

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
85. 3 days—Second or third week in September.	Wheeling Heritage Port Sternwheel Festival Foundation/Wheeling Heritage Port Sternwheel Festival.	Wheeling, WV .....	Ohio River, Miles 90.2–90.7 (West Virginia).
86. 1 day—One weekend in September.	Boomtown Days—Fireworks	Nitro, WV .....	Kanawha River, Miles 43.1–44.2 (West Virginia).
87. 1 day—One weekend in September.	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH .....	Ohio River, Miles 171.5–172.5 (Ohio).
88. 1 day—One weekend in September.	Tribute to the River .....	Point Pleasant, WV .....	Ohio River, Miles 264.6–265.6 (West Virginia).
89. 1 day—One weekend in September.	Aurora Fireworks .....	Aurora, IN .....	Ohio River, Mile 496.3–497.3 (Ohio).
90. 1 day—Last two weekends in September.	Cabana on the River .....	Cincinnati, OH .....	Ohio River, Mile 483.2–484.2 (Ohio).
91. Multiple days—September through January.	University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.	Pittsburgh, PA .....	Ohio River, Miles 0.0–0.1, Monongahela River, Miles 0.0–0.1, Allegheny River, Miles 0.0–0.25 (Pennsylvania).
92. 1 day—First three weeks of October.	Leukemia & Lymphoma Society/Light the Night.	Pittsburgh, PA .....	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
93. 1 day in October .....	Leukemia and Lymphoma Society/Light the Night Walk Fireworks.	Nashville, TN .....	Cumberland River, Miles 189.7–192.1 (Tennessee).
94. 1 day—First two weeks in October.	Yeatman's Fireworks .....	Cincinnati, OH .....	Ohio River, Miles 469.0–470.5 (Ohio).
95. 1 day in October .....	Outdoor Chattanooga/Swim the Suck.	Chattanooga, TN .....	Tennessee River, Miles 452.0–454.5 (Tennessee).
96. 1 day in October .....	Chattajack .....	Chattanooga, TN .....	Tennessee River, Miles 462.7–465.5 (Tennessee).
97. 1 day—One weekend in October.	West Virginia Motor Car Festival.	Charleston, WV .....	Kanawha River, Miles 58–59 (West Virginia).
98. 2 days—One of the last three weekends in October.	Monster Pumpkin Festival ..	Pittsburgh, PA .....	Allegheny River, Mile 0.0–0.25 (Pennsylvania).
99. 1 day—Friday before Thanksgiving.	Pittsburgh Downtown Partnership/Light Up Night.	Pittsburgh, PA .....	Allegheny River, Miles 0.0–1.0 (Pennsylvania).
100. 1 day—Friday before Thanksgiving.	Kittanning Light Up Night Firework Display.	Kittanning, PA .....	Allegheny River, Miles 44.5–45.5 (Pennsylvania).
101. 1 day—Friday before Thanksgiving.	Santa Spectacular/Light up Night.	Pittsburgh, PA .....	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
102. 1 day—Friday before Thanksgiving.	Monongahela Holiday Show	Monongahela, PA .....	Ohio River, Miles 31.5–32.5 (Pennsylvania).
103. 1 day in November .....	Friends of the Festival/Cheer at the Pier.	Chattanooga, TN .....	Tennessee River, Miles 462.7–465.2 (Tennessee).
104. 1 day—Third week of November.	Gallipolis in Lights .....	Gallipolis, OH .....	Ohio River, Miles 269.2–270 (Ohio).
105. 1 day—December 31 ..	Pittsburgh Cultural Trust/Highmark First Night Pittsburgh.	Pittsburgh, PA .....	Allegheny River, Miles 0.5–1.0 (Pennsylvania).
106. 7 days—Scheduled home games.	University of Tennessee/UT Football Fireworks.	Knoxville, TN .....	Tennessee River, Miles 645.6–648.3 (Tennessee).

