

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[DC24-1-6793b; FRL-5271-2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia—Proposed Recodification of the District's Air Pollution Control Regulations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the District of Columbia. This proposed revision consists of a revised format for the District's air pollution control regulations. Except as otherwise indicated, the proposed changes are administrative in nature, and do not substantively revise the current SIP. The intended effect of this proposed action is to ensure that the District of Columbia's current regulatory numbering format and the District of Columbia SIP numbering format are consistent with each other. This proposed action is being taken in accordance with section 110 of the Clean Air Act.

In the Final Rules section of this **Federal Register**, EPA is approving the District's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 27, 1995.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics

Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Delaware Department of Natural Resources & Environmental Control, District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Avenue, SE., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597-1325.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title pertaining to the recodification of the District of Columbia's air pollution control regulations which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401-7671q.

Dated: July 18, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 95-20986 Filed 8-25-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[ID-5-2-7075; FRL-5284-7]

Clean Air Act Promulgation of Reclassification of PM-10 Nonattainment Areas in Idaho**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of proposed rule.

SUMMARY: This action identifies those nonattainment areas in the State of Idaho which have failed to attain the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers (PM-10) by the applicable attainment date. This action also proposes to grant a one-year extension of the attainment date for the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area in Idaho.

DATES: Comments on this proposed action must be received in writing by September 27, 1995.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Environmental Protection

Agency, Air and Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, 206-553-0782, Air and Radiation Branch (AT-082), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101.

SUPPLEMENTARY INFORMATION:**I. Background****A. CAA Requirements Concerning Designation and Classification**

Areas meeting the requirements of section 107(d)(4)(B) of the Act¹ were designated nonattainment for PM-10 by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See generally Section 107(d)(4)(B). These areas included all former Group I PM-10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the National Ambient Air Quality Standards (NAAQS) for PM-10 prior to January 1, 1989.² A **Federal Register** notice announcing the areas designated nonattainment for PM-10 upon enactment of the 1990 Amendments, known as "initial" PM-10 nonattainment areas, was published on March 15, 1991 (56 FR 11101), and a subsequent **Federal Register** notice correcting the description of some of those areas was published on August 8, 1991 (56 FR 37654). See 56 FR 56694 (November 6, 1991) and 40 CFR 81.313 (for codified air quality designations and classifications in the State of Idaho). All initial moderate PM-10 nonattainment areas have the same applicable attainment date of December 31, 1994.

States containing initial moderate PM-10 nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration either that the plan would provide for attainment of the PM-10 NAAQS by December 31, 1994 or that attainment by that date was impracticable. See Section 189(a).

¹ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act as amended ("Act" or "CAA"), which is codified at 42 U.S.C. 7401 *et seq.*

² Many of these other areas were identified in footnote 4 of the October 31, 1990 **Federal Register** notice.

B. Attainment Determinations

All PM-10 areas designated nonattainment pursuant to section 107(d)(4)(B) of the Act were initially classified "moderate" by operation of law upon enactment of the 1990 Clean Air Act Amendments. See Section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, EPA has the responsibility of determining within six months of the December 31, 1994, attainment date whether PM-10 nonattainment areas have attained the NAAQS. Determinations under section 179(c)(1) of the Act are to be based upon an area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement. Generally, EPA will determine whether an area's air quality is meeting the PM-10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established State and Local Air Monitoring Stations (SLAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined by EPA to meet federal monitoring requirements (see 40 CFR 50.6 and appendix J, 40 CFR part 53, 40 CFR part 58, appendix A & B) and may be used to determine the attainment status of areas. EPA will also consider air quality data from other air monitoring stations in the nonattainment area provided that it meets the federal monitoring requirements for SLAMS. All data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean of four valid quarterly averages of the PM-10 concentration over a three-year period (1992, 1993 and 1994 for areas with a December 31, 1994 attainment date) is equal to or less than 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM-10 concentrations greater than $150 \mu\text{g}/\text{m}^3$. The 24-hour standard is attained when the expected number of days with levels above $150 \mu\text{g}/\text{m}^3$ (averaged over a three-year period) is less than or equal to one (1.0). Three consecutive years of air quality data is generally necessary to show attainment of the annual and 24-hour standard for PM-10. See 40 CFR part 50 and appendix K.

