

subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

G. *Unfunded Mandates*

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 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 acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

H. *National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. *Submission to Congress and the Comptroller General*

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 rule is not a "major" rule as defined by 5 U.S.C. 804(2).

J. *Petitions for Judicial Review*

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 26, 2002. 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 in 40 CFR Part 52

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

requirements, Volatile organic compounds.

Dated: May 22, 2002.

Keith Takata,

Associate Regional Administrator, Region IX.

Part 52, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(284)(i)(B)(5) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(284) * * *

(i) * * *

(B) * * *

(5) Rule 1131 adopted on September 15, 2000.

* * * * *

[FR Doc. 02-16138 Filed 6-25-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket ID-15-6995a; FRL-7232-1]

Approval and Promulgation of Sandpoint, Idaho, Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Governor's designee for the Sandpoint nonattainment area in the State of Idaho.

Sandpoint was classified as nonattainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) pursuant to the Clean Air Act Amendments of 1990. As a result, Idaho was required to submit a plan for bringing the area into attainment. This action approves the plan for Sandpoint submitted on August 16, 1996.

DATES: This direct final rule will be effective August 26, 2002, unless EPA receives adverse comment by July 26,

2002. 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: Mail written comments to Donna Deneen, EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Idaho Department of Environmental Quality, 1445 North Orchard, Boise, ID 83706-2239.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, EPA Region 10, Office of Air Quality, at (206) 553-6706.

SUPPLEMENTARY INFORMATION: Throughout this document, the words "we," "us," or "our" mean the Environmental Protection Agency (EPA). Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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I. Sandpoint SIP Revision

A. What Action Are We Talking?

In this action, we are approving the Sandpoint SIP revision submitted by the State of Idaho, Department of Health and Welfare, Division of Environmental

Quality (IDEQ, Idaho, or State) on August 16, 1996.¹ We are approving this revision because we believe the State adequately demonstrates that the control measures being implemented in Sandpoint result in attainment of the National Ambient Air Quality Standards (NAAQS) for PM₁₀ promulgated on July 1, 1987,² as required by the Clean Air Act Amendments of 1990.

B. What Is the Background for This Action?

Idaho began monitoring PM₁₀ in the Sandpoint area in 1986. Data collected between 1986 and 1990 showed the Sandpoint area violated the NAAQS for PM₁₀. In the 1990 Amendments to the Clean Air Act, areas that violated the PM₁₀ NAAQS prior to 1989 were, by law, designated nonattainment for PM₁₀ and classified as moderate under sections 107(d)(4)(B) and 188(a).³ Because Sandpoint was one of those areas (see 56 FR 56694 (November 6, 1991) and 40 CFR 81.313), Idaho was required to adopt and submit a PM₁₀ SIP that addressed the requirements of section 189 of the Act.

Idaho initially submitted a PM₁₀ SIP for the Sandpoint area in May of 1993. Our initial review found it complete, but our technical review uncovered deficiencies in the plan. Over the next 3 years, Idaho, the local agencies and community in Sandpoint worked to develop a new PM₁₀ SIP that addressed the deficiencies of the 1993 submittal.

On August 16, 1996, the State of Idaho submitted a revised PM₁₀ SIP for

¹ During the 2000 legislative session, the Division of Environmental Quality became a separate department rather than a division of the Idaho Department of Health and Welfare, which remained a separate department. See Idaho Code sections 39-102A and 39-104. At the same time, the Department of Environmental Quality was given the air pollution planning authorities previously held by the Department of Health and Welfare. See Idaho Code sections 39-108 to 39-118D. All references in this notice "IDEQ" shall refer to the Idaho Department of Health and Welfare, Division of Environmental Quality, and the Idaho Department of Health and Welfare, as appropriate.

² On July 18, 1997 EPA promulgated revised and new standards for PM₁₀ and PM_{2.5} (62 FR 38651). The U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al. v. USEPA*, No. 97-1440 (May 14, 1999) issued an opinion that, among other things, vacated the new standards for PM₁₀ that were published on July 18, 1997 and became effective September 16, 1997. However, the PM₁₀ standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in the Sandpoint area. Codification of those standards continue to be recorded at 40 CFR 50.6.

³ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (CAA or Act). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, et seq.

the Sandpoint nonattainment area, replacing and addressing the deficiencies in the 1993 submittal. We have completed a review of the technical and administrative adequacy of this plan and presented the results in a Technical Support Document (TSD). The TSD provides the basis for our approval of the plan and discusses in more detail the air quality planning requirements for moderate PM₁₀ nonattainment areas in subparts 1 and 4 of title I of the Act.⁴ Based on our review, we believe the plan brings the area into attainment and, therefore, are approving it in this notice.

C. What Impact Does This Action Have on the Sandpoint Community?

EPA's approval of this SIP revision brings Sandpoint a step closer to becoming an attainment area for PM₁₀. A redesignation to attainment would relieve the Sandpoint area of certain obligations currently in place because of its nonattainment status.

Although the SIP revision contains emission reduction control measures that impact residential wood combustion, roadways, and industrial facilities, these control measures have been in place and have been enforceable by the State since 1996. Therefore, our approval of these measures now has little or no additional impact on the Sandpoint community.

D. What Does the Emissions Inventory for the Sandpoint SIP Revision Show?

Section 172(c)(3) of the Act requires that a nonattainment plan include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate, and current inventory of allowable emissions in the area.

An emissions inventory provides information about the relative contribution of pollution sources within an airshed. It forms the basis for evaluating control strategies, tracking emission reductions, and measuring growth. Because this information is required for an area's attainment demonstration (or its demonstration that it cannot practically attain) an accurate emissions inventory must accompany each attainment plan submission (57 FR 13539).

⁴ For more detailed discussion of the interpretations of title I, see our "General Preamble," which describes our preliminary views on how we intend to review SIP's and SIP revisions. (See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

The emissions inventory for the 1996 Sandpoint SIP consists of the actual emissions from industrial sources in 1993 and the projected emissions from area sources in 1994. The reason the inventory covers two different years is because it uses some, but not all, of the inventory prepared for the SIP originally submitted by Idaho in 1993. For the 1993 SIP, emissions inventories were developed for two separate time periods: 1990 (actual emissions) and 1994 (projected emissions). When the State began preparing the 1996 SIP using the same data, concerns were raised about using the values in the

1990 inventory for industrial sources because they might not accurately reflect projected growth at the sources. To address these concerns, the State updated the base-year inventory to reflect actual emissions from industry in 1993. It did not, however, update the area source inventory because there was no indication that the area source inventories were not representative. In order to work with an area source inventory that covered a similar time period as the industrial inventory, the State used the 1994 projected area source inventory instead of the 1990

actual area source inventory for its baseline area source inventory. As shown below in Table I, the three largest daily wintertime PM₁₀ emissions sources in 1993/4 were residential wood combustion, fugitive road dust, and industrial processes. The total maximum daily wintertime PM₁₀ emissions were 6364 lb/day, and the annual PM₁₀ emissions were 577 tons/year. The term "Before Control Strategy" in Table I means before the control measures described in the following section, "What is the Sandpoint area doing to cut emissions?," were in place.

TABLE I.—PM₁₀ MAXIMUM DAILY WINTERTIME AND ANNUAL EMISSIONS FOR 1993/4 BASE YEAR

Source	24-hr/Before control strategy (lbs/day)	Annual/Before control strategy (tons/year)
Residential Wood Combustion	2878 (45.2%)	97 (16.8%)
Fugitive Road Dust	2210 (34.7%)	305 (52.9%)
Industrial Process	686 (10.8%)	90 (15.6%)
Building Construction	469 (7.4%)	63 (11.0%)
Mobile Sources	110 (1.7%)	18 (3.2%)
Miscellaneous Burning	8 (0.1%)	2 (0.3%)
Residential Heating	3 (0.0%)	1 (0.1%)
Agricultural Tilling	0 (0.0%)	1 (0.1%)
Total	6364 lbs per day	577 tons per year

Table II shows the State projects the three largest daily wintertime PM₁₀ emissions sources—before control strategy or after control strategy—in the 1997 attainment year to remain the same (i.e., residential wood combustion, fugitive road dust, and industrial

process). The term "After Control Strategy" in Table II means after the control measures described in the following section, "What is the Sandpoint area doing to cut emissions?," were in place. The SIP projects the peak daily wintertime PM₁₀

emissions in 1997—after control—to be 3926 lb/day. This is in contrast to 6364 lbs/day PM₁₀ emitted during the 1993/4 baseline year before the control strategy was in place (see Table I).

