Memorandum of Understanding (MOU) between **Spokane Regional Clean Air Agency (SRCAA)** and **Fire Protection District #2 (District)** for **Limited Agricultural Spot Burning** in **Spokane County.**

I. Background

Agricultural burning is limited to agricultural operations or government entities with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards (WAC 173-430-040(3)(b)). An agricultural operation means a farmer who can substantiate that the operation is commercial agricultural by showing the most recent year's IRS Schedule F form or its corporate equivalent. A farmer means a person engaged in the business of growing/producing for sale any agricultural product upon their own lands or the land in which they have a present right of possession. It excludes persons growing/producing such products for their own consumption. It includes irrigation/drainage districts and weed control boards with specific agricultural burning needs (e.g., burning for water system management.)

There are three types of agricultural burning:

1. Incidental
2. Spot
3. General

Refer to SRCAA's most current fact sheet on Agricultural Burning in Spokane County for details. This MOU authorizes the District to serve as the delegated permitting authority for limited agricultural spot burning. A farmer who wishes to conduct any other agricultural burning not covered under incidental agricultural burning or agricultural spot burning must contact SRCAA regarding general agricultural burning.

II. Authority

A. **Permitting Authorities.** In accordance with RCW 70.94.6528, RCW 70.94.6530, WAC 173-430-030(11), WAC 173-430-090, and SRCAA Regulation I, fire protection agencies may administer an agricultural spot burning permit program when a local air authority finds that a fire protection agency is capable of administering a permit program and desires to do so.

B. **Delegation.** SRCAA finds the District capable of administering a limited agricultural spot burning permit program and the District requests delegation to administer an agricultural spot burning permit program. SRCAA and the District agree that SRCAA will normally assume lead for enforcing agricultural burning laws and regulations within the District's boundaries.

C. **Process.** If this MOU is adopted by the District's Board of Commissioners, a copy of the resolution and signed MOU will be forwarded to SRCAA. If this MOU is accepted by SRCAA's Director, on behalf of SRCAA's Board of Directors, a copy of the signed MOU will be forwarded to the District.

D. **Effective Date.** The MOU is effective on the date it's adopted by the District, and signed by SRCAA's Director unless an alternate effective date is mutually agreed to.

III. Public Education

A. **By SRCAA.** SRCAA will inform the public about agricultural burning regulations such as making an information sheet or brochure available on its website and will distribute available educational materials to fire protection agencies and other interested parties upon request.

B. **By the District.** The District will post or otherwise make available the educational materials provided by SRCAA in locations accessible to the public.

IV. Permitting and Fees

A. **Application.** For consistency among various fire protection agencies and SRCAA, the District agrees to use an Agricultural Spot Burning Permit Application developed by SRCAA unless otherwise approved by SRCAA in writing (WAC 173-430-040(3)(c)).

B. **Application Processing.** The district shall perform a field inspection, as necessary, to verify the accuracy of the application (SRCAA Regulation I, Section 6.11.J.3) and will approve or deny a permit in part or whole (WAC 173-430-040(3)(d-f)) within seven (7) calendar days of the date the application is deemed complete (WAC 173-430-040(5)(c), WAC 173-430-080(2), and SRCAA Regulation I, Section 6.11.J.4). If denied, the reason must be stated (WAC 173-430-040(5)(c)(iv) and WAC 173-430-080(2)(e)).

C. **Permits.** For consistency among various fire protection agencies and SRCAA, the District accepts authority to issue permits only within the boundaries of its taxing district and to use written permit templates provided by SRCAA or to develop its own permit template that incorporates minimum permit conditions provided by SRCAA.

D. **Permit Compliance.** The District may perform a field inspection to verify compliance with the permit conditions and other applicable requirements. (SRCAA Regulation I, Section 6.11.J.3).

E. **Post Season Notification.** Agricultural Spot Burning Post Season Notification forms will not be required unless notified otherwise by SRCAA.

F. **Fees Charged.** The District shall establish and charge a permit fee pursuant to the fee schedule in WAC 173-430-041 and WAC 173-430-042, as currently adopted or hereafter amended. The permit fee shall be collected at the time of application. The District may keep both the permitting authority fee and the smoke management fee unless otherwise notified.

