

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 23, 2004.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(225)(i)(H) and (262)(i)(E)(3) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(225) * * *

(i) * * *

(H) Mohave Desert Air Quality Management District.

(1) Rule 222, adopted on July 31, 1995.

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(262) * * *

(i) * * *

(E) * * *

(3) Rule 226, adopted on March 17, 1998 and amended on July 21, 1998.

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[FR Doc. 04-19817 Filed 8-30-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[WA-04-002; FRL-7807-1]

Approval and Promulgation of Implementation Plans; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action EPA is approving numerous revisions to the State of Washington Implementation Plan. The Director of the Washington State Department of Ecology (Ecology) submitted two requests to EPA dated September 24, 2001 and February 9, 2004 to revise certain sections of the

Puget Sound Clean Air Agency's (PS Clean Air) regulations. The revisions were submitted in accordance with the requirements of section 110 of the Clean Air Act (hereinafter, the Act). EPA is not approving in this rulemaking a number of submitted rule provisions which are inappropriate for EPA approval and is taking no action on a number of other provisions that are unrelated to the purposes of the State implementation plan (SIP).

EPA is also approving certain source-specific SIP revisions relating to Saint Gobain Containers and LaFarge North America.

DATES: This final rule is effective on September 30, 2004.

ADDRESSES: EPA has established a docket for this action under Docket ID No. WA-04-002. Some information is not publicly available (*i.e.*, CBI or other information whose disclosure is restricted by statute). Publicly available docket materials are available in hard copy at the EPA Region 10, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101. This Docket facility is open from 8:30-4, Monday through Friday, excluding legal holidays. The Docket telephone number is (206) 553-4273.

FOR FURTHER INFORMATION CONTACT:

Roylene A. Cunningham, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0513, or email address:

cunningham.roylene@epa.gov.

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I. Background

On Friday April 2, 2004, EPA solicited public comment on a proposal to approve for inclusion in the Washington SIP numerous revisions to the PS Clean Air regulations. EPA also proposed not to approve into the SIP a number of PS Clean Air regulations which EPA believes are inappropriate for EPA approval and to take no action on a number of other provisions that are unrelated to the purposes of the SIP. EPA also proposed to approve certain source-specific SIP revisions relating to Saint Gobain Containers and LaFarge North America. A detailed description of our action was published in the **Federal Register** on April 2, 2004. The reader is referred to the proposed rulemaking (69 FR 17368, April 2, 2004) for details.

II. Response to Comments

EPA provided a 30-day review and comment period and solicited comments on our April 2, 2004 proposal. EPA received written comments from two commenters, which raised the same two issues. The following is a summary of the issues raised by the commenters, along with EPA's response to those comments. Copies of the written comments received by EPA are in the docket.

Comment: EPA erred in three respects in denying PS Clean Air's request to remove PS Clean Air Reg. I, Section 9.11, from the SIP. First, in doing so, EPA relied on the fact that Section 9.11 is referred to by cross-reference in Regulation I, Subsection 6.03(a)(8) (adopted July 12, 2001). That version of Subsection 6.03(a)(8), however, is not currently contained in the SIP and is not the subject of this proposed rulemaking. The version of Section 6.03 that is currently contained in the SIP does not cross-reference Section 9.11 in any way. Thus, the perceived relationship between the 2001 version of Section 6.03 and the 1983 version of Section 9.11 is not relevant to this rulemaking. EPA should not base its current proposed denial of PS Clean Air's request to remove Section 9.11 from the SIP on an anticipated future action that is not the subject of this rulemaking. Only when EPA proposes to take action on a version of Section 6.03 that is related in some way to Section 9.11, will EPA's concern be relevant.

Second, even if the SIP contained the 2001 version of Section 6.03, EPA's rationale would still be insufficient. There is no legal principle requiring that all laws in any way related to a SIP to be included in the SIP itself. For example, does a SIP that requires that permit applications be sealed by a licensed professional engineer and refers to the state's engineering licensure statute have to contain that statute? *See, e.g.*, 30 TAC 116.110 (6/17/98) (approved as part of the Texas SIP 67 FR 58709 (September 18, 2002)). This rule requires certain permit applications to be submitted under the seal of a licensed professional engineer, and refers to the Texas Engineering Practice Act. As with the Texas SIP, the answer to both of these questions is no, because neither the Act nor EPA's regulations require such inclusion, and their inclusion is not otherwise necessary to implement the SIP.