TABLE II.—PM₁₀ MAXIMUM DAILY WINTERTIME PROJECTIONS FOR ATTAINMENT YEAR 1997

Source	24-hr/Before control strategy	24-hr/After control strategy
Residential Wood Combustion	2906 (44.0%)	1864 (47.5%)
Fugitive Road Dust	2420 (36.7%)	788 (20.0%)
Industrial Process	870 (13.2%)	679 (17.3%)
Building Construction	469 (7.1%)	469 (11.9%)
Mobile Sources	114 (1.7%)	114 (2.9%)
Miscellaneous Burning	3 (0.0%)	3 (0.0%)
Residential Heating	9 (0.0%)	9 (0.0%)
Agricultural Tilling	0 (0.0%)	0 (0.0%)
Total	6791 lbs per day	3926 lbs per day

EPA is approving the emissions inventory in the Sandpoint SIP revision because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of section 172(c)(3) of the Clean Air Act.

E. What Is the Sandpoint Area Doing To Reduce Emissions?

For approval, the Sandpoint SIP revision must assure that Reasonably Available Control Measures (RACM) to reduce PM₁₀ are being implemented in

the Sandpoint nonattainment area.⁵ There are three main sources of PM₁₀ emissions in the Sandpoint

⁵ Because the statutory RACM implementation deadlines have passed, RACM must be implemented "as soon as possible." *Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable." 55 FR 36458, 36505 (September 9, 1990).

nonattainment area: residential wood combustion, fugitive road dust, and industrial processes. The SIP uses the following control strategy to reduce emissions from these sources. Overall, the control strategy provides for a reduction of 2442 pounds of PM₁₀ per day.

1. Residential Wood Combustion

a. Public Awareness Program.

Sandpoint's public awareness program informs and educates citizens about stove sizing, installation, proper operation and maintenance, general health risks of wood smoke, new technology stoves, and alternatives to wood heating. It uses a wide variety of media, including brochures, radio advisories, newspaper advertisements, TV PSA's, TV advertisements, pay stub inserts, and utility inserts, to educate citizens on these topics. In addition, the Greater Sandpoint Chamber of Commerce developed and implemented an aggressive public awareness campaign in 1995 to initially kick-off its wood smoke reduction efforts. Appendix F-3 of the SIP contains an outline of this campaign.

Sandpoint's public awareness program qualifies as a RACM because it falls within the description of a qualifying public awareness program, as described in Appendix C2 of the General Preamble, 57 FR 18072. (See List of Available Control Measures no. 2.)

b. Uncertified Wood Stove Replacement Program.

Sandpoint's uncertified woodstove replacement program is a temporary program that offered homeowners incentive grants to replace their old wood stoves with cleaner burning heating systems. By the time it ended in September 1995, the replacement program had resulted in the removal of 84 wood stoves. These were replaced by 64 natural gas devices, 18 new wood stoves and 2 pellet stoves.

Sandpoint's uncertified wood stove replacement program meets the requirements of RACM because it encourages improved performance of woodburning devices by subsidizing stove purchases. (See Appendix C2 of the General Preamble, List of Available Control Measures no. 3.)

c. Tax Reduction Program.

Idaho revised its State tax code to allow taxpayers to receive a tax reduction if they replace their uncertified wood stoves with cleaner burning units. As of September 1999, 90 taxpayers in the Sandpoint NAA qualified for this tax deduction.

This program meets the requirements of RACM because it gives a financial incentive for replacing old, uncertified

wood stoves with cleaner burning heating units. (See Appendix C2 of the General Preamble, List of Available Control Measures no. 3).

d. Limits on Growth of Uncertified Wood Stoves.

