

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[Docket #: EPA-R10-OAR-2012-0017; FRL-9774-8]

#### Approval and Promulgation of Implementation Plans; Idaho: Sandpoint PM<sub>10</sub> Nonattainment Area Limited Maintenance Plan and Redesignation Request

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve in part and disapprove in part the Limited Maintenance Plan (LMP) submitted by the State of Idaho on December 14, 2011, for the Sandpoint nonattainment area (Sandpoint NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>), and to approve the State's request to redesignate this area to attainment for the PM<sub>10</sub> National Ambient Air Quality Standards (NAAQS). The EPA is proposing to disapprove a separable part of the Sandpoint NAA LMP that does not meet LMP eligibility criteria or applicable requirements under the Clean Air Act (CAA). The part of the Sandpoint NAA LMP that the EPA is proposing to approve complies with applicable requirements and meets the requirements of the CAA for full approval. The EPA is also proposing to approve the State's redesignation request because it meets CAA requirements for redesignation.

**DATES:** Comments must be received on or before March 4, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2012-0017, by any of the following methods:

A. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

B. *Mail*: Kristin Hall, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

C. *Email*: R10-Public.Comments@epa.gov.

D. *Hand Delivery*: EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Kristin Hall, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R10-OAR-2012-

0017. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI 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 in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at (206) 553-6357, *hall.kristin@epa.gov*, or by using the above EPA, Region 10 address.

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

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#### I. This Action

The EPA is proposing to approve in part and disapprove in part the LMP submitted by the State of Idaho on December 14, 2011, for the Sandpoint NAA, and to approve the State's request to redesignate this area to attainment for the PM<sub>10</sub> NAAQS. The Sandpoint NAA LMP submittal included a request to approve revisions to the control measures included in the PM<sub>10</sub> attainment State Implementation Plan (SIP) for the Sandpoint NAA. The EPA is proposing to approve the revised Sandpoint City Ordinance 965 for control of residential burning because it strengthens the SIP. The EPA is also proposing to approve the State's request to remove the Louisiana-Pacific Corporation—Sandpoint operating permit control measure from the SIP because the facility has been shut down, dismantled, and is no longer in operation. However, the EPA is proposing to disapprove the State's request to remove the operating permits for two other sources because these

sources are still in operation and the State did not provide a demonstration that removal of the two permits would not interfere with attainment or maintenance of the NAAQS. In addition, the removal of controls that were relied on to demonstrate attainment would disqualify the Sandpoint NAA for LMP eligibility and require that the State submit a full maintenance plan. Because the State submitted the Sandpoint NAA LMP intending to qualify for the LMP option, and did not submit a full maintenance plan, we are proposing to disapprove the separable portion of the submittal that is not consistent with the LMP qualifying criteria. This proposed partial disapproval does not prevent the State from submitting a subsequent SIP revision demonstrating that the removal of the two operating permits does not interfere with attainment or maintenance of the NAAQS.

The EPA's proposed partial disapproval would be simultaneously corrected because we are, in this same action, proposing to fully approve the Sandpoint NAA LMP with all control measures in place. Therefore, upon final action a fully approved LMP would be in place and no further submittal would be required from the State to address the partial disapproval.

## II. Background

### A. PM<sub>10</sub> NAAQS

"Particulate matter," also known as particle pollution or PM, is a complex mixture of extremely small particles and liquid droplets. The size of particles is directly linked to their potential for causing health problems. The EPA is concerned about particles that are 10 micrometers in diameter or smaller because those are the particles that generally pass through the throat and nose and enter the lungs. Once inhaled, these particles can affect the heart and lungs and cause serious health effects. People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure. However, even healthy individuals may experience temporary symptoms from exposure to elevated levels of particle pollution.

On July 1, 1987, the EPA promulgated a NAAQS for PM<sub>10</sub> (52 FR 24634). The EPA established a 24-hour standard of 150 µg/m<sup>3</sup> and an annual standard of 50 µg/m<sup>3</sup>, expressed as an annual arithmetic mean. The EPA also promulgated secondary PM<sub>10</sub> standards identical to the primary standards. In a rulemaking action dated October 17, 2006, the EPA retained the 24-hour PM<sub>10</sub> standard but revoked the annual

PM<sub>10</sub> standard (71 FR 61144, effective December 18, 2006).

