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We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 110

Anchorage Grounds.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071; 46 U.S.C. 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 110.197 paragraph (b)(2) to read as follows:

§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.

* * * * *

(b) * * *

(2) Except when stress of weather makes sailing impractical or hazardous, vessels shall not anchor in anchorage areas (A), (B), or (C) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston. Permission to anchor for longer periods may be obtained through Coast Guard Vessel Traffic Service Houston/Galveston on VHF–FM channels 12 (156.60 MHz) or 13 (156.65 MHz).

* * * * *

Dated: January 3, 2020.

John P. Nadeau,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2020–01347 Filed 1–27–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0710; FRL–10004–71–Region 10]

Approval and Promulgation of Implementation Plans; Washington; Puget Sound Clean Air Agency, Regulation I

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Washington State Implementation Plan (SIP) that were submitted by the Washington Department of Ecology (Ecology) in coordination with the Puget Sound Clean Air Agency (PSCAA). This proposed revision would update certain PSCAA regulations currently in the SIP, remove obsolete regulations, and approve a subset of updated Ecology regulations to apply in PSCAA's jurisdiction.

DATES: Written comments must be received on or before February 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2019–0710 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

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

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I. Background for Proposed Action

On January 27, 2014, Ecology submitted revisions to update the general air quality regulations contained in Chapter 173–400 Washington Administrative Code (WAC), which the EPA approved in three phases on October 3, 2014 (79 FR 59653), November 7, 2014 (79 FR 66291), and April 29, 2015 (80 FR 23721).[1] Under the revised applicability provisions of WAC 173–400–020 approved into the SIP on October 3, 2014, the regulations contained in Chapter 173–400 WAC apply statewide, ''. . . except for specific subsections where a local authority has adopted and implemented corresponding local rules that apply only to sources subject to local jurisdiction as provided under Revised Code of Washington (RCW) 70.94.141 and 70.94.331.''[2] Therefore, the EPA's approval of Ecology's January 2014 submittal applies only to geographic areas and source categories under Ecology's direct jurisdiction. We stated that we would address the revised Chapter 173–400 WAC regulations as they apply to local clean air agency jurisdictions on a case-by-case basis in separate, future actions. On December 20, 2019, the Director of Ecology, as the Governor's designee for SIP revisions, submitted a request to update the air

[1] In subsequent actions on September 29, 2016 (81 FR 66823) and October 6, 2016 (81 FR 69385) we made minor corrections to our previous approval of Chapter 173–400 WAC and approved revised WAC provisions that incorporated by reference the most recent changes to the federal regulations.

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

quality regulations in the SIP as they apply to PSCAA's jurisdiction in 40 CFR 52.2470(c), Table 7—*Additional Regulations Approved for the Puget Sound Clean Air Agency (PSCAA) Jurisdiction.* PSCAA's jurisdiction consists of King, Kitsap, Pierce, and Snohomish counties, excluding certain facilities discussed in section IV.D. *Scope of Proposed Action.* PSCAA's jurisdiction also excludes Indian reservation land or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction (except non-trust land within the exterior boundaries of the Puyallup Indian Reservation, as described in section IV.D. *Scope of Proposed Action*).

Appendix A of the SIP revision shows how the submitted regulatory updates would apply to PSCAA's jurisdiction. These revisions can be summarized in three general categories, which are discussed in more detail in sections II and III. The first category consists of updates to the PSCAA Regulation I provisions currently in the SIP. These updated provisions apply in lieu of, or serve as a supplement to, the statewide Chapter 173–400 WAC provisions, as shown in Table 1. The second category consists of those parts of Chapter 173–400 WAC incorporated by reference in Regulation I. The EPA's proposed approval of the Chapter 173–400 WAC provisions incorporated by reference in Regulation I would be subject to the same exceptions that apply to Ecology's direct jurisdiction, as shown in Table 2. For example, as part of the January 2014 submittal of Chapter 173–400 WAC, Ecology did not submit for approval those provisions related to the regulation of toxic air pollutants, because such provisions are outside the scope of SIPs under Clean Air Act (CAA) section 110. The last category consists of certain parts of Chapter 173–400 WAC which do not have a direct corollary under PSCAA Regulation I, nor are they incorporated by reference in Regulation I. In these cases, Ecology and PSCAA requested that the EPA revise the SIP to include the most recently approved updates to Chapter 173–400 WAC to apply in PSCAA's jurisdiction, as shown in Table 3.

