

12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48 (1995)). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive

Orders for the underlying rules are discussed in the July 22, 2003 rule approving Colorado's Carbon Monoxide Redesignation Request and Related Revisions for Fort Collins.

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of August 1, 2005. EPA will submit a report containing this rule 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**. These corrections to the identification of plan for Utah is not a "major rule" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 17, 2005.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region VIII.*

■ 40 CFR Part 52 is amended as follows:

#### PART 52—[CORRECTED]

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

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

#### Subpart G—Colorado

■ 2. Section 52.320 is amended by revising paragraph (c)(99)(i)(B) to read as follows:

##### § 52.320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(99) \* \* \*

(i) \* \* \*

(B) Regulation No. 13 "Oxygenated Fuels Program", 5 CCR 1001-16, except for section III, the last sentence in

Section II.C.1.c.v., "This Section II.C.1.c.v. is repealed effective February 1, 2019 and is replaced by the requirements in Section II.C.1.c.vi. below beginning November 1, 2019.," and Section II.C.1.c.vi., as adopted on July 18, 2002, effective September 30, 2002, which supersedes and replaces all prior versions of Regulation No. 13.

\* \* \* \* \*

[FR Doc. 05-13061 Filed 6-30-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[Docket #: R10-OAR-2004-WA-0003; FRL-7927-2]

### Approval and Promulgation of Air Quality Implementation Plans; Spokane PM10 Nonattainment Area Limited Maintenance Plan and Redesignation Request

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the Limited Maintenance Plan for the Spokane nonattainment area (NAA) in Washington and grant the request by the State to redesignate the area from nonattainment to attainment for PM10. On November 30, 2004, the State of Washington submitted a Limited Maintenance Plan (LMP) for the Spokane nonattainment area (NAA) for approval and concurrently requested that EPA redesignate the Spokane NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10). In 1997, EPA approved Washington's moderate area plan for the Spokane NAA for all PM10 sources except windblown dust. In this direct final action, EPA is also approving the remaining elements of the Spokane NAA moderate area plan for windblown dust sources.

**DATES:** This direct final rule will be effective August 30, 2005, without further notice, unless EPA receives adverse comments by August 1, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. R10-OAR-2004-WA-0003, by one of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

• Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

• Mail: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT-107 EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.

• Hand Delivery: EPA, Region 10 Mail Room, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Attention: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT-107. 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. R10-OAR-2004-WA-0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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 EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, such as 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 electronically in EDOCKET, in hard copy at EPA, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington, or in hard copy at the EPA Washington Operations Office, 300 Desmond Dr. SE., Suite 102, Lacey, WA 98503 from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gina Bonifacino at telephone number: (206) 553-2970, e-mail address: [bonifacino.gina@epa.gov](mailto:bonifacino.gina@epa.gov), fax number: (206) 553-0110, or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us" or "our" are used, we mean EPA.

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VI. Direct Final Action

VII. Statutory and Executive Order Reviews

#### I. This Action

EPA is taking direct final action to approve the Limited Maintenance Plan (LMP) for the Spokane nonattainment area (Spokane NAA) and concurrently redesignate the Spokane NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10). Also in this action, EPA is approving the remaining portions of the moderate area State Implementation Plan (SIP) for windblown dust sources that were deferred in EPA's approval of the Spokane PM10 NAA moderate area plan in 1997. *See* 62 FR 3800. (January 27, 1997). *See also* 66 FR 27055. (May 16, 2001). Spokane attained the PM10 NAAQS in 1994 and there have been no violations of the PM10 NAAQS in Spokane since 1993. Also in this action, EPA is approving revisions to the Spokane County Air Pollution Control Authority (SCAPCA) Regulatory Orders #96-03, #96-05, and #96-06 for PM10 at the Kaiser-Trentwood facility.

#### II. Background of the Spokane Nonattainment Area (Spokane NAA)

##### A. Description of the Spokane Nonattainment Area

The Spokane PM10 nonattainment area (Spokane NAA) is a roughly rectangular area covering approximately 599 square kilometers in eastern Washington. The Spokane NAA encompasses the metropolitan area of Spokane and some surrounding sections of Spokane County. For a legal description of the boundaries see 40 CFR 81.348. The Spokane NAA lies in a broad, flat valley transversed by the Spokane and Little Spokane rivers. All major point sources (i.e. industrial sources) of PM10 in Spokane County as well as 81 percent of the county's residences lie within the NAA. In general, Spokane has a mild, arid climate in summer and a cold, moist climate in winter. The nonattainment area is characterized by significant terrain elevation changes which may affect dispersion.