### B. Planning Background

On August 7, 1987, the EPA designated the Sandpoint area as a PM<sub>10</sub> nonattainment area due to measured violations of the 24-hour PM<sub>10</sub> standard (52 FR 29383). The notice announcing the designation upon enactment of the 1990 CAA Amendments was published on March 15, 1991 (56 FR 11101). On November 6, 1991, the Sandpoint NAA was classified as moderate under sections 107(d)(4)(B) and 188(a) of the CAA (56 FR 56694).

The Sandpoint NAA is located in northern Idaho and includes the communities of Sandpoint, Kootenai, and Ponderay, covering approximately fifteen square miles of Bonner County. The Sandpoint NAA is a low-lying area, at 2085 feet above sea level, surrounded by mountain ranges with varying heights of approximately 3000 to 7000 feet. The Sandpoint NAA is located approximately 46 miles north of Coeur d'Alene, Idaho, and 70 miles northeast of Spokane, Washington.

After the Sandpoint NAA was designated nonattainment for PM<sub>10</sub>, the Idaho Department of Environmental Quality (DEQ) worked with the communities of Sandpoint, Kootenai, and Ponderay to develop a plan to bring the area into attainment no later than December 31, 1996. The State submitted the plan to the EPA on August 16, 1996, as a moderate PM<sub>10</sub> SIP under section 189(a) of the CAA. The moderate PM<sub>10</sub> SIP included a comprehensive residential wood combustion program, controls on fugitive road dust, and emission limitations on industrial sources. The EPA took final action to approve the Sandpoint moderate PM<sub>10</sub> SIP on June 26, 2002 (67 FR 43006). On June 22, 2010, the EPA determined that the Sandpoint NAA had attained the PM<sub>10</sub> NAAQS (75 FR 35302).

On December 14, 2011, the State submitted to the EPA the Sandpoint NAA LMP for approval, and requested that the EPA redesignate the Sandpoint NAA to attainment for the PM<sub>10</sub> NAAQS. The State also requested approval to revise control measures in the Sandpoint PM<sub>10</sub> SIP. In this action, the EPA is proposing to approve in part and disapprove in part the Sandpoint NAA LMP, and to concurrently redesignate the Sandpoint area from nonattainment to attainment for the PM<sub>10</sub> NAAQS.

## III. Public and Stakeholder Involvement in Rulemaking Process

Section 110(a)(2) of the CAA requires that each SIP revision be adopted after

reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to the EPA. The State of Idaho provided notice and an opportunity for public comment on the Sandpoint NAA LMP from October 11, 2011 to November 10, 2011. A notice of public hearing was published in the *Coeur d'Alene Press* and the *Bonner County Daily Bee* on October 11, 2011. The State held a public hearing on December 9, 2011, in Sandpoint, Idaho. This SIP revision was submitted by the Governor's designee to the EPA on December 14, 2011. The EPA has evaluated the State's submittal and determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

## IV. Requirements for Redesignation

### A. CAA Requirements for Redesignation of Nonattainment Area

A nonattainment area may be redesignated to attainment after the area has measured air quality data showing the NAAQS has been attained, and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation (57 FR 13498, April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni Memo). The criteria for redesignation are:

1. The Administrator has determined that the area has attained the applicable NAAQS;

2. the Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

3. the state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

4. the Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

5. the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

### B. The LMP Option for PM<sub>10</sub> Nonattainment Areas

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM<sub>10</sub> nonattainment areas seeking redesignation to attainment (Memo from

Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas" (LMP Option Memo). The LMP 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 LMP Option Memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP, are no longer necessary.

To qualify for the LMP Option, the area should have attained the PM<sub>10</sub> NAAQS and, based upon the most recent five years of air quality data at all monitors in the area, the 24-hour design value should be at or below 98 µg/m<sup>3</sup>. If an area cannot meet this test, it may still be able to qualify for the LMP Option if the average design value (ADV) for the area is less than the site-specific critical design value (CDV). In addition, the area should expect only limited growth in on-road motor vehicle PM<sub>10</sub> emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option Memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

### C. Conformity Under the LMP 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 LMP Option does not exempt an area from the need to affirm conformity, conformity may be demonstrated without submitting an emissions budget. Under the LMP 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.