\* \* \* \* \*

Dated: February 2, 2021.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2021-02671 Filed 2-23-21; 8:45 am]

BILLING CODE 9110-04-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

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

**Air Plan Approval; Washington; Spokane Regional Clean Air Agency**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a

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

corollaries, to apply in SRCAA's jurisdiction.

**DATES:** Written comments must be received on or before March 26, 2021.

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

**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](mailto: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:

**Table of Contents**

- I. Background for Proposed Action
- II. The Submitted SRCAA Regulations
  - A. Article I—Policy, Short Title, and Definitions
  - B. Article II—General Provisions
  - C. Article IV—Registration
  - D. Article V—New Source Review for Stationary Sources and Portable Sources
  - E. Article VI—Emissions Prohibited
- III. The EPA's Proposed Action
  - A. Regulations To Approve and Incorporate by Reference Into the SIP
  - B. Approved but Not Incorporated by Reference Regulations
  - C. Regulations To Remove From the SIP
  - D. Scope of Proposed Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**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).<sup>1</sup> 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.”<sup>2</sup> Therefore, the EPA's approval of Ecology's January 2014 submittal applied only to geographic areas and source categories under Ecology's direct jurisdiction. We stated that we would address the revised Chapter 173–400 WAC regulations as they apply to local clean air agency jurisdictions on a case-by-case basis in separate, future actions.

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

Appendix A of the SIP revision show how the submitted regulatory updates would apply to SRCAA's jurisdiction. These revisions can be summarized in two categories. The first category consists of local SRCAA regulations submitted for approval into the SIP. These SRCAA provisions can apply in lieu of, or serve as a supplement to, the statewide Chapter 173–400 WAC provisions. The second category consists of Chapter 173–400 WAC provisions adopted by reference in SRCAA *Regulation I*, subsection 2.14(A)(1). The EPA's proposed approval of the Chapter 173–400 WAC provisions adopted by reference for

SRCAA's jurisdiction would be subject to the same general exceptions that apply to Ecology's direct jurisdiction. For example, as part of the January 2014 submittal of Chapter 173–400 WAC, Ecology did not submit for approval those provisions related to the regulation of toxic air pollutants or odor because such provisions are outside the scope of SIPs under Clean Air Act (CAA) section 110. Lastly, the EPA has not yet acted upon all updates to Chapter 173–400 WAC. Therefore, SRCAA and Ecology only requested approval of those WAC provisions that the EPA already approved for Ecology's direct jurisdiction.<sup>3</sup>

**II. The Submitted SRCAA Regulations**

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

*A. Article I—Policy, Short Title, and Definitions*

SRCAA and Ecology submitted sections 1.01 *Policy*, 1.02 *Name of Agency* and 1.03 *Short Title* for approval and incorporation in the SIP. Subsections 1.01(A) *Agency and Jurisdiction* and 1.01(B) *Public Policy* replace WAC 173–400–010 *Policy and Purpose*. We note that subsection 1.01(C)(1) *Applicability* supplements but does not replace WAC 173–400–020 *Applicability*. Therefore, the EPA is proposing to approve both subsection 1.01(C)(1) and the most recent update to WAC 173–400–020, adopted by reference, to apply within SRCAA's jurisdiction. Subsection 1.01(C)(2) specifies “Agency regulations that have been or will be approved by the United States Environmental Protection Agency (EPA) for inclusion in the Washington State Implementation Plan (SIP) apply for purposes of Washington's SIP, only to the following: (a) Those air contaminants for which the EPA has

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

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

<sup>2</sup> 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).

established National Ambient Air Quality Standards (NAAQS) and precursors to such NAAQS pollutants as determined by the EPA for the applicable geographic area; and (b) Any additional air contaminants that are required to be regulated under Part C of Title I of the Federal Clean Air Act (FCAA), relating to prevention of significant deterioration and visibility, but only for the purpose of meeting the requirements of Part C of Title I of the FCAA or to the extent those additional air contaminants are regulated in order to avoid such requirements.” Subsection 1.01(C)(2) is consistent with the EPA’s prior approval of Chapter 173–400 WAC (see 79 FR 59653, October 3, 2014).

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

Lastly, SRCAA submitted section 1.05 *Acronym Index* for approval in the SIP. We note that many of the acronyms

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

relate to program areas outside the scope of the SIP such as Toxic Air Pollutant (TAP) and are provided for informational purposes only.

#### B. Article II—General Provisions

Article II primarily contains SRCAA’s general implementation and enforcement authorities. As noted in previous approval actions, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference to avoid potential conflict with the EPA’s independent authorities.<sup>5</sup> Therefore, we are proposing to approve, but not incorporate by reference into the SIP, sections 2.01 *Powers and Duties of the Board*, 2.02 *Control Office’s Duties and Powers* [section 2.02(E) replaces WAC 173–400–105(3)], 2.03 *Confidential or Proprietary Information*, 2.04 *Violations* [replaces WAC 173–400–230(1) & (6)], 2.05 *Orders and Hearings*, 2.06 *Appeal of Board Orders* [replaces WAC 173–400–250], 2.10 *Severability*, 2.11 *Penalties, Civil Penalties, and Additional Means for Enforcement* [replaces WAC 173–400–230(2) & (3)], and 2.12 *Restraining Orders—Injunctions* [replaces WAC 173–400–230(4)].

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

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

2.13(A). Therefore, for this proposed approval, references to “in effect on the date in WAC 173–400–025” as part of the SRCAA’s adoption by reference of Chapter 173–400 WAC is understood to be January 1, 2020, consistent with subsection 2.13(A). Similarly, section 2.13(B) establishes the adoption by reference date of state regulations cited in section 2.14, as January 1, 2020, unless a different date is listed in section 2.14.

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

#### C. Article IV—Registration

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

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

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

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

#### *D. Article V—New Source Review for Stationary Sources and Portable Sources*

As discussed above, section 4.04 in combination with section 5.02 *New Source Review—Applicability and when Required* replaces WAC 173–400–110 *New Source Review (NSR) for Sources and Portable Sources* in determining NSR applicability for sources under SRCAA’s jurisdiction. Similarly, sections 5.04 *Information Required*, 5.06 *Application Completeness Determination*, 5.07 *Processing NOC Applications for Stationary Sources*, 5.10 *Changes to an Order of Approval*

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

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

With respect to stationary sources in nonattainment areas, SRCAA does not currently have a designated nonattainment area. In the event that a nonattainment area is designated in the future, SRCAA adopts by reference the following WAC provisions for implementation of the nonattainment new source review (NNSR) program, and the accompanying visibility permitting requirements for major stationary sources: WAC 173–400–112 *Requirements for New Sources in Nonattainment Areas—Review for*

*Compliance with Regulations*, WAC 173–400–117 *Special Protection Requirements for Federal Class I Areas*, WAC 173–400–131 *Issuance of Emission Reduction Credits*, 173–400–136 *Use of Emission Reduction Credits (ERC)*, as well as the major stationary source NNSR provisions contained in WAC 173–400–800 through 173–400–860.<sup>8</sup>

#### *E. Article VI—Emissions Prohibited*

As part of the SIP revision, SRCAA and Ecology submitted only those Article VI provisions which are corollaries to, or supplement, certain SIP-approved provisions contained in WAC 173–400–040 *General Standards for Maximum Emissions*. Specifically, SRCAA and Ecology submitted subsection 6.04(C) *Emissions Detrimental to Persons or Property* as a direct replacement for the equivalent corollary in WAC 173–400–040(6). SRCAA and Ecology also submitted 6.04 subsections (A), (B), and (H) to supplement and implement subsection 6.04(C). However, SRCAA and Ecology did not submit the odor-related provisions of section 6.04 because these provisions are outside the scope of the SIP.<sup>9</sup> SRCAA and Ecology also submitted sections 6.05 *Particulate Matter and Preventing Particulate*