##### B. PM10 Emissions in the Spokane Nonattainment Area

Dust storms originating in the Columbia Plateau have contributed to

exceedences of the PM10 NAAQS and elevated PM10 levels in the Spokane NAA. The Spokane NAA lies at the northeastern edge of the Columbia Plateau and is impacted by seasonal high winds from the south and southwest, which move dust from the approximate 12.1 million acres of agricultural lands and grasslands on the semi-arid plateau to downwind areas. A 1992 report entitled "An Analysis of the Impact of Biogenic PM10 Sources on the Spokane PM10 Nonattainment Area, February 1992", estimated gross annual emissions from anthropogenic and nonanthropogenic sources of PM10 in eastern Washington as 40% and 60% respectively.

Washington submitted a complete emissions inventory for the calendar year 2002 with the Limited Maintenance Plan, and summarized current significant contributors to daily emissions as fugitive dust from unpaved roads (49%), residential wood combustion (24%), fugitive dust from construction (6%), paved roads (3%) and emissions from land clearing debris burning (3%). In 2002, all other source categories contributed 2% or less to daily emissions of PM10.

### C. Planning Background

The Spokane, Washington area was designated nonattainment for PM10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990. See 56 FR 56694 (November 6, 1991). States containing initial moderate PM10 nonattainment areas were required to submit, by November 15, 1991, a moderate nonattainment area SIP that, among other requirements, implemented reasonably available control measures (RACM) by December 10, 1993, and demonstrated whether it was practicable to attain the PM10 NAAQS by December 31, 1994. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

Washington submitted a SIP for the Spokane area on November 15, 1991, followed by addendums on January 31, 1992, December 9, 1994, and May 18, 1995. The December 1994 addendum included a detailed technical analysis indicating that nonanthropogenic sources may be significant in the Spokane PM10 nonattainment area during windblown dust events. In 1997, based on our review of the State's submissions, we approved the PM10 emissions inventory, control measures in the SIP as meeting RACM/RACT, quantitative milestone and reasonable further progress requirements, and contingency measures for all sources of

PM10 other than windblown dust. See 62 FR 3800 (January 27, 1997). Under section 188(f) of the Act, EPA deferred action on the attainment demonstration, emissions inventory, control measures and contingency measures for windblown dust sources in the Spokane NAA to provide the State with more time to further evaluate windblown dust events in the Spokane NAA. In this action, we are approving these remaining requirements for windblown dust.

In the same action, EPA approved regulatory orders for the Kaiser-Trentwood aluminum facility to provide consistency between the 1994 emissions inventory and allowable emissions for the facility. See 62 FR 3800 (January 27, 1997). SCAPCA Order #91-01 provided for the use of an alternate opacity limit for the Kaiser-Trentwood aluminum facility. SCAPCA Order #96-03, Order #96-04, Order #96-05 and Order #96-06 significantly lowered the allowable emissions from the facility. These new allowable emissions limits are equivalent to Kaiser facility emissions in the 1994 emissions inventory used in the attainment demonstration.

On September 24, 2001, EPA published a **Federal Register** notice with its determination, based on air quality data for the years 1995-1997, that the Spokane NAA had attained the NAAQS for PM10 by the extended attainment date of December 31, 1997. See 66 FR 48808.

On November 30, 2004, Washington submitted a Limited Maintenance Plan for the Spokane NAA for approval and requested that EPA redesignate the Spokane NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for PM10. In this action, EPA is approving the Limited Maintenance Plan (LMP) for the Spokane NAA in Washington and granting the request by the State to redesignate the area from nonattainment to attainment for PM10. As stated above, we are also approving the remaining moderate area plan requirements for windblown dust.

### III. Requirements for Redesignation

#### A. Clean Air Act Requirements for Redesignation of Nonattainment Areas

Nonattainment areas can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the Clean Air Act (the Act), and the General Preamble to Title I provide the criteria for redesignation. See 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance

memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, "Procedures for Processing Requests to Redesignate Areas to Attainment". The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the Act;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the Act;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act.

