



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2016-0003; FRL -9942-85-Region 10]

### Approval and Promulgation of Implementation Plans; Spokane, Washington: Second 10-Year PM<sub>10</sub> Limited Maintenance Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the limited maintenance plan submitted on January 4, 2016, by the State of Washington for the Spokane area, which includes the cities of Spokane, Spokane Valley, Millwood and surrounding unincorporated areas in Spokane County, Washington. This plan addresses the second 10-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). A limited maintenance plan is used to meet Clean Air Act requirements for formerly designated nonattainment areas that meet certain qualification criteria. The EPA is proposing to determine Washington's submittal meets the limited maintenance plan criteria. The Spokane area currently has monitored PM<sub>10</sub> levels well below the National Ambient Air Quality Standards (NAAQS) and levels have not increased since the area was redesignated to attainment in 2005. The EPA is also proposing to approve minor updates to the Spokane Regional Clean Air Agency (SRCAA) regulations controlling PM<sub>10</sub> related to the maintenance plan.

**DATES:** Comments must be received on or before **[insert date 30 days after the date of**

**publication in the Federal Register].**

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2016-0003 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553-0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@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**

The Spokane area was designated as nonattainment for PM<sub>10</sub> by operation of law upon enactment of the Clean Air Act Amendments in 1990 (56 FR 56694, November 6, 1991). The Washington Department of Ecology (Ecology) and SRCAA worked with the community to establish PM<sub>10</sub> pollution control strategies. Primary control strategies include a residential wood smoke control program, paving unpaved streets, requirements for improved sweeping and sanding practices on paved roads, and regulatory orders at the Kaiser Aluminum and Chemical Corporation Trentwood facility for PM<sub>10</sub>. The Spokane area attained the PM<sub>10</sub> NAAQS in 1994, with continued attainment ever since.

The EPA partially approved the PM<sub>10</sub> attainment plan for the Spokane area on January 27, 1997 (62 FR 3800). The EPA then approved the remaining attainment plan elements and a 10-year maintenance plan, redesignating the area from nonattainment to attainment effective August 30, 2005 (70 FR 38029, published July 1, 2005). The purpose of the current limited maintenance plan is to fulfill the second 10-year planning requirement, section 175A(b) of the Clean Air Act, to ensure compliance through 2025.

## **II. The Limited Maintenance Plan Option for PM<sub>10</sub> Areas**

### **A. Requirements for the Limited Maintenance Plan Option**

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM<sub>10</sub> nonattainment areas. See memo from Lydia Wegman, Director, Air

Quality Standards and Strategies Division, entitled “Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas” (limited maintenance plan option memo). The limited maintenance plan option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard ten years into the future. Thus, the EPA provided the maintenance demonstration for areas meeting the criteria outlined in the memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the State Implementation Plan (SIP) are no longer necessary.

To qualify for the limited maintenance plan option the State must demonstrate the area meets the criteria described below. First, the area should have attained the PM<sub>10</sub> NAAQS. Second, the most recent five years of air quality data at all monitors in the area, called the 24-hour average design value, should be at or below 98 micrograms per cubic meter (µg/m<sup>3</sup>). Third, the State should expect only limited growth in on-road motor vehicle PM<sub>10</sub> emissions and should have passed a motor vehicle regional emissions analysis test. Lastly, the memo identifies core provisions that must be included in all limited maintenance plans. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

#### **B. Conformity under the Limited Maintenance Plan Option**

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

are consistent with the emissions budget for the area.

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

Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the maintenance period because it is unreasonable to expect that qualifying areas would experience so much growth in that period that a NAAQS violation would result. While areas with maintenance plans approved under the limited maintenance plan option are not subject to the budget test, the areas remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

- Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113;
- Transportation plans and projects comply with the fiscal constraint element as set

forth in 40 CFR 93.108;

- The MPO's interagency consultation procedures meet the applicable requirements of 40 CFR 93.105;
- Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;
- The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;
- Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and
- Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

In approving the 2<sup>nd</sup> 10-year limited maintenance plan, the Spokane maintenance area will continue to be exempt from performing a regional emissions analysis, but must meet project-level conformity analyses as well as the transportation conformity criteria mentioned above.

### **III. Review of the State's Submittal**

#### **A. Has the State Demonstrated that the Maintenance Areas Qualify for the Limited Maintenance Plan Option?**

As discussed above, the limited maintenance plan option memo outlines the requirements

to be met for an area to qualify. First, the area should be attaining the PM<sub>10</sub> NAAQS. Under 40 CFR 50.6, the primary and secondary PM<sub>10</sub> NAAQS are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup> is equal to or less than one. The EPA determined that the Spokane area attained the PM<sub>10</sub> NAAQS and formally redesignated the area from nonattainment to attainment, beginning the first 10-year maintenance period effective August 30, 2005 (70 FR 38029, published July 1, 2005). We have evaluated the most recent monitoring data that shows that the Spokane area continues to attain the PM<sub>10</sub> NAAQS with the number of annual exceedances equal to 0.3 for the period 2012 through 2014, well below the 1.0 threshold for meeting the NAAQS.<sup>1</sup>

Second, the average design value for the past five years of monitoring data must be at or below the critical design value of 98 µg/m<sup>3</sup> for the PM<sub>10</sub> NAAQS. The critical design value is a margin of safety in which an area has a one in ten probability of exceeding the NAAQS. The 5-year average design value for Spokane based on PM<sub>10</sub> monitoring data from 2009 through 2014 is 80 µg/m<sup>3</sup>. The EPA reviewed the data and methodology provided by the State and finds that the Spokane area 5-year average design value is below the critical design value of 98 µg/m<sup>3</sup> outlined in the limited maintenance plan option memo and therefore, meets the requirement for the limited maintenance plan option.

Third, the area must meet the motor vehicle regional emissions analysis test described in the limited maintenance plan option memo. The State submitted an analysis showing that growth in on-road mobile PM<sub>10</sub> emissions sources was minimal and would not threaten the assumption of maintenance that underlies the limited maintenance plan policy. Using the EPA's

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<sup>1</sup> The data evaluated includes a 2013 flagged exceptional event that has not been fully evaluated by the EPA to date. If this flagged data were factored into the analysis, the calculated number of annual exceedances would drop to 0.0.

methodology, the State calculated total growth in on-road motor vehicle PM<sub>10</sub> emissions over the ten-year period for the Spokane area. This calculation is derived using Attachment B of the EPA's limited maintenance plan memo, where the projected percentage increase in vehicle miles traveled over the next ten years (VMT<sub>pi</sub>) is multiplied by the on-road mobile portion of the attainment year inventory (DV<sub>mv</sub>), including both primary and secondary PM<sub>10</sub> emissions and re-entrained road dust. The EPA reviewed the calculations in the State's limited maintenance plan submittal and concurs with the determination that the area meets the motor vehicle regional emissions analysis test. This test is met when (VMT<sub>pi</sub> x DV<sub>mv</sub>) plus the design value for the most recent five years of quality assured data is below the limited maintenance plan threshold of 98 µg/m<sup>3</sup>. The result for Spokane is 82 µg/m<sup>3</sup>.

As described above, the Spokane maintenance area meets the qualification criteria set forth in the limited maintenance plan option memo. To ensure these requirements continue to be met, the State has committed to evaluate monitoring data annually to ensure the area continues to qualify for the limited maintenance plan option. The State will report this information to the EPA in the annual monitoring network report.

#### **B. Does the State Have an Approved Attainment Emissions Inventory?**

Pursuant to the limited maintenance plan option memo, the State's submission should include an emissions inventory which can be used to demonstrate attainment of the relevant NAAQS. The inventory should represent emissions during the same five-year period associated with air quality data used to determine whether the area meets the applicability requirements of the limited maintenance plan option.

The limited maintenance plan submittal includes an emissions inventory based on the

State's 2011 Triennial Emissions Inventory. This inventory is prepared as part of the 2011 National Emissions Inventory under the EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The information was supplemented with annual 2011 industrial emissions reported to SRCAA and Ecology. The 2011 base years represent the most recent emissions inventory data available and is consistent with the data used to determine applicability of the limited maintenance plan option (i.e., having no violations of the PM<sub>10</sub> NAAQS). The most significant emission source categories for the Spokane area are residential wood combustion and dust from paved and unpaved roads. The 2011 emission inventory results compare favorably to the 2002 emission inventory submitted with the first 10-year limited maintenance plan. Particulate matter from residential wood combustion has declined by almost one half. These emission were 2,052 tons per year (tpy) in 2002 versus 1,062 tpy in 2011. Particulate matter from unpaved roads declined from 5,855 tpy in 2002 to 623 tpy in 2011. The only significant source category from the 2002 emission inventory to increase was particulate matter from paved roads, which increased from 325 tpy in 2002 to 623 tpy in 2011. Emissions from point sources remained relatively stable at 147 tpy in 2002 and 160 tpy in 2011. The EPA reviewed and is proposing to approve the emissions inventory and methodology. The emissions inventory data supports the State's conclusion that the existing control measures in place will continue to protect and maintain the PM<sub>10</sub> NAAQS.

**C. Does the Limited Maintenance Plan Include an Assurance of Continued Operation of an Appropriate EPA-Approved Air Quality Monitoring Network, in Accordance with 40 CFR Part 58?**

The limited maintenance plan memo states, “[t]o verify the attainment status of the area

over the maintenance period, the maintenance plan should contain a provision to assure continued operation of an appropriate, EPA-approved air quality monitoring network, in accordance with 40 CFR part 58.” SRCAA currently operates a Federal Equivalent Method (FEM) Tapered Element Oscillating Microbalance (TEOM) PM<sub>10</sub> monitor. SRCAA commits to maintaining a PM<sub>10</sub> NAAQS compliance monitor through the limited maintenance plan period to verify the attainment status of the area, confirm continued qualification for the limited maintenance plan option, and to provide a means for triggering contingency measures if needed. The EPA last approved the State’s monitoring network in a letter dated October 28, 2015, included in the docket for this action. Table 1 shows 98<sup>th</sup> percentile PM<sub>10</sub> monitored values at the site to provide a sense of trends since the area came into attainment in 2005.

Table 1: 98<sup>th</sup> Percentile PM<sub>10</sub> Trends in Micrograms per Cubic Meter (µg/m<sup>3</sup>)

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
89	72	61	65	48	43	43	67	49	60

#### **D. Does the Plan Meet the Clean Air Act Requirements for Contingency**

##### **Provisions?**

Clean Air Act section 175A states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the relevant NAAQS which may occur after redesignation of the area to attainment. SRCAA Regulation 1 Section 6.15.G contains additional requirements for road paving should the EPA find that the Spokane area has violated the PM<sub>10</sub> NAAQS. The EPA approved this provisions into the SIP on April 12, 1999 (64 FR 17545). Similarly, Regulation 1 Sections 8.07.A.5 and 8.09 provide for prohibition of the use of uncertified woodstoves for the sole purpose of meeting Clean Air Act requirements

for contingency measures, which the EPA approved into the SIP on January 27, 1997 (62 FR 3800). These contingency provisions remain in effect today.

**IV. Proposed Action**

The EPA is proposing to approve the limited maintenance plan submitted by the State of Washington, on January 4, 2016, for the Spokane PM<sub>10</sub> area. If finalized, the EPA’s approval of this limited maintenance plan will satisfy the section 175A Clean Air Act requirements for the second 10-year period in the Spokane PM<sub>10</sub> area. Additionally, Ecology and SRCAA requested that the EPA update the Washington SIP to include minor regulatory changes associated with the limited maintenance plan adopted in 2004 and 2007, since the EPA’s last approval (64 FR 17545, April 12, 1999). These regulatory changes update and clarify the general PM<sub>10</sub> control measures, including minor revisions to the emission reduction strategies for both paved and unpaved roads. In a prior approval on January 27, 1997, the EPA inadvertently approved SRCAA section 6.05(A) which is a nuisance provision addressing the deposition of particulate and not related to attainment or maintenance of the NAAQS (62 FR 3800). Ecology and SRCAA requested, and the EPA proposes to approve, correcting the SIP to remove this nuisance provision. A full copy of the regulatory changes, in redline/strikeout format, is included in Appendix D of the State submittal. The EPA reviewed these changes and is proposing to approve and incorporate by reference the updated versions of SRCAA Regulation I, sections 6.05, 6.14, and 6.15, shown in the table below.

**Spokane Regional Clean Air Agency (SRCAA) Regulations for Proposed Approval and Incorporation by Reference**

State/Local Citation	Title/Subject	State/Local Effective Date	Explanation
Regulation I			

6.05	Particulate Matter and Preventing Particulate Matter from Becoming Airborne.	04/10/04	Except 6.05(A)
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	06/03/07	
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	06/03/07	

**V. Incorporation by Reference**

In accordance with requirements of 1 CFR 51.5, the EPA is proposing to revise our incorporation by reference of 40 CFR 52.2470(c) – Table 9 “Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction” to reflect the regulations shown in the **Proposed Action** section. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

**VI. Statutory and Executive Order Reviews**

Under the Clean Air Act, 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 Clean Air Act. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; 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).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. This SIP revision is not approved to apply in

Indian reservations in the State or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Consistent with EPA policy, the EPA provided a consultation opportunity to the Spokane Tribe in a letter dated May 21, 2015. The EPA did not receive a request for consultation.

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

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

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

Dated: February 12, 2016.

Dennis J. McLerran,  
Regional Administrator,  
Region 10.

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