

# Proposed Rules

Federal Register

Vol. 69, No. 228

Monday, November 29, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[Docket #: WA-04-005; FRL-7842-8]

#### Approval and Promulgation of State Implementation Plans and Designation: Washington; Yakima County Nonattainment Area Boundary Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to correct an error in the initial delineation of the boundary of the Yakima County nonattainment area (Yakima NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers. This correction would revise the boundary of the Yakima NAA to exclude a small portion that lies within the exterior boundary of the Yakama Indian Reservation. The excluded area would revert to an unclassifiable designation, consistent with the original and current designation of the Yakama Indian Reservation.

**DATES:** Written comments must be received by December 29, 2004.

**ADDRESSES:** Submit your comments, identified by Docket ID No. WA-04-005, by one of the following methods:

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

B. E-mail: [r10.aircom@epa.gov](mailto:r10.aircom@epa.gov).

C. Fax: (206) 553-0110.

D. Mail: Office of Air Waste and Toxics, Environmental Protection Agency, Attn: Gina Bonifacino, Mailcode: OAWT-107, 1200 Sixth Avenue, Seattle, WA 98101.

E. Hand Delivery: Environmental Protection Agency Region 10, Attn: Gina Bonifacino (OAWT-107), 1200 Sixth Avenue, Seattle, WA 98101, 9th floor. Such deliveries are only accepted during EPA's normal hours of operation,

and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. WA-04-005. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The federal [regulations.gov](http://regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** Publicly available docket materials are available in hard copy at EPA Region 10, Office of Air Waste, and Toxics, Mail Code OAWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. EPA is open Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you wish to schedule an appointment to review materials in the publicly available docket.

**FOR FURTHER INFORMATION CONTACT:** Gina Bonifacino, Office of Air, Waste and Toxics, Region 10, OAWT-107, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; phone: (206) 553-2970; fax number: (206) 553-0110; e-mail address: [bonifacino.gina@epa.gov](mailto:bonifacino.gina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we", "us" or "our" are used, we mean EPA.

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#### I. Background

##### A. What Is the General Background of This Proposed Action?

Section 107(d)(4)(B) of the Clean Air Act (CAA) sets out the general process by which areas were to be designated nonattainment for the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) upon enactment of the 1990 Clean Air Act Amendments (1990 CAA Amendments). Section 107(d)(4)(B)(i) of the CAA states that each area that had been identified by EPA as a PM-10 Group I area<sup>1</sup> prior to the 1990 CAA Amendments is designated nonattainment for PM-10 by operation of the law upon enactment of the 1990 CAA Amendments. Although EPA believes that, in general, the language of this section would appear to preclude any exercise of EPA discretion to modify these initial nonattainment area designations, EPA also believes that explicit reliance of section 107(d)(4)(B)(i) of the CAA on EPA's prior Group I determinations provides the basis for an exception to the general rule. By requiring that all Group I areas be among the initial areas designated nonattainment upon enactment of the 1990 CAA Amendments, Congress

<sup>1</sup> Group I areas were areas that, at the time the particulate matter indicator was changed from total suspended particulate (TSP) to PM-10, were estimated to have a high probability of exceeding the PM-10 NAAQS.

relied on EPA's expertise and judgment in determining, based on an analysis of relevant air quality information, those areas for which a PM-10 nonattainment status was merited. EPA does not believe that Congress intended initial PM-10 areas to be based on a clearly erroneous Group I determination. Thus, one exception to the principle that EPA lacks authority to modify these initial nonattainment area designations is where, prior to enactment of the 1990 CAA Amendments, EPA mistakenly construed then-existing air quality data and, as a consequence, incorrectly identified an area as being among the Group I areas that were subsequently referenced in section 107(d)(4)(B)(i) of the CAA. See 56 FR 37654, 37656 (August 8, 1991); see also 61 FR 29667, 29668 (June 12, 1996).

As discussed below, EPA believes that such a clear identification error occurred in the case of the Yakima NAA. That is, EPA believes that it erred by including a portion of the Yakama Indian Reservation as part of the Yakima NAA. Accordingly, under the authority of section 110(k)(6) of the CAA, EPA is revising the boundary of the Yakima NAA to exclude the portion within the exterior boundary of the Yakama Indian Reservation.

#### *B. What Is the Background of the Designation of the Yakima NAA?*

On July 1, 1987, the EPA promulgated national ambient air quality standards, implementation policies, and regulations for PM-10. See 52 FR 24634. In accordance with these policies, on August 7, 1987, EPA categorized areas of the United States into three groups based on the likelihood that the existing State Implementation Plan (SIP) must be revised to protect the PM-10 NAAQS. See 52 FR 29383. Areas with a strong likelihood of violating the PM-10 NAAQS and requiring substantial SIP revisions were placed in Group I; areas where attainment of the PM-10 NAAQS was uncertain and where the SIP required only slight adjustment were placed in Group II; and areas with a strong likelihood of attaining the PM-10 NAAQS were placed in Group III.

The Group I areas were generally identified by a county, township or other planning area. These descriptions were only an initial definition of an area. In the process of monitoring and modeling PM-10 concentrations and determining the extent of sources of PM-10 emissions that impact the areas, the states were to better define the boundaries of the area that were or may have been violating the standards. Based on monitoring data from monitors located in the city of Yakima, Yakima

County was included among the Group I areas. See 52 FR at 29385.

In March 1989, the Washington Department of Ecology submitted a State Implementation Plan for PM-10 for the Yakima County Group I area. This submittal addressed CAA requirements to meet the new federal standards for PM-10 within nine months after the effective date of the standard. The State chose a rectangular shaped area covering approximately 75 square miles for in-depth study of PM-10 in the Yakima area based on knowledge of the emission sources (primarily area sources consisting of wood stoves and vehicle-related emissions), and all areas shown by initial dispersion modeling to experience levels above the standard. Washington's plan describes this study area as three cities in close proximity, Yakima, Selah and Union Gap, and the surrounding areas in Yakima County.

Washington's 1989 plan describes land use within the city limits as primarily residential and commercial, with residences extending at a lesser density beyond the incorporated city limits. The rest of the plan's study area consists of agricultural land and open land. The plan indicates that the Yakima Indian Reservation is on the southern portion of the study area. At the time of the study, Washington conducted dispersion modeling of the area based on 1985 emissions. These modeling results indicate an expected exceedence of the PM-10 NAAQS in the city of Yakima, but did not indicate an expected exceedence of the PM-10 NAAQS within the Yakama tribal area south of the city of Yakima (see the Technical Support Document for a detailed description of dispersion modeling results and study area description from the 1989 plan).

On October 31, 1990, EPA published technical corrections clarifying the boundaries of concern for some of the areas previously identified as Groups I and II areas. See 55 FR 45799. The area for Yakima County Group I was revised to correspond to Washington's rectangular study area and was described as follows:

The area bounded on the south by a line from Universal Transmercater (UTM) coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN.<sup>2</sup>

This area includes approximately six square miles of fee land within the

<sup>2</sup> Though UTM coordinates are not explicitly given in the 1989 plan, figures in the 1989 plan area appear to correspond to the UTM coordinates in 55 FR 45799.

exterior boundaries of the Yakama Indian Reservation. There was nothing in the State's 1989 plan to indicate that the study area included lands within the Yakima Indian Reservation. (See Technical Support Document for a detailed discussion of the study area described in the State's 1989 plan.)

The 1990 Amendments to the Clean Air Act provided the PM-10 grouping scheme as the starting point for designating areas nonattainment or unclassifiable for PM-10. Group I areas identified in the August 7, 1987, **Federal Register** (52 FR 29383), and subsequently clarified on October 1, 1990 (55 FR 45799), were designated nonattainment for PM-10 by operation of law pursuant to section 107(d)(4)(B)(i) of the CAA. See 56 FR 11101 (March 15, 1991). Any other area (i.e., Group II or III areas) containing a monitoring site for which air quality monitoring data showed a violation of the NAAQS for PM-10 prior to January 1, 1989 was also designated nonattainment. All other areas were designated unclassifiable for PM-10. The Yakima Group I area was designated nonattainment with this action and became the Yakima NAA. 56 FR at 11105. The Yakama Indian Reservation, with the exception of the portion within the Yakima Group I area, was designated unclassifiable.