#### B. The Limited Maintenance Plan (LMP) Option for PM10 Nonattainment Areas

On August 9, 2001, EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM10 nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled "Limited Maintenance Plan Option for Moderate PM10 Nonattainment Areas", (hereafter the LMP Option memo)). The LMP Option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the PM10 NAAQS, the average annual PM10 design value for the area, based upon the most recent 5 years of air quality data at all monitors in the area, should be at or below  $40 \mu\text{g}/\text{m}^3$ , and the 24 hour design value should be at or below  $98 \mu\text{g}/\text{m}^3$ . If an area cannot meet this test, it may still be able to qualify for the LMP Option if the average design value (ADV) for the site is less than the site-specific critical design values (CDV). In addition, the area should expect only limited growth in on-road motor vehicle PM10 emissions (including fugitive

dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

### *C. Conformity Under the Limited Maintenance Plan Option*

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While EPA's Limited Maintenance Plan Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the Limited Maintenance Plan Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM<sub>10</sub> NAAQS would result. For transportation conformity purposes, EPA would conclude that emissions in these areas need not be capped for the maintenance period and therefore a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

## **IV. Review of the Washington State Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans.**

### *A. Has the Spokane NAA Attained the Applicable NAAQS?*

There are two separate NAAQS for PM<sub>10</sub>, an annual standard of 50 µg/m<sup>3</sup> and a 24-hour standard of 150 µg/m<sup>3</sup>. States must demonstrate that an area has attained the PM<sub>10</sub> NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM<sub>10</sub> concentrations. The data should be stored in the EPA Air Quality System (AQS) database. As stated in section II.C. of this document,

EPA determined that the Spokane NAA attained the PM<sub>10</sub> NAAQS based on monitoring data from the calendar years 1995–1997. See 66 FR 48808 (September 24, 2001). Currently, the area is in compliance with both of the PM<sub>10</sub> NAAQS.

Since 1997, exceedences of the 24-hour standard occurred on September 25, 1999 and September 25, 2001. Both of these exceedences were flagged by the State as due to high wind events under EPA's Natural Events Policy. Based on the information provided by Washington about these events, other information provided by Washington regarding control measures being implemented at the time of the events, and the area's soil and climate characteristics, we conclude that the exceedences that occurred on September 25, 1999 and September 25, 2001 were due to high wind natural events and that, on those dates, anthropogenic sources contributing to the exceedences were controlled with Best Available Control Measures (BACM). See memorandum entitled "Assessment of Natural Even Claims for Exceedences on September 25, 1999, and September 25, 2001 in Spokane, Washington" in the Technical Support Document for this action. Therefore, EPA is excluding the exceedences from September 25, 1999 and September 25, 2001 from consideration in determining whether the area is currently attaining the PM<sub>10</sub> NAAQS and in calculating design values for the Limited Maintenance Plan. The area continues to attain the 24-hour and annual PM<sub>10</sub> NAAQS.

### *B. Does the Spokane NAA Have a Fully Approved SIP Under Section 110(k) of the Clean Air Act (the Act)?*

In order to qualify for redesignation, the SIP for the area must be fully approved under section 110(k) of the Act, and must satisfy all requirements that apply to the area. Section 107(d)(4)(B) of the Clean Air Act contains requirements and milestones for all initial moderate nonattainment area SIPs including:

(1) Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

(2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994 or, where the state is seeking

an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A));

(3) Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994 (CAA sections 172(c)(2) and 189(c)); and

(4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the State or EPA. (CAA section 172(c)(9)).

As stated above, on January 27, 1997, EPA approved Spokane's moderate area plan including RACT/RACM for all PM<sub>10</sub> sources except for windblown dust and under section 188(f) of the Act, deferred action on the attainment demonstration, emissions inventory, quantitative milestones, control measures and contingency measures for windblown dust sources. See 62 FR 3800. In this action, EPA is approving the area as meeting RACM for windblown dust sources based on the implementation of BACM to control windblown dust originating from the Columbia Plateau. EPA generally interprets the BACM requirement as subsuming the RACM requirement. In other words, if we determine that the measures are indeed the "best available," we have necessarily concluded that they are "reasonably available". As stated above in section IV.A., EPA concludes that BACM is implemented for windblown dust from agriculture on the Columbia Plateau.

The remaining attainment demonstration, emissions inventory, quantitative milestone, and control and contingency measure requirements must be met for all PM<sub>10</sub> sources for an approvable moderate area plan. EPA believes that quantitative milestones and contingency measures are no longer required in the Spokane NAA since both of these requirements relate to the applicable attainment date, and EPA determined that the area attained the PM<sub>10</sub> NAAQS by December 31, 1997. We believe that Spokane meets all of the remaining requirements for moderate area plans including control measures for windblown dust sources, the attainment demonstration, and emissions inventory by meeting the requirements for the Limited Maintenance Plan.

The Limited Maintenance Plan contains a detailed emissions inventory for all sources of PM<sub>10</sub> for the calendar

year 2002 including an inventory of windblown dust. The Limited Maintenance Plan also contains control measures that address windblown dust among other sources of PM<sub>10</sub>. We refer the reader to sections IV.C., and IV.D., respectively for further discussion on the emissions inventory, and control measures requirements for all sources of PM<sub>10</sub> in the Spokane NAA.

