

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R08-OAR-2019-0054; FRL-9995-93-Region 8]

**Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 4, Sale and Installation of Wood-Burning Appliances and the Use of Certain Wood Burning Appliances During High Pollution Days****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions to Colorado Regulation Number 4 (Reg. No. 4), “Sale and Installation of Wood-Burning Appliances and the Use of Certain Wood Burning Appliances During High Pollution Days,” submitted by the State on May 2, 2016 and May 14, 2018. The revisions update definitions, emission standards, certification and labeling requirements, and citation references to maintain consistency with the EPA’s 2015 Standards of Performance for New Residential Wood Heaters. The EPA is taking this action in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on August 16, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0054. All documents in the docket are listed on the <http://www.regulations.gov> website. 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, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6563, [fulton.abby@epa.gov](mailto:fulton.abby@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

**I. Background**

The background for this action is discussed in detail in our April 12, 2019 proposal (84 FR 14903). In that document we proposed to approve the SIP submittals from the State of Colorado for Reg. No. 4 submitted on May 2, 2016 and May 14, 2018. The revisions update definitions, emission standards, certification and labeling requirements, and citation references to maintain consistency with the EPA’s 2015 Standards of Performance for New Residential Wood Heaters (New Source Performance Standards 40 CFR part 60, subpart AAA).

We received one comment in support of our proposed action.

**II. Final Action**

We are approving the SIP submittals from the State of Colorado for Reg. No. 4 submitted on May 14, 2018 and May 2, 2016 (except for provisions that have been superseded by the later submission, as to which we are not taking any action).<sup>1</sup> We proposed these actions in accordance with section 110 and part D of the CAA.

**III. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Colorado Reg. No. 4 pertaining to the regulation of wood stoves as discussed in section II. of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval,

<sup>1</sup> On November 21, 2018, the EPA proposed amendments to the revised 2015 NSPS, seeking comments on allowing retailers additional time to sell existing inventory of wood stoves and on whether pellet fuel requirements should be revised (83 FR 61574). In addition, the EPA issued an Advanced Notice of Proposed Rulemaking to seek comments on test methods and the 2020 compliance deadline for tighter emission limits for forced-air furnaces, hydronic heaters and wood stoves in the revised 2015 NSPS AAA (83 FR 61585). If new federal requirements are finalized through these actions, Colorado may update Reg. No. 4 through future SIP revisions to align Reg. No. 4 with federal requirements.

and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup>

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, 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 Clean Air Act. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, 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 application of those requirements would be inconsistent with the CAA; 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

<sup>2</sup> 62 FR 27968 (May 22, 1997).

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. 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).

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 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 September 16, 2019. 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, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 11, 2019.

**Gregory Sopkin,**  
*Regional Administrator, Region 8.*

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 G—Colorado**

■ 2. In § 52.320, in the table in paragraph (c), section 5 CCR 1001–06 is revised to read as follows:

**§ 52.320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

| Title   | State effective date | EPA effective date | Final rule/citation date                             | Comments                        |
|---|----------------------|--------------------|--|---------------------------------|
| * * * * *   |                      |                    |  |                                 |
| <b>5 CCR 1001–06, Regulation Number 4, Sale and Installation of Wood-Burning Appliances and Use of Certain Wood Burning Appliances During High Pollution Days</b> |                      |                    |  |                                 |
| I. Definitions .....  | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| II. Limitation on the Sale and Installation of Wood-Burning Stoves.   | 4/30/2017            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| III. Approval Procedure for Pellet Stoves.  | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| V. Enforcement .....  | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| VI. List of Approved-Wood Burning Appliances.   | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| VII. High Pollution Days .....  | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| VIII. Requirements for Installation of Fireplaces.  | 4/30/2017            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| IX. Implementation of Local Controls.   | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| X. References .....   | 1/14/2016            | 8/16/2019          | [Insert <b>Federal Register</b> citation] 7/17/2019. | Previous SIP approval 04/17/97. |
| * * * * *   |                      |                    |  |                                 |