#### *C. What Is the Current Description of the Yakima NAA?*

As discussed above, the Yakima NAA is a rectangular shaped area covering approximately 75 square miles. Within the Yakima NAA, the cities of Yakima, Selah and Union Gap form an urban area. The cities lie in the Yakima river valley at an elevation of 1000 feet and are surrounded by mountains and ridges rising to between 3000 and 3500 feet above the valley floor. One major stationary source (Boise Cascade sawmill<sup>3</sup>) and several small stationary sources lie within the NAA. All point sources are on located on state lands within the NAA. The rest of the NAA consists of commercial, residential, agricultural, and open land. The northeast corner of the nonattainment area contains a small part of the Yakima Training Center Military Reservation and the southern boundary of the NAA extends into the Yakama Indian Reservation. The portion of the Yakama Indian Reservation within the NAA is roughly six square miles of agricultural land and rangeland which contains

<sup>3</sup> Boise Cascade will be operated as Yakima Resources, LLC in the future.

several residences and a few small commercial properties.

## II. This Action

### A. What Boundary Change Is EPA Proposing?

EPA is proposing to correct the boundary of the Yakima NAA to exclude the portion within the exterior boundary of the Yakama Indian Reservation. This proposal would change the boundary of the Yakima NAA to read as follows:

The area bounded on the south by a line from UTM coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN, excluding the area within the exterior boundary of the Yakama Indian Reservation.

### B. What Is the Basis for This Action?

Under section 110(k)(6) of the CAA, whenever EPA determines that its action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof shall be provided to the state and public.

Pursuant to section 110(k)(6), EPA is proposing a revision to the boundary of the Yakima NAA to correct an error in EPA's initial delineation of the Yakima County Group I area, which included land within the exterior boundaries of the Yakama Indian Reservation as part of the Yakima County Group I area. Although this boundary correction is not subject to the legal requirements for public notice and comment (51 FR at 11103), EPA is providing the public with an opportunity to comment on this action in order to foster public participation and avoid further error.

In the absence of technical information identifying particular sources contributing to violations of the NAAQS, EPA policy for determining the boundaries of PM-10 nonattainment areas is to use political boundaries associated with the area where the monitored violations occurred and in which it is reasonably expected that sources contributing to the violations are located. See 57 FR 43846, 43848 (September 22, 1992).<sup>4</sup> As discussed

above, although the Yakima NAA is comprised mostly of state lands, it also includes lands within the exterior boundaries of the Yakama Indian Reservation. Under the CAA, the State of Washington Department of Ecology, along with the Yakama Regional Clean Air Authority (YRCAA),<sup>5</sup> have primary planning responsibility for state land within the current Yakima NAA, whereas EPA and the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) have primary planning responsibility for the tribal land within the current Yakima NAA. See CAA section 301(a) and 301(d)(4); 64 FR 8247, 8251–8255 (February 19, 1999) ('Federal Operating Permits Program; Final Rule'); 63 FR 7254, 7254–7259, 7262 (February 12, 1998) ('Indian Tribes: Air Quality Planning and Management; Final Rule'); 59 FR 43956, 43958–43961 ('Indian Tribes: Air Quality Planning and Management; Proposed Rule'). Thus, when EPA delineated the boundary of the Yakima County Group I area through technical corrections in 1990, EPA policy called for drawing the boundary of the area based on political boundaries unless there was technical information identifying particular sources contributing to violations of the NAAQS that warranted a different approach. In other words, EPA policy called for not including land within the exterior boundaries of the Yakama Indian Reservation as part of the Yakima Group I area unless there was information showing that sources within the Yakama Indian Reservation contributed to the PM-10 violations recorded on state lands.

A review of the air quality data from Washington's 1989 plan for the Yakima County Group I area does not indicate that sources within the Yakama Indian Reservation contributed to the PM-10 violations recorded on state lands at the time the boundary was determined. There were two monitors recording exceedences of the PM-10 NAAQS that were used in EPA's delineation of the Yakima Group I area in 1990. Both of these monitors, which were predicted to be representative of the areas of highest concentration of PM-10 in the Group I area, were located in the city of Yakima.

Modeling and emissions inventory data from the 1989 state plan indicates that sources within the Yakama Indian Reservation did not contribute to an exceedence of the PM-10 NAAQS in Yakima, Selah, Union Gap and surrounding areas. The emissions

inventory from Washington's 1989 plan showed that 95% of the PM-10 for high pollution days in 1985 was attributable to residential wood heating and point sources (see Technical Support Document for a description of the emissions inventory used in the 1989 plan). As discussed above, the Reservation land included within the Yakima NAA is largely desert and agricultural land. According to aerial photos, there were fewer than 300 residences on the portion of the Yakama Indian Reservation that was included within the Yakima Group I area. This compares to more than 25,000 residences in the cities of Yakima, Selah and Union Gap. There were no major point sources and only a few small commercial properties are located within the tribal portion of the NAA. Thus, the number of residences in the tribal portion of the Yakima Group I area comprised less than 1.5% of the households in the Yakima Group I area and less than 1.5% of total PM-10 on days with elevated PM-10 levels.

That sources on the tribal portion of the Yakima Group I area did not contribute to the violations of the PM-10 standard at the time the Yakima Group I area was delineated is supported by modeling data from Washington's 1989 implementation plan for area. Concentration isopleths from the 1989 plan predicted that the PM-10 concentrations in southern range of the study area (near or on the Yakama Indian Reservation) were far below the NAAQS (30–70 ug/m<sup>3</sup> 24 hour NAAQS), while the areas to the north towards the cities of Yakima and Selah and to the east toward Union Gap were predicted to exceed the NAAQS.

In short, at the time of determination of the boundaries of the Yakima Group I area, which by operation of the law became the Yakima NAA, there was no technical information provided by Washington indicating that sources on the Yakima Indian Reservation contributed to the violations of the PM-10 NAAQS that had been recorded on monitors in the city of Yakima. EPA policy therefore called for using political boundaries to delineate the nonattainment area. As such, EPA erred in including a portion of the Yakama Indian Reservation in the Yakima NAA.

We note that correcting the boundary to exclude Reservation lands from the Yakima NAA is consistent with EPA's past actions with respect to the Yakima NAA. In approving the Yakima PM-10 nonattainment area as part of the Washington SIP in 1998, EPA made clear that the approved SIP does not extend to lands within the boundaries of the Yakama Indian Reservation. See 63

<sup>4</sup> Guidance on this issue is also provided in the PM-10 SIP Development Guideline (EPA-450/2-86-001).

<sup>5</sup> YRCAA is the local air pollution control authority with the primary planning responsibilities for state lands within Yakima County.

FR 5269, 5270 (February 2, 1998). EPA further noted that it was not including any reference to authority of YRCAA over activities or air resources located within the exterior boundaries of the Yakama Indian Reservation. 63 FR at 5270.

### *C. How Will the Excluded Area Be Classified?*

If EPA finalizes the decision to exclude land within the exterior boundary of the Yakama Indian Reservation from the Yakima NAA, this six-square mile area would revert to an unclassifiable designation, consistent with the original designation of the Yakama Indian Reservation. Under section 107(d)(4) of the CAA, each area not identified as a Group I area in 52 **Federal Register** 29383 (August 7, 1987) or not identified as an area containing a site for which air quality monitoring data showed a violation of the NAAQS for PM-10 before January 1, 1989, was to be designated unclassifiable for PM-10. At the time the city of Yakima was designated as a Group I area in 1987, there was no monitoring data showing a violation of the PM-10 NAAQS in the tribal portion of the Yakima Group I area. Monitors currently installed on the Yakama Indian Reservation also do not indicate violations of the PM-10 NAAQS.<sup>6</sup>

### *D. Can I Comment on This Action?*

By this notice, EPA is notifying the State of Washington, YRCAA, the Yakama Nation, and the public that EPA proposes to correct the boundary of the Yakima NAA to exclude the six-square mile area that lies within the exterior boundaries of the Yakama Indian Reservation. Although neither the Administrative Procedures Act nor the Clean Air Act legally obligate EPA to provide the public an opportunity to comment on this correction (56 FR at 1103), EPA is soliciting public comment to foster public participation and avoid any further errors. EPA will consider all comments on this action that are received by December 29, 2004. After consideration of all timely comments received, EPA will make any adjustments to this proposed correction that are appropriate in light of the comments.

<sup>6</sup> Although EPA is basing its decision on information existing at the time the nonattainment area boundaries were initially established, EPA would be reluctant to revise through a correction action the description of the nonattainment area based on information available before EPA's initial erroneous boundary description if data collected since that time indicated that the areas was not in attainment of, or would be expected to violate, the NAAQS.

### *E. What Should I Consider as I Prepare My Comments for EPA?*

1. Submitting Confidential Business Information (CBI). Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. Tips for preparing your comments. When submitting comments, remember to: i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

### **III. Statutory and Executive Order Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed 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 proposed

action merely corrects the description of a nonattainment area to exclude land that did not contribute to the nonattainment problem and was under a different regulatory jurisdiction and does not impose any additional requirements on state, local or tribal governments or the private sector. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation. EPA has concluded that this proposed rule may have tribal implications. EPA's action will remove a portion of the Yakama Indian Reservation from the Yakima NAA. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do

not apply to this rule. Consistent with EPA policy, EPA nonetheless consulted with representatives of tribal governments early in the process of developing this proposal to permit them to have meaningful and timely input into its development. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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 proposed action merely corrects the description of a nonattainment area to exclude land that did not contribute to the nonattainment problem and was under a different regulatory jurisdiction and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 proposed 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.*).

#### List of Subjects

##### 40 CFR Part 52

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

##### 40 CFR Part 81

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

Dated: November 16, 2004.

**Michael F. Gearheard,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 04-26295 Filed 11-26-04; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Parts 52 and 81

[Docket #: WA-04-006; FRL-7842-7]

##### Approval and Promulgation of State Implementation Plans and Designation: Washington; Yakima PM-10 Nonattainment Area Limited Maintenance Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On June 15, 2004, the State of Washington submitted a Limited Maintenance Plan (LMP) for the Yakima nonattainment area (NAA) for approval and concurrently requested that EPA redesignate the Yakima nonattainment area to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). In this action, the EPA proposes to approve the LMP for the Yakima NAA in Washington and grant a request by the State to redesignate the area from nonattainment to attainment. In a concurrent notice of proposed rulemaking published today, EPA is proposing to correct the boundary of the Yakima NAA to exclude a small portion that lies within the exterior boundary of the Yakama Indian Reservation. The State Implementation Plan (SIP) that we are proposing to approve with this action does not extend to lands which are within the boundaries of the Yakama Indian Nation.

**DATES:** Written comments must be received by December 29, 2004.

**ADDRESSES:** Submit your comments, identified by Docket ID No. WA-04-006, by one of the following methods:

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

B. E-mail: [r10.aircom@epa.gov](mailto:r10.aircom@epa.gov).

C. Fax: (206) 553-0110.

D. Mail: Office of Air Waste and Toxics, Environmental Protection Agency, Attn: Gina Bonifacino,

Mailcode: OAWT-107, 1200 Sixth Avenue, Seattle, WA 98101.

E. Hand Delivery: Environmental Protection Agency Region 10, Attn: Gina Bonifacino (OAWT-107), 1200 Sixth Avenue, Seattle, WA 98101, 9th floor. Such deliveries are only accepted during EPA's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket WA No. WA-04-006. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** Publicly available docket materials are available in hard copy at EPA Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the file, as it exists on the date of proposal, is also available for public viewing at EPA's Washington Operations Office at EPA Region 10, 300 Desmond Dr. SE., Suite 102, Lacey, WA 98503.

EPA is open Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your review of records.

**FOR FURTHER INFORMATION CONTACT:** Gina Bonifacino, Office of Air, Waste and