As previously stated, the fully approved SIP must contain an attainment demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date. As noted above, Spokane attained the PM<sub>10</sub> NAAQS by the applicable attainment date (December 31, 1997) based on monitoring data from the calendar years 1995–1997. *See* 66 FR 48808 (September 24, 2001). However, EPA has not previously fully approved the State's attainment demonstration for Spokane.

In this action, EPA concludes that the statistical demonstration of maintenance submitted with the Limited Maintenance Plan fulfills the attainment demonstration requirement. Generally, EPA recommends that attainment be demonstrated according to the PM–10 SIP Development Guideline (June 1987), which presents three methods based on Federal regulations. Federal regulations require demonstration of attainment “by means of a proportional model or dispersion model or other procedure which is shown to be adequate and appropriate for such purposes.” *See* 40 CFR 51.112. *See also* 62 FR 18051 (April 14, 1997). EPA believes that it is reasonable to accept the Limited Maintenance Plan demonstration as an adequate attainment demonstration since this maintenance demonstration ensures maintenance of the PM<sub>10</sub> NAAQS for ten years from the effective date of this action. Section IV.F. of this notice contains a description of the maintenance demonstration included with the Limited Maintenance Plan. In this action, EPA is finding the maintenance demonstration criteria outlined in the Limited LMP Option are satisfied. Accordingly, EPA is approving the remaining moderate area plan requirements for the Spokane NAA; the attainment demonstration, emissions inventory and control methods for all sources, including windblown dust. Thus, upon the effective date of this action, the Spokane NAA will have a fully approved moderate area plan.

*C. Has the State Met All Applicable Requirements Under Section 110 and Part D of the Act?*

Section 107(d)(3)(E) of the Act requires that a state containing a

nonattainment area must meet all applicable requirements under section 110 and Part D of the Act for an area to be redesignated to attainment. EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Washington meets these requirements.

(1) Clean Air Act Section 110 Requirements

Section 110(a)(2) of the Act contains general requirements for nonattainment plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the state after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling; and provisions for public and local agency participation. *See* the General Preamble for further explanation of these requirements. 57 FR 13498 (April 16, 1992).

For purposes of redesignation, EPA review of the Washington SIP shows that the State has satisfied all requirements under section 110(a)(2) of the Act. Further, in 40 CFR 52.2473, EPA has approved Washington's plan for the attainment and maintenance of the national standards under Section 110.

(2) Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM<sub>10</sub> nonattainment areas must meet the general provisions of Subpart 1 and the specific PM<sub>10</sub> provisions in Subpart 4, “Additional Provisions for Particulate Matter Nonattainment Areas.” The following paragraphs discuss these requirements as they apply to the Spokane NAA.

(3) Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for nonattainment area plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). Clean Air Act (CAA)

section 172(c)(2) requires nonattainment plans to provide for reasonable further progress (RFP). Section 171(1) of the CAA defines RFP as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.” Since EPA determined that the Spokane NAA was in attainment of the PM<sub>10</sub> NAAQS by 1997, we believe that no further showing of RFP or quantitative milestones is necessary. *See* 66 FR 48808 (September 24, 2001).

(4) Section 172(c)(3)—Emissions Inventory

Section 172(c)(3) of the Act requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Spokane PM<sub>10</sub> nonattainment area. Washington included an emissions inventory for the calendar year 2002 with its submittal of the LMP for the Spokane NAA. Based on the inventory preparation plan for the PM<sub>10</sub> 2002 base year emissions inventory, which includes windblown dust sources, EPA believes that the 2002 base year emissions inventory is current, accurate and comprehensive and therefore meets the requirements of Section 172(c)(3) of the Act.

(5) Section 172(c)(5)—New Source Review (NSR)

The Clean Air Act Amendments of 1990 contained revisions to the New Source Review (NSR) program requirements for the construction and operation of new and modified major stationary sources located in nonattainment areas. The Act requires states to amend their SIPs to reflect these revisions, but does not require submittal of this element along with the other SIP elements. The Act established June 30, 1992 as the submittal date for the revised NSR programs (Section 189 of the Act). The Part D NSR rules for PM<sub>10</sub> nonattainment areas in Washington were approved by EPA on June 2, 1995. *See* 60 FR 28726. In the Spokane NAA, the requirements of the Part D NSR program will be replaced by the Prevention of Significant Deterioration (PSD) program and the maintenance area NSR program upon effective date of redesignation. The Federal PSD regulations found at 40 CFR 52.21 are the PSD rules in effect for Washington. *See* 40 CFR 52.2497.