Finally, there is no practical problem that would arise from Section 9.11 existing outside of the SIP. Whether or not a source has been previously cited under Section 9.11 for causing air

pollution is a mere question of fact to be determined at the time a project potentially subject to the Notice of Construction program under Section 6.03 (2001) is proposed. If the source has been cited, it cannot take advantage of the exemptions in Subsections 6.03(b) and (c) (2001) from the Notice of Construction requirement. If it has not been cited, then Subsection 6.03(a)(8) (2001) does not bar use of the exemptions. Thus, it simply makes no difference as a practical matter whether or not Section 9.11 itself is in the SIP itself or instead exists in law external to the SIP.

Response: Because Subsection 6.03(a)(8) (adopted July 12, 2001), which cross-references Section 9.11, is not currently approved as part of the SIP, EPA is granting PS Clean Air's request to remove Section 9.11 from the SIP. As discussed in the proposal, WAC 173-400-040(5), (Emissions detrimental to persons or property), is very similar to the provisions of PS Clean Air Regulation I, Section 9.11, and is currently part of the Washington SIP. Because WAC 173-400-040(5) applies statewide, removing Section 9.11 from the SIP will not decrease the stringency of the Washington SIP. See 69 FR at 17371.

Comment: PS Clean Air's Regulation I, Subsection 12.03(b) (adopted April 9, 1998) requires that a source that is required to have a continuous emission monitoring system (CEMS) must recover valid hourly monitoring data for at least 95% of the hours that the equipment (required to be monitored) is operated during each month. EPA proposed not to approve as part of the SIP Subsection 12.03(b)(1), which states that this requirement does not include:

Periods of monitoring system downtime, provided that the owner or operator demonstrates to the Control Officer that the downtime was not a result of inadequate design, operation, or maintenance, or any other reasonably preventable condition, and any necessary repairs to the monitoring system are conducted in a timely manner.

EPA erred in concluding that EPA cannot approve Subsection 12.03(b)(1) into the SIP. EPA reasoned that Subsection 12.03(b)(1) is in essence an enforcement discretion provision and does not make clear that the Control Officer's determination that compliance with the data recovery requirements should be excused is not binding on EPA or citizens. EPA's reliance on EPA's guidance document regarding

State excess emission provisions¹ is not appropriate because Subsection 12.03(b)(1) is not an "enforcement discretion" provision and does not "excuse" an "excess emission." Instead, Subsection 12.03(b)(1) defines a source's substantive legal obligation to recover such data from a required CEMS—providing an affirmative defense, under specified circumstances, to the failure to recover CEMS data as otherwise required under Subsection 12.03(b). Where a source is able to make the required demonstration, the Control Officer has no discretion to consider the down time to be a violation of the data recovery requirements of Subsection 12.03(b). It is simply not a violation. Hence, the provision fits squarely within the permissible "affirmative defense" category (rather than the "enforcement discretion" category) of the guidance relied on by EPA in proposing to not approve this provision for inclusion in the SIP.

Subsection 12.03(b)(1) applies only to CEMS required by PS Clean Air regulations, orders and permits, and does not relieve anyone of the responsibility of complying with monitoring requirements under 40 CFR part 60, 61, or 63. See PS Clean Air, Regulation I, Section 12.01. In addition, as EPA notes, the criteria in Subsection 12.03(b)(1) for determining whether less than 95% data recovery is permissible are objective. 69 FR at 17370. CEMS, no matter how diligently maintained, sustain malfunction and calibration problems. Section 12.03 is more stringent than many analogous data recovery rules in 40 CFR parts 60 and 63. Finally, Subsection 12.03(b)(1) is more stringent than Washington's SIP-approved data recovery rule, WAC 173-400-105(h).

Response: Since publication of the proposal, PS Clean Air has submitted a letter to EPA stating that the intent of the language "demonstrates to the Control Officer" in Subsection 12.03(b)(1) was to make clear that the decision regarding whether a facility meets the requirements for the exception to monitoring is not a unilateral decision on the part of the facility. PS Clean Air further stated that it never intended that PS Clean Air's decision regarding whether a facility meets the requirements for the exception to monitoring would be

¹ Memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Monitoring, and Robert Perciasepe, Assistant Administrator for Air AND Radiation, to the Regional Administrators, entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," p. 3 (September 20, 1999).

conclusive or binding on EPA or on a federal court in a citizen suit enforcement action. Based on PS Clean Air's explanation regarding the intent of the "to the Control Officer" language, EPA is approving Subsection 12.03(b)(1) into the SIP with the understanding that the Control Officer's determination is not binding on EPA or citizens in an enforcement action.² In short, EPA is approving as part of the SIP all of Section 12.03, Continuous Emission Monitoring Systems, adopted April 9, 1998, except for Subsection 12.03(b)(2). As discussed in the proposal, EPA believes that Subsection 12.03(b)(2), if approved into the SIP, would authorize PS Clean Air to modify standards or requirements relied on to attain and maintain the NAAQS by granting an exemption or alternative to such requirements without going through a SIP revision and, as such, is not approvable. See 69 FR at 17370.

III. Final Action

EPA is taking final action to approve as part of the Washington SIP the following new and revised sections of the PS Clean Air regulations submitted by Ecology on September 24, 2001 and February 9, 2004:

Regulation I, Sections 1.01, Policy; 1.03, Name of Agency; 1.05, Short Title, adopted September 9, 1999; 3.04, Reasonably Available Control Technology [except (e)], adopted March 11, 1999; 3.06 Credible Evidence, adopted October 8, 1998; 5.03, Registration Required [except (a)(5)], adopted July 8, 1999; 5.05 General Reporting Requirements for Registration, adopted September 10, 1998; 7.09, General Reporting Requirements for Operating Permits, adopted September 10, 1998; 8.04, General Conditions for Outdoor Burning; 8.05, Agricultural Burning; 8.09, Description of King County No-Burn Area; 8.10, Description of Pierce County No-Burn Area; and 8.11, Description of Snohomish County No-Burn Area, adopted November 9, 2000; and 8.12, Description of Kitsap County No-Burn Area, adopted October 24, 2002; 9.03, Emission of Air Contaminant: Visual Standard [except (e)], adopted March 11, 1999; 9.04, Opacity Standards for Equipment with Continuous Opacity Monitoring Systems [except (d)(2) and (f)], adopted April 9, 1998; 9.09, Particulate Matter Emission Standards, adopted April 9,

² To avoid any ambiguity regarding the issue in the future, PS Clean Air has advised EPA that it will make clarifying changes to Subsection 12.03(b)(1) within the next six months to remove the language "to the Control Officer." EPA supports this clarifying change.

1998; 9.15, Fugitive Dust Control Measures, adopted March 11, 1999; 9.16, Spray-Coating Operations, adopted July 12, 2001; 12.01, Applicability and 12.03, Continuous Emission Monitoring Systems [except (b)(2)], adopted April 9, 1998; 13.01, Policy and Purpose, adopted September 9, 1999; and 13.02, Definitions, adopted October 8, 1998.

Regulation II, Sections 1.01, Purpose; 1.02, Policy; 1.03, Short Title; and 1.05, Special Definitions, adopted September 9, 1999; 2.01, Definitions, adopted July 8, 1999; 2.07, Gasoline Stations, adopted December 9, 1999; 2.08, Gasoline Transport Tanks, adopted July 8, 1999; and 3.02, Volatile Organic Compound Storage Tanks, July 8, 1999.

EPA is also approving the following new and revised PS Clean Air regulations, but is not incorporating them by reference because they relate to PS Clean Air's enforcement authority or administrative procedures:

Regulation I, Sections 3.01, Duties and Powers of the Control Officer, adopted September 9, 1999; 3.05, Investigations by the Control Officer, adopted February 10, 1994; 3.07, Compliance Tests, adopted February 9, 1995; 3.09, Violations—Notice, adopted August 8, 1991; 3.11, Civil Penalties, adopted September 26, 2002; 3.13, Criminal Penalties, adopted August 8, 1991; 3.15, Additional Enforcement, adopted August 8, 1991; 3.17, Appeal of Orders, adopted October 8, 1998; 3.19, Confidential Information, adopted August 8, 1991; and 3.21, Separability, adopted August 8, 1991. EPA is not incorporating these regulations by reference as part of the Washington SIP to avoid potential conflict with EPA's independent authorities.

EPA is not approving in this rulemaking a number of submitted rule provisions which are inappropriate for EPA approval and is taking no action on a number of other provisions that are unrelated to the purposes of the implementation plan. This includes removing such provisions from the current incorporation by reference where they have been previously incorporated:

Regulation I, Sections 3.01, Duties and Powers of the Control Officer; 3.05, Investigations by the Control Officer; 3.07, Compliance Tests; 3.09, Violations—Notice; 3.11, Civil Penalties; 3.13, Criminal Penalties; 3.15, Additional Enforcement; 3.17, Appeal of Orders; 3.19, Confidential Information; and 3.21, Separability; 3.23, Alternate Means of Compliance; 5.07, Registration Fees; 8.02, Outdoor Fires—Prohibited Types; 8.03, Outdoor Fires—Prohibited Areas; 9.03(e), Emission of Air Contaminant: Visual Standard; 9.09(c),

Particulate Matter Emission Standards; 9.11, Emission of Air Contaminant: Detriment to Person or Property; 9.13, Emission of Air Contaminant: Concealment and Masking Restricted; 11.01, Ambient Air Quality Standards; 11.02, Ambient Air Monitoring; 12.02, Continuous Emission Monitoring Requirements; and 12.04, Recordkeeping and Report Requirements; *Regulation II*, Sections 2.04, Volatile Organic Compound Storage Tanks; and 3.07, Petroleum Solvent Dry Cleaning Systems; and *Regulation III*.

EPA is taking no action on Article 1, Section 1.07, Definitions, as this section has been revised since this SIP submission was submitted to EPA. PS Clean Air will be submitting the revisions to Section 1.07 to EPA in a separate action. EPA will therefore be taking action on Section 1.07 in a separate rulemaking.

Finally, EPA is approving the following Notice of Construction (NOC) Order of Approvals as source-specific SIP revisions: Holnam, Inc., Ideal Division (now known as LaFarge North America, Inc.) NOC Order of Approval No. 5183, effective date February 9, 1994; and Saint-Gobain Containers LLC, NOC Order of Approval No. 8244, effective date September 30, 2004.

IV. Geographic Scope of SIP Approval

This SIP approval does not extend to sources or activities located in Indian Country, as defined in 18 U.S.C. 1151. Consistent with previous Federal program approvals or delegations, EPA will continue to implement the Act in Indian Country in Washington because PS Clean Air did not adequately demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas of Indian Country. The one exception is 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. Therefore, EPA's SIP approval applies to sources and activities on non-trust lands within the 1873 Survey Area.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not

subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 19, 2004.

Julie Hagensen,

Acting Regional Administrator, Region 10.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart WW—Washington

■ 2. Section 52.2470 is amended by adding paragraph (c)(84) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(84) On September 24, 2001 and February 9, 2004, the Washington State Department of Ecology submitted amendments to Puget Sound Clean Air Agency's regulations (Regulation I, II, and III) as revisions to the Washington State implementation plan.

(i) Incorporation by reference.

(A) The following new and revised sections of Puget Sound Clean Air Agency's Regulations: *Regulation I*, Sections 1.01, Policy; 1.03, Name of Agency; and 1.05, Short Title, adopted September 9, 1999; 3.04, Reasonably Available Control Technology [except (e)], adopted March 11, 1999; 3.06 Credible Evidence, adopted October 8, 1998; 5.03, Registration Required [except (a)(5)], adopted July 8, 1999; 5.05 General Reporting Requirements for Registration, adopted September 10, 1998; 7.09, General Reporting Requirements for Operating Permits, adopted September 10, 1998; 8.04, General Conditions for Outdoor Burning; 8.05, Agricultural Burning; 8.09, Description of King County No-Burn Area; 8.10, Description of Pierce County No-Burn Area; and 8.11, Description of Snohomish County No-Burn Area, adopted November 9, 2000; and 8.12, Description of Kitsap County No-Burn Area, adopted October 24, 2002; 9.03, Emission of Air Contaminant: Visual Standard [except (e)], adopted March 11, 1999; 9.04, Opacity Standards for Equipment with Continuous Opacity Monitoring Systems [except (d)(2) and (f)], adopted April 9, 1998; 9.09, Particulate Matter Emission Standards, adopted April 9, 1998; 9.15, Fugitive Dust Control Measures, adopted March 11, 1999; 9.16, Spray-Coating Operations, adopted July 12, 2001; 12.01, Applicability and 12.03, Continuous Emission Monitoring Systems [except (b)(2)], adopted April 9, 1998; 13.01, Policy and Purpose, adopted September 9, 1999; and 13.02, Definitions, adopted October 8, 1998; *Regulation II*, Sections 1.01, Purpose; 1.02, Policy; 1.03, Short Title; and 1.05, Special Definitions, adopted September 9, 1999; 2.01, Definitions, adopted July 8, 1999; 2.07, Gasoline Stations, adopted December 9, 1999; 2.08, Gasoline Transport Tanks, adopted July 8, 1999; and 3.02, Volatile Organic Compound Storage Tanks, adopted July 8, 1999.