II. Changes to PSCAA Regulation I

The EPA last approved updates to PSCAA Regulation I on September 17, 2013 (78 FR 57073); however, many of the SIP-approved provisions relating to pre-construction permitting of new and modified stationary sources (called the new source review or NSR permitting program) date back to the 1990s.[3] PSCAA's updates to Regulation I are documented in the Washington State Register (WSR) entries included in the docket for this action. Each WSR gives a redline/strikeout of changes to the regulations, with a brief summary describing the purpose of the changes. Additional information can also be found in the proposed WSR actions.[4] The majority of changes over the years were routine in nature, such as revising the regulations to account for inflation, incorporating revised federal regulations, or generally revising the regulatory language for clarity. The EPA's complete line by line review of changes to the PSCAA regulations is included in the docket for this action, and will not be described in detail here.[5] The three most significant changes to PSCAA Regulation I are discussed below.

A. WSR 04–08–017—Incorporation by Reference of Chapter 173–400 WAC

On March 25, 2004 (WSR 04–08–017), PSCAA made a major overhaul of Regulation I in order to rely on the statewide NSR permitting program requirements contained in Chapter 173–400 WAC promulgated by Ecology. PSCAA's stated purpose was, ''To create a more consistent notice of construction process throughout the state of Washington and to facilitate the United States Environmental Protection Agency's approval of the state implementation plan.'' PSCAA created a new section 6.01 ''Components of a New Source Review Program'' which generally incorporates by reference the NSR permitting provisions contained in Chapter 173–400 WAC, as shown in Table 2. PSCAA also revised or repealed sections of Regulation I that were duplicative of the WAC and therefore obsolete.[6] This included deleting most of the NSR-related definitions in Regulation I, section 1.07 in order to rely on the definitions incorporated by reference in WAC 173–400–030. PSCAA also repealed sections 6.06 ''Public Notice,'' 6.07 ''Order of Approval—Order to Prevent Construction,'' and 6.08 ''Emission Reduction Credit Banking'' to rely on the corollaries in the WAC, including WAC 173–400–171 ''Public notice and opportunity for public comment,'' WAC 173–400–111 ''Processing notice of construction applications for sources, stationary sources and portable sources,'' WAC 173–400–131 ''Issuance of emission reduction credits,'' WAC 173–400–136 ''Use of emission reduction credits (ERC),'' and WAC 173–400–840 ''Emission offset requirements.'' Lastly, PSCAA made minor updates to the cross references in Regulation I, sections 3.04, 6.03, 6.09, 9.03, 9.04, 9.08, and 12.03 to reflect the revised regulatory structure.

WAC 173–400–700 through 173–400–750 implement the Prevention of Significant Deterioration (PSD) new source review permitting program for major stationary sources in attainment and unclassifiable areas. Regulation I, section 6.01 incorporates by reference WAC 173–400–700 through 173–400–750, but clearly states that only Ecology and EFSEC have authority to issue permits under WAC 173–400–700 through 173–400–750 within PSCAA's geographic area. PSCAA has advised EPA that it incorporates by reference WAC 173–400–700 through 173–400–750 for purposes such as working on permit coordination with Ecology, enforcing existing PSD permit conditions not yet incorporated into Title V permits, and determining violations for inspected facilities that failed to obtain the necessary PSD permits. Therefore, PSCAA is not requesting, and the EPA is not proposing to approve, the authority to issue PSD permits under WAC 173–400–700 through 173–400–750 for PSCAA's direct permitting jurisdiction (Table 7). The EPA will retain our current approval of WAC 173–400–700 through 173–400–750 in the SIP under Ecology and EFSEC direct permitting jurisdiction (see 40 CFR 52.2470(c), Tables 2 and 3), which will continue to apply within PSCAA's geographic area.