(6) Section 172(c)(7) Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accord with 40 CFR part 58 to verify attainment status of the area. The State of Washington and Spokane County Air Pollution Authority (SCAPCA) operate two PM10 and PM2.5 State and Local Air Monitoring Stations (SLAMS) in the Spokane NAA. Both monitoring sites meet EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E, and have been monitoring for PM10 since 1995. In section D of the Limited Maintenance Plan that we are approving today, the State commits to continued operation of the monitoring network.

(7) Section 172 (c)(9) Contingency Measures

The Clean Air Act requires that contingency measures take effect if the area fails to meet reasonable further progress requirements or fails to attain the NAAQS by the applicable attainment date. Since the Spokane NAA attained the NAAQS for PM10 by the applicable attainment date of December 31, 1997, contingency measures are no longer required under Section 172(c)(9) of the Act. However, contingency provisions are required for maintenance plans under Section 175(a)(d). We describe the contingency provisions Washington provided in the Spokane LMP below.

(8) Part D Subpart 4

Part D Subpart 4, Section 189(a), (c) and (e) requirements apply to any moderate nonattainment area before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include:

(a) Provisions to assure that RACM was implemented by December 10, 1993;

(b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable;

(c) Quantitative milestones which were achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

(d) Provisions to assure that the control requirements applicable to major stationary sources of PM10 also apply to major stationary sources of PM10 precursors except where the Administrator determined that such sources do not contribute significantly to PM10 levels which exceed the NAAQS in the area.

These provisions, with the exception of the attainment demonstration and quantitative milestones were fully approved into the SIP upon EPA approval of the PM10 moderate area plan for the Spokane NAA on January

27, 1997. See 62 FR 3800. As discussed above, the requirements for reasonable further progress were satisfied with the September 24, 2001 finding of attainment (66 FR 48808), and EPA is approving the attainment demonstration, based on the maintenance demonstration submitted with the Limited Maintenance Plan, in this action.

*D. Has the State Demonstrated That the Air Quality Improvement Is Due to Permanent and Enforceable Reductions?*

The state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic.

Permanent and enforceable control measures in the Spokane NAA SIP include RACM and BACM. Emission sources in the Spokane NAA have been implementing RACM for at least 10 years. Table 1 contains a list of RACM implemented in Spokane. These control measures were approved into the SIP, and they are both permanent and federally enforceable. See 62 FR 3800 (January 27, 1997).

TABLE 1.—SPOKANE NONATTAINMENT AREA REASONABLY AVAILABLE CONTROL MEASURES

Control Measure	Jurisdiction	Authority
Reduce particulate matter by paving unpaved streets	City of Spokane ....	Res. #90–93.
Reduce particulate matter by paving unpaved streets	Spokane County ...	Res. #90–1219.
Reduce fugitive dust from paved roads through sweeping/sanding mitigation program	City of Spokane ....	Res. #93–43.
Reduce particulate matter from paved roads through requirement that government entities submit sweeping and sanding plans	SCAPCA .....	Reg. 1, Sec 6.14.
Reduce residential wood smoke through curtailment program	Washington State	RCW 70.94 and WAC 173–433.
Reduce residential wood smoke through implementation of wood smoke control zone	SCAPCA .....	Res.'s #88–03, #90–08, #94–02 and #94–18.
Reduce fugitive dust from unpaved roads through requirement that governmental entities submit emission reduction and control plans	SCAPCA .....	Res. #94–17.

As discussed in section IV.A., Best Available Control Measures (BACM) are in place to control wind blown dust from the Columbia Plateau. Based on the 2003 NEAP and the 2004 status report submitted to EPA by the Washington Department of Ecology, EPA has determined that Spokane meets

the BACM requirement for agricultural sources within the Columbia Plateau. See the technical support document for this action for a discussion on BACM for agricultural sources within the Columbia Plateau.

There are two major stationary sources within the Spokane NAA, the

Kaiser Aluminum facilities at Trentwood and Mead. These have not been evaluated specifically for RACT by either Washington or the Spokane County Air Pollution Control Authority (SCAPCA) since analysis of the 24-hour PM10 problem indicates that industrial sources are not a major contributor. See

61 FR 36001 (July 9, 1996). Although analysis indicates that neither of the Kaiser Aluminum facilities are major contributors to 24-hour PM<sub>10</sub> past or future exceedences, SCAPCA issued regulatory orders for the Kaiser-Trentwood facility under WAC 173-400-091 "Voluntary Limits on Emissions." SCAPCA orders #96-03, #96-04, #96-05, and #96-06 lower the potential to emit and #91-01 establishes an alternate opacity limit. These orders were adopted into the SIP on January 27, 1997 (62 FR 3800), and EPA is approving revisions to regulatory orders #96-03, #96-05, and #96-06 with this action.

