

§ 200.218 Triggering Events.

Each of the following is a Triggering Event that may subject a Controlling Participant to Previous Participation review under § 200.220:

(a) An application for FHA mortgage insurance, excluding applications already approved by HUD;

(b) An application for funds provided by HUD, such as but not limited to supplemental loans or flexible subsidy loans;

(c) A request to change any Controlling Participant with respect to a Covered Project;

(d) A request for consent to an assignment of a housing assistance payment contract under section 8 of the United States Housing Act of 1937 or of another contract pursuant to which a Controlling Participant will receive funds in connection with a Covered Project;

(e) A bid to purchase a Covered Project or mortgage note held by the Commissioner; or

(f) A sale of a HUD-held mortgage affecting a Covered Project, or a sale of any HUD-held Covered Project that is now or will be subject to a Use Agreement or any other continuing HUD requirements or affordability restrictions. Notwithstanding the foregoing, HUD may elect to refrain from conducting Previous Participation review under this subsection where a bidder's Previous Participation has already been reviewed under paragraph (e) of this section, in order to avoid a duplicative review.

§ 200.220 Previous Participation review.

(a) *Scope of review.* (1) Upon the occurrence of a Triggering Event, as provided in § 200.218, the Commissioner shall review the Previous Participation of the relevant Controlling Participants in considering whether to approve the participation of the Controlling Participants in connection with the Triggering Event. The Commissioner's review of a Controlling Participant's previous participation shall include previous financial and operational performance in federal programs that may indicate a financial or operating risk in approving the Controlling Participant's participation in the subject Triggering Event. The Commissioner's review shall consider financial stability; previous performance in accordance with HUD statutes, regulations and program requirements; general business practices and other factors that indicate that the Controlling Participant could not be expected to operate the project in a manner consistent with furthering the Department's purpose of supporting and

providing decent, safe and affordable housing for the public. At the Commissioner's discretion, as necessary to determine financial or operating risk, this review may include the Controlling Participant's participation and performance in any federal program and may exclude previous participation in which the Controlling Participant did not exercise, actually or constructively, control.

(2) The Commissioner will not review Previous Participation for interests acquired by inheritance or by court decree.

(3) In connection with the submittal of an application for any Triggering Event, applicants shall identify the Controlling Participants and, to the extent requested by HUD, make available to HUD the Controlling Participant's Previous Participation in Covered Projects.

(b) *Results of review.* (1) Based upon the review under paragraph (a) of this section, the Commissioner will approve, disapprove, limit, or otherwise condition the continued participation of the Controlling Participant in the Triggering Event, in accordance with paragraphs (c) and (d) of this section.

(2) The Commissioner shall provide notice of the determination to the Controlling Participant including the reasons for disapproval or limitation. The Commissioner may provide notice of the determination to other parties, as well, such as the FHA-approved lender in the transaction.

(c) *Basis for disapproval.* (1) The Commissioner must disapprove a Controlling Participant if the Commissioner determines that the Controlling Participant is suspended, debarred or subject to other restriction under 2 CFR part 2424;

(2) The Commissioner may disapprove a Controlling Participant if the Commissioner determines:

(i) The Controlling Participant is restricted from doing business with any other department or agency of the federal government; or

(ii) The Controlling Participant's record of Previous Participation reveals significant risk to proceeding with the Triggering Event.

(d) *Alternatives to disapproval.* In lieu of disapproval, the Commissioner may:

(1) Condition or limit the Controlling Participant's participation;

(2) Temporarily withhold issuing a determination in order to gather more necessary information; or

(3) Require the Controlling Participant to remedy or mitigate outstanding violations of HUD requirements to the Commissioner's satisfaction in order to participate in the Triggering Event.

§ 200.222 Request for reconsideration.

(a) Where participation in a Triggering Event has been disapproved, otherwise limited or conditioned because of Previous Participation review, the Controlling Participant may request reconsideration of such determination by a review committee or reviewing officer as established by the Commissioner.

(b) The Controlling Participant shall submit requests for such reconsideration in writing within 30 days of receipt of the Commissioner's notice of the determination under § 200.220.

(c) The review committee or reviewing officer shall schedule a review of such requests for reconsideration. The Controlling Participant shall be provided advance written notification of such a review. The Controlling Participant shall be provided the opportunity to submit such supporting materials as the Controlling Participant desires or as the review committee or reviewing officer requests.

(d) Before making its decision, the review committee or reviewing officer will analyze the reasons for the decision(s) for which reconsideration is being requested, as well as the documents and arguments presented by the Controlling Participant. The review committee or reviewing officer may affirm, modify, or reverse the initial decision. Upon making its decision, the review committee or reviewing officer will provide written notice of its determination to the Controlling Participant setting forth the reasons for the determination(s).

Dated: August 3, 2015.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R10-OAR-2015-0483; FRL-9931-84-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: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve 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 proposing to approve these changes because they meet the requirements of the Clean Air Act and strengthen the Washington SIP.

DATES: Written comments must be received on or before September 9, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2015-0483, by any of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: R10-Public_Comments@epa.gov.
- *Mail*: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-150), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier*: EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT-150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2015-0483. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the

comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553-0256, *hunt.jeff@epa.gov*, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, it is intended to refer to the EPA.

The following outline is provided to aid in locating information in this preamble:

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I. Background

On July 1, 1987, the EPA promulgated revised National Ambient Air Quality Standards (NAAQS or standards) for particulate matter focused on inhalable coarse particles (PM₁₀) that are 10 micrometers in diameter or smaller (52 FR 24663). The PM₁₀ standard most relevant to Washington was the 24-hour (or daily) standard. The EPA set the 24-hour PM₁₀ NAAQS at 150 micrograms per cubic meter (µg/m³), not to be exceeded more than once per year on average over a three-year period. The Spokane, Washington, area was designated nonattainment for PM₁₀ and classified as moderate upon enactment of the Clean Air Act Amendments in

1990. Washington submitted a PM₁₀ attainment plan on December 12, 1994, and the EPA approved the Plan on January 27, 1997 (62 FR 3800). One element of the approved PM₁₀ attainment plan was the residential wood smoke curtailment program contained in SRCAA, Article VIII, *Solid Fuel Burning Device Standards*. On July 1, 2005, the EPA redesignated the Spokane area to attainment for PM₁₀ based on the existing set of control measures contained in Ecology's original 1994 attainment plan (70 FR 38029).

On July 18, 1997, the EPA revised the particulate matter standards to establish the fine particulate matter (PM_{2.5}) NAAQS for particles that are 2.5 micrometers in diameter or smaller, based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to PM_{2.5} (62 FR 38652). The EPA's revised 1997 particulate matter standards included a 24-hour NAAQS of 65 µg/m³ for PM_{2.5}, based on a three-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, the EPA revised the PM_{2.5} 24-hour NAAQS from 65 µg/m³ to 35 µg/m³ based on additional evidence and health studies (71 FR 61144).

II. Summary of SIP Revision

On January 27, 1997, the EPA approved *Regulation I, Article VIII—Solid Fuel Burning Device Standards*, adopted by SRCAA in 1994 (62 FR 3800). This set of adopted regulations predated the EPA's promulgation of the PM_{2.5} NAAQS, and focused on the 1987 PM₁₀ NAAQS for residential woodstove curtailment. More recently, the Washington State Legislature revised the underlying statutory authority contained in Chapter 70.94 Revised Code of Washington (RCW) *Washington Clean Air Act* (Washington Clean Air Act) regarding residential wood smoke curtailment programs to focus on the more pressing and environmentally relevant 24-hour PM_{2.5} NAAQS. In a SIP revision approved by the EPA on May 9, 2014, Ecology provided an analysis covering former PM₁₀ nonattainment areas in both Western and Eastern Washington to demonstrate that wood smoke curtailment programs focused on the more stringent 24-hour PM_{2.5} NAAQS will provide continued maintenance of the 24-hour PM₁₀ NAAQS (79 FR 26628). The EPA agreed with Ecology's analysis and approved revisions to the statewide regulations contained in Chapter 173-433 Washington Administrative Code (WAC) *Solid Fuel Burning Devices* to remove outdated PM₁₀ burn ban trigger

levels and replace them with PM_{2.5} trigger levels, consistent with the changes to Chapter 70.94.473 of the Washington Clean Air Act.

In this action, as the Governor’s designee for revisions to the Washington SIP, Ecology requested that the EPA approve changes to *Regulation I, Article VIII—Solid Fuel Burning Device Standards* adopted by SRCAA on July 10, 2014. This proposed SIP revision aligns the SRCAA solid fuel burning device regulations with the Washington Clean Air Act statutory changes discussed above, as well as the EPA-approved changes to Ecology’s statewide solid fuel burning device regulations (79 FR 26628, May 9, 2014). SRCAA’s regulatory changes generally mirror the statewide Ecology regulations and update the existing EPA-approved SRCAA regulations for improved clarity. A document showing, in redline/strike-out, the changes, is included in the docket for this action.

As discussed above, the 1994 p.m.₁₀ attainment plan for the Spokane area included *SWCAA Regulation I, Article VIII* that regulates particulate matter emissions from residential solid fuel burning devices (e.g., woodstoves and fireplaces). These regulations include several provisions that together provide continuous control of particulate matter emissions, including an episodic curtailment program, restrictions concerning materials that can and cannot be burned, and a limit on visible emissions from residential chimneys.

The primary element of the solid fuel burning device regulations to help ensure maintenance of the NAAQS is the episodic curtailment program which restricts the use of woodstoves and fireplaces on days that are conducive to the buildup of particulate matter concentrations. The curtailment program restricts the use of woodstoves and fireplaces by calling stage 1 and stage 2 burn bans consistent with the changes to Chapter 70.94.473 of the Washington Clean Air Act.

In addition to the episodic curtailment program, the regulations include provisions that impose restrictions on what can be burned in woodstoves and fireplaces at any time.

The regulations require that seasoned wood (defined as wood with a moisture content of 20% or less) be burned in woodstoves and fireplaces. The regulations also specifically prohibit the burning of garbage (and other named materials) in woodstoves and fireplaces, but does allow the burning of paper sufficient to start a fire. These provisions control the particulate matter emissions from woodstoves and fireplaces on a continuous basis, whereas the episodic curtailment program imposes additional restrictions on the use of woodstoves and fireplaces only when necessary to address the potential buildup of particulate matter concentrations.

Finally, the regulations establish a 20% opacity limit on smoke from residential woodstoves and fireplaces. This provision provides a visual indicator for the proper operation of a woodstove or fireplace, including the use of properly seasoned wood. The 20% opacity limit applies at all times except during the starting of a fire and the refueling of a woodstove or fireplace. However, during those times, the episodic curtailment program and other restrictions regulating fuel contained in the provisions described above continue to apply, as clarified in the June 22, 2015 letter from the Spokane Regional Clean Air Agency.

Accordingly, this combination of regulatory provisions constitutes continuous emission limitations, consistent with Federal Clean Air Act requirements. Specifically, reliance on the episodic curtailment program and other provisions regulating fuel described above serves as an adequate alternative emission limit during the starting and refueling of fires in residential woodstoves and fireplaces, when use of the 20% opacity limits would be infeasible. Reliance on those requirements during starting and refueling periods is limited and specific to the operation of residential stoves and fireplaces, minimizes the frequency and duration of those periods, and minimizes the impact of emissions on ambient air quality during those periods, while the episodic curtailment program ensures that emission impacts

are avoided during potential worst-case periods. While the EPA’s guidance on alternative emission limits also specifies that the owner or operator’s actions during startup and shutdown periods should be documented by signed, contemporaneous operating logs or other relevant evidence, application of this recordkeeping requirement in this case would be an unreasonable burden for individual home heating situations. See 80 FR 33840, June 12, 2015 [relevant discussion begins on page 33913].

III. Proposed Action

The EPA is proposing to approve Washington’s SIP revision received July 10, 2015. Specifically, the EPA is proposing to approve and incorporate by reference into the SIP the SRCAA regulations shown in Table 1. In addition, Ecology and SRCAA submitted 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, the EPA has reviewed and is proposing approval of Section 8.11 as having adequate enforcement authority, but will not incorporate 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 is not submitting these provisions for approval, consistent with the EPA’s May 9, 2014 final action on the statewide Ecology regulations. See 79 FR 26628. We have made the determination that this action is consistent with section 110 of the CAA. The EPA is soliciting public comments which will be considered before taking final action.

TABLE 1—SUBMITTED RULES

Agency	Citation (section)	Title	State effective date	Submitted	Explanation
Regulation I—Article VIII—Solid Fuel Burning Device Standards					
SRCAA	8.01	Purpose	09/02/15	07/10/15	
SRCAA	8.02	Applicability	09/02/15	07/10/15	
SRCAA	8.03	Definitions	09/02/15	07/10/15	

TABLE 1—SUBMITTED RULES—Continued

Agency	Citation (section)	Title	State effective date	Submitted	Explanation
SRCAA	8.04	Emission Performance Standards	09/02/15	07/10/15	Except SRCAA's incorporation by reference of WAC 173-433-130, 173-433-170, and 173-433-200.
SRCAA	8.05	Opacity Standards	09/02/15	07/10/15	
SRCAA	8.06	Prohibited Fuel Types	09/02/15	07/10/15	
SRCAA	8.07	Curtailement (Burn Ban)	09/02/15	07/10/15	
SRCAA	8.08	Exemptions	09/02/15	07/10/15	
SRCAA	8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	09/02/15	07/10/15	
SRCAA	8.10	Restrictions on Installation and Sales of Solid Fuel Burning Devices.	09/02/15	07/10/15	

IV. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, the EPA is proposing to revise our incorporation by reference of 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. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** 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 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 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 proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, and Particulate matter.

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

Dated: July 27, 2015.

Dennis J. McLerran,
Regional Administrator, Region 10.
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0247; FRL-9932-23-Region 4]

Approval and Promulgation of Implementation Plans; Mississippi; Memphis, TN-MS-AR Emissions Statements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a draft state implementation plan (SIP) revision submitted by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ) on June 1, 2015, for parallel processing, to address the emissions statement requirements for the State's portion of the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (hereafter referred to as the “Memphis, TN-MS-AR Area” or “Area”). Annual emissions reporting (*i.e.*, emissions statements) is required for all ozone nonattainment areas. The Area is comprised of Shelby County in Tennessee, Crittenden County in Arkansas, and a portion of DeSoto County in Mississippi. In a separate action, EPA approved Tennessee's regulations addressing emissions statements for its portion of the Memphis, TN-MS-AR Area. EPA will consider and take action on the emissions statements requirements for the Arkansas portion of this Area in a separate action. This proposed action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.