

■ 3. Section 52.1179 is amended by adding paragraph (c) to read as follows:

**§ 52.1179 Control strategy: Carbon monoxide.**

\* \* \* \* \*

(c) Approval—On October 3, 2016, the State of Michigan submitted a revision to their Carbon Monoxide State Implementation Plan. The submittal established transportation conformity “Conformity” criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

[FR Doc. 2017–07029 Filed 4–17–17; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R10–OAR–2016–0784; FRL–9960–83–Region 10]

**Air Plan Approval; Washington: General Regulations for Air Pollution Sources, Southwest Clean Air Agency Jurisdiction**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Washington Department of Ecology (Ecology) in coordination with Southwest Clean Air Agency (SWCAA) on December 20, 2016. In the fall of 2014 and spring of 2015, the EPA approved numerous revisions to Ecology’s general air quality regulations. However, our approval of the updated Ecology regulations applied only to geographic areas where Ecology, and not a local air agency, had jurisdiction, and statewide, to source categories over which Ecology had sole jurisdiction. Under the Washington Clean Air Act, local clean air agencies may adopt equally stringent or more stringent requirements in lieu of Ecology’s general air quality regulations, if they so choose. Therefore, the EPA stated that we would evaluate the general air quality regulations as they applied to local jurisdictions in separate, future actions. This final action approves the submitted SWCAA general air quality regulations to replace or supplement the corresponding Ecology regulations for sources in SWCAA’s jurisdiction, including implementation of the minor new source review and nonattainment new source review permitting programs.

This action also approves a limited subset of Ecology regulations, for which there are no corresponding SWCAA corollaries, to apply in SWCAA’s jurisdiction.

**DATES:** This final rule is effective May 10, 2017.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2016–0784. 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:**

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- I. Background Information
- II. Response to Comments
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- V. Statutory and Executive Orders Review

**I. Background Information**

On January 19, 2017, the EPA proposed to approve revisions to SWCAA’s general air quality regulations and a limited subset of Ecology regulations to apply in SWCAA’s jurisdiction (82 FR 6413). 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 February 21, 2017. The EPA received two, separate anonymous comments on the proposal.

**II. Response to Comments**

*Comment #1:* The commenter asserted that the EPA’s proposed action is an example of federal overreach on state and local jurisdictions. The commenter also stated that the EPA’s review and proposed approval of the SWCAA regulations violates the Tenth Amendment to the United States Constitution.

*Response:* Under the CAA, as established and amended by Congress, state and local authorities take the lead in developing State Implementation Plans (SIP) that implement, maintain, and enforce the national ambient air quality standards (NAAQS), which are standards designed to protect public health and welfare from air pollution. In reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 42 U.S.C. 7410(k); 40 CFR 52.02(a). In this case, EPA has done just that—Washington elected to submit the SWCAA and Ecology SIP revision to the EPA, and the EPA has proposed to approve the submission based on our determination that it meets the requirements of the CAA. We are now finalizing our determination.

With respect to the claim that the EPA’s action in approving this SIP submittal violates the Tenth Amendment, the Supreme Court has repeatedly affirmed the constitutionality of federal statutes, such as Section 110 of the CAA, that allow States to administer federal programs but provide for direct federal administration if a State chooses not to administer it. See *Texas v. EPA*, 726 F.3d 180, 196–7 (D.C. Cir. 2013) (citing *New York v. United States*, 505 U.S. 144, 167–8, 173–4 (1992); *Hodel v. Va. Surface Mining & Reclamation Ass’n, Inc.*, 452 U.S. 264m 288 (1981)).

*Comment #2:* A second commenter wrote in support of the EPA’s proposed approval of the SWCAA and Ecology SIP revision.

*Response:* We are now finalizing our proposed determination that the SWCAA and Ecology SIP revision meets the requirements of the CAA.

**III. Final Action**

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

The EPA is approving, and incorporating by reference, into the Washington SIP at 40 CFR 52.2470(c)—*Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SWCAA) Jurisdiction*, the SWCAA and Ecology regulations listed in Tables 1 and 2 below for sources within SWCAA’s jurisdiction.

TABLE 1—SOUTHWEST CLEAN AIR AGENCY (SWCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanations
<b>SWCAA 400—General Regulations for Air Pollution Sources</b>			
400–010 .....	Policy and Purpose .....	03/18/01	
400–020 .....	Applicability .....	10/09/16	
400–030 .....	Definitions .....	10/09/16	Except: 400–030(21) and (129).
400–036 .....	Portable Sources from Other Washington Jurisdictions.	10/09/16	
400–040 .....	General Standards for Maximum Emissions .....	10/09/16	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050 .....	Emission Standards for Combustion and Incineration Units.	10/09/16	Except: 400–050(3); 400–050(5); and 400–050(6).
400–060 .....	Emission Standards for General Process Units ..	10/09/16	
400–070 .....	General Requirements for Certain Source Categories.	10/09/16	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6); 400–070(7); 400–070(8)(c); 400–070(9); 400–070(10); 400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072 .....	Small Unit Notification for Selected Source Categories.	10/09/16	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); and all reporting requirements related to toxic air pollutants.
400–074 .....	Gasoline Transport Tanker Registration .....	11/15/09	Except: 400–074(2).
400–081 .....	Startup and Shutdown .....	10/09/16	
400–091 .....	Voluntary Limits on Emissions .....	10/09/16	
400–105 .....	Records, Monitoring and Reporting .....	10/09/16	Except: reporting requirements related to toxic air pollutants.
400–106 .....	Emission Testing and Monitoring at Air Contaminant Sources.	10/09/16	Except: 400–106(1)(d) through (g); and 400–106(2).
400–109 .....	Air Discharge Permit Applications .....	10/09/16	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110 .....	Application Review Process for Stationary Sources (New Source Review).	10/09/16	Except: 400–110(1)(d).
400–111 .....	Requirements for New Sources in a Maintenance Plan Area.	10/09/16	Except: 400–111(7).
400–112 .....	Requirements for New Sources in Nonattainment Areas.	10/09/16	Except: 400–112(6).
400–113 .....	Requirements for New Sources in Attainment or Nonclassifiable Areas.	10/09/16	Except: 400–113(5).
400–114 .....	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	11/09/03	
400–116 .....	Maintenance of Equipment .....	11/09/03	
400–130 .....	Use of Emission Reduction Credits .....	10/09/16	
400–131 .....	Deposit of Emission Reduction Credits Into Bank	10/09/16	
400–136 .....	Maintenance of Emission Reduction Credits in Bank.	10/09/16	
400–151 .....	Retrofit Requirements for Visibility Protection .....	11/09/03	
400–161 .....	Compliance Schedules .....	03/18/01	
400–171 .....	Public Involvement .....	10/09/16	Except: 400–171(2)(a)(xii).
400–190 .....	Requirements for Nonattainment Areas .....	10/09/16	
400–200 .....	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/09/16	Except: 400–200(1).
400–205 .....	Adjustment for Atmospheric Conditions .....	03/18/01	
400–210 .....	Emission Requirements of Prior Jurisdictions .....	03/18/01	
400–800 .....	Major Stationary Source and Major Modification in a Nonattainment Area.	10/09/16	
400–810 .....	Major Stationary Source and Major Modification Definitions.	10/09/16	
400–820 .....	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/09/16	
400–830 .....	Permitting Requirements .....	10/09/16	
400–840 .....	Emission Offset Requirements .....	10/09/16	
400–850 .....	Actual Emissions—Plantwide Applicability Limitation (PAL).	10/09/16	
400–860 .....	Public Involvement Procedures .....	10/09/16	
Appendix A .....	SWCAA Method 9 Visual Opacity Determination Method.	10/09/16	

TABLE 1—SOUTHWEST CLEAN AIR AGENCY (SWCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE—Continued

State/local citation	Title/subject	State/local effective date	Explanations
Appendix B .....	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/09/16	

TABLE 2—WASHINGTON STATE DEPARTMENT OF ECOLOGY REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanations
<b>Chapter 173–400 WAC, General Regulations for Air Pollution Sources</b>			
173–400–117 .....	Special Protection Requirements for Federal Class I Areas.	12/29/12	For permits issued under the applicability provisions of WAC 173–400–800.
173–400–118 .....	Designation of Class I, II, and III Areas .....	12/29/12	Except:—The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–560 .....	General Order of Approval .....	12/29/12	

*B. Approved but Not Incorporated by Reference Regulations*

In addition to the regulations approved and incorporated by reference stated previously, 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 so as to avoid potential conflict with the EPA’s independent authorities. The EPA has reviewed and is approving SWCAA 400–220 *Requirements for Board Members*, SWCAA 400–230 *Regulatory Actions and Civil Penalties*, SWCAA 400–240 *Criminal Penalties*, SWCAA 400–250 *Appeals*, SWCAA 400–260 *Conflict of Interest*, SWCAA 400–270 *Confidentiality of Records and Information*, and SWCAA 400–280 *Powers of Agency as providing SWCAA adequate enforcement and other general authorities for purposes of implementing and enforcing its SIP*. However, the EPA 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*