(B) The following Puget Sound Clean Air Agency Notice of Construction (NOC) Order of Approvals: Holnam, Inc., Ideal Division (now known as LaFarge North America, Inc.) NOC Order of Approval No. 5183, effective date February 9, 1994; and Saint-Gobain Containers LLC, NOC Order of Approval No. 8244, effective date September 30, 2004.

(C) Remove the following provisions from the current incorporation by reference: *Regulation I*, Sections 3.01, Duties and Powers of the Control Officer; 3.05, Investigations by the Control Officer; 3.07, Compliance Tests; 3.09, Violations—Notice; 3.11, Civil Penalties; 3.13, Criminal Penalties; 3.15, Additional Enforcement; 3.17, Appeal of Orders; 3.19, Confidential Information; 3.21, Separability; 3.23, Alternate Means of Compliance; 5.07, Registration Fees; 8.02, Outdoor Fires-Prohibited Types; 8.03, Outdoor Fires-Prohibited Areas; 9.03(e), Emission of Air Contaminant: Visual Standard; 9.09(c), Particulate Matter Emission Standards; 9.11, Emission of Air Contaminant: Detriment to Person or Property; 9.13, Emission of Air Contaminant: Concealment and Masking Restricted; 11.01, Ambient Air Quality Standards; 11.02, Ambient Air Monitoring; 12.02, Continuous Emission Monitoring Requirements; and 12.04, Recordkeeping and Report Requirements; *Regulation II*, Sections 2.04, Volatile Organic Compound Storage Tanks; and 3.07, Petroleum Solvent Dry Cleaning Systems; and *Regulation III*.

(ii) Additional Material.

(A) The following sections of Puget Sound Clean Air Agency *Regulation I*: Sections 3.01, Duties and Powers of the Control Officer, adopted September 9, 1999; 3.05, Investigations by the Control Officer, adopted February 10, 1994; 3.07, Compliance Tests, adopted February 9, 1995; 3.09, Violations—Notice, adopted August 8, 1991; 3.11, Civil Penalties, adopted September 26, 2002; 3.13, Criminal Penalties, adopted August 8, 1991; 3.15, Additional Enforcement, adopted August 8, 1991; 3.17, Appeal of Orders, adopted October 8, 1998; 3.19, Confidential Information, adopted August 8, 1991; and 3.21, Separability, adopted August 8, 1991.

■ 3. Section 3.PS of § 52.2479 is revised to read as follows:

§ 52.2479 Contents of the federally approved, State submitted implementation plan.

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Washington State Implementation Plan for Air Quality; State and Local Requirements

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AJ25

Subsistence Management Regulations for Public Lands in Alaska, Subpart D—2004–05 Subsistence Taking of Wildlife Regulations; Correction

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This rule corrects the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on July 1, 2004, (69 FR 40174) implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980. The July 1, 2004, final rule established regulations for seasons, harvest limits, methods, and means relating to the taking of wildlife for subsistence uses during the 2004–05 regulatory year. This document makes three changes to that final rule: It corrects an inadvertent error in the definition of “fur,” clarifies exactly who may sell handicrafts made from the fur of bears, and corrects a Government Printing Office publication error relative to caribou seasons in Unit 10.

DATES: The amendment to section _____.25 is effective July 1, 2004. The amendment to section _____.26 is effective July 1, 2004 through June 30, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2004, we published in the **Federal Register** a final rule to establish regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses in Alaska during the 2004–05 regulatory year (69 FR 40174). That rulemaking was