### V. Review of the State's Submittal Addressing the Requirements for Redesignation and LMPs

#### A. Has the Sandpoint NAA attained the applicable NAAQS?

To demonstrate that an area has attained the PM<sub>10</sub> NAAQS, states must submit an analysis of ambient air quality data from an ambient air monitoring network representing peak PM<sub>10</sub> concentrations. The data should be quality-assured and stored in the EPA Air Quality System database. The EPA has reviewed air quality data for the area and has confirmed that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS<sup>1</sup> by the applicable attainment date of December 31, 1996 and continues to attain the PM<sub>10</sub> NAAQS. The EPA's analysis is described below.

The 24-hour PM<sub>10</sub> NAAQS is 150 µg/m<sup>3</sup>. An area has attained this 24-hour standard if the average number of expected exceedances per year is less than or equal to one, when averaged over a three-year period (40 CFR 50.6). To make this determination, three consecutive years of complete ambient air quality data must be collected in accordance with Federal requirements (40 CFR part 58 including appendices).

On June 22, 2010, the EPA determined that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS by December 31, 1996 (75 FR 35302). The EPA has also reviewed more recent ambient air quality data for the 24-hour PM<sub>10</sub> NAAQS, and has determined that the Sandpoint NAA continues to attain the 24-hour PM<sub>10</sub> NAAQS. A summary of the EPA's data review and analysis can be found in the docket for this action (Sandpoint PM<sub>10</sub> NAAQS LMP Memo, dated September 13, 2012).

A comprehensive air quality monitoring plan, intended to meet the requirements of 40 CFR part 58 was submitted by the State to the EPA on January 15, 1980, and approved by the EPA on July 28, 1982 (40 CFR 52.670). Updated monitoring plans have been subsequently submitted and approved, with the most recent submittal dated

<sup>1</sup> Because the annual PM<sub>10</sub> standard was revoked effective December 18, 2006, see 71 FR 61144 (October 17, 2006), this notice discusses only attainment of the 24-hour PM<sub>10</sub> standard."

July 1, 2012 and approved on October 25, 2012. The monitoring plan describes the PM<sub>10</sub> monitoring network throughout Idaho, which includes the Sandpoint monitoring site. In the Sandpoint NAA LMP submittal, the State states that the Idaho DEQ has monitored PM<sub>10</sub> in Sandpoint since 1985, and that data from 1996 through 2008 show that PM<sub>10</sub> concentrations remain well below the 24-hour PM<sub>10</sub> NAAQS. In addition, the State states that the Sandpoint monitoring site is operated in compliance with the EPA monitoring guidelines set forth in 40 CFR part 58, Ambient Air Quality Surveillance. Data from the Sandpoint monitoring site has been quality assured by Idaho DEQ and submitted to the EPA Air Quality System (AQS), accessible through the EPA AirData Web site at <http://www.epa.gov/airdata/>.

#### B. Does the Sandpoint NAA have a fully approved SIP under Section 110(k) of the CAA?

To qualify for redesignation, the SIP for the area must be fully approved under section 110(k) of the CAA, and must satisfy all requirements that apply to the area. As discussed in Section II.B. above, the State submitted the Sandpoint PM<sub>10</sub> SIP to the EPA on August 16, 1996. The EPA fully approved the Sandpoint PM<sub>10</sub> SIP on June 26, 2002, as satisfying all requirements that apply to the area (67 FR 43006). Thus, the area has a fully approved nonattainment area SIP under section 110(k) of the CAA.

#### C. Has the State met all applicable requirements under Section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that for an area to be redesignated to attainment the state must meet all applicable requirements under section 110 and Part D of the CAA. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how the State meets these requirements.

#### (1) CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for nonattainment plans. These requirements include, but are not limited to: submittal of a SIP adopted by the state after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program;

provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting; provisions for modeling; and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements (57 FR 13498, April 16, 1992). For purposes of redesignating the Sandpoint NAA, the EPA has reviewed the Idaho SIP and finds that the State has satisfied all applicable requirements under CAA section 110(a)(2) for the PM<sub>10</sub> NAAQS. The EPA's approval of the State's SIP for attainment and maintenance of the PM<sub>10</sub> NAAQS under CAA section 110 can be found at 40 CFR 52.673.