C. Reclassification to Serious

A PM-10 nonattainment area may be reclassified from "moderate" to "serious," which imposes new air quality planning obligations, in one of

two ways. First, EPA has general discretion to reclassify a moderate PM-10 area to serious if at any time EPA determines the area cannot practicably attain the PM-10 standard by the applicable attainment date. See Section 188(b)(1). EPA bases its decisions to reclassify an area as serious before the attainment date on special facts or circumstances related to the affected nonattainment area which demonstrate that the area cannot practicably attain the standard by the applicable attainment date.

Second, under section 188(b)(2) of the Act, a moderate area will be reclassified as serious by operation of law if EPA finds that the area is not in attainment by the applicable attainment date. Pursuant to section 188(b)(2)(B) of the Act, EPA must publish a **Federal Register** notice within six months after the applicable attainment date identifying those areas which have failed to attain the standard and are reclassified to serious by operation of law. See Section 188(b)(2); see also Section 179(c)(1).

D. Extension of the Attainment Date

The Act provides the Administrator with the discretion to grant a one-year extension of the attainment date for a moderate PM-10 nonattainment area, provided certain criteria are met. See Section 188(d). If an area does not have the necessary number of consecutive years of clean air quality data to show attainment of the NAAQS, a State may apply for up to two one-year extensions of the attainment date for that area. The statute sets forth two criteria a moderate nonattainment area must satisfy in order to obtain an extension: (1) The State has complied with all the requirements and commitments pertaining to the area in the applicable implementation plan; and (2) the area had no more than one exceedance of the 24-hour PM-10 standard in the year preceding the extension year, and the annual mean concentration of PM-10 in the area for the year preceding the extension year is less than or equal to the standard. See Section 188(d).

The authority delegated to the Administrator to extend attainment dates for moderate PM-10 nonattainment areas is discretionary: Section 188(d) of the Act provides that the Administrator "may" extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that EPA grant extensions to such areas even if these conditions are met.

In exercising this discretionary authority for PM-10 nonattainment

areas, EPA examines, in addition to the two statutory criteria discussed above, the air quality planning progress made in the moderate area. See November 14, 1994 Memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division entitled "Criteria for Granting 1-Year Extensions of Moderate PM-10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones." EPA is disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM-10 nonattainment area planning obligations. In order to determine whether the State has substantially met these planning requirements, EPA reviews the State's application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures that represent RACM/RACT in the moderate nonattainment area; and (2) demonstrated that the area has made emission reductions amounting to reasonable further progress (RFP) toward attainment of the PM-10 NAAQS as defined in section 171(1) of the Act. RFP for PM-10 nonattainment areas is defined in section 171(1) of the Act as annual incremental emission reductions to ensure attainment of the applicable NAAQS (PM-10) by the applicable attainment date.

If the State does not have the requisite number of years of clean air quality data to show attainment and does not apply or qualify for an attainment date extension, the area will be reclassified to serious by operation of law under section 188(b)(2) of the Act. If an extension of the attainment date is granted, at the end of the extension year EPA will again determine whether the area has attained the PM-10 NAAQS. If the requisite three consecutive years of clean air quality data needed to determine attainment are not met for the area, the State may apply for a second one-year extension of the attainment date. In order to qualify for the second one-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. In addition, EPA will consider the State's PM-10 planning progress for the area during the year for which the first extension was granted. If a second extension is granted and the area does not have the requisite three consecutive years of clean air quality data needed to demonstrate attainment at the end of the second extension, no further extensions of the attainment date can be granted and the area will be

reclassified serious by operation of law. See Section 188(d).

