

legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

This proposed rule to convert the conditional approval of the 15% plan for the Pennsylvania portion of Philadelphia to a full approval 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 7, 2001.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 01-12354 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-6978-9]

#### Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

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

**ACTION:** Proposed Rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the for the National Emissions Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical

Pulp Mills. In the Rules section of this **Federal Register**, EPA is granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

**DATES:** Written comments must be received by June 15, 2001.

**ADDRESSES:** Comments should be addressed to: Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114-2023.

Copies of the submitted request are available for public inspection at EPA's Region I office during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114-2023 Telephone: (617) 918-1656.

**SUPPLEMENTARY INFORMATION:** This document concerns NH DES's Equivalency by Permit program. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

**Authority:** This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA-New England.*

[FR Doc. 01-12040 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Docket No.: WA-01-001; FRL-6980-9]

#### Finding of Attainment for PM-10; Spokane PM-10 Nonattainment Area, Washington

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

**ACTION:** Notice of proposed rule.

**SUMMARY:** EPA is proposing to find that the Spokane nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM-10) as of December 31, 1997.

**DATES:** Written comments must be received on or before June 15, 2001.

**ADDRESSES:** Written comments should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ-107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8:00 am to 4:30 pm) at this same address.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553-0782.

**SUPPLEMENTARY INFORMATION:** Throughout this document, the words "we", "us", or "our" means the Environmental Protection Agency (EPA).

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#### I. Background

##### A. Designation and Classification of PM-10 Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA) were designated nonattainment for PM-10 by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See generally 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM-10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31,

1990), and any other areas violating the NAAQS for PM-10 prior to January 1, 1989. A **Federal Register** document announcing the areas designated nonattainment for PM-10 upon enactment of the 1990 Amendments, known as "initial" PM-10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). The Spokane PM-10 nonattainment area was one of these initial moderate PM-10 nonattainment areas.

All initial moderate PM-10 nonattainment areas had the same applicable attainment date of December 31, 1994. Section 188(f) of the CAA provides the Administrator with the authority to waive a specific date for attainment of the standard under certain circumstances based on the relative contribution of anthropogenic and nonanthropogenic sources of PM-10 to violation of the PM-10 standard in the area. See 59 FR at 41998 (April 16, 1994).

#### *B. How Does EPA Make Attainment Determinations?*

All PM-10 nonattainment areas are initially classified "moderate" by operation of law when they are designated nonattainment. See section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the CAA, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM-10 nonattainment areas attained the PM-10 NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon the area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM-10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50, appendix J, 40 CFR part 53, 40 CFR part 58, appendix A and B) and may be used to determine the attainment status of areas. We also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are

reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration over a three-year period (for example 1995, 1996, and 1997 for areas with a December 31, 1997, attainment date) is equal to or less than 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM-10 concentrations greater than  $150 \mu\text{g}/\text{m}^3$ . The 24-hour standard is attained when the expected number of days with levels above  $150 \mu\text{g}/\text{m}^3$  (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM-10. See 40 CFR part 50 and appendix K.

#### *C. What Is the Attainment Date for the Spokane PM-10 Nonattainment Area?*

As stated above, the Spokane PM-10 nonattainment area was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act upon enactment of the Clean Air Act Amendments of 1990. See 40 CFR 81.348 (PM-10 Initial Nonattainment Areas); see also 56 FR 56694 (November 6, 1991). Under subsections 188(a) and (c)(1) of the Act, the original attainment date for the Spokane PM-10 nonattainment area, as well as for all other initial moderate PM-10 nonattainment areas, was December 31, 1994.

