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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R10-OAR-2015-0483; FRL-9934-61-Region 10]

**Approval and Promulgation of Implementation Plans; Washington: Update to the Spokane Regional Clean Air Agency Solid Fuel Burning Device Standards**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Washington State Department of Ecology (Ecology) on July 10, 2015. The SIP submission contains revisions to the Spokane Regional Clean Air Agency (SRCAA) solid fuel burning device regulations to control particulate matter from residential wood combustion. The updated regulations reflect the State of Washington’s statutory changes setting fine particulate matter trigger levels for impaired air quality burn bans. The submission also contains updates to the regulations to improve the clarity of the language. We are approving these changes because they meet the requirements of the Clean Air Act and strengthen the Washington SIP.

**DATES:** This final rule is effective October 28, 2015.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2015-0483. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Programs Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information please contact Jeff Hunt at (206) 553-0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or by using the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

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**I. Background Information**

On August 10, 2015, the EPA proposed to approve revisions to the SRCAA solid fuel burning device

regulations (80 FR 47880). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA’s reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on September 9, 2015. The EPA received no comments on the proposal.

**II. Final Action**

The EPA is approving Washington’s SIP revision submitted on July 10, 2015. Specifically, the EPA is approving and incorporating by reference into the SIP the SRCAA regulations shown in Table 1. We note that Ecology and SRCAA submitted Regulation I, Section 8.11, *Regulatory Actions and Penalties* to demonstrate adequate enforcement authority to implement the program. Regulations describing agency enforcement authority are not generally incorporated by reference into the SIP to avoid potential conflict with the EPA’s independent authorities. Therefore, we are approving Section 8.11 as providing adequate enforcement authority, but we are not incorporating this section by reference into the SIP, codified in 40 CFR 52.2470(c). Similarly, SRCAA Section 8.04 incorporates by reference the statewide Ecology solid fuel burning device regulations contained in WAC 173-433. To the extent that SRCAA’s regulations reference WAC 173-433-130, 173-433-170, and 173-433-200 which contain nuisance, fee, and enforcement provisions, Washington did not submit these provisions for approval, consistent with the EPA’s May 9, 2014 final action on the statewide Ecology regulations (79 FR 26628).

TABLE 1—APPROVED AND INCORPORATED BY REFERENCE SRCAA REGULATIONS

Agency	Citation (section)	Title	State effective date	Submitted	Explanation
<b>Regulation I—Article VIII—Solid Fuel Burning Device Standards</b>					
SRCAA	8.01	Purpose .....	09/02/14	07/10/15	Except SRCAA’s incorporation by reference of WAC 173-433-130, 173-433-170, and 173-433-200.
SRCAA	8.02	Applicability .....	09/02/14	07/10/15	
SRCAA	8.03	Definitions .....	09/02/14	07/10/15	
SRCAA	8.04	Emission Performance Standards .....	09/02/14	07/10/15	
SRCAA	8.05	Opacity Standards .....	09/02/14	07/10/15	
SRCAA	8.06	Prohibited Fuel Types .....	09/02/14	07/10/15	
SRCAA	8.07	Curtaiment (Burn Ban) .....	09/02/14	07/10/15	
SRCAA	8.08	Exemptions .....	09/02/14	07/10/15	
SRCAA	8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	09/02/14	07/10/15	
SRCAA	8.10	Restrictions on Installation and Sales of Solid Fuel Burning Devices.	09/02/14	07/10/15	

### III. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, we are revising our incorporation by reference in 40 CFR 52.2470(c)—Table 9 “Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction” to reflect the regulations shown in Table 1. Also, for the reasons stated above, the EPA is approving but not incorporating by reference SRCAA Regulation I, Section 8.11, *Regulatory Actions and Penalties*. We are therefore revising our incorporation by reference in 40 CFR 52.2470(c)—Table 9 “Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction” to move this entry to 40 CFR 52.2470(e)—Table 1 “Approved but not Incorporated by Reference Statutes and Regulations.” The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

### IV. Statutory and Executive Orders Review

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. This SIP revision is not approved to apply in Indian reservations in the State or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

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

“major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 27, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

#### List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2015.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart WW—Washington

- 2. In § 52.2470:

- a. In paragraph (c), table 9 is amended by revising entries 8.01 through 8.10 and removing entry 8.11.

- b. In paragraph (e), table 1 is amended by adding a heading at the end of the table entitled “Spokane Regional Clean Air Agency Regulations” and entry 8.11.

The revisions and additions read as follows:

#### § 52.2470 Identification of plan.

*	*	*	*
(c)	*	*	*

TABLE 9—ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
<b>Spokane Regional Clean Air Agency Regulations</b>				
*	*	*	*	*
<b>Regulation I—Article VIII—Solid Fuel Burning Device Standards</b>				
8.01	Purpose	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.02	Applicability	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.03	Definitions	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.04	Emission Performance Standards	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	Except the incorporation by reference of WAC 173–433–130, 173–433–170, and 173–433–200.
8.05	Opacity Standards	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.06	Prohibited Fuel Types	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.07	Curtailement (Burn Ban)	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.08	Exemptions	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
8.10	Restrictions on Installation and Sales of Solid Fuel Burning Devices.	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*

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

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE STATUTES AND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
<b>Spokane Regional Clean Air Agency Regulations</b>				
8.11	Regulatory Actions and Penalties	09/02/14	09/28/15 [Insert <b>Federal Register</b> citation].	

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