II. Summary of EPA's Proposed Action

Today's action announces EPA's determination that the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area have each failed to attain the PM-10 NAAQS by the applicable attainment date of December 31, 1994. This determination is based upon air quality data which show there were violations of the PM-10 NAAQS during the period from 1992 to 1994.

The State of Idaho has requested a one-year extension of the PM-10 attainment date for both the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area. EPA has reviewed the extension requests and is, with this notice, proposing to grant a one-year extension of the attainment date for each area. This determination is based upon available air quality data and a review of the State's progress in implementing the planning requirements that apply to moderate PM-10 nonattainment areas.

A. Power-Bannock Counties PM-10 Nonattainment Area

The Power-Bannock Counties PM-10 nonattainment area is comprised of State lands within portions of both Power and Bannock Counties and both trust and fee lands within a portion of the exterior boundaries of the Fort Hall Indian Reservation. The State of Idaho operates four PM-10 SLAMS monitoring sites in the nonattainment area, all of which are on State lands. Data from these State sites have been deemed valid by EPA and have been submitted by the State of Idaho for inclusion in the AIRS network.

1. Air Quality Data

Whether an area has attained the PM-10 NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and appendix K. For areas with an attainment date of December 31, 1994, this three-year period covers calendar years 1992, 1993 and 1994. Data from calendar year 1994 is also used in determining whether an area with a December 31, 1994 attainment date meets the air quality criteria for granting a one-year extension to the attainment date under section 188(d).

A review of the data reported for the SLAMS sites in the Power-Bannock Counties PM-10 nonattainment area for the calendar years 1992, 1993 and 1994 shows no violations of the annual PM-

10 standard at any of the sites. Measured PM-10 concentrations above the level of the 24-hour NAAQS were recorded at two SLAMS monitoring sites on January 7, 1993. As a result of the State's sampling frequency of one in every six days, the expected number of exceedances for the 1993 calendar year at the SLAMS sites is 6.0 at one site and 6.2 at the second (calculated in accordance with appendix K). No measured values above the level of the 24-hour NAAQS were reported in 1992 or 1994. Therefore, the three-year average (1992, 1993 and 1994) expected exceedance rate of the 24-hour standard at the SLAMS sites is 2.0 and 2.3 respectively, (calculated in accordance with appendix K).

Private industry in the Power-Bannock Counties PM-10 nonattainment area funded and operated a seven-station monitoring network in and near a portion of the nonattainment area known as the "industrial complex" for one year, from October 1, 1993 through September 30, 1994 (referred to as the "EMF network"). EPA has determined the data from this network are valid. There were no reported 24-hour concentrations above the level of the 24-hour NAAQS during the year the network was in operation. EMF Site #2, which is located at the site in the nonattainment area predicted to have the maximum industrial air quality impact, is located immediately adjacent to the industrial complex on State lands, adjacent to the Reservation boundary. EMF Site #2 reported an annual concentration greater than the 50 $\mu\text{g}/\text{m}^3$ level of the annual PM-10 standard for the one-year period the network was in operation. EMF Site #2 also reported several 24 hour PM-10 concentrations at or near the level of the 24-hour PM-10 NAAQS.

2. Attainment of the PM-10 NAAQS

The Power-Bannock Counties PM-10 nonattainment area does not attain the 24-hour PM-10 NAAQS. The PM-10 concentrations reported at two SLAMS monitoring stations on January 7, 1993, exceeded the level of the NAAQS. Because of the sampling frequency (one in every six days), the expected exceedance rate for the three-year period from 1992 through 1994 at two sites is greater than one (1.0) which represents a violation of the 24-hour NAAQS.