The Washington Department of Ecology (Ecology) submitted a SIP revision for the Spokane area on November 15, 1991 followed by addendums on January 31, 1992, December 9, 1994, and May 18, 1995. The December 1994 addendum included a more detailed technical analysis indicating that nonanthropogenic sources may be significant in the Spokane PM-10 nonattainment area during windblown dust events. Based on our review of the State's submissions, we deferred action on several elements in the Spokane SIP, approved the control measures in the SIP as meeting RACM/RACT for all sources except for windblown dust, and, under section 188(f) of the CAA, granted a temporary waiver to extend the attainment date for the Spokane area to December 31, 1997. See 61 FR 35998 (July 9, 1996) (proposed action); 62 FR 3800 (January 27, 1997) (final action). The temporary waiver was intended to provide Ecology time to evaluate further

the Spokane nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. Once these activities were complete or the temporary waiver expired, EPA was to make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the standard by the extended attainment date. See 62 FR at 3802.

#### **II. EPA's Proposed Action**

As discussed above, whether an area has attained the PM-10 NAAQS is based exclusively upon measured air quality levels. See 40 CFR part 50 and 40 CFR 50, appendix K. For an area with a December 31, 1997, attainment date, such as the Spokane area, data reported for calendar years 1995, 1996, and 1997 are considered.

The Spokane County Air Pollution Control Authority (SCAPCA), the local air pollution control authority in Spokane County, established and operates six PM-10 SLAMS monitoring sites in the Spokane PM-10 nonattainment area. All six monitoring sites meet EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices D and E, and have been monitoring for PM-10 since before 1995.

The air quality data in AIRS for these monitors show that, for the three-year period from 1995 through 1997, there were no violations of the annual PM-10 standard. The highest annual arithmetic average measured during this three-year period was  $32 \mu\text{g}/\text{m}^3$  at the Crown Zellerbach monitoring site in 1995 and 1996. Based on this information, EPA has determined that the area attained the annual PM-10 standard as of the extended attainment date of December 31, 1997. A review of air quality data in AIRS for 1998 through 2000 also confirms that there have been no violations of the annual PM-10 standard subsequent to the attainment date.

With respect to the 24-hour PM-10 standard, a review of the air quality data in AIRS for the three-year period from 1995 through 1997 shows that there was one recorded exceedence of the 24-hour PM-10 standard in the Spokane PM-10 nonattainment area: a concentration of  $186 \mu\text{g}/\text{m}^3$  reported at the Crown Zellerbach site on August 30, 1996, which the State has claimed as attributable to a high wind "natural event." The next highest 24-hour PM-10 concentration measured during this time period was  $124 \mu\text{g}/\text{m}^3$  at the Crown Zellerbach site on February 12, 1996.

Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K,

section 2.4, specific exceedences due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. See Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled "Areas Affected by Natural Events," dated May 30, 1996 (EPA's Natural Events Policy). Under the policy, where a State believes natural events have caused a violation of the NAAQS, the State enters the exceedence in the AIRS data base, flags the exceedence as being attributable to a natural event, documents a clear causal relationship between the measured exceedence and the natural event, and develops a natural events action plan (NEAP) to address future natural events. In the case of high-wind events where the sources of dust are anthropogenic, the State should also document that Best Available Control Measures (BACM) were required for those sources and that sources were in compliance with BACM at the time-of the high-wind event. EPA's Natural Events Policy also contains guidance for notifying the public of the occurrence of natural events and the health effects of such events, as well as minimizing public exposure to high concentrations of PM-10 due to natural events.

As discussed above, the State of Washington flagged the August 30, 1996, exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy. EPA has concurred with that determination. Therefore, EPA has excluded this exceedence from consideration in determining whether the Spokane PM-10 nonattainment area attained the 24-hour. As a result, the expected number of days over the 24-hour standard for 1996 is 0.0 and, when averaged over the three-year period from 1995 through 1997, the three-year expected exceedence rate is also 0.0. EPA has therefore determined that the Spokane PM-10 nonattainment area attained the 24-hour PM-10 standard as of the extended attainment date of December 31, 1997.

Even if the August 30, 1996, exceedence was not excluded in determining the attainment status of the Spokane area, the data would still show attainment of the 24-hour PM-10 standard. Accounting for the sampling schedule and missing data, the expected number of days over the standard for 1996 would be 1.03 if the August 30, 1996, exceedence was not excluded. When averaged over the three-year period from 1995 through 1997, during

which time no other exceedences were recorded in the Spokane area, the three-year expected exceedence rate is 0.34 days. This value is less than the expected exceedence rate for the 24-hour PM-10 standard of 1.0 that would represent a violation of the standard.

A review of air quality data in AIRS for 1998 through 2000 shows that there was one reported exceedence of the 24-hour standard during this time: 343  $\mu\text{g}/\text{m}^3$  on September 25, 1999, at the Crown Zellerbach monitor. The State has also flagged this exceedence in the AIRS data base as an exceedence caused by high winds under EPA's Natural Events Policy. EPA is still reviewing the documentation submitted to support the State's flagging of the September 25, 1999, exceedence as attributable to uncontrollable natural event. Once EPA has completed its review, EPA will notify the State regarding whether EPA will confirm the flagging of the exceedence as due to natural events. Even if the September 25, 1999, is exceedence is considered in determining the attainment status of the Spokane area, however, the data still show attainment of the 24-hour PM-10 standard as of the end of 2000. Accounting for the sampling schedule and missing data, the expected number of days over the 24-hour standard for 1999 is 1.04. When averaged over a three-year period, during which no other exceedences were recorded, the three-year expected exceedence rate is 0.35. This value is less than the expected exceedence rate for the 24-hour PM-10 standard of 1.0 that would represent a violation of the standard.

In summary, EPA proposes to find that the Spokane PM-10 nonattainment area attained the PM-10 NAAQS as of the extended attainment date of December 31, 1997. If we finalize this proposal, consistent with CAA section 188, the area will remain a moderate PM-10 nonattainment area and will avoid the additional planning requirements that apply to serious PM-10 nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Washington has not submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Spokane PM-10 nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

We are soliciting public comments on EPA's proposal to find that the Spokane

PM-10 nonattainment area has attained the PM-10 NAAQS as of the December 31, 1997, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

### III. Administrative 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. This proposed action merely makes a determination based on air quality data and does not impose any requirements. 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 proposed rule does not impose any enforceable duty, 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 proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or 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), nor will it 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), because it merely makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA

has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 in 40 CFR Part 81

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

Dated: April 30, 2001.

**Charles E. Findley,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 01-12357 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[WV057-6016b; FRL-6979-9]

#### Determination of Attainment of the NAAQS for PM-10 in the Weirton, WV Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to determine that the Weirton, West Virginia PM-10 Moderate nonattainment area (comprised of the City of Weirton) attained 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) by its applicable December 31, 2000 attainment date. In the Final Rules section of this **Federal Register**, EPA is making this determination as a direct final rule without prior proposal because the Agency views this as a noncontroversial determination and anticipates no adverse comments. A more detailed description of EPA's evaluation is included in a Technical Support Document (TSD) prepared in support of this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public

comments received will be addressed in a subsequent final notice based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by June 15, 2001.

**ADDRESSES:** Written comments should be addressed to David Arnold, Chief, Air Quality Planning and Information Services Branch Name, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Ruth E. Knapp, (215) 814-2191, at the EPA Region III address above or by e-mail at [knapp.ruth@epa.gov](mailto:knapp.ruth@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information on the determination that Weirton, West Virginia has attained the PM-10 NAAQS, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 1, 2001.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 01-12350 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 01-1152, MM Docket No. 01-107, RM-10057]

#### Radio Broadcasting Services; Hemlock and Mount Pleasant, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Wilks Broadcasting LLC requesting the reallocation of Channel 233C1 from Mount Pleasant, Michigan, to Hemlock, Michigan, and modification of the license for Station WCEN-FM to specify Hemlock, Michigan, as the community of license. The coordinates for Channel 233C1 at Hemlock are 43-43-36 and 84-36-16. In accordance with section

1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 233C1 at Hemlock.

**DATES:** Comments must be filed on or before June 25, 2001, and reply comments on or before July 10, 2001.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard R. Zaragoza, Veronica D. McLaughlin, Shaw Pittman, 2300 N Street, NW., Washington, DC 20037-1128.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-107, adopted April 25, 2001 and released May 4, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C 154, 303, 334 and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended