	3/18/01	04/10/17, 82 FR 17136 .....	
<b>Spokane Regional Clean Air Agency Regulations</b>				
8.11 .....	Regulatory Actions and Penalties.	09/02/14	09/28/15, 80 FR 58216 .....	

\* \* \* \* \*

■ 3. Amend § 52.2497 by revising paragraph (a) to read as follows:

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

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

(1) Facilities with carbon dioxide (CO<sub>2</sub>) emissions from the industrial combustion of biomass in the following circumstances:

(i) Where a new major stationary source or major modification would be subject to Prevention of Significant Deterioration (PSD) requirements for greenhouse gases (GHGs) under 40 CFR 52.21 but would not be subject to PSD under the state implementation plan (SIP) because CO<sub>2</sub> emissions from the industrial combustion of biomass are excluded from consideration as GHGs as a matter of state law under RCW 70.235.020(3); or

(ii) Where a new major stationary source or major modification is subject to PSD for GHGs under both the Washington SIP and the FIP, but CO<sub>2</sub> emissions from the industrial combustion of biomass are excluded from consideration in the Ecology PSD permitting process because of the exclusion in RCW 70.235.020(3);

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

tribe has demonstrated that a tribe has jurisdiction.

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

\* \* \* \* \*

■ 4. Amend § 52.2498 by revising paragraph (a) to read as follows:

**§ 52.2498 Visibility protection.**

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

(1) Sources subject to the jurisdiction of local air authorities (except Benton Clean Air Agency and Southwest Clean Air Agency);

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

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[VA203–5204; FRL–9957–86–Region 3]

**Air Plan Approval; Virginia; 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 Virginia state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Virginia Department of Environmental Quality (VADEQ) and approved by EPA. This update affects the SIP 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 May 30, 2017, except that amendatory instruction 2.d amending 40 CFR 52.2420(e) is effective June 9, 2017.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or NARA. For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).