

Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

ADEM did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

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

Environmental Protection, Air Pollution Control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 7, 2023.

**Jeananne Gettle,**

*Acting Regional Administrator, Region 4.*  
[FR Doc. 2023–27297 Filed 12–12–23; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R10–OAR–2023–0224; FRL–10859–01–R10]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Spokane Regional Clean Air Agency; Control of Emissions From Existing Large Municipal Waste Combustors

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove a Clean Air Act (CAA) State Plan submitted by the Spokane Regional Clean Air Agency (SRCAA). This State Plan establishes emission limits for existing large municipal waste combustors (MWC) and provides for the implementation and enforcement of these limits. SRCAA submitted this State Plan to fulfill its requirements under the CAA in response to the EPA’s promulgation of Emissions Guidelines and Compliance Times for Large MWC Constructed on or before September 20, 1994 (Emission Guidelines). The EPA is partially approving the State Plan because it meets the requirements of the Emission Guidelines for existing large MWC known to operate in Spokane County, Washington. The EPA is partially disapproving the State Plan because it omits requirements for fluidized bed combustors and air curtain incinerators, which are required elements of a State Plan.

**DATES:** Written comments must be received on or before January 12, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2023–0224 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Bryan Holtrop (he/him), U.S. EPA, Region 10. He can be reached by phone at (206) 553–4473 or by email at [holtrop.bryan@epa.gov](mailto:holtrop.bryan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 111(d) of the CAA requires the EPA to establish a procedure for a state to submit a plan to the EPA that establishes standards of performance for any air pollutant: (1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112 and (2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. Section 129(b)(2) of the CAA requires that after the EPA promulgates guidelines for a category of solid waste incineration units, each state in which units in the category are operating shall submit to the EPA a plan to implement and enforce the guidelines with respect to such units. Such plans shall be at least as protective as the guidelines promulgated by the EPA. The EPA established requirements for State Plan submittals in the Code of Federal Regulations (CFR) at 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) and 129 must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cb, and the requirements of 40 CFR part 60, subpart B.

On May 10, 2006, the EPA revised the regulations established for Emissions Guidelines and Compliance Times for Large MWC That Are Constructed on or before September 20, 1994, in 40 CFR part 60, subpart Cb (71 FR 27324). This action was taken under sections 111(d) and 129 of the CAA.

On July 18, 2022, SRCAA submitted to the EPA a section 111(d)/129 plan for existing large MWC. The submitted section plan was in response to the May 10, 2006, promulgation of Federal emission guidelines requirements for large MWC, 40 CFR part 60, subpart Cb (71 FR 27336).

## II. Summary of the Plan and EPA Analysis

The EPA has reviewed the SRCAA section 111(d)/129 plan submittal in the context of the requirements of 40 CFR part 60, subparts B and Cb. In this action, the EPA is proposing to determine that SRCAA's section 111(d)/129 plan meets the cited Federal requirements, except with regard to fluidized bed combustors and air curtain incinerators. On April 5 2007, SRCAA amended Regulation I, Article VI, Section 6.17 to incorporate the EPA's revisions to the Emission Guidelines for large MWC and made administrative formatting updates, adopted on July 9, 2020. The primary mechanism used by SRCAA to implement the Emission Guidelines for existing large MWC under state jurisdiction is through incorporation by reference of 40 CFR part 60, subpart Cb requirements into Regulation 1, Article VI, Section 6.17. The changes SRCAA made to the language in the Emission Guidelines were made to convert the language in the Emission Guidelines to enforceable requirements. Because SRCAA reported that there are only two units at a single facility subject to the proposed State Plan—both of which utilize the mass burn waterwall combustor technology—SRCAA did not include requirements in the Emission Guidelines that apply to fluidized bed combustors (40 CFR 60.33b(d)(3)) or air curtain incinerators (40 CFR 60.37b). In each case, the Emission Guidelines clearly state that “for approval, a State Plan shall include . . .” the specified requirements. The EPA has no discretion to fully approve a State Plan that omits a required element. For this reason, the EPA is proposing to partially disapprove SRCAA's State Plan insofar as it does not address regulatory requirements applicable to fluidized bed combustors and air curtain incinerators.

These regulations will be applicable to existing large MWC in Spokane County, Washington upon the EPA's approval of the plan by final rulemaking, except that fluidized bed combustors and air curtain incinerators that are designated facilities under the Emission Guidelines per 40 CFR 60.32b shall be subject to the Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994 (40 CFR part 62, subpart FFF). A more detailed explanation of the rationale behind this proposed approval is available in the Technical Support Document (TSD) that may be found in the docket for this action.

## III. Proposed Action

The EPA is proposing to partially approve and partially disapprove the SRCAA section 111(d)/129 plan for large MWC submitted pursuant to 40 CFR part 60, subpart Cb. Therefore, the EPA is proposing to amend 40 CFR part 62, subpart WW to reflect this action.

This partial approval and partial disapproval is based on the rationale previously discussed in this document and in further detail in the TSD that may be found in the docket for this action. The scope of the proposed partial approval of the section 111(d)/129 plan is limited to the provisions of 40 CFR part 60, subpart Cb that apply to existing large MWC in Spokane County that are not fluidized bed combustors or air curtain incinerators. The EPA Administrator continues to retain the authorities identified in 40 CFR 60.30b(b) as authorities retained by the Administrator.

## IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that incorporates by reference the State Plan. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference SRCAA Regulation I, Article VI, Section 6.17, which became effective within the SRCAA's jurisdiction on July 7, 2022. The regulatory provisions of this section of the SRCAA rule incorporate all the CAA 111(d)/129 State Plan elements required by the EG for existing large MWC promulgated at 40 CFR part 60, subpart Cb. The emissions standards and compliance times established within the SRCAA State Plan are at least as stringent as those required by the EG for existing large MWC subject to subpart Cb. The EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R10-OAR-2023-0224, at <https://www.regulations.gov> and at 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

In reviewing State Plan 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 proposed 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 14094 (88 FR 21879, April 11, 2023);

- 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); and

- 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 application of those requirements would be inconsistent with the CAA.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not

perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, it is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

In addition, this proposed rulemaking would not apply on any Indian reservation land or in any other area in Washington where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the proposed rule would not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 62**

Environmental protection,  
Administrative practice and procedure,

Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

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

Dated: December 7, 2023.

**Casey Sixkiller,**

*Regional Administrator, Region 10.*

[FR Doc. 2023–27295 Filed 12–12–23; 8:45 am]

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