3. Extension of Attainment Date

EPA is action proposing to grant the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, for the

Power-Bannock Counties PM-10 nonattainment area.

a. *Compliance with Applicable SIP.* Based on information available to EPA, EPA believes that the State of Idaho is in compliance with all requirements and commitments in the applicable implementation plan that pertain to the Power-Bannock Counties PM-10 nonattainment area. EPA provides oversight of the Idaho air program, including implementation of the Idaho State Implementation Plan (SIP). EPA conducts annual oversight inspections of sources throughout the State of Idaho. Results from these inspections indicate that the State is meeting the requirements and commitments of the statewide SIP. Although the State has submitted its moderate PM-10 nonattainment plan for the Power-Bannock Counties nonattainment area as a SIP revision, EPA has not yet taken action on that plan. Therefore, this plan is not yet an "applicable implementation plan" for the Power-Bannock Counties PM-10 nonattainment area. For further discussion of the State's compliance with the applicable SIP, please refer to the Technical Support Document.

b. *Air Quality Data.* As discussed above, there were no measured levels above the 24-hour NAAQS at any of the SLAMS monitoring sites or any of the EMF monitoring sites during calendar year 1994. In addition, the annual mean concentration of PM-10 at each of the SLAMS monitoring sites during calendar year 1994 was below the level of the annual NAAQS.

As discussed above, however, EMF Site #2 recorded an annual average above the annual standard for the one-year period from October 1, 1993 to September 30, 1994. EPA believes that the recorded PM-10 levels at several of the monitoring sites in the EMF network, particularly EMF Site #2, indicate that air quality problems continue in the Power-Bannock Counties PM-10 nonattainment area and that additional controls will likely be necessary to bring the area into attainment. EPA does not believe, however, that the data recorded at EMF Site #2 precludes EPA from granting the State's request for a one-year extension of the attainment date under section 188(d) of the Act. The EMF monitoring network did not collect a year's worth of data in calendar year 1994. Appendix K of 40 CFR part 50 specifies the data requirements that apply in determining an area's attainment status and provides methods for filling gaps in data. EPA believes that these same data requirements should be applied in determining the annual mean

concentration of PM-10 in connection with an extension request under section 188(d) of the Act. Even after applying the appendix K "gap-filling" techniques for the reported data from EMF Site #2 for the missing quarter of data in 1994, the question of whether the annual mean concentration is above the level of the annual standard during 1994 remains ambiguous. In other words, the data does not conclusively show a violation of the annual standard during calendar year 1994. Accordingly, EPA does not believe that the PM-10 concentrations recorded at EMF Site #2 preclude EPA from exercising its discretion to grant the State's request for a one-year extension of the attainment date. Please refer to the Technical Support Document for further analysis of the EMF data.

c. Substantial Implementation of Control Measures. The State of Idaho, along with several local agencies, has developed and implemented several significant control measures on sources located on State lands within the Power-Bannock Counties PM-10 nonattainment area. The State submitted these control measures to EPA as a SIP revision in May 1993 and in supplemental submittals since that time. These measures consist of a comprehensive residential wood combustion program, including a mandatory woodstove curtailment program; stringent controls on fugitive road dust, including controls on winter road sanding and a limited unpaved road paving program; and operating permits that represent RACT for J.R. Simplot's facility in the industrial complex and Ashgrove Cement's facility near Inkom, the only two major stationary sources of PM-10 on State lands in the nonattainment area. EPA has conducted a preliminary review of these measures and believes that they substantially meet EPA's guidance for RACM, including RACT, for sources of primary particulate for purposes of an extension under section 188(d).

After the State submitted its moderate area SIP in May 1993, the State learned that PM-10 precursors contribute significantly to wintertime violations of the PM-10 standard in the area. In cooperation with the Tribes and EPA, the State developed a work plan for developing an emission inventory of sources of PM-10 precursors in the nonattainment area and controls for such sources. The State is moving forward on this precursor plan and expects to have controls in place on major stationary sources of PM-10 precursors by March 1997. EPA believes that the State's schedule for addressing the contribution of precursors is

expeditious and that the State is making progress on the workplan. Because the contribution of precursors came to light only late in the planning process, EPA does not believe that the State's failure to have actually adopted or implemented controls on sources of PM-10 precursors on State lands within the nonattainment area is grounds, in and of itself, for denying the State's request for a one-year extension.