In 1995, the City of Sandpoint adopted Ordinance No. 965, which, among other things, restricts the sale and installation of uncertified solid fuel heating appliances in the City of Sandpoint. More specifically, the ordinance prohibits any person in the City to advertise for sale, offer for sale, sell, or install in any new or existing building a solid fuel heating device that has not been certified by EPA. The ordinance also prohibits any person in the City of Sandpoint from installing a solid fuel heating appliance in any new or existing structure before first procuring a permit from the building department, which requires payment of a fee.

Because these measures slow the growth of non-certified woodburning devices by restricting their sale and the growth of all woodburning devices by imposing installation permit fees, the measures qualify as RACM. (See Appendix C2 of the General Preamble, List of Available Control Measures no. 4.)

e. Episodic Curtailment Program.

In 1995, the City of Sandpoint passed Ordinance No. 965, which, among other things, lays out a two-stage approach for wood smoke curtailment. The first stage calls for voluntary curtailment of the use of woodburning appliances if the PM₁₀ concentration reaches 70 micrograms per cubic meter (ug/m³). The second stage calls for mandatory curtailment if the concentration reaches 100 ug/m³. Violation of the mandatory curtailment requirements is a misdemeanor offense, and violators are subject to a monetary fine.

IDEQ provides the City of Sandpoint with the daily air quality advisory status. Notification of a voluntary or mandatory curtailment is announced during regularly scheduled broadcasts on radio and television. There is also a toll-free hotline and a phone tree run by the Sandpoint Chamber of Commerce to spread the notification throughout the community.

Because this measure establishes a mandatory episode curtailment program, includes a plan, a communication strategy, a trigger level, and is enforceable, the measure qualifies as a RACM. (See Appendix C2 of the General Preamble, List of Available Control Measures no. 1.)

2. Fugitive Road Dust

Winter road sanding has been shown to adversely affect PM₁₀ levels

throughout the western United States, including Sandpoint. The silt-laden, friable sand is placed on roads by local and state highway departments to provide vehicles with better traction on snow and ice. However, once the snow has melted and the roads have dried out, the remaining dry road sand is easily resuspended by moving vehicular traffic as fugitive dust.

a. Improved quality of anti-skid materials.

In 1994, the City of Sandpoint adopted Ordinance 939:

Material Specifications for Street Sanding Material. This measure requires applicators of anti-skid materials to use only materials that meet certain standards for fines and durability. Historically, road maintenance departments in the Sandpoint area used anti-skid material that had a fine content ranging from 5–10 percent. The new measure allows a maximum of 2–5 percent fines, depending on the durability index. Lowering the percent of fines improves the abrasiveness of the material and, thus, results in lower silt loadings and, consequently, emissions.

While this ordinance technically only applies to city-maintained roads in Sandpoint, it also impacts State highways that are under the Idaho Transportation Department's (ITD's) jurisdiction as well. ITD, in order to avoid having to maintain separate stockpiles of anti-skid materials, has agreed to adhere to the City's standard on all its highways within the nonattainment area boundaries.

Ordinance 939 qualifies as RACM because it requires improved material specification requirements for skid control materials. (See Appendix C1 of the General Preamble (57 FR 18072), List of Available Control Measures no. 8.)

b. Reduced volume of anti-skid materials.

Compared to the baseline year, both the ITD and Sandpoint Independent Highway District (SIHD) are using less anti-skid material on State highways and roadways in the City of Sandpoint. There are a number of reasons for this change. First, the adoption of sanding material specifications has increased the cost of material from \$0.50/yard to approximately \$12.00/yard. This gives ITD and SIHD a strong incentive to apply the materials as efficiently as possible. The regional ITD office has also developed a policy to establish portions of state highways in downtown Sandpoint as an "anti-skid free zone." In this zone, a liquid de-icer is used instead of sand when weather conditions are appropriate. Finally, ITD has made improvements in the application of sand by installing ground

speed control sensors that vary the application rate based on vehicle speed, preventing unnecessary deposition of material that could later become entrained as fugitive dust.

These measures qualify as RACM because they result in a reduction of usage of skid control sand or salt. (See Appendix C1 of the General Preamble, List of Available Control Measures no. 8.)

c. Use of alternative materials—liquid de-icer. SIHD and ITD have acquired equipment to apply liquid de-icer as an alternative to anti-skid material. Between November 1994 and January 1995, SIHD used 8750 gallons of liquid de-icer. Use of a combination of liquid de-icer and anti-skid material also proved effective, with the de-icer acting as a binder and dust suppressant.

This measure qualifies as RACM because it results in a reduction of usage of skid control sand or salt. (See Appendix C1 in the General Preamble, List of Available Control Measures no. 8.)

d. Increased frequency of street sweeping. Vacuum sweeping streets reduces the silt loading on vehicle travel lanes and reduces re-entrained road dust. This practice is particularly important after there is no longer a need for sanding material, such as after the

snow melts. SIHD purchased and is using a new regenerative air vacuum sweeper, which has a higher collection efficiency than the vacuum sweeper it used previously. Approximately 20% of the local and highway lane miles and approximately 40% of the collector lane miles are swept. In addition, re-surfacing projects are planned to provide uniform road surfaces so that the effectiveness of the new vacuum sweeper is maintained.

This measure qualifies as RACM because it provides for rapid clean up of temporary sources of dust, such as skid control sand, on paved roads. (See Appendix C1 of the General Preamble, List of Available Control Measures no. 4.)

3. Industrial Sources—Permitting Strategy

In the inventory, IDEQ identified five industrial facilities in the Sandpoint nonattainment area that had the potential to emit over 1 ton/year of PM₁₀: Interstate Concrete & Asphalt, L.D. McFarland Pole Co., Lake Pre-Mix Concrete, Lignetics of Idaho, and Louisiana-Pacific Corp. IDEQ modeled the emissions from each source using EPA's Guideline Model ISCSTDF. Based on the modeling results and emissions inventory, IDEQ determined

the emissions reduction that was necessary at each source in order to ensure attainment with the standard. The necessary reductions for each source were then converted into emission limits and control measures and incorporated into each source's State-issued operating permit. Control measures included the paving of haul roads, installing baghouses and dust collections systems, and improving dust enclosures. Some of the measures required at the Interstate Concrete & Asphalt and Louisiana Pacific sites were required to be implemented in the future. According to certifications submitted by the facilities and inspections by the State, these measures have been successfully implemented.

Table III below shows the reductions that resulted from this control strategy. In particular, it shows that, in 1997, the amount of PM₁₀ emissions that industrial sources were allowed to emit was capped at 679 lb/day due to new emissions limitations in the permits. That is 7 lb/day fewer emissions than were actually emitted by industrial sources on a worst-case day in 1993, and 191 lb/day fewer emissions than would have been allowed to be emitted by industrial sources in 1997 if the permits had not been revised.

TABLE III.—PM₁₀ MAXIMUM DAILY WINTERTIME INDUSTRIAL EMISSIONS IN SANDPOINT

	lbs/day
1993 actual emissions from inventory (prior to permit revisions)	686
1997 maximum allowable (prior to permit revisions)	870
1997 maximum allowable (after permit revisions)	679

EPA has defined RACT for PM₁₀ planning purposes as the lowest emission rate that a particular source is capable of meeting by application of control technology that is reasonably available considering technological and economic feasibility. 57 FR 13541. The attainment needs of the area are also considered in determining RACT. Additional controls that might otherwise constitute RACT may not be required if the additional controls would not expedite attainment. 57 FR 13540–13541 and fn. 18 and 20. Because the industrial sources have implemented the emission limits and control requirements of the permits, the permits implement emission limits and control requirements that are technologically and economically feasible. Because the Sandpoint area has not had an exceedance of the PM₁₀ standard since January 1994 and because the area appears to have attained the standard, additional

controls would not expedite attainment. Therefore, EPA believes that the permits issued by IDEQ to these sources represent RACT in light of the attainment needs of the area.

F. How Does the SIP Demonstrate Attainment of the PM₁₀ Standard?

To demonstrate attainment of the 24-hour PM₁₀ standard, IDEQ ran an air quality dispersion model that predicted the ambient concentrations of PM₁₀ in the Sandpoint area in the baseline year and 1997. Among the inputs into the model, IDEQ used five years of Spokane meteorological data and 1997 projected inventory data. Consistent with EPA policy, IDEQ identified the sixth highest 24-hour PM₁₀ concentration at each modeling receptor, then used the highest of the sixth highest values to determine whether or not a violation of the standard occurred. (PM₁₀ SIP Development Guideline, June 1987, pg 6–4). This value was 133 µg/m³ (110 µg/

m³ from area and industrial sources and 23 µg/m³ from background level). Because 133 µg/m³ is below the 24-hour PM₁₀ standard of 150 µg/m³, the SIP demonstrates attainment of the standard.

Supporting these results, monitoring data for Sandpoint show no exceedances of the standard since January 26, 1994. Based on these data, Sandpoint is attaining the 24-hour PM₁₀ standard. To demonstrate attainment of the annual PM₁₀ NAAQS, IDEQ relied on the area's historic monitoring data, in lieu of a modeling demonstration. We believe this approach is appropriate for two reasons. First, Sandpoint has never violated the annual PM₁₀ NAAQS since monitoring began in 1986. Second, the annual arithmetic mean concentration reported for Sandpoint has been at least 15 percent below the standard since monitoring began and at least 45 percent below the standard since 1995. In light

of this historic evidence of clean annual data for the area, in combination with our expectations that control measures implemented to reduce 24-hour levels will also aid in reducing annual levels, we believe it is very unlikely that Sandpoint will exceed the annual standard in the future. Consequently, we believe that IDEQ has demonstrated attainment of the annual standard.

G. How Are Contingency Measure Requirements Satisfied?

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13510–13512 and 13543–13544). Contingency measures must provide for additional emissions reductions beyond the control strategy that is used to attain the ambient standard. A State may rely on "over control" as a contingency measure, that is, rely on control measures that are part of the core control strategy in the SIP. EPA has stated that, in general, reductions equal to at least 25 percent of the total reductions for the control strategy would be appropriate for a moderate nonattainment area. See 57 FR 13544.

The Sandpoint SIP revision uses over control to meet the contingency requirements. Emissions reductions from over control are achieved primarily by the mandatory residential wood burning curtailment program adopted by the City of Sandpoint in February 1995. Modeling of the core control measures in the SIP for the Sandpoint nonattainment area indicates a 63 $\mu\text{g}/\text{m}^3$ reduction in the 24-hour standard (from 196 $\mu\text{g}/\text{m}^3$ to 133 $\mu\text{g}/\text{m}^3$) and a 17 $\mu\text{g}/\text{m}^3$ over control reduction in the 24-hour standard (from 150 $\mu\text{g}/\text{m}^3$ to 133 $\mu\text{g}/\text{m}^3$). This means that the core control measures in the SIP result in over control of 27% (the ratio of 17 $\mu\text{g}/\text{m}^3$ to 63 $\mu\text{g}/\text{m}^3$). Since these measures result in at least 25 percent more reductions than were needed to attain the standard, EPA approves the contingency measures submitted in the Sandpoint SIP.

H. How Are Sources of PM₁₀ Precursors Addressed?

The control requirements which are applicable to major stationary sources of PM₁₀ also apply to major stationary source of PM₁₀ precursors unless EPA determines such sources do not contribute significantly to PM₁₀ levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539–13540 and 13541–13542).

Because the emission inventory for the Sandpoint nonattainment area did not reveal any major stationary sources, including any major stationary sources of PM₁₀ precursors, EPA is granting the exclusion from control requirements authorized under section 189(e) for major stationary sources of PM₁₀ precursors.

I. How Does the SIP Show Reasonable Further Progress (RFP) and Maintenance of the Standard?

The Sandpoint SIP revision must contain quantitative milestones that demonstrate RFP in maintaining the standard. These must be met until the area is redesignated attainment.

RFP is demonstrated in the Sandpoint nonattainment area by programs in the Sandpoint nonattainment area that continue to reduce PM₁₀ emissions. For instance, the tax deduction program has resulted in at least 16 replacements of uncertified wood stoves in the nonattainment area during 1998 and 1999. Another step taken to further reduce emissions is the SIHD's recent purchase of a new high-efficiency street sweeper to improve the effectiveness of the street cleaning program. Steps like these and continued operation of the reduction programs, in combination with monitoring data showing that the Sandpoint NAA has not exceeded the 24-hour standard since early 1994, satisfy the RFP and demonstration of maintenance requirements.

J. How Are the Enforceability Requirements Satisfied?

All measures and other elements in the SIP must be enforceable by IDEQ and EPA (see section 172(c)(6) and 110(a)(2)(A) of the Act and 57 FR 13556). Our criteria addressing the enforceability of SIP's and SIP revisions are set forth in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The State submitted to EPA documentation that describes, for each control measure implemented in Sandpoint, how compliance will be assured, the frequency of the assurance, and the enforcement mechanisms to be used. IDEQ's role, as well as other entities' roles in assuring adequate implementation of the RACT/RACM attainment strategy in the Sandpoint SIP, are also identified.

Based on the ordinances IDEQ submitted (City of Sandpoint

Ordinances Nos. 965 and 939) and IDEQ's explanation of how those ordinances and other control measures will be tracked and enforced, EPA believes that the enforceability requirements are met. This is consistent with section 110(a)(2)(A) of the Act which requires all emission limits, control measures and other elements of the SIP to be enforceable.

K. How Are the New Source Review Program Requirements Satisfied?

States with initial moderate PM₁₀ nonattainment areas were required to submit a permit program for the construction and operation of new and modified stationary sources of PM₁₀ by June 30, 1992. See section 189(a) of the Clean Air Act.

The Clean Air Act Amendments of 1990 included revisions to the new source review (NSR) program requirements of 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 it did 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. See section 189(a) of the Act.

In the "General Preamble," EPA issued guidance for states to follow in the development of revised NSR programs to meet the requirements of the 1990 Amendments. 57 FR 13552–13556. EPA guidance calls for states to implement their existing NSR programs during the interval preceding EPA's formal approval of their revised NSR program.

Idaho did not submit a permit program for the construction and operation of new and modified major stationary sources of PM₁₀ by the June 30, 1992 deadline. On January 15, 1993, we mailed a findings letter to the Governor of Idaho explaining that this element was missing. The State had until July 15, 1994 to submit the NSR program or sanctions would have been imposed under the provisions of the Act. IDEQ submitted its NSR program on May 17, 1994, and we informed Idaho that the NSR program was complete in a June 10, 1994 letter to the IDEQ Administrator. Upon further review, we uncovered a number of deficiencies in the submitted program. In 1999, IDEQ submitted revisions to its NSR program addressing these deficiencies. We will take action on IDEQ's NSR submittal in a separate FR document when we have completed our review of the 1999 revisions.

L. How Are Procedural Requirements Satisfied?

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.⁶ Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by the state after reasonable notice and public hearing.

IDEQ held a public hearing on the SIP revision on June 13, 1995 and, after IDEQ reviewed the oral testimony, the IDEQ Administrator adopted the final plan and submitted it to EPA on August 16, 1996 as a proposed revision to the SIP.

EPA reviewed the SIP revision to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. We sent a letter dated December 8, 1997 to the Administrator of the Idaho Division of Environmental Quality indicating the submittal was complete and the next steps to be taken in the review process.

II. Administrative Requirements

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 (Public Law 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 9, 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 26, 2002. 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 in 40 CFR Part 52

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

Dated: May 30, 2002.

Ron Kreizenbeck,

Acting Regional Administrator, Region 10.

Part 52, 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 N—Idaho

2. Section 52.670 is amended by adding paragraph (c)(35) to read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

(35) On August 16, 1996, the State of Idaho adopted and submitted a revision to the SIP for Sandpoint, Idaho, for the purpose of bringing about the attainment of the national ambient air quality standards for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

(i) Incorporation by reference.

