



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R10-OAR-2013-0247; FRL-9917-38-Region 10]**

**Revision to the Idaho State Implementation Plan; Approval and Promulgation of Air Quality Implementation Plans: Idaho, Northern Ada County PM<sub>10</sub> Second Ten-Year Maintenance Plan and Pinehurst PM<sub>10</sub> Contingency Measures**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Northern Ada County PM<sub>10</sub> Second Ten-Year Maintenance Plan submitted by the Idaho Department of Environmental Quality (IDEQ) on March 11, 2013, for particulate matter with an aerodynamic diameter less than or equal to ten micrometers (PM<sub>10</sub>). Northern Ada County was identified as an area of concern for PM<sub>10</sub> with the promulgation of the PM<sub>10</sub> NAAQS in 1987, and was formally designated as a moderate PM<sub>10</sub> nonattainment area upon passage of the 1990 Clean Air Act (CAA) amendments. In October 2003, the EPA approved the Northern Ada County PM<sub>10</sub> Maintenance Plan and redesignated the area to attainment for PM<sub>10</sub>. This revised Maintenance Plan addresses maintenance of the PM<sub>10</sub> standard for a second ten-year period beyond redesignation through 2023, extends the horizon years, and contains revised transportation conformity budgets. The EPA is also approving the February 15-16, 2011 high wind exceptional event at the Boise Fire Station monitor, as well as contingency measures for the Pinehurst PM<sub>10</sub> Air Quality Improvement Plan. The EPA is approving the second ten-year PM<sub>10</sub> Maintenance Plan for Northern Ada County and the Pinehurst PM<sub>10</sub> contingency measures pursuant to section

110 of the CAA. The EPA is approving the February 2011 exceptional event pursuant to 40 CFR 50.14. The EPA received one set of adverse comments focused primarily on proposed coal export terminals that may be built in Oregon and Washington that may affect Northern Ada County.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2013-0247. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lucy Edmondson at (360)753-9082 or Edmondson.lucy@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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## **I. Background**

Northern Ada County was identified as an area of concern for PM<sub>10</sub> with the promulgation of the PM<sub>10</sub> NAAQS in 1987, and was formally designated as a moderate PM<sub>10</sub> nonattainment area upon passage of the 1990 CAA amendments. Idaho developed a state implementation plan (SIP) and submitted it to the EPA in November 1991, later submitting revisions in December 1994 and July 1995. The EPA approved the Northern Ada County PM<sub>10</sub> SIP on May 30, 1996 (61 FR 27019). Idaho submitted a maintenance plan and a request to redesignate the area to attainment on September 27, 2002, and provided supplemental information on July 10 and 21, 2003. On October 27, 2003, the EPA approved the Northern Ada County PM<sub>10</sub> Maintenance Plan and redesignated the area to attainment status for PM<sub>10</sub> (68 FR 61106).

In actions dated August 25, 1994 (59 FR 43475) and May 26, 1995 (60 FR 27891), the EPA conditionally approved the SIP for the Pinehurst, Idaho PM<sub>10</sub> nonattainment area. The conditional approval concluded that IDEQ had not satisfied the requirement for contingency measures for both the City of Pinehurst and the Pinehurst Expansion area. The EPA set a deadline of July 20, 1995 for IDEQ to submit the required contingency measures. IDEQ met the established deadline with its submission “Contingency Measures for the Pinehurst PM<sub>10</sub> Air Quality Improvement Plan,” dated July 13, 1995.

On September 23, 2013, IDEQ submitted documentation in accordance with the Exceptional Events Rule (40 CFR 50.14) to demonstrate that the monitored PM<sub>10</sub> values on

February 15-16, 2011 at the Boise monitor were due to a high wind event and resulting dust storm that originated in Nevada. The EPA proposed approval of this maintenance plan and the Pinehurst Contingency Measures on February 20, 2014 (79 FR 9697).

## **II. Response to Comments**

On March 24, 2014, the EPA received one set of comments opposing the EPA's proposed approval of Northern Ada County PM<sub>10</sub> Second Ten-Year Maintenance Plan (Ada County PM<sub>10</sub> plan). The comments were focused on the potential impact that possible coal export terminals, proposed to be built in the Pacific Northwest, could have on PM<sub>10</sub> concentrations in the maintenance area. These comments are similar to comments previously submitted on February 22, 2013, related to emissions impacts of locomotive coal transport in the emissions inventory for the Tacoma fine particulate (PM<sub>2.5</sub>) nonattainment area (78 FR 32131, May 29, 2013) and comments submitted on March 10, 2014, related to the Kent, Seattle, and Tacoma Second 10-Year PM<sub>10</sub> Limited Maintenance Plan (79 FR 49239, August 20, 2014). The EPA responded to these comments in the May 29, 2013 and August 20, 2014 final rulemakings. Due to the specific focus of today's action, the EPA is only addressing those comments directly relevant to the Ada County PM<sub>10</sub> plan.

### *A. Calculating Growth in Locomotive Traffic*

*Comment:* The commenter requested that the EPA disapprove the Ada County PM<sub>10</sub> plan because the plan relied on general growth factors in estimating future railroad traffic without consideration of future growth associated with proposed coal export terminals that may be built in Oregon and Washington.

*Response:* The EPA guidance regarding development of emissions inventories requires states to consider reasonably anticipated growth in emission sources such as increased vehicle miles

traveled, population growth, and possible emissions growth at permitted stationary sources.<sup>1</sup> None of the projects in question are far enough along in their development that the scope or impact of their emissions can be estimated with any degree of certainty. In this case, the Washington State Environmental Policy Act (SEPA) and/or the National Environmental Policy Act (NEPA) processes for coal export proposals cited in the March 24, 2014 letter are ongoing. It is not known whether the facilities will be constructed, and if they are constructed, the size and scope of operations that would be authorized. In addition, as the commenter notes, there are several possible rail routes that could be used in the future and it is not known whether locomotive traffic associated with coal shipments would traverse or bypass the Ada County maintenance area or, as may be the case, whether routes would constantly vary based on decisions by the rail operator. Given the range of uncertainty surrounding the proposed terminals, including whether the terminals will be constructed, the location (s) of such terminals and decisions of terminal and railway operators that would affect rail routes, the EPA believes it would be unreasonable to disapprove the Ada County PM<sub>10</sub> plan on the basis that the emissions inventory did not estimate potential future events that may or may not impact the maintenance area. Should any of these coal export facilities be built in the future, both the EPA and the State have the authority under the EPA's longstanding guidance regarding contingency measures to reexamine emissions inventories and establish additional control measures if a noticeable impact on PM<sub>10</sub> levels in Ada County were to occur.<sup>2</sup>

#### *B. Calculating Fugitive Dust Impacts from Coal Export Locomotive Traffic*

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<sup>1</sup> *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations* -- EPA-454/R-05-001. August, 2005, updated November 2005 (hereafter "emissions inventory guidance" or "guidance")

*Comment:* The commenter noted Washington State's Kent, Seattle, and Tacoma Second 10-Year PM<sub>10</sub> Limited Maintenance Plan submittal which included a calculation of estimated fugitive coal dust emissions as part of the 2011 baseline emissions inventory for that area (Docket No. EPA-R10-OAR-2013-0713)(Kent, Seattle, and Tacoma PM<sub>10</sub> plan). The commenter requested that the EPA disapprove the Ada County PM<sub>10</sub> plan because it did not contain a comparable estimate of fugitive coal dust emissions.

*Response:* A key difference between the Washington and Idaho plans is that there is already coal-related locomotive activity through the Washington maintenance areas on the way to export through Canada, captured as part of the 2011 baseline emissions inventory. The commenter provides no compelling evidence to suggest that Ada County experiences similar Canadian export traffic like Kent, Seattle, and Tacoma. Instead the commenter's focus is on proposed export terminals that may or may not be built in Oregon and Washington. As noted above, consideration of potential, future impacts of projects that may or may not be built is not a reasonable basis for disapproving the Ada County PM<sub>10</sub> plan. The EPA also notes that the commenter raised several issues specific to the Kent, Seattle, and Tacoma PM<sub>10</sub> plan fugitive dust estimation methodology which are not germane to the Ada County PM<sub>10</sub> plan and therefore not addressed here.

*Comment:* The Commenter noted that modeling conducted by the Sierra Club of the potential impacts of the proposed Ambre Energy Coyote Island Terminal in Morrow predicts elevated PM<sub>2.5</sub> emissions. The commenter indicates that results for PM<sub>2.5</sub> could be assumed to be PM<sub>10</sub> and that this information is enough to conclude that there would be high levels of PM<sub>10</sub> emissions that could result in exceedances in Ada County.

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<sup>2</sup> *Procedures for Processing Requests to Redesignate Areas to Attainment.* John Calcagni, Director, Air Quality Management Division to Regional Air Directors, September 4, 1992.

*Response:* The Tran Modeling analysis evaluated potential emissions from the proposed Ambre Energy Coyote Island Terminal in Morrow, Oregon and calculated emissions near the facility at values above the NAAQS. Given the uncertainty surrounding the proposed Morrow Terminal, including whether the facility will be constructed, the EPA believes it would be unreasonable to disapprove the Ada County PM<sub>10</sub> Maintenance Plan on the basis of this modeling analysis. In addition, because the modeling predicts emission levels near the facility in Oregon, the EPA believes it is unreasonable to draw conclusions about how these emissions could affect Ada County, Idaho. Should this facility be built in the future, both the EPA and the state have the authority under the EPA's longstanding guidance regarding contingency measures to establish additional control measures if a noticeable impact on PM<sub>10</sub> levels in Ada County were to occur.

### **III. Final Action**

The EPA is taking final action to approve the Northern Ada County PM<sub>10</sub> Second Ten-Year Maintenance Plan and Pinehurst PM<sub>10</sub> Contingency Measures. This action approves and incorporates into the SIP the PM<sub>10</sub> control measures submitted by IDEQ on March 11, 2013 and July 13, 1995, respectively. The EPA is also approving the February 15-16, 2011 high wind exceptional event at the Boise Fire Station monitor. Provisions describing state or local enforcement authority are not incorporated into the SIP to avoid potential conflict with the EPA's independent authorities.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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. The EPA will submit a report containing this action 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 **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: September 11, 2014.

Michelle L. Pirzadeh,  
Acting Regional Administrator,  
Region 10.

40 CFR part 52 is amended as follows:

**PART 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart N - Idaho**

2. In §52.670, paragraph (e), the table entitled “EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES” is amended by adding two new entries at the end of the table.

The additions read as follows:

**§ 52.670 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
Northern Ada County PM <sub>10</sub> Second Ten-Year Maintenance Plan	Northern Ada County	3/11/13	[Insert <u>Federal Register</u> publication date] [Insert FR citation]	
Pinehurst PM <sub>10</sub> Contingency	Pinehurst/Shoshone County	7/13/95	[Insert <u>Federal Register</u> publication date]	

Measures			[Insert FR citation]	
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3. Section 52.672 is amended by revising paragraph (e)(2) and adding paragraph (e)(3) to read as follows:

**§ 52.672 Approval of plans.**

\* \* \* \* \*

(e) \* \* \*

(2) EPA approves as a revision to the Idaho State Implementation Plan, the Northern Ada County PM<sub>10</sub> Second Ten-Year Maintenance Plan adopted by the State on March 11, 2013.

(3) EPA approves as a revision to the Idaho State Implementation Plan, the Pinehurst PM<sub>10</sub> Contingency Measures, adopted by the State on July 13, 1995.

\* \* \* \* \*

[FR Doc. 2014-23365 Filed 10/01/2014 at 8:45 am; Publication Date: 10/02/2014]