PSCAA also incorporates by reference WAC 173–400–800 through 173–400–860, which implement the new source review permitting program for major stationary sources in nonattainment areas (major nonattainment NSR). The EPA approved WAC 173–400–800 through 173–400–860 for Ecology's direct permitting jurisdiction on November 7, 2014 (79 FR 59653), with minor revisions to reflect updated federal citations on October 6, 2016 (81 FR 69385). In connection with our November 7, 2014 approval, we reviewed WAC 173–400–800 through 173–400–860 pursuant to the federal

[3] See 59 FR 44324 (August 29, 1994), 60 FR 33734 (June 29, 1995), 62 FR 42216 (August 6, 1997), and 63 FR 19658 (April 21, 1998).

[4] *http://lawfilesext.leg.wa.gov/law/wsr/agency/PugetSoundCleanAirAgency.htm.*

[5] See ''Puget Sound comparison_IBR_old vs current.pdf'' and ''Puget Sound comparison_not IBR_old vs. current.pdf'' included in the docket.

[6] WAC 173–400–110(1)(c)(ii), which PSCAA has not adopted, makes clear that the term ''new source'' includes a modification to an existing source. However, PSCAA has adopted Ecology's definition of ''new source'' in WAC 173–400–030(56). WAC 173–400–030(56) specifically defines a ''new source'' as including ''modifications.'' Thus, there is no substantive difference between PSCAA's and Ecology's NSR rules in this respect.

regulatory requirements in existence at that time and discussed the fact that the EPA's 2008 $PM_{2.5}$ New Source Review Rule (73 FR 28321, May 16, 2008), had been remanded to the EPA by the U.S. Court of Appeals for the District of Columbia Circuit. See 79 FR 43345, 43347 (July 25, 2014) (proposed action); 79 FR 59653 (final action). EPA's 2008 $PM_{2.5}$ New Source Review Rule has since been replaced by a revised implementation rule published August 24, 2016, which imposed additional NSR requirements for $PM_{2.5}$ nonattainment areas (81 FR 58010). Because there are currently no nonattainment areas within PSCAA's jurisdiction or Washington State for any criteria pollutant, including $PM_{2.5}$, the EPA did not review PSCAA's incorporation by reference of WAC 173–400–800 through 173–400–860 for consistency with the newly revised $PM_{2.5}$ implementation rule; nor does Ecology or PSCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time. However, we note that the federal major nonattainment NSR requirements remain unchanged for all other criteria pollutants since our review and approval of WAC 173–400–800 through 173–400–860. We are therefore proposing to approve of PSCAA's incorporation by reference of WAC 173–400–800 through 173–400–860 as meeting the current major nonattainment NSR requirements for all criteria pollutants except $PM_{2.5}$.

B. WSR 01–16–034—''Trivial'' Emissions Source Categories

Effective June 6, 1996, the Washington Legislature amended the Washington Clean Air Act (Revised Code of Washington 70.94), requiring Ecology to establish NSR permitting exemptions based on category, size, or emissions thresholds representing ''. . . trivial levels of emissions that do not pose a threat to human health or the environment.'' Ecology implemented this statutory change by establishing emission unit and activity exemptions under WAC 173–400–110(4), and exemptions based on emissions thresholds under WAC 173–400–110(5). The EPA approved these changes on April 29, 2015 (80 FR 23721).[7]

Unlike Ecology, PSCAA already had ''trivial'' emissions source category exemptions for minor NSR permitting approved as part of the SIP under Regulation I, section 6.03 (62 FR 42216, August 6, 1997). Therefore, PSCAA opted to retain its existing minor NSR source category exemptions rather than incorporate by reference WAC 173–400–110(4) and (5). While there have been numerous updates to PSCAA's source category exemptions list since the EPA's last approval, the most significant revision occurred on July 12, 2001 (WSR 01–16–034). After a review of approximately 485 emission units permitted during calendar year 2000, PSCAA revised the list of source category exemptions to better focus on the most environmentally relevant source categories. As described in the supporting documents for PSCAA's rulemaking at that time, approximately one third of the units permitted in 2000 were gas stations, dry cleaners, or concrete batch plants which are already subject to Best Available Control Technology (BACT) requirements in other regulations approved into the SIP, such as Regulation II, section 2.07 ''Gasoline Stations,'' which significantly reduce potential emissions from such source categories to levels expected to be inconsequential to attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Other minor NSR source category exemptions were derived from exemptions approved into the SIP for the South Coast Air Quality Management District (SCAQMD) and Bay Area Air Quality Management District (BAAQMD). ''Engineering Notes for Exemption List Development,'' included in the docket for this action, shows the process used by PSCAA in 2001 to update the set of minor NSR source category exemptions. Following 2001, PSCAA continued to update the set of minor NSR source category exemptions based on its evaluation and experience permitting certain source categories, including the 2012 establishment of stand-alone performance standards for rock crushing in section 9.18 that reduce potential emissions to levels expected to be inconsequential for attainment and maintenance of the NAAQS.[8] For more detail on the EPA's review of PSCAA's revised minor NSR source category exemption list, please see ''Puget Sound comparison IBR old vs current'' included in the docket for this action. Based on our review, the EPA is proposing to approve PSCAA's updated minor NSR source category exemption list based on our determination that the impact of emissions from such sources is inconsequential to attainment and maintenance of the NAAQS. We are also proposing to approve PSCAA's request to apply Regulation I, section 6.03 to act in lieu of those parts of WAC 173–400–110 for determining NSR applicability for PSCAA's permitting jurisdiction.

We note that our prior approval of section 6.03 included a broad director's discretion provision that allowed a minor NSR exemption for, ''Any source that has been determined through review by the Control Officer not to warrant a 'Notice of Construction and Application for Approval', due to the minimal amount and nature of air contaminants produced and potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.'' See 62 FR 42216, August 6, 1997. This provision, formerly in subsection (b)(17), is now in subsection (b)(10). It is the EPA's longstanding position that these types of broad director discretion provisions are not appropriate for approval into the SIP. See 69 FR 17368, 17370 (April 2, 2004); see also 80 FR 33840, 33917–33918 (June 12, 2015). PSCAA and Ecology are not seeking approval of section 6.03(b)(10) and we are proposing to correct this error from our August 1997 action. Section 110(k)(6) of the CAA authorizes EPA, upon a determination that EPA's action approving, disapproving or promulgating any SIP or plan revision (or any part thereof) was in error, to revise such action as appropriate in the same manner as the approval, disapproval or promulgation. In making such a correction, EPA must provide such determination and the basis therefore to the State and the public. EPA is by this proposal notifying the PSCAA, Ecology and the public that EPA is removing Section 6.03(b)(17) from the SIP and from incorporation by reference into federal law.

Lastly, we note that Article 6 in particular, but also other sections of PSCAA's regulations, reference the Code of Federal Regulations (CFR). For all references to the CFR in the PSCAA rules proposed for approval, not otherwise specified with an effective date, our proposed approval refers to the CFR with an effective date of July 1, 2019. This date corresponds to PSCAA's last incorporation by reference of the CFR in Regulation 1, section 3.25.[9]

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

[8] See ''January 19 2018 e-Hunt SIP Support w attachments'' included in the docket.

[9] As part of PSCAA's adoption by reference of the WAC in section 6.01, PSCAA explicitly did not adopt by reference WAC 173–400–025 *Adoption of Federal Rules* in order to avoid conflicting with section 3.25. Therefore, for this proposed approval references to ''in effect on the date in WAC 173–400–025'' as part of the PSCAA's adoption by reference of the WAC shall be July 1, 2019, consistent with section 3.25.

C. WSR 12–01–067—Federally Enforceable Regulatory Orders

On December 15, 2015 (WSR 12–01–067), PSCAA added section 3.03(f) to Regulation I, which states, ''When an applicant requests a federally enforceable regulatory order to limit the potential to emit any air contaminant or contaminants pursuant to WAC 173–400–091, or requests a modification to such an order, the Control Officer or a duly authorized representative may issue such order consistent with the requirements of WAC 173–400–091 and 173–400–171 and Section 3.03(e) above. Regulatory orders issued pursuant to this section are effective the day the Control Officer or representative approves the order and may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.'' We are proposing to approve this provision into the SIP because it implements authorities already approved or proposed for approval in the SIP and is consistent with CAA requirements.

III. Application of WAC 173–400–020

As previously discussed, a local clean air agency generally has the authority under WAC 173–400–020 to establish local regulations to supplement, or act in lieu of, the statewide Chapter 173–400 WAC provisions for sources within its jurisdiction. This approach is consistent with our previous SIP actions for Benton Clean Air Agency (80 FR 71695, November 17, 2015) and Southwest Clean Air Agency (82 FR 17136, April 10, 2017). Specifically, as part of the December 20, 2019 submittal, PSCAA and Ecology requested that the EPA approve: Regulation I, section 1.01 ''Policy'' to replace WAC 173–400–010; section 3.04 ''Reasonably Available Control Technology'' to replace the corresponding provision in WAC 173–400–040(1)(c); section 3.25 ''Federal Regulations Reference Date'' to replace WAC 173–400–025; section 9.03 ''Emission of Air Contaminant: Visual Standard'' to replace WAC 173–400–040(2); section 9.07 ''Sulfur Dioxide Emission Standard'' to replace WAC 173–400–040(7); section 9.09 ''Particulate Matter Emission Standards'' to replace WAC 173–400–050 and 173–400–060; section 9.11(a) ''Emission of Air Contaminant: Detriment to Person or Property'' to replace WAC 173–400–040(6); section 9.13 ''Emission of Air Contaminant: Concealment and Masking Restricted'' to replace WAC 173–400–040(8); section 9.15 ''Fugitive Dust Control Measures'' to replace WAC 173–400–040(9)(a); and section 12.03 ''Continuous Emission Monitoring Systems'' to replace WAC 173–400–105(7).

We have completed a side by side comparison of the respective provisions and are proposing to approve these Regulation I provisions to apply in lieu of the corresponding Chapter 173–400 WAC provisions in the SIP.[10] In addition, as discussed above regarding minor NSR source category exemptions, we are proposing to approve section 6.03 ''Notice of Construction'' to apply in lieu of those parts of WAC 173–400–110 ''New source review (NSR) for sources and portable sources'' for determining NSR applicability and Notice of Construction application procedures.[11]

Lastly, for those parts of Chapter 173–400 WAC not already incorporated by reference in section 6.01, or replaced by the corresponding Regulation I provisions discussed above, PSCAA and Ecology requested that the EPA approve into the SIP for PSCAA's jurisdiction the most recently updated versions of Chapter 173–400 WAC, with certain exceptions as shown in Table 3. For example, WAC 173–400–116 ''Increment Protection'' is part of the PSD program for permits issued directly by Ecology or EFSEC and, as discussed above, PSCAA does not issue such permits. PSCAA also did not request approval for WAC 173–400–036 ''Relocation of Portable Sources'' because this is an optional State provision that a local clean air agency may adopt if it so chooses, but is not required to adopt.

IV. The EPA's Proposed Action

A. Regulations To Approve and Incorporate by Reference Into the SIP

The EPA is proposing to approve and incorporate by reference into the Washington SIP at 40 CFR 52.2470(c)—*Table 7—Additional Regulations Approved for the Puget Sound Clean Air Agency (PSCAA) Jurisdiction,* the PSCAA and Ecology regulations listed in Tables 1, 2, and 3 below for sources within PSCAA's jurisdiction. We note that some of the Regulation I provisions listed below remain unchanged since our previous approval. We are proposing to approve them as shown in Table 1, however, to act in lieu of the corresponding Chapter 173–400 WAC provisions.

TABLE 1—PUGET SOUND CLEAN AIR AGENCY (PSCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanation
	Regulation I		
1.01	Policy	11/01/99	Replaces WAC 173–400–010.
1.07	Definitions	12/01/18	Except the definition "toxic air pollutant (TAP) or toxic air contaminant."
3.03(f)	General Regulatory Orders	02/01/12	
3.04	Reasonably Available Control Technology.	07/01/12	Except 3.04(e). Replaces WAC 173–400–040(1)(c).
3.25	Federal Regulation Reference Date	11/01/19	Replaces WAC 173–400–025.
5.03	Applicability of Registration Program.	11/01/16	Except 5.03(a)(8)(Q) and 5.03(b)(5).
5.05	Registration Requirements	02/01/17	Except 5.05(b)(1) and (2).
6.01	Components of New Source Review Program.	05/01/13	Except the parenthetical in 6.01(b) which states "as delegated by agreement with the US Environmental Protection Agency, Region 10." See table below for revised Chapter 173–400 WAC provisions incorporated by reference.

[10] See ''PSCAA v WAC cross walk'' included in the docket for this action.

[11] PSCAA continues to incorporate WAC 173–400–110(1)(c)(i) and WAC 173–400–110(1)(d) by reference. All other provisions are replaced by PSCAA Regulation I, section 6.03 provisions.

TABLE 1—PUGET SOUND CLEAN AIR AGENCY (PSCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE—Continued

State/local citation	Title/subject	State/local effective date	Explanation
6.03	Notice of Construction	11/01/15	Except 6.03(b)(10). Section 6.03 replaces WAC 173–400–110, except WAC 173–400–110(1)(c)(i) and (1)(d) which are incorporated by reference.
6.09	Notice of Completion	05/01/04	
6.10	Work Done Without an Approval	09/01/01	
7.09	General Reporting Requirements for Operating Permits.	02/01/17	Excluding toxic air pollutants.
9.03	Emission of Air Contaminant: Visual Standard.	05/01/04	Except 9.03(e). Replaces WAC 173–400–040(2).
9.04	Opacity Standards for Equipment with Continuous Opacity Monitoring Systems.	05/01/04	Except 9.04(d)(2) and 9.04(f).
9.07	Sulfur Dioxide Emission Standard	05/19/94	Replaces WAC 173–400–040(7).
9.08	Fuel Oil Standards	05/01/04	Approved only as it applies to the regulation of criteria pollutants.
9.09	Particulate Matter Emission Standards.	06/01/98	Replaces WAC 173–400–050(1) & (3) and 173–400–060.
9.11(a)	Emission of Air Contaminant: Detriment to Person or Property.	04/17/99	Replaces WAC 173–400–040(6).
9.13	Emission of Air Contaminant: Concealment and Masking Restricted.	06/09/88	Replaces WAC 173–400–040(8).
9.15	Fugitive Dust Control Measures	04/17/99	Replaces WAC 173–400–040(9)(a).
9.16	Spray-Coating Operations	12/02/10	
9.18	Crushing Operations	03/02/12	
12.03	Continuous Emission Monitoring Systems.	11/01/15	Replaces WAC 173–400–105(7).

We are also proposing to approve PSCAA's incorporation by reference of certain Chapter 173–400 WAC provisions, subject to the exceptions listed in Table 2. We note that these exceptions, primarily relating to the regulation of toxic air pollutants, are consistent with our prior approvals of Chapter 173–400 WAC for Ecology's direct permitting jurisdiction.

TABLE 2—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS INCORPORATED BY REFERENCE IN PSCAA REGULATION I

State/local citation	Title/subject	State/local effective date	Explanation
Chapter 173–400 WAC, General Regulations for Air Pollution Sources			
173–400–030	Definitions	12/29/12	Except: 173–400–030(91).
173–400–081	Startup and shutdown	04/01/11	
173–400–110	New source review (NSR) for sources and portable sources.	12/29/12	173–400–110(1)(c)(i) and 173–400–110(1)(d) only.
173–400–111	Processing notice of construction applications for sources, stationary sources and portable sources.	07/01/16	Except: 173–400–111(3)(h);—The part of 173–400–111(8)(a)(v) that says, "and 173–460–040,"; 173–400–111(9).
173–400–112	Requirements for new sources in nonattainment areas.	12/29/12	
173–400–113	Requirements for new sources in attainment or unclassifiable areas.	12/29/12	Except: 173–400–113(3), second sentence.
173–400–117	Special protection requirements for federal Class I areas.	12/29/12	
173–400–171	Public Notice and Opportunity for Public Comment.	07/01/16	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).
173–400–200	Creditable stack height and dispersion techniques.	02/10/05	
173–400–560	General order of approval	12/29/12	Except:—The part of 173–400–560(1)(f) that says, "173–460 WAC".
173–400–800	Major stationary source and major modification in a nonattainment area.	4/01/11	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (81 FR 58010); nor does PSCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.

TABLE 2—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS INCORPORATED BY REFERENCE IN PSCAA REGULATION I—Continued

State/local citation	Title/subject	State/local effective date	Explanation
173–400–810	Major stationary source and major modification definitions.	07/01/16	
173–400–820	Determining if a new stationary source or modification to a stationary source is subject to these requirements.	12/29/12	
173–400–830	Permitting requirements	07/01/16	
173–400–840	Emission offset requirements	07/01/16	
173–400–850	Actual emissions plantwide applicability limitation (PAL).	07/01/16	
173–400–860	Public involvement procedures	4/01/11	

Table 3 shows the updated Chapter 173–400 WAC provisions that PSCAA and Ecology requested to apply within the SIP for PSCAA's jurisdiction. We note that many of the exclusions are identical to the exclusions for Ecology's direct jurisdiction; however, Table 3 also excludes those parts of the WAC explicitly replaced by the Regulation 1 provisions in Table 1. We also note that PSCAA and Ecology did not submit Chapter 173–400 WAC provisions that remain unchanged since our last approval (60 FR 28726, June 2, 1995) or recently revised WAC updates that have not yet been approved for Ecology's direct jurisdiction.

TABLE 3—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanation
Chapter 173–400 WAC, General Regulations for Air Pollution Sources			
173–400–020	Applicability	12/29/12	
173–400–040	General Standards for Maximum Emissions.	09/16/18	173–400–040(1)(a) & (b), 173–400–040(4); and 173–400–040(9)(b) only.
173–400–091	Voluntary Limits on Emissions	4/1/11	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–105	Records, Monitoring and Reporting	09/16/18	Except: 173–400–105(7).
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	
173–400–131	Issuance of Emission Reduction Credits.	04/1/11	
173–400–136	Use of Emission Reduction Credits (ERC).	12/29/12	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	
173–400–175	Public Information	2/10/05	

B. Approved But Not Incorporated by Reference Regulations

In addition to the regulations proposed for approval and incorporation by reference above, 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. On August 31, 2004, the EPA reviewed and approved Regulation I, sections 3.01, 3.05, 3.09, 3.13, 3.15, 3.17, 3.19, and 3.21 as providing PSCAA adequate enforcement and other general authority for purposes of implementing and enforcing its SIP but did not incorporate these provisions by reference (69 FR 53007). While these provisions remain unchanged since our last review and approval, we are proposing to include 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. We also note that effective May 1, 2006, PSCAA made a minor update to section 3.07 since our last approval. A redline/strikeout of the changes is detailed in WSR 06–08–031 included in the docket for this action. Lastly, PSCAA updates Regulation 1, section 3.11 annually to adjust civil penalties for inflation. We are proposing to approve, but not incorporate by reference, the updated version of section 3.11, effective November 1, 2019.

C. Regulations To Remove From the SIP

PSCAA and Ecology's December 20, 2019 submittal included a request to remove several obsolete provisions from the SIP and to remove other provisions that are not required SIP elements under CAA section 110. As previously discussed in section II, PSCAA

eliminated Regulation I, sections 6.06 ''Public Notice,'' 6.07 ''Order of Approval—Order to Prevent Construction,'' and 6.08 ''Emission Reduction Credit Banking'' in order to rely on the statewide Chapter 173–400 WAC provisions. PSCAA also requested that the EPA remove from the SIP section 5.02 ''Applicability and Purpose of the Registration Program,'' which was repealed in 2004 because revised versions of sections 5.03 and 5.05 subsumed the substantive provisions formerly in section 5.02. The revised versions of 5.03 and 5.05 are proposed for approval into the SIP. We are removing the former provisions of section 6.03(b)(17) [subsequently renumbered to (b)(10)] because this broad, discretionary provision is not appropriate for approval into the SIP, as described above.

Under section 110(a)(2)(L) of the CAA, the State, or local agencies acting in lieu of the State, must demonstrate the ability to collect adequate fees for permitting major sources. PSCAA is therefore submitting section 6.04 ''Notice of Construction Fees'' to demonstrate adequate fee authority to implement the major source nonattainment NSR program under WAC 173–400–800 through 173–400–860, as incorporated by reference. While the EPA reviews these submissions to confirm adequate authority, the EPA generally does not include local or state agency fees as part of the Washington SIP incorporated by reference in 40 CFR 52.2470(c). We are therefore proposing to correct an error from our previous approval on April 21, 1998, when the fee provisions of section 6.04 were inadvertently incorporated by reference (63 FR 19658).

Lastly, as described above regarding the applicability of WAC 173–400–020, we are removing outdated WAC provisions from our previous June 2, 1995 approval and replacing them with the updated versions of the WAC shown in Table 3 or the appropriate PSCAA corollaries as shown in Table 1.

D. Scope of Proposed Action

This proposed revision to the SIP applies specifically to the PSCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c)—Table 7. As discussed in our October 3, 2014 action, local air agency jurisdiction in Washington is generally defined on a geographic basis; however, there are exceptions (79 FR 59653, at page 59654). By statute, PSCAA 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, PSCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology and EFSEC also retain statewide, direct jurisdiction for issuing PSD permits. Therefore, the EPA is not approving into 40 CFR 52.2470(c)—Table 7 those provisions of Chapter 173–400 WAC related to the PSD program. Specifically, these provisions are WAC 173–400–116 and WAC 173–400–700 through 173–400–750, which the EPA has already approved as applying state-wide under 40 CFR 52.2470(c)—Tables 2 and 3.

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

Lastly, this SIP revision is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

V. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the regulations shown in the tables in section IV.A. *Regulations to Approve and Incorporate by Reference into the SIP* and the rules proposed for removal from the SIP in section IV.C. *Regulations to Remove from the SIP.* 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).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

As discussed above, the SIP is not approved to apply on any Indian reservation land in Washington, or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), as described in Section IV.D above. 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). Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated October 18, 2019.

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.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 13, 2020.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2020–01465 Filed 1–27–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0423; FRL–10004–66–Region 9]

Air Plan Conditional Approval; Arizona; Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve revisions to the Maricopa County Air Quality Department (MCAQD or the ''County'') portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from surface coating operations. We are proposing to conditionally approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the ''Act'') and to conditionally approve the County's demonstration regarding Reasonably Available Control Technology requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) in the Phoenix-Mesa ozone nonattainment area, with respect to surface coating operations. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by February 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0423 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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: Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3024 or by email at *lazarus.arnold@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What did the State submit?

Table 1 lists the documents addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ or the ''State'').

TABLE 1—SUBMITTED DOCUMENTS

Local agency	Document	Revised	Submitted
MCAQD	Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP).	06/16/2017	06/22/2017
MCAQD	Rule 336: Surface Coating Operations	11/02/2016	06/22/2017

On December 22, 2017, the submittal containing the documents listed in Table 1 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. In addition to these SIP submittals, the County and the ADEQ transmitted a