The Ecology regulations contained in Washington’s SIP at 40 CFR 52.2470(c)—*Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SWCAA) Jurisdiction*

were last approved by the EPA on June 2, 1995 (60 FR 28726). As discussed in the proposal for this action, under the Washington Clean Air Act, local air agencies have the option of adopting and implementing equally stringent or more stringent corresponding provisions to apply in lieu of Chapter 173–400 WAC, or parts of Chapter 173–400 WAC. With the exception of updated versions of WAC 173–400–117, 173–400–118, and 173–400–560, SWCAA requested that the submitted SWCAA regulations replace the existing WAC provisions currently in the SIP for its jurisdiction. Also as discussed in the proposal, we are removing from the SIP SWCAA 400–050(3) [formerly 400–050(2)], 400–052, 400–070(6), 400–070(8)(c) [formerly 400–070(7)(c) and (d)], 400–074(2), 400–100, 400–101, and 400–109(4), because removal of these provisions would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We also note that the SIP includes a reference to SWCAA 400–090 which was renumbered to SWCAA 400–091 on September 21, 1995. We are removing the reference to SWCAA 400–090 in the SIP which was inadvertently not addressed as part of our February 26, 1997 approval of SWCAA 400–091 (62 FR 8624).

*D. Scope of Proposed Action*

This revision to the Washington SIP applies specifically to the SWCAA jurisdiction incorporated at 40 CFR 52.2470(c)—*Table 8*. As discussed in our October 3, 2014 approval of revisions to the WAC, 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, SWCAA does not have authority for sources under the jurisdiction of the Energy Facility Site Evaluation Council (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, SWCAA 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 also retains statewide, direct jurisdiction for the prevention of significant deterioration (PSD) permitting program. Therefore, the EPA is not approving into 40 CFR 52.2470(c)—*Table 8* the provisions of Chapter 173–400 WAC related to the PSD program. Specifically, the provisions are WAC 173–400–116 and WAC 173–400–700 through 750, already approved by the EPA as applying statewide.

Jurisdiction to implement the visibility permitting program contained in WAC 173–400–117 varies depending on the situation (see 80 FR 23721, April 29, 2015, at page 80 FR 23726). Ecology retains authority to implement WAC 173–400–117 as it relates to PSD permits. However, for facilities subject to major nonattainment new source review (NSR) under the applicability provisions of SWCAA 400–800, we are approving SWCAA to implementing those parts of WAC 173–400–117 as they relate to major nonattainment NSR permits. We are also modifying the visibility protection Federal 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 nonattainment NSR program in SWCAA's jurisdiction.

Lastly, this SIP revision is not approved to apply on any Indian reservation land in the State, or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

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

This SIP revision is not approved to apply on any Indian reservation land in Washington or 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).

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 June 9, 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: March 20, 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 8 of paragraph (c) and Table 1 of paragraph (e), to read as follows:

#### § 52.2470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

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

**TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION**  
 [Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, 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 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
<b>Southwest Clean Air Agency Regulations</b>				
<b>SWCAA 400—General Regulations for Air Pollution Sources</b>				
400–010	Policy and Purpose	03/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400–020	Applicability	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–030	Definitions	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–030(21) and (129).
400–036	Portable Sources from Other Washington Jurisdictions.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–040(1)(a)	General Standards for Maximum Emissions.	9/21/95	2/26/97, 62 FR 8624.	
400–040	General Standards for Maximum Emissions.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050	Emission Standards for Combustion and Incineration Units.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–050(3); 400–050(5); and 400–050(6).
400–060	Emission Standards for General Process Units.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–070(2)(a)	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624.	
400–070	General Requirements for Certain Source Categories.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6); 400–070(7); 400–070(8)(c); 400–070(9); 400–070(10); 400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072	Small Unit Notification for Selected Source Categories.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); and all reporting requirements related to toxic air pollutants.
400–074	Gasoline Transport Tanker Registration.	11/15/09	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–074(2).
400–081	Startup and Shutdown	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–091	Voluntary Limits on Emissions	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–105	Records, Monitoring and Reporting	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: Reporting requirements related to toxic air pollutants.
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–106(1)(d) through (g); and 400–106(2).
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624.	
400–109	Air Discharge Permit Applications	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–111(7).
400–112	Requirements for New Sources in Nonattainment Areas.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	11/09/03	04/10/17, [Insert <b>Federal Register</b> citation].	
400–116	Maintenance of Equipment	11/09/03	04/10/17, [Insert <b>Federal Register</b> citation].	
400–130	Use of Emission Reduction Credits	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400–131	Deposit of Emission Reduction Credits Into Bank.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—  
Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, 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 173-405-012, 173-410-012, and 173-415-012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400-136 .....	Maintenance of Emission Reduction Credits in Bank.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	Except: 400-171(2)(a)(xii).
400-151 .....	Retrofit Requirements for Visibility Protection.	11/09/03	04/10/17, [Insert <b>Federal Register</b> citation].	
400-161 .....	Compliance Schedules .....	03/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-171 .....	Public Involvement .....	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-190 .....	Requirements for Nonattainment Areas.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-200 .....	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-205 .....	Adjustment for Atmospheric Conditions.	03/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-210 .....	Emission Requirements of Prior Jurisdictions.	03/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-800 .....	Major Stationary Source and Major Modification in a Nonattainment Area.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-810 .....	Major Stationary Source and Major Modification Definitions.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-820 .....	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-830 .....	Permitting Requirements .....	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-840 .....	Emission Offset Requirements .....	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-850 .....	Actual Emissions—Plantwide Applicability Limitation (PAL).	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-860 .....	Public Involvement Procedures .....	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
Appendix A .....	SWCAA Method 9 Visual Opacity Determination Method.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	
Appendix B .....	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/09/16	04/10/17, [Insert <b>Federal Register</b> citation].	

**Emission Standards and Controls for Sources Emitting Volatile Organic Compounds**

490-010 .....	Policy and Purpose .....	11/21/96	5/19/97, 62 FR 27204.	
490-020 .....	Definitions .....	11/21/96	5/19/97, 62 FR 27204.	
490-025 .....	General Applicability .....	11/21/96	5/19/97, 62 FR 27204.	
490-030 .....	Registration and Reporting .....	11/21/96	5/19/97, 62 FR 27204.	
490-040 .....	Requirements .....	11/21/96	5/19/97, 62 FR 27204.	
490-080 .....	Exceptions & Alternative Methods ...	11/21/96	5/19/97, 62 FR 27204.	
490-090 .....	New Source Review .....	11/21/96	5/19/97, 62 FR 27204.	
490-200 .....	Petroleum Refinery Equipment Leaks	11/21/96	5/19/97, 62 FR 27204.	
490-201 .....	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204.	
490-202 .....	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204.	
490-203 .....	Perchloroethylene Dry Cleaning Systems.	11/21/96	5/19/97, 62 FR 27204.	
490-204 .....	Graphic Arts Systems .....	11/21/96	5/19/97, 62 FR 27204.	
490-205 .....	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204.	
490-207 .....	Surface Coating of Flatwood Paneling.	11/21/96	5/19/97, 62 FR 27204.	
490-208 .....	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, 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 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
<b>Emissions Standards and Controls for Sources Emitting Gasoline Vapors</b>				
491–010 .....	Policy and Purpose .....	11/21/96	5/19/97, 62 FR 27204.	
491–015 .....	Applicability .....	11/21/96	5/19/97, 62 FR 27204.	
491–020 .....	Definitions .....	11/21/96	5/19/97, 62 FR 27204.	
491–030 .....	Registration .....	11/21/96	5/19/97, 62 FR 27204.	
491–040 .....	Gasoline Vapor Control Requirements.	11/21/96	5/19/97, 62 FR 27204.	
491–050 .....	Failures, Certification, Testing & Recordkeeping.	11/21/96	5/19/97, 62 FR 27204.	
491–060 .....	Severability .....	11/21/96	5/19/97, 62 FR 27204.	
<b>Oxygenated Fuels</b>				
492–010 .....	Policy and Purpose .....	11/21/96	4/30/97, 62 FR 23363.	
492–020 .....	Applicability .....	11/21/96	4/30/97, 62 FR 23363.	
492–030 .....	Definitions .....	11/21/96	4/30/97, 62 FR 23363.	
492–040 .....	Compliance Requirements .....	11/21/96	4/30/97, 62 FR 23363.	
492–050 .....	Registration Requirements .....	11/21/96	4/30/97, 62 FR 23363.	
492–060 .....	Labeling Requirements .....	11/21/96	4/30/97, 62 FR 23363.	
492–070 .....	Control Area and Control Period .....	11/21/96	4/30/97, 62 FR 23363.	
492–080 .....	Enforcement and Compliance .....	11/21/96	4/30/97, 62 FR 23363.	
492–090 .....	Unplanned Conditions .....	11/21/96	4/30/97, 62 FR 23363.	
492–100 .....	Severability .....	11/21/96	4/30/97, 62 FR 23363.	
<b>VOC Area Source Rules</b>				
493–100 .....	Consumer Products (Reserved) .....	05/26/96	5/19/97, 62 FR 27204.	
493–200–010 .....	Applicability .....	05/26/96	5/19/97, 62 FR 27204.	
493–200–020 .....	Definitions .....	05/26/96	5/19/97, 62 FR 27204.	
493–200–030 .....	Spray Paint Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204.	
493–200–040 .....	Requirements for Manufacture, Sale and Use of Spray Paint.	05/26/96	5/19/97, 62 FR 27204.	
493–200–050 .....	Recordkeeping & Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204.	
493–200–060 .....	Inspection and Testing Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–300–010 .....	Applicability .....	5/26/96	5/19/97, 62 FR 27204.	
493–300–020 .....	Definitions .....	5/26/96	5/19/97, 62 FR 27204.	
493–300–030 .....	Standards .....	5/26/96	5/19/97, 62 FR 27204.	
493–300–040 .....	Requirements for Manufacture, Sale and Use of Architectural Coatings.	5/26/96	5/19/97, 62 FR 27204.	
493–300–050 .....	Recordkeeping & Reporting Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–300–060 .....	Inspection and Testing Requirements	5/26/96	5/19/97, 62 FR 27204.	
493–400–010 .....	Applicability .....	05/26/96	5/19/97, 62 FR 27204.	
493–400–020 .....	Definitions .....	05/26/96	5/19/97, 62 FR 27204.	
493–400–030 .....	Coating Standards & Exemptions .....	05/26/96	5/19/97, 62 FR 27204.	
493–400–040 .....	Requirements for Manufacture & Sale of Coating.	05/26/96	5/19/97, 62 FR 27204.	
493–400–050 .....	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	05/26/96	5/19/97, 62 FR 27204.	
493–400–060 .....	Recordkeeping and Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204.	
493–400–070 .....	Inspection & Testing Requirements ..	05/26/96	5/19/97, 62 FR 27204.	
493–500–010 .....	Applicability .....	05/26/96	05/19/97, 62 FR 27204.	
493–500–020 .....	Compliance Extensions .....	05/26/96	05/19/97, 62 FR 27204.	
493–500–030 .....	Exemption from Disclosure to the Public.	05/26/96	05/19/97, 62 FR 27204.	
493–500–040 .....	Future Review .....	05/26/96	05/19/97, 62 FR 27204.	
<b>Washington Department of Ecology Regulations</b>				
<b>Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources</b>				
173–400–117 .....	Special Protection Requirements for Federal Class I Areas.	12/29/12	04/10/17, [Insert <b>Federal Register</b> citation].	For permits issued under the applicability provisions of WAC 173–400–800.

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, 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 173-405-012, 173-410-012, and 173-415-012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173-400-118 .....	Designation of Class I, II, and III Areas.	12/29/12	04/10/17, [Insert <b>Federal Register</b> citation].	Except:—The part of 173-400-560(1)(f) that says, “173-460 WAC”.
173-400-560 .....	General Order of Approval .....	12/29/12	04/10/17, [Insert <b>Federal Register</b> 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>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.	Replaces WAC 173-400-220.
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.	
<b>Southwest Clean Air Agency Regulations</b>				
400-220 .....	Requirements for Board Members ....	3/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-230 .....	Regulatory Actions and Civil Penalties.	10/9/16	04/10/17, [Insert <b>Federal Register</b> citation].	
400-240 .....	Criminal Penalties .....	3/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-250 .....	Appeals .....	11/9/03	04/10/17, [Insert <b>Federal Register</b> citation].	
400-260 .....	Conflict of Interest .....	3/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
400-270 .....	Confidentiality of Records and Information.	11/9/03	04/10/17, [Insert <b>Federal Register</b> citation].	
400-280 .....	Powers of Agency .....	3/18/01	04/10/17, [Insert <b>Federal Register</b> citation].	
<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 § 52.2498 by revising paragraph (a)(2) to read as follows:

§ 52.2498 Visibility protection.

(a) \* \* \*



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

\* \* \* \* \*

[FR Doc. 2017-07022 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2013-0772; FRL-9960-94-Region 4]

#### Air Plan Approval; North Carolina; Motor Vehicle Emissions Control Program; Correcting Amendment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This direct final action, taken under the authority of the Clean Air Act (CAA or Act), corrects an error in previously promulgated rules approving certain elements of the North Carolina state implementation plan (SIP). The error relates to the North Carolina SIP's Motor Vehicle Emissions Control Standard rules and the correction removes a provision of the State's otherwise federally-enforceable regulations that could result in infringement upon the sovereign immunity of Federal facilities. The intended effect is to ensure that the North Carolina SIP is correctly identified in the applicable part of the Code of Federal Regulations and to eliminate the possibility of such infringement.

**DATES:** This direct final rule is effective June 9, 2017 without further notice, unless EPA receives adverse comment by May 10, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2013-0772 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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. 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>.

#### FOR FURTHER INFORMATION CONTACT:

Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via phone at (404) 562-9992 or electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 182(b)(4) of the CAA requires areas that are designated as moderate, serious, or severe ozone nonattainment to establish a motor vehicle inspection and maintenance (I/M) program to ensure that specified gasoline-fueled motor vehicles do not exceed prescribed emissions thresholds by requiring that vehicles undergo periodic emissions testing, including mandatory repairs for vehicles found to exceed these thresholds. This emissions testing ensures that vehicles are well maintained and operating as designed.

The North Carolina I/M program began in 1982 in Mecklenburg County utilizing a "tail-pipe" emissions test. From 1986 through 1991 the program expanded to include eight additional counties (Wake, Forsyth, Guilford, Durham, Gaston, Cabarrus, Orange and Union County). In 1999, the North Carolina General Assembly passed legislation to expand the coverage area for the I/M program in order to gain additional emission reductions to achieve the 1997 8-hour ozone national ambient air quality standards in the State. This legislation expanded the I/M program from nine counties to 48 counties by adding several counties approximately every six months from July 1, 2003, to July 1, 2006. The I/M program in the expanded coverage area used on-board diagnostic (OBD) rather than tail-pipe testing. On August 7, 2002, North Carolina submitted a SIP revision to amend the I/M regulations included in the SIP at that time to, among other things, expand the counties

subject to the I/M program as discussed above, require OBD in the subject counties for all model year (MY) 1996 and newer light duty gasoline vehicles, and terminate the tail-pipe testing program on January 1, 2006, for the nine counties subject to continued tail-pipe testing of MY 1995 and older vehicles.

EPA approved these changes to North Carolina's I/M program into the SIP on October 30, 2002. *See* 67 FR 66056. North Carolina submitted additional SIP revisions related to the State's I/M program on January 31, 2008, May 24, 2010, October 11, 2013, and February 11, 2014. EPA approved North Carolina's January 31, 2008, May 24, 2010, October 11, 2013, and February 11, 2014, SIP revisions pertaining to state rule changes to the State's I/M program on February 5, 2015. *See* 80 FR 6455.

##### II. Error Correction

The CAA sets forth requirements for Federal facilities which are located in I/M program areas. These requirements in section 118(c) and (d) apply to both Federal fleet and Federal employee vehicles. Congress intended in that section that Federal facilities located in I/M program areas demonstrate compliance with certain local and State I/M requirements. When EPA published the I/M rule in 1992, *see* 57 FR 52950, the Agency interpreted CAA section 118(c) and (d) as a partial waiver of the Federal government's sovereign immunity, thereby allowing States to regulate Federal facilities in their I/M programs.<sup>1</sup> Accordingly, EPA established certain SIP requirements for Federal facilities in the I/M rule. Since that time, the Department of Justice (DOJ) has found that sections 118(c) and (d) do not waive sovereign immunity for the Federal government and thus states are without authority to enforce the section 118(c) and (d) requirements for Federal facilities.<sup>2</sup> Further, DOJ found that the express waiver of sovereign immunity in section 118(a) extends only to nondiscriminatory requirements (*i.e.*, each agency and employee of the Federal government "shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same

<sup>1</sup> *See* letter from Gay MacGregor, Director, Regional and State Programs Division, EPA Office of Air and Radiation, to Mary Jo Leugers, Virginia Office of the Attorney General (August 28, 1998) (MacGregor Letter).

<sup>2</sup> *See* letter from Lois J. Schiffer, Assistant Attorney General, Department of Justice Environment and Natural Resources Division, to Scott Fulton, Acting General Counsel, EPA (July 29, 1998) (Schiffer Letter).