G. **Non-Refundable Fees.** WAC 173-430-080(6)(a) requires that refunds be issued for permitted acres not burned. However, by adopting this MOU, and in accordance with WAC 173-430-041(7)(a), the District agrees to retain the total permit application fee. The non-refundable application fee shall be retained by the District without regard to whether a permit is approved or denied.

H. **Submittals to SRCAA.** Copies of all applications with supporting documentation such as maps, and permits issued by the District shall be submitted to SRCAA within ~~7~~ 30 days of issuing a permit unless other arrangements are made with SRCAA. However, for permits issued in June, documents must be forwarded to SRCAA no later than July 8 and for permits issued in December, documents must be forwarded to SRCAA no later than January 8.

Submit copies to SRCAA at:
Fax - (509) 477-6828
Mail - Spokane Regional Clean Air Agency
3104 E Augusta Ave.
Spokane, WA 99207
E-mail - Compliance@spokanecleanair.org

VI. Complaint Response and Enforcement

A. **Complaint Response.** SRCAA will log complaints and respond to agricultural burning complaints within the District, which may include complaints that may or may not pertain to limited agricultural spot burning. If in the course of its investigation, SRCAA determines that an agricultural burning complaint is associated with an agricultural spot burning permit issued by the District, SRCAA may consult with the District regarding the matter.

B. **Referrals to SRCAA.** If the District finds unlawful agricultural burning occurring, it may submit a report to SRCAA.

1. The report referred to SRCAA by the District should contain the following information whenever possible:

   - The name of the property owner, address, and telephone number.
   - The name of the person(s) who started the fire, address, and telephone number.
   - Complete address of the fire location.
   - A description of the materials being burned. If prohibited materials were involved, describe the materials in detail (e.g., 5-gal.plastic buckets, etc.).
   - A description of how much material was being burned.
   - Photographs.
   - An indication if a burn permit had been issued by the District for the date(s) and location involved.

2. Upon receiving a written report from the District documenting unlawful agricultural burning, and after consulting with the District if necessary, SRCAA will determine if enforcement action will be taken.

3. SRCAA will keep the District informed of the status of enforcement action for cases referred to SRCAA by the District, if requested by the District.

RECEIVED
NOV 29 2011
SPOKANE REGIONAL
CLEAN AIR AGENCY

4. The District may be called to provide testimony in any administrative or court proceedings resulting from enforcement action taken by SRCAA.

C. **Enforcement.** Any decision to issue a Notice of Violation and subsequently assess a civil penalty will be made solely by SRCAA.

VII. Performance Review / Audits

The District agrees to periodic audits and performance reviews pursuant to WAC 173-430-090(2)(e).

VIII. Termination

It is acknowledged that this document is solely an agreement to the practices listed in this document and may be terminated by either party by giving ten days written notice to the other of the desire to terminate.

IX. Request and Authorization

A. This proposal is submitted by:

Fire Chief, District — Date: 11/14/11

Commissioner — Date: 11-14-11

Commissioner — Date: 11/14/11

Commissioner — Date:

B. This proposal is accepted, on behalf of SRCAA's Board of Directors by:

William O. Dameworth, Director, SRCAA — Date: 12-7-11

atn:
Brandi

Received Time Nov. 29. 2011 4:25PM No. 8297

4. The District may be called to provide testimony in any administrative or court proceedings resulting from enforcement action taken by SRCAA.

C. **Enforcement.** Any decision to issue a Notice of Violation and subsequently assess a civil penalty will be made solely by SRCAA.

VII. Performance Review / Audits

The District agrees to periodic audits and performance reviews pursuant to WAC 173-430-090(2)(e).

VIII. Termination

It is acknowledged that this document is solely an agreement to the practices listed in this document and may be terminated by either party by giving ten days written notice to the other of the desire to terminate.

IX. Request and Authorization

A. This proposal is submitted by:

Fire Chief, District — Date 11/14/11

Commissioner — Date 11-14-11

Commissioner — Date 11/14/11

Commissioner — Date

B. This proposal is accepted, on behalf of SRCAA's Board of Directors by:

William O. Dameworth, Director, SRCAA — Date 12-7-11

attn: Brandi

RECEIVED
NOV 30 2011
SPOKANE REGIONAL CLEAN AIR AGENCY