<sup>8</sup> The EPA approved WAC 173–400–800 through 173–400–860 for Ecology’s direct permitting jurisdiction on November 7, 2014 (79 FR 59653), with minor revisions to reflect updated federal citations on October 6, 2016 (81 FR 69385). In connection with our November 7, 2014 approval, we reviewed WAC 173–400–800 through 173–400–860 pursuant to the federal regulatory requirements in existence at that time, and discussed the fact that the EPA’s 2008 PM<sub>2.5</sub> 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<sub>2.5</sub> New Source Review Rule has since been replaced by a revised implementation rule published August 24, 2016, which imposed additional NNSR requirements for PM<sub>2.5</sub> nonattainment areas (81 FR 58010). Because there are currently no nonattainment areas within NWCAA’s jurisdiction or Washington State for any criteria pollutant, including PM<sub>2.5</sub>, the EPA did not review WAC 173–400–800 through 173–400–860 for consistency with the newly revised PM<sub>2.5</sub> implementation rule; nor does Ecology or NWCAA have an obligation to submit rule revisions to address the 2016 PM<sub>2.5</sub> implementation rule at this time. However, we note that the federal major stationary source NNSR requirements remain unchanged for all other criteria pollutants since our review and approval of WAC 173–400–800 through 173–400–860.

<sup>9</sup> In our approval of WAC 173–400–040 for Ecology’s direct jurisdiction, Ecology did not submit, and the EPA did not approve, WAC 173–400–040(5) *Odors* because that section was not related to criteria pollutants regulated under title I of the CAA, not essential for meeting and maintaining the NAAQS, or not related to the requirements for SIPs under section 110 of the CAA. See 79 FR 39351, July 10, 2014, at page 39353.

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

Matter from *Becoming Airborne* (except subsection A), 6.14 *Standards for Control of Particulate Matter on Paved Surfaces*, and 6.15 *Standards for Control of Particulate Matter on Unpaved Roads* to supplement but not replace corresponding corollary provisions in WAC 173–400–040(4) and (9). We note that the EPA previously approved these provisions on April 12, 2016 (81 FR 21471). The resubmitted versions contain minor edits to clarify geographic applicability and improve

readability. Lastly, SRCAA and Ecology submitted section 6.07 *Emission of Air Contaminant Concealment and Masking Restricted* which is a nearly verbatim replacement of WAC 173–400–040(8) *Concealment and Masking*. An analysis of the Article VI provisions submitted for approval is included in the docket for this action.

**III. The EPA’s Proposed Action**

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

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

**TABLE 1—SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE**

State/local citation	Title/subject	State/local effective date	Explanation
1.01 .....	Policy .....	09/01/20	Subsections (A) and (B) replace WAC 173–400–010.
1.02 .....	Name of Agency .....	09/01/20	
1.03 .....	Short Title .....	09/01/20	
1.04 .....	General Definitions .....	09/01/20	Except subsections (17), (41), (52), (60), (74), (101), (112), (119), and (122). Section 1.04 replaces WAC 173–400–030 except the WAC 173–400–030 definitions list below.
1.05 .....	Acronym Index .....	09/01/20	
2.08 .....	Falsification of Statements or Documents, and Treatment of Documents.	09/01/20	Subsections (E) and (F) only. Subsection (E) replaces WAC 173–400–105(6). Subsection (F) replaces WAC 173–400–105(8).
2.09 .....	Source Tests .....	09/01/20	Section 2.09 replaces WAC 173–400–105(4).
2.13 .....	Federal and State Regulation Reference Date.	09/01/20	Subsection (A) replaces WAC 173–400–025.
2.14 .....	Washington Administrative Codes (WACS).	09/01/20	Subsection (A)(1) only, and only with respect to those revised Chapter 173–400 WAC provisions that are identified for incorporation by reference in the table below.
4.03 .....	Registration Exemptions .....	09/01/20	Subsections (B) and (C) only.
4.04 .....	Stationary Sources and Source Categories Subject to Registration.	09/01/20	Except subsections (A)(3)(u), (A)(3)(v), (A)(5)(b), (A)(5)(e)(9), or any other provision as it relates to the regulation of toxic air pollutants or odors.
4.05 .....	Closure of a Stationary Source or Emissions Unit(s).	09/01/20	
5.02 .....	New Source Review—Applicability and when Required.	09/01/20	Except subsections (C)(5) and (I). Section 5.02 Replaces WAC 173–400–110. Subsection (F) replaces WAC 173–400–111(2).
5.03 .....	NOC and PSP Fees .....	09/01/20	
5.04 .....	Information Required .....	09/01/20	Except subsection (A)(8). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.05 .....	Public Involvement .....	09/01/20	Except subsection (C)(15). Section 5.05 replaces WAC 173–400–171.
5.06 .....	Application Completeness Determination.	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.07 .....	Processing NOC Applications for Stationary Sources.	09/01/20	Except subsections (A)(1)(g) and (B). Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111, and subsection 5.07(A)(7) replaces WAC 173–400–110(2)(a).
5.08 .....	Portable Sources .....	09/01/20	Except subsection (A)(6). Section 5.08 replaces WAC 173–400–036.
5.09 .....	Operating Requirements for Order of Approval and Permission to Operate.	09/01/20	Except subsection (C).
5.10 .....	Changes to an Order of Approval or Permission to Operate.	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.11 .....	Notice of Startup of a Stationary Source or a Portable Source.	09/01/20	
5.12 .....	Work Done Without an Approval ...	09/01/20	
5.13 .....	Order of Approval Construction Time Limits.	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.14 .....	Appeals .....	09/01/20	Collectively, sections 5.04, 5.06, 5.07, 5.10, 5.13, and 5.14 replace the permitting procedures in WAC 173–400–111.
5.15 .....	Obligation to Comply .....	09/01/20	
6.04 .....	Emission of Air Contaminant: Detriment to Person or Property.	09/01/20	Subsections (A), (B), (C), and (H) only and excepting provisions in RCW 70.94.640 (incorporated by reference) that relate to odor. Subsection (C) replaces WAC 173–400–040(6).

TABLE 1—SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE—Continued

State/local citation	Title/subject	State/local effective date	Explanation
6.05 .....	Particulate Matter and Preventing Particulate Matter from Becoming Airborne.	09/01/20	Except subsection (A). Section 6.05 supplements but does not replace WAC 173–400–040(4) and (9).
6.07 .....	Emission of Air Contaminant Concealment and Masking Restricted.	09/01/20	Section 6.07 replaces WAC 173–400–040(8).
6.14 .....	Standards for Control of Particulate Matter on Paved Surfaces.	09/01/20	Section 6.14 supplements but does not replace WAC 173–400–040(9).
6.15 .....	Standards for Control of Particulate Matter on Unpaved Roads.	09/01/20	Section 6.15 supplements but does not replace WAC 173–400–040(9).

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

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

State/local citation	Title/subject	State/local effective date	Explanation
<b>Chapter 173–400 WAC, General Regulations for Air Pollution Sources</b>			
173–400–020 ....	Applicability .....	12/29/12	
173–400–030 ....	Definitions .....	9/16/18	Only the following definitions: Adverse Impact on Visibility; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; and Wood Waste.
173–400–040 ....	General Standards for Maximum Emissions.	9/16/18	Except: 173–400–040(2); 173–400–040(3); 173–400–040(5); 173–400–040(6); 173–400–040(8).
173–400–050 ....	Emission Standards for Combustion and Incineration Units.	9/16/18	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060 ....	Emission Standards for General Process Units.	11/25/18	
173–400–091 ....	Voluntary Limits on Emissions .....	4/1/11	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See 60 FR 28726 (June 2, 1995).
173–400–105 ....	Records, Monitoring, and Reporting.	11/25/18	Except: 173–400–105(3); 173–400–105(4); 173–400–105(6); 173–400–105(8).
173–400–112 ....	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	
173–400–113 ....	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	Except: 173–400–113(3), second sentence.
173–400–117 ....	Special Protection Requirements for Federal Class I Areas.	12/29/12	
173–400–118 ....	Designation of Class I, II, and III Areas.	12/29/12	
173–400–131 ....	Issuance of Emission Reduction Credits.	4/1/11	
173–400–136 ....	Use of Emission Reduction Credits (ERC).	4/1/11	
173–400–151 ....	Retrofit Requirements for Visibility Protection.	2/10/05	
173–400–175 ....	Public Information .....	2/10/05	
173–400–200 ....	Creditable Stack Height and Dispersion Techniques.	2/10/05	
173–400–560 ....	General Order of Approval .....	12/29/12	Except: The part of 173–400–560(1)(f) that says, “173–460 WAC”.