With respect to PM-10 sources located on Tribal lands within the nonattainment area, a gap in planning responsibilities for these sources currently exists. In developing its control strategy, the State did not seek to impose controls on any sources located within the Reservation portion of the nonattainment area or attempt to demonstrate to EPA that it had the authority to issue and enforce such controls on Reservation sources. As EPA has previously stated, EPA does not believe a Clean Air Act program submitted by a State should be disapproved because it fails to address air resources within the exterior boundaries of an Indian Reservation. See 59 FR 43956, 43982 (August 25, 1994) (proposed rule implementing section 301(d)).

Nor does EPA currently have the authority to recognize as federally enforceable controls that the Shoshone-Bannock Tribes have imposed or could impose on PM-10 sources located on Reservation lands within the nonattainment area. Although the Clean Air Act Amendments of 1990 greatly expanded the role of Indian Tribes in implementing the provisions of the Clean Air Act on Reservation lands, EPA has not yet issued the final rules necessary for EPA to recognize Tribal air programs as federally enforceable. See Section 301(d); 59 FR 43956.

EPA is currently working on a proposed rule imposing controls on sources of PM-10 on the Tribal portion of the nonattainment area. EPA believes it would be unfair to burden the State and the Pocatello area with new serious nonattainment area planning requirements because of the gap in the planning process and the resulting lack of federally-enforceable controls on Tribal sources at this time. Accordingly, EPA believes that the State has adequately demonstrated, for purposes of an extension under section 188(d) of the Act, that it has adopted and substantially implemented control measures representing RACT/RACM in the nonattainment area.

d. Emission Reduction Progress. On March 30, 1995, the State of Idaho submitted to EPA the milestone report as required by section 189(c)(2) of the

Act to demonstrate annual incremental emission reductions and reasonable further progress. In that report, the State discusses implementation of the control measures adopted as part of the control strategy in the SIP and the emission reductions that have been achieved as a result of the State's control strategy. Implementation of these control measures represents a reduction in annual allowable emissions in the nonattainment area of 1439.63 tons per year from point sources.

The effect of the area source control measures on air quality is reflected in the reported ambient measurements at the SLAMS monitoring sites, most of which have been operating for more than seven years. Data from these sites show no violations of the 24-hour standard attributable to primary particulate since 1992 and that the expected exceedance rate has decreased at all sites, with the exception of the January 1993 violations which are attributable to secondary aerosol. The annual average concentrations have likewise shown a downward trend from a maximum of 51 ug/m³ at the STP site in 1990 to 34.5 ug/m³ at the STP site in 1994. This trend is further evidence that the State's implementation of control measures on sources of primary particulate on State lands has resulted in emission reductions amounting to reasonable further progress in the Power-Bannock Counties PM-10 nonattainment area.

In summary, EPA proposes to grant the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, for the Power-Bannock Counties PM-10 nonattainment area. In doing so, EPA emphasizes that the authority to grant an extension of the attainment date under section 188(d) is discretionary and that EPA might, under other circumstances, be disinclined to grant an extension for an area with similar air quality data. In particular, EPA notes that the data collected from certain monitors in the EMF network indicate that air quality problems remain and must still be addressed in the Power-Bannock Counties PM-10 nonattainment area. EPA believes, however, that the high 24-hour and annual PM-10 levels recorded at some of the EMF monitors are primarily attributable to the gap in planning responsibility for the Tribal portion of the nonattainment area. Because of the unique jurisdictional issues related to this particular nonattainment area, the fact that the area technically meets the data requirements for an extension and the fact that the State has demonstrated that it has adopted and substantially

implemented control measures on sources of primary particulate on State lands resulting in emission reductions amounting to reasonable further progress, EPA proposes to exercise its discretion to grant the Power-Bannock Counties nonattainment area a one-year extension of the attainment date.

B. Sandpoint PM-10 Nonattainment Area

The Sandpoint PM-10 nonattainment area includes the Cities of Sandpoint, Kootenai and Ponderay and is located in the northern part of the Idaho panhandle.

1. Air Quality Data

The Sandpoint nonattainment area has one PM-10 monitoring site at the Post Office building in downtown Sandpoint. This SLAMS site was established in 1986. Sampling frequencies vary seasonally, with one sample every other day during the winter (October 1 through March 31), and one sample every six days during the rest of the year. Data from this site has been deemed valid by EPA and submitted by the State of Idaho for inclusion in the AIRS system.

A review of the data for calendar years 1992, 1993 and 1994 shows no violations of the annual PM-10 standard in the Sandpoint PM-10 nonattainment area. During this same three-year period, there were three reported measurements above the level of the 24-hour NAAQS. In calendar year 1992 there was one level above the NAAQS in the first quarter (during every other day sampling) and one in the third quarter (during one in every six day sampling). There were no measured levels above the 24-hour NAAQS in calendar year 1993. In calendar year 1994, there was one measurement above the 24-hour NAAQS in the first quarter during every other day sampling.

2. Attainment of the PM-10 NAAQS

The Sandpoint PM-10 nonattainment area does not attain the 24-hour PM-10 NAAQS. PM-10 concentrations reported from the SLAMS monitoring station at the Post Office exceeded the level of the NAAQS three times from 1992 to 1994. Because of the sampling frequency, the expected exceedance rate for this three-year period is 3.5 (calculated in accordance with appendix K), which represents a violation of the 24-hour standard.

3. Extension of Attainment Date

EPA is by this action proposing to grant the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31,

1995, for the Sandpoint PM-10 nonattainment area.

a. *Compliance with Applicable SIP.* Based on information available to EPA, EPA believes the State of Idaho is in compliance with all requirements and commitments in the applicable implementation plan that pertains to the Sandpoint PM-10 nonattainment area. As discussed above, EPA believes that the State is meeting the requirements and commitments of the statewide SIP. Although the State has submitted its moderate PM-10 nonattainment area plan as a SIP revision, EPA has not yet taken action on that plan. Therefore, the submitted plan is not yet an "applicable implementation plan" for the Sandpoint PM-10 nonattainment area.

b. *Air Quality Data.* As discussed above, there was one measured level above the 24-hour NAAQS during calendar year 1994. The annual mean concentration of PM-10 was 37 $\mu\text{g}/\text{m}^3$ during 1994, well below the standard. Therefore, the Sandpoint PM-10 nonattainment area meets the extension criteria of no more than one exceedance of the 24-hour NAAQS and an annual mean concentration less than or equal to the standard for the year preceding the extension year.

c. *Substantial Implementation of Control Measures.* The State of Idaho, along with several local agencies, has developed and implemented several significant control measures on sources within the Sandpoint PM-10 nonattainment area. The State submitted these control measures to EPA as a SIP revision on May 18, 1993, and in supplemental submissions since that time. These measures consist of a comprehensive residential wood combustion program, including a mandatory woodstove curtailment program; stringent controls on fugitive road dust, including controls on winter road sanding and a limited unpaved road paving program; and new or revised operating permits for the four major point sources in the nonattainment area, Lake Pre-Mix, L.D. McFarland Co., Interstate Concrete and Asphalt, and Louisiana-Pacific Corporation. EPA has conducted a preliminary review of these measures and believes that they substantially meet EPA's guidance for RACM, including RACT for purposes of granting an extension under section 188(d) of the Act.

d. *Emission Reduction Progress.* On March 30, 1995, the State of Idaho submitted to EPA the milestone report required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress in the Sandpoint area.

In that report, the State discusses implementation of the control measures adopted as part of the control strategy in the SIP and the emission reductions that have been achieved as a result of the State's control strategy. EPA believes that the reductions in allowable emissions for the industrial sources demonstrates reasonable further progress in the Sandpoint nonattainment area.

In summary, for the reasons discussed above, EPA proposes to grant the State's request for a one-year extension of the attainment date for the Sandpoint PM-10 nonattainment area from December 31, 1994 to December 31, 1995.

III. Requests for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by September 27, 1995.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that the determinations of nonattainment and attainment date extensions proposed today would result in none of the effects identified in section 3(f). Under section 188(b)(2), findings of nonattainment are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in and of themselves,

impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, the nonattainment determinations and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. In addition, attainment date extensions under section 188(d) of the CAA do not impose any new requirements on any sectors of the economy; nor do they result in a materially adverse impact on State, local, or tribal governments or communities.

Determinations of nonattainment areas under section 188(b)(2) of the CAA and extensions under section 188(d) of the CAA do not create any new requirements. Therefore, because these actions do not impose any new requirements, I certify that it does not have a significant impact on small entities.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The

EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

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

Dated: April 10, 1995.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 95-21277 Filed 8-25-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 229

[FRA Docket No. RSGC-2, Notice No. 8]

RIN 2130-AA80

Locomotive Visibility; Minimum Standards for Auxiliary Lights

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: FRA proposes to amend the locomotive safety standards to increase train visibility. This action requires that certain locomotives be equipped with auxiliary lights to enable motorists, railroad employees and pedestrians to recognize approaching trains at a greater distance. The proposed rule would require that locomotives operated over public highway-rail crossings at greater speeds than 20 miles per hour be equipped with auxiliary lights.

DATES: *Written comments.* Comments must be received by October 27, 1995. Comments received after that date will be considered to the extent possible

without incurring additional expense or delay.

Public hearing. If requested by September 27, 1995, FRA will schedule a public hearing to receive oral comments from any interested party.

ADDRESSES: *Written comments.*

Comments should identify the docket and notice numbers, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8201, Washington, D.C. 20590. Parties who want notice that FRA has received their comments should include a stamped, self-addressed postcard with their filing. The Docket Clerk will indicate on the postcard the date of receipt and will return the card to the addressee. Written comments will be available for examination before and after the closing date for comments during regular business hours at the above address.

Public hearing. FRA will hold a public hearing on this proposed rule if requested by a party to this rulemaking.

FOR FURTHER INFORMATION CONTACT:

Gordon Davids, Bridge Engineer, Office of Safety, FRA, 400 Seventh Street SW., Washington, D.C. 20590 (telephone: 202-366-9186); Grady Cothen, Jr., Deputy Associate Administrator for Safety Standards, FRA, 400 Seventh Street SW., Washington, D.C. 20590 (telephone: 202-366-0897); or Kyle M. Mulhall, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202-366-0635).

SUPPLEMENTARY INFORMATION: On

February 3, 1993, FRA published an interim rule (58 FR 6899, codified at 49 C.F.R. 229.133), with request for comments, concerning measures to enhance the visibility of locomotives. The interim rule implemented mandates of section 14 of the Amtrak Authorization and Development Act (Pub. L. 102-533). This enabling legislation added a new subsection (u) to § 202 of the Federal Railroad Safety Act of 1970 (FRSA) [45 U.S.C. 431(u)], to address locomotive visibility. On July 5, 1994, § 202(u) of the FRSA, together with all the other general and permanent Federal railroad safety laws, was simultaneously repealed, revised and reenacted without substantive change, and recodified as positive law at 49 U.S.C. 20143. As recodified, the section now reads as follows:

Locomotive Visibility

(a) *Definition.*—In this section, "locomotive visibility" means the enhancement of day and night visibility of the front end unit of a train,