(A) Ordinance No. 939, Material Specifications for Street Sanding Material, as adopted by the City of Sandpoint on February 22, 1994.

(B) Ordinance No. 965, Solid Fuel Heating Appliance Ordinance, as adopted by the City of Sandpoint on February 21, 1995.

(C) The following terms and conditions limiting particulate matter emissions in the following permits:

(1) State of Idaho Air Pollution Operating Permit for Lake Pre-Mix

⁶ Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

concrete, Permit No. 777-00182, issued May 17, 1996, the following conditions for the cement silo vent: 1.1, 2.1.1, 2.1.2, 3.1.1, and 3.1.2.

(2) State of Idaho Air Pollution Operating Permit for Interstate Concrete & Asphalt, Permit No. 017-00048, issued August 2, 1999, the following conditions: for the asphalt plant, 2.2, 3.1.1, 4.1, 4.1.1, 4.1.2, 4.2.1 (as it applies to the hourly PM₁₀ emission limit in Appendix A), 4.2.2, 4.2.2.1, 4.2.2.2, and 4.2.2.3; for the concrete batch plant, 2.1, 3.1.1, 4.1, 4.1.1, and 4.1.2; Appendix A (as it applies to PM₁₀ emission rates after 7/1/96) and Appendix B (as it applies after 7/1/96).

(3) State of Idaho Department of Environmental Quality Air Quality Tier II Operating Permit for Louisiana-Pacific Corporation, Permit No. 017-00003, issued October 31, 2001, the following conditions: for the Kipper and Sons Hog Fuel Boiler, 2.3 (as it applies to PM₁₀), 2.5, 2.7, 2.13, 2.14, 2.17, 2.19; Cleaver-Brooks Natural Gas-Fired Boilers, 3.2 (as it applies to PM₁₀); Pneumatic Conveyance System, 4.2, 4.4, 4.7; Drying Kilns, 5.2, 5.4, 5.5; Fugitive Emission Sources, 6.5, 6.7, 6.13; and the Appendix (as it applies to PM₁₀).

(ii) Additional Materials.

(A) Sandpoint PM₁₀ Air Quality Improvement Plan, adopted August 16, 1996.

[FR Doc. 02-16139 Filed 6-25-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AZ-113-0054a; FRL-7233-6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the moderate area plan and maintenance plan for the Payson area in Arizona and granting a request submitted by the State to redesignate the area from nonattainment 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). Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule

and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

DATES: This direct final rule is effective August 26, 2002, without further notice, unless we receive adverse comments by July 26, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Please address your comments to Dave Jesson, Air Planning Office (AIR-2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the address listed below: Arizona Department of Environmental Quality, Library, First Floor, 3033 N. Central Avenue, Phoenix, AZ 85012-2809.

FOR FURTHER INFORMATION CONTACT:

Dave Jesson, Air Planning Office (AIR-2), EPA Region 9, at (415) 972-3957 or: jesson.david@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Summary of Action

We are approving the moderate area plan and the maintenance plan for the Payson PM₁₀ nonattainment area ("Payson")¹ and redesignating the area to attainment for the 24-hour and annual PM₁₀ NAAQS.

On March 29, 2002, the Arizona Department of Environmental Quality (ADEQ) submitted the plan for the Payson PM₁₀ nonattainment area as well as a request for redesignation of the area from nonattainment to attainment. On May 31, 2002, we found that the submittal met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

II. Introduction

A. What National Ambient Air Quality Standards are considered in today's rulemaking?

Particulate matter with an aerodynamic diameter of less than 10 micrometers (PM₁₀) is the pollutant that is the subject of this action. The NAAQS are safety thresholds for certain ambient air pollutants set to protect public health and welfare. PM₁₀ is among the ambient air pollutants for which we have established such a health-based standard.

PM₁₀ causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and

¹ For the definition of the Payson nonattainment area, see 40 CFR 81.303. Payson is a city with a 2000 decennial census count of 13,620, located in Gila County, about 100 miles northeast of Phoenix.