## (2) Part D Requirements

CAA part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM<sub>10</sub> nonattainment areas must meet the general provisions of Subpart 1 and the specific PM<sub>10</sub> provisions in Subpart 4, "Additional Provisions for Particulate Matter Nonattainment Areas." The following paragraphs discuss these requirements as they apply to the Sandpoint NAA.

### (2)(a) Part D, Section 172(c)(2)—Reasonable Further Progress

CAA section 172(c) contains general requirements for nonattainment area plans. A thorough discussion of these requirements can be found in the General Preamble (57 FR 13538, April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for reasonable further progress (RFP). Section 171(1) of the CAA defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." The requirements for RFP, identification of certain emissions increases and other measures needed for attainment were satisfied with the approved Sandpoint moderate PM<sub>10</sub> SIP (67 FR 43006). On June 22, 2010, the EPA determined that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS by December 31, 1996 (75 FR 35302), therefore the State has demonstrated that no further showing of RFP or quantitative milestones is necessary.

### (2)(b) Part D, Section 172(c)(3)—Emissions Inventory

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Sandpoint NAA. The State included an emissions inventory dated March 31, 2006 in the Sandpoint NAA LMP submittal. The State used 1999 as a base year for the emissions inventory because the State determined that it is representative of emissions during the five year period (1996–2001) associated with air quality data demonstrating attainment, and that a more current inventory would not find higher total emissions rates than those estimated for 1999. The State has demonstrated that the 1999 base year emissions inventory is current, accurate, and comprehensive, and therefore meets the requirements of section 172(c)(3) of the CAA.

### (2)(c) Part D, Section 172(c)(5)—New Source Review (NSR)

The CAA requires all nonattainment areas to meet several requirements regarding NSR. A state must have an approved major NSR program that meets the requirements of CAA section 172(c)(5). The Part D NSR rules for PM<sub>10</sub> nonattainment areas in Idaho were approved by the EPA on July 23, 1993 (58 FR 39445) and amended on January 16, 2003 (68 FR 2217). Revisions to Idaho's NSR rules were most recently approved by the EPA on November 26, 2010 (75 FR 72719). Within the boundaries of the Sandpoint NAA, the requirements of the Part D NSR program will be replaced by the State's Prevention of Significant Deterioration (PSD) program requirements upon the effective date of redesignation.

### (2)(d) Part D, Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. On January 15, 1980, the State submitted a comprehensive air quality monitoring plan, intended to meet the requirements of 40 CFR part 58. The EPA approved the plan on July 28, 1982 (40 CFR 52.760). This monitoring plan has been updated, with the most recent submittal dated July 1, 2012 and approved on October 25, 2012. The monitoring plan describes the PM<sub>10</sub> monitoring network throughout Idaho, including the Sandpoint monitoring site. The Sandpoint monitoring site is operated in

compliance with the EPA monitoring guidelines set forth in 40 CFR part 58, Ambient Air Quality Surveillance. In addition, the Sandpoint NAA LMP submittal provides a commitment to continue operation of the PM<sub>10</sub> monitoring network in accordance with 40 CFR part 58, and to annually verify continued attainment of the 24-hour PM<sub>10</sub> NAAQS in Sandpoint.

### (2)(e) Part D, Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if an area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. On June 22, 2010, the EPA determined that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS by the applicable attainment date of December 31, 1996 (75 FR 35302), therefore contingency measures are no longer required under Section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under Section 175(a)(d). Please see section IV.I. for a description of Idaho's maintenance plan contingency provisions.

### (2)(f) Part D, Section 189(a), (c) and (e)—Additional Provisions for Particulate Matter Nonattainment Areas

CAA sections 189(a), (c) and (e) apply to moderate PM<sub>10</sub> nonattainment areas. Any of these requirements which were applicable and due prior to the submission of the redesignation request must be fully approved into the SIP before redesignating the area to attainment. With respect to the Sandpoint NAA, these requirements include:

(a) Provisions to assure that reasonably available control measures were implemented by December 10, 1993 (section 189(a)(1)(C));

(b) either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable (section 189(a)(1)(B));

(c) quantitative milestones which were achieved every three years and which demonstrate RFP toward attainment by December 31, 1994 (section 189(c)(1)); and

(d) provisions to assure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors except where the Administrator determined that such sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area (section 189(e)).

Provisions for reasonably available control measures, attainment demonstration, and RFP milestones were fully approved into the SIP upon the EPA approval of the Sandpoint PM<sub>10</sub> SIP for the Sandpoint NAA on June 26, 2002 (67 FR 43006). The EPA approved changes to Idaho's major NSR rules on July 17, 2012 (77 FR 41916) and November 26, 2010 (75 FR 72719). Idaho's major nonattainment NSR rules and PSD rules include control requirements that apply to major stationary sources of PM<sub>10</sub> and PM<sub>10</sub> precursors in nonattainment and attainment/unclassifiable areas.

*D. Has the State demonstrated that the air quality improvement is due to permanent and enforceable reductions?*

Section 107(d)(3)(E)(iii) of the CAA provides that a nonattainment area may not be redesignated unless the EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP. Therefore, a state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions by demonstrating that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic.

Permanent and enforceable control measures in the Sandpoint PM<sub>10</sub> SIP include controls on residential wood combustion, fugitive road dust, and industrial sources of emissions. The Sandpoint NAA LMP submittal describes the efforts started in 1995 to control residential wood combustion in the City of Sandpoint, which included a public awareness campaign, an uncertified woodstove replacement program, and a new city ordinance related to woodstoves and burning. The public awareness program provided citizens with information about stove sizing, installation, proper operation and maintenance, general health risks of wood smoke, new stove technology, and alternatives to wood heating. The replacement program resulted in the removal of 84 uncertified wood stoves which were replaced by natural gas units, certified wood stoves, and pellet stoves. In addition, the Sandpoint NAA LMP submittal describes Sandpoint Ordinance 965, which restricts the sale and installation of uncertified solid fuel heating appliances, and implements a

wood burning curtailment program in the City of Sandpoint.

The Sandpoint NAA LMP submittal also describes measures to reduce particulate matter emissions due to winter sanding of road surfaces in the City of Sandpoint including changing the type and volume of sanding material used, using alternative materials, and increasing the frequency of street sweeping. Sandpoint City Ordinance 939, adopted in 1994, requires applicators of anti-skid material to use only material that meets certain standards for percentages of fines and durability. In addition, the Sandpoint Independent Highway District and Idaho Transportation Department have acquired equipment to apply liquid de-icer and have also designated certain roads in Sandpoint as an "anti-skid free zone."

Finally, the Sandpoint NAA LMP submittal describes the control measures relied on to address industrial source emissions. The State developed emissions limits for facilities in the Sandpoint NAA through the Tier II Operating Permit Program, with input from each facility to ensure the reductions in potential to emit were feasible and offered sufficient operational flexibility. Portions of the Tier II operating permits for three sources, Louisiana Pacific Corporation—Sandpoint, Lake Pre-Mix, and Interstate Concrete and Asphalt were approved into the Sandpoint PM<sub>10</sub> SIP on June 26, 2002 (67 FR 43006).

The controls on residential wood combustion, fugitive road dust, and industrial sources of emissions described above were approved by the EPA into the Sandpoint PM<sub>10</sub> SIP, and are both permanent and Federally-enforceable (67 FR 43006). However, Idaho's Sandpoint NAA LMP submittal included a request to remove the three Tier II operating permits from the Sandpoint PM<sub>10</sub> SIP. The EPA is proposing to approve the State's request to remove the Louisiana-Pacific Corporation—Sandpoint operating permit from the SIP because the facility has ceased operations and has been dismantled. The EPA is proposing to disapprove the State's request to remove the two other operating permits (Lake Pre-Mix, and Interstate Concrete and Asphalt) because the submittal did not include a demonstration that removal of the two permits would not interfere with attainment or maintenance of the PM<sub>10</sub> NAAQS. This proposed partial disapproval does not prevent the State from submitting a subsequent SIP revision to remove the two Tier II operating permits with the required demonstration.

The EPA has concluded that areas that qualify for the LMP Option will meet the NAAQS, even under worst case meteorological conditions. Therefore, under the LMP Option, the maintenance demonstration is presumed to be satisfied if an area meets the criteria to qualify for a LMP. An application of the LMP qualifying criteria to the Sandpoint NAA is provided below. By qualifying for a LMP, the State presumptively demonstrates that the air quality improvements in the Sandpoint NAA are the result of permanent emission reductions and not a result of either economic trends or meteorology.

*E. Does the area have a fully approved maintenance plan pursuant to Section 175A of the Act?*

In this action, we are proposing to approve the LMP in accordance with the principles outlined in the LMP Option Memo. Upon final approval, the Sandpoint NAA will have a fully approved maintenance plan.

*F. Has the State demonstrated that the Sandpoint NAA qualifies for the LMP option?*

The LMP Option Memo outlines the requirements for an area to qualify for a LMP. First, the area should be attaining the NAAQS. On June 22, 2010, the EPA determined that the Sandpoint NAA attained the PM<sub>10</sub> NAAQS by December 31, 1996 (75 FR 35302). The EPA has reviewed more recent ambient air quality data for the 24-hour PM<sub>10</sub> NAAQS, and has determined that the Sandpoint NAA continues to attain the 24-hour PM<sub>10</sub> NAAQS. Please see section V.A. for a detailed discussion.

Second, the average design value (ADV) for the past five years of monitoring data must be at or below the critical design value (CDV). The CDV is a margin of safety value at which an area has been determined to have a one in ten probability of exceeding the NAAQS. The LMP Option Memo provides two methods to review monitoring data for the purpose of determining qualification for a LMP. The first method is a comparison of a site's ADV with the CDV of 98 µg/m<sup>3</sup> for the 24-hour PM<sub>10</sub> NAAQS. A second method that applies to the 24-hour PM<sub>10</sub> NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past five years of monitoring data. The State's LMP submittal provides a comparison of five-year ADVs compared to the 24-hour and annual CDVs for the years 2004–2008, as described in the first method for review of monitoring data to determine qualification for a

LMP. The State's analysis demonstrates that the Sandpoint NAA has met the LMP design value criteria since 1999, the base year for the most recent emissions inventory. The EPA has reviewed the calculations and concurs with the State's findings. The EPA also calculated ADVs using more recent data and found that the Sandpoint NAA meets the LMP design value criteria for the period 2007–2011. The EPA's design value calculations and analysis can be found in the docket for this action (Sandpoint PM<sub>10</sub> NAAQS LMP Memo, dated September 13, 2012). Therefore, the EPA finds that the Sandpoint NAA meets the design value criteria outlined in the LMP Option Memo.

Third, the area must meet the motor vehicle regional emissions analysis test described in attachment B of the LMP Option Memo. Using the methodology outlined in the LMP Option Memo, the State has submitted an analysis of whether increased emissions from on-road mobile sources would increase PM<sub>10</sub> concentrations in the Sandpoint NAA to levels that would threaten the assumption of maintenance that underlies the LMP policy. Based on monitoring data for the period 2004–2008, the State has determined that the Sandpoint NAA passes the motor vehicle regional emissions analysis test. The EPA has reviewed the calculations in the State's Sandpoint NAA LMP submittal and concurs with this conclusion.

The LMP Option Memo requires all controls relied on to demonstrate attainment remain in place for a NAA to qualify for a LMP. The controls on residential wood combustion, fugitive road dust, and industrial sources of emissions described above were approved by the EPA into the Sandpoint PM<sub>10</sub> SIP, and are both permanent and Federally-enforceable (67 FR 43006). However, Idaho's Sandpoint NAA LMP submittal included a request to remove the three Tier II operating permits from the Sandpoint PM<sub>10</sub> SIP. The EPA is proposing to approve the State's request to remove the Louisiana-Pacific Corporation—Sandpoint operating permit from the SIP because the facility has ceased operations and has been dismantled. The EPA is proposing to disapprove the State's request to remove the two other operating permits (Lake Pre-Mix, and Interstate Concrete and Asphalt) because the submittal did not include a demonstration that removal of the two permits would not interfere with attainment or maintenance of the PM<sub>10</sub> NAAQS. This proposed partial disapproval does not prevent the State from submitting a subsequent SIP revision to remove the two Tier II

operating permits with the required demonstration. Because the industrial source controls relied upon to demonstrate attainment remain in place for those sources that have not been permanently shut down, the State still meets the qualification criteria under the LMP Option Memo.

As described above, the Sandpoint NAA meets the qualification criteria set forth in the LMP Option Memo, and therefore qualifies for a LMP. The LMP Option Memo also indicates that once a State submits a LMP and it is in effect, the State will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the State determines that the LMP criteria are not being met, it should take action to reduce PM<sub>10</sub> concentrations enough to requalify for the LMP. One possible approach the State could take is to implement contingency measures. Section V. I. provides a description of contingency provisions submitted as part of the Sandpoint NAA LMP submittal. In the Sandpoint NAA LMP submittal, the State commits to evaluate, on an annual basis, the LMP criteria for the Sandpoint NAA.

As a result of the above analysis, the EPA is proposing to approve the LMP for the Sandpoint NAA and the State's request to redesignate the Sandpoint NAA to attainment for the PM<sub>10</sub> NAAQS.

*G. Does the State have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?*

Pursuant to the LMP Option Memo, the state's approved attainment plan should include an emissions inventory which can be used to demonstrate attainment of the 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 LMP Option. The state should review its inventory every three years to ensure emissions growth is incorporated in the inventory if necessary.

The State's Sandpoint NAA LMP submittal includes an emissions inventory completed in 2006, with a base year of 1999. The State determined that using 1999 as a base year in the inventory would be representative of the first five years of clean data (i.e., having no violations of the PM<sub>10</sub> NAAQS). The Sandpoint NAA LMP submittal states that since 1999, the only major stationary source in the Sandpoint NAA has ceased operation and has been dismantled. The submittal also provides ambient monitoring data to analyze

population growth as it relates to particulate matter concentrations. Based on this data, the State has concluded that population growth is not interfering with improvements in particulate matter ambient air quality. The State concludes that the 1999 emissions inventory is representative of emissions during the five year period (1996–2001) associated with air quality data demonstrating attainment, and that a more current inventory would not find higher total emissions rates than those estimated for 1999. The Sandpoint NAA LMP submittal meets the EPA guidance, as described above, for purposes of an attainment emissions inventory.

*H. Does the LMP include an assurance of continued operation of an appropriate EPA-Approved air quality monitoring network, in accordance with 40 CFR Part 58?*

PM<sub>10</sub> monitoring was established in the Sandpoint area in 1985. The monitoring network was developed and has been maintained in accordance with Federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 10. The EPA most recently approved the State's air monitoring plan on October 25, 2012. In the Sandpoint NAA LMP submittal, the State states that it will continue to operate its monitoring network to meet the EPA requirements at 40 CFR part 58.

*I. Does the plan meet the clean air act requirements for contingency provisions?*

CAA section 175A states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option Memo and the Calcagni Memo, these contingency provisions are considered to be an enforceable part of the Federally-approved SIP. The maintenance plan should clearly identify the provisions to be adopted, a schedule and procedures for adoption and implementation, and a specific time limit for action by the state. The maintenance plan should identify the events that would "trigger" the adoption and implementation of a contingency provision, the contingency provision that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the provision. The LMP Option Memo and Calcagni Memo state that the EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, it must require

that the State will implement all measures contained in the CAA part D nonattainment plan for the area prior to redesignation.

In the Sandpoint NAA LMP submittal, the State has included maintenance plan contingency provisions to ensure the area continues to meet the PM<sub>10</sub> NAAQS. The primary contingency provision is the Episodic Curtailment Program in Sandpoint City Ordinance 965 which restricts and controls burning activities to reduce particulate matter emissions. Ordinance 965 has been strengthened by the City of Sandpoint to protect both the PM<sub>10</sub> NAAQS and the PM<sub>2.5</sub> NAAQS. The ordinance specifies “triggers” for implementing provisions, based on forecasted PM<sub>10</sub> and PM<sub>2.5</sub> levels. The Sandpoint NAA LMP also references Idaho regulations previously approved into the SIP which provide the State with broad authority to require or revise a permit of any stationary source, at any time, should it be determined that emission rate reductions are necessary to attain or maintain the PM<sub>10