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

State/local citation	Title/subject	State/local effective date	Explanation
173-400-800 ....	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	EPA did not review WAC 173-400-800 through 860 for consistency with the August 24, 2016 PM <sub>2.5</sub> implementation rule (81 FR 58010); nor does SRCAA have an obligation to submit rule revisions to address the 2016 PM <sub>2.5</sub> implementation rule at this time.
173-400-810 ....	Major Stationary Source and Major Modification Definitions.	7/1/16	
173-400-820 ....	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	
173-400-830 ....	Permitting Requirements .....	7/1/16	
173-400-840 ....	Emission Offset Requirements .....	7/1/16	
173-400-850 ....	Actual Emissions Plantwide Applicability Limitation (PAL) .....	7/1/16	
173-400-860 ....	Public Involvement Procedures .....	4/1/11	

*B. Approved but Not Incorporated by Reference Regulations*

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

*C. Regulations To Remove From the SIP*

We are proposing to remove from the SIP for SRCAA’s jurisdiction any formerly approved Chapter 173-400 WAC provisions which are replaced by local agency corollaries as described above. We are also proposing to remove WAC 173-400-100 *Registration* from the SIP for SRCAA’s jurisdiction because it is not a required SIP element as described above in the discussion of Article IV. Lastly, we are proposing to remove the outdated and subsequently repealed Regulation II, section 4.01

because these requirements were replaced by SRCAA’s adoption by reference of WAC 173-400-050 and WAC 173-400-060.<sup>10</sup>

*D. Scope of Proposed Action*

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

As described in our April 29, 2015 action, jurisdiction to implement the visibility permitting program contained in WAC 173-400-117 varies depending on the situation. Ecology retains

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

authority to implement WAC 173-400-117 as it relates to PSD permits. See 80 FR 23721. However, for facilities that may be subject to major NNSR under the applicability provisions of WAC 173-400-800, adopted by reference, we are proposing that SRCAA would be responsible for implementing those parts of WAC 173-400-117 as they relate to major NNSR permits. See 80 FR 23726. If finalized, the EPA is also proposing to modify the visibility protection Federal Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173-400-117 as it applies to implementation of the major NNSR program in SRCAA’s jurisdiction.

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

**IV. Incorporation by Reference**

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

**INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 within Spokane county, or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction as described

above in section III.D of this document. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 9, 2021.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 2021-03035 Filed 2-23-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2020-0739; FRL-10020-10-Region 8]

### Approval and Promulgation of Implementation Plans; South Dakota; Revisions to Air Rules of South Dakota

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of South Dakota on January 3, 2020 that revises the Administrative Rules of South Dakota (ARSD), Air Pollution Control Program, updating the chapter pertaining to definitions. The EPA is taking this action pursuant to the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before March 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2020-0739, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in [www.regulations.gov](http://www.regulations.gov). To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

**FOR FURTHER INFORMATION CONTACT:** Kate Gregory, (303) 312-6175, [gregory.kate@epa.gov](mailto:gregory.kate@epa.gov). Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

## I. Background

On January 3, 2020 the State of South Dakota submitted proposed revisions and additions to the ARSD. In this action, we are proposing to approve the additions to the ARSD pertaining to the definitions section.

## II. EPA's Evaluation

On January 3, 2020 the EPA received revisions for the ARSD for the State of South Dakota. The submittal was signed by the Governor and received a 30-day State public comment period starting on November 26, 2019 (no requests were made for a public hearing). The EPA is proposing to approve the revisions to the ARSD, specifically the additions to the definitions section, for the State of South Dakota submitted by the State on January 3, 2020 in this action.