Finally, EPA believes that areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the Limited Maintenance Plan policy, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the Limited Maintenance Plan, Washington has demonstrated that the air quality improvements in the Spokane area are the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Spokane area meets these criteria is provided in the following section.

*E. Does the Area Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?*

In this action, we are approving the Limited Maintenance Plan in accordance with the principles outlined in the LMP Option. Upon the effective date of this action, the area will have a fully approved maintenance plan.

*F. Has the State Demonstrated That the Spokane NAA Qualifies for the LMP Option?*

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in Section IV.A., EPA has determined that the Spokane NAA has been in attainment of the PM<sub>10</sub> NAAQS since 1997 and continues to meet the PM<sub>10</sub> NAAQS for the period 1998-2002.

Second, the average design value (ADV) for the past 5 years of monitoring data must be at or below the critical design value (CDV). The CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of

qualifying for the LMP option. The first method is a comparison of a site's ADV with the CDV of 98  $\mu\text{g}/\text{m}^3$  for the 24-hour PM<sub>10</sub> NAAQS and 40  $\mu\text{g}/\text{m}^3$  for the annual PM<sub>10</sub> NAAQS. A second method that applies to the 24-hour PM<sub>10</sub> NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past 5 years of monitoring data.

The ADV for the 24-hour PM<sub>10</sub> NAAQS for Spokane, based on data from the Crown Zellerbach monitor for the years 1998-2002, is 110.7. This value falls below the site-specific 24-hour CDV of 116.6  $\mu\text{g}/\text{m}^3$ . The annual ADV from the Crown Zellerbach monitor for the same period is 28.2  $\mu\text{g}/\text{m}^3$ . This falls below the annual CDV provided in the LMP Option memo of 40  $\mu\text{g}/\text{m}^3$ . Therefore, Spokane meets the design value criteria outlined in the LMP Option memo. For the 1998-2002 ADV and 1993-2003 site-specific CDV calculations for PM<sub>10</sub> in Spokane, please see the technical support document, Attachment H.

Third, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, based on monitoring data for the period 1998-2002, EPA has determined that the Spokane NAA passes the motor vehicle regional emissions analysis test. For the calculations used to determine that Spokane has passed the motor vehicle regional analysis test, see the technical support document, Attachment H.

The monitoring data for the period 1998-2002 shows that Spokane has attained the NAAQS for PM<sub>10</sub>, the 24-hour ADV and the annual ADV in Spokane are less than the site specific 24-hour PM<sub>10</sub> CDV and the national annual CDV respectively. Finally, the area has met the regional vehicle emissions analysis test. Thus, the Spokane NAA area qualifies for the Limited Maintenance Plan option described in the LMP Option memo.

The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce PM<sub>10</sub> concentrations enough to requalify for the LMP. One possible approach the State could take is to implement contingency measures. In section E of the Limited Maintenance Plan, Washington commits to evaluate, on an annual basis, the LMP criteria for the Spokane NAA.

For these reasons and reasons explained below, we are approving the LMP for the Spokane NAA and the State's request to redesignate the Spokane NAA from nonattainment to attainment for PM<sub>10</sub>.

*G. Does the State Have an Approved Attainment Emissions Inventory Which Can Be Used To Demonstrate Attainment of the NAAQS?*

The state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same five year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. The state should review its inventory every three years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Washington completed an attainment year inventory for the attainment year 1997. However, this inventory was not fully approved as it did not include emissions from windblown dust. Washington is now using the emissions inventory for the calendar year 2002 as the attainment year inventory.

EPA has reviewed the 2002 emissions inventory and determined that it is current, accurate and complete. EPA has also reviewed monitoring data for the years 1997-2002, and determined that the 2002 emissions inventory is representative of the attainment year inventory since the NAAQS was not violated during 2002. In addition, the emissions inventory submitted with the Limited Maintenance Plan for the calendar year 2002 is representative of the level of emissions during the time period used to calculate the average design value since 2002 is included in the five year period used to calculate the design value (1998-2002). As stated above in Section IV.C.4., the 2002 emissions inventory meets the requirements of Section 172(c)(3) of the Act, and the requirements for emissions inventory in Table 3.1 of the EPA document entitled PM-10 Emission Inventory Requirements, Final Report.

*H. Does the LMP Include an Assurance of Continued Operation of an Appropriate EPA-Approved Air Quality Monitoring Network, in Accordance With 40 CFR Part 58?*

A PM<sub>10</sub> monitoring network was established in the Spokane area in October, 1985. Monitoring sites have been located in nine different locations throughout the area since that time. The monitoring network was developed and

has been maintained in accordance with federal siting and design criteria in 40 CFR Part 58, Appendices D and E and in consultation with Region 10. Currently, there are two PM10/PM2.5 SLAMS/NAMS monitors in the Spokane NAA. In section IV.E. of the Spokane LMP, Washington states that it will continue to operate its monitoring network to meet EPA requirements.

*I. Does the Plan Meet the Clean Air Act Requirements for Contingency Provisions?*

Section 175A of the Act states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation.

Section IV.F. of the Spokane Limited Maintenance Plan describes a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM10 NAAQS. Within 30 days following a violation of the PM10 NAAQS, the Spokane County Air Pollution Control Authority (SCAPCA), the Spokane Regional Transportation Council (SRTC) and the Washington Department of Ecology will convene an assessment team to identify appropriate measures to be implemented and prepare and deliver a report to the Spokane County Air Pollution Control Authority (SCAPCA) board of directors and appropriate staff at Washington Department of Ecology within 120 days based on:

- (1) Monitoring data before and during the event;
- (2) Weather conditions that may have caused and/or contributed to the violation;
- (3) Normal and unusual emissions occurring prior to and during the event;
- (4) Effectiveness of existing controls in reducing the magnitude and/or duration of events;
- (5) Appropriateness of modifying and or implementing one or more LMP contingency measures; and
- (6) Possible changes to the LMP, monitoring network, and or public information strategies.

The plan describes contingency measures that are already in effect or may automatically become effective in the event of a violation of the NAAQS, subject to the assessment described above. These contingency measures include:

- (1) *Unpaved Road Control Regulation:* This measure, adopted by SCAPCA in

1994 as section 6.15 of Regulation I, controls particulate matter emissions from unpaved surfaces. The measure requires, among other things, that the city of Spokane, Spokane County, and the Town of Millwood submit emission reduction contingency plans for the control of dust emissions from unpaved roads and parking lot emissions to SCAPCA for approval. These contingency plans, if determined appropriate, will be reviewed and updated in the event of a NAAQS violation;

(2) *Ban on Uncertified Stoves:* Article VIII of SCAPCA's Regulation I contains provisions for Solid Fuel Burning Device Standards. As amended on January 6, 1994, it enables SCAPCA to take further residential wood-smoke control actions if the area is not in attainment of the PM10 standard because of wood-smoke emissions.

The regulation prohibits the use of any solid fuel burning device not meeting state certification standards. Implementation of this regulation as a contingency measure will provide a further reduction of wood-smoke emissions, should the assessment, as described above, find it necessary.

The assessment team will also consider recommending other contingency measures that may more appropriately address the most probable source contributing to the violation. The board may adopt and implement contingency measures other than those listed above, as needed. EPA believes that current and proposed contingency measures in Spokane's Limited Maintenance Plan meet the requirements for contingency measures as outlined in the Limited Maintenance Plan Option memo.

*J. Has the State Met Conformity Requirements?*

(1) *Transportation Conformity*

Under the LMP Option, emissions budgets are treated as essentially not constraining for the maintenance period because it is unreasonable to expect that qualifying areas would experience so much growth in that period that a NAAQS violation would result.

While areas with maintenance plans approved under the LMP Option are not subject to the budget test, the areas remain subject to other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

- (a) Transportation plans and projects provide for timely implementation of SIP transportation control measures

(TCMs) in accordance with 40 CFR 93.113;

(b) Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;

(c) The MPO's interagency consultation procedures meet applicable requirements of 40 CFR 93.105;

(d) Conformity of transportation plans is determined no less frequently than every three years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;

(e) The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

(f) Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and

(g) Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

On February 10, 2005, EPA posted a proposal to find the Spokane LMP Motor Vehicle Emissions Budget adequate for transportation conformity purposes on EPA's conformity Web site: <http://www.epa.gov/oms/traq>. As stated above, Limited Maintenance Plan budgets are unconstrained and consequently, the adequacy review period for these maintenance plans serves to allow the public to comment on whether limited maintenance is appropriate for these areas. Interested parties may comment on the adequacy and approval of the Limited Maintenance Plans by submitting their comments on the proposed rule published concurrently with this direct final rule. The comment period for the adequacy posting for the Spokane LMP ended on March 15, 2005. EPA did not receive any comments on this posting.

(2) *General Conformity*

For Federal actions which are required to address the specific requirements of the general conformity rule, one set of requirements applies particularly to ensuring that emissions from the action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. One way that this requirement can be met is to demonstrate that "the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area, would not



exceed the emissions budgets specified in the applicable SIP.” 40 CFR 93.158(a)(5)(i)(A).

The decision about whether to include specific allocations of allowable emissions increases to sources is one made by the State and local air quality agencies. These emissions budgets are different than those used in transportation conformity. Emissions budgets in transportation conformity are required to limit and restrain emissions. Emissions budgets in general conformity allow increases in emissions up to specified levels. Washington has not chosen to include specific emissions allocations for Federal projects that would be subject to the provisions of general conformity.

#### V. Incorporation by Reference (IBR) Material

EPA is incorporating by reference revisions to the following Spokane County Air Pollution Control Authority (SCAPCA) Regulatory Orders: #96-03, effective date October 4, 2000; #96-05, effective date October 4, 2000; and #96-06, effective date October 19, 2000.

#### VI. Direct Final Action

EPA is approving the Limited Maintenance Plan (LMP) for the Spokane nonattainment area (Spokane NAA) and redesignating the Spokane NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). EPA is also approving the remaining portions of the moderate area plan (“attainment plan”) for the Spokane NAA for all PM<sub>10</sub> sources including windblown dust.

Also in this action, EPA is approving revisions to the Spokane County Air Pollution Control Authority (SCAPCA) Regulatory Orders #96-03, effective date October 4, 2000; #96-05, effective date October 4, 2000; and #96-06, effective date October 19, 2000.

EPA is publishing this action without a prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. In the proposed rules section of this **Federal Register** publication, however, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This direct final rule is effective on August 30, 2005, without further notice, unless EPA receives adverse comment by August 1, 2005. If an adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule did

not take effect. All adverse public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the

Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. EPA will submit a report containing this rule 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 August 30, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 17, 2005.

**Daniel D. Opalski,**

*Acting Regional Administrator, Region 10.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart WW—Washington**

■ 2. Section 52.2470 is amended by adding paragraph (c)(85) to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(85) On November 15, 2004, the Washington State Department of Ecology submitted a PM10 Limited Maintenance Plan and requested the redesignation of the Spokane County PM10 Nonattainment area to attainment for PM10. The State's Limited Maintenance Plan, attainment year emissions inventory, and the redesignation request meet the requirements of the Clean Air Act. EPA approves the State's Limited Maintenance Plan and Moderate Area Plan requirements for the Spokane PM10 nonattainment area and request for redesignation to attainment.

(i) Incorporation by reference.

(A) Spokane County Air Pollution Control Authority (SCAPCA) orders #96-03 (modified October 4, 2000), #96-05 (modified October 4, 2000) and #96-06 (modified October 19, 2000) to regulate particulate matter emissions from the specific emission units of the Kaiser Aluminum and Chemical Corporation, Trentwood aluminum facility.

■ 3. Section 52.2475 is amended by adding paragraph (e) (3) (i) to read as follows:

**§ 52.2475 Approval of plans.**

(e) \* \* \*

(3) Spokane.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Spokane County PM10 Nonattainment Area Limited Maintenance Plan adopted by the Spokane Regional Clean Air Authority on November 17, 2004, and adopted and submitted by the Washington Department of Ecology on November 30, 2004.

\* \* \* \* \*

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.348, the table entitled "Washington PM-10" is amended by revising the entry for "Spokane County" to read as follows:

**§ 81.348 Washington.**

\* \* \* \* \*

**WASHINGTON—PM10**

Designated area	Designation		Classification area	
	Date	Type	Date	Type
* * * * * Spokane County: The area bounded on the south by a line from Universal Transmercator (UTM) coordinate 489000mE, 5271000mN west to 458000mE, 5271000mN, thence north along a line to coordinate 458000mE, 5288000mN, thence east to 463000mE, 5288000mN, thence north to 463000mE, 5292000mN, thence east to 481000mE, 5292000mN, thence south to 481000mE, 5288000mN, thence east to 489000mE, 5288000mN, thence south to the beginning coordinate, 489000mE, 5271000mN.. * * * * *	8/30/05	Attainment.		

[FR Doc. 05-12946 Filed 6-30-05; 8:45 am]  
BILLING CODE 6560-50-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket No. FEMA-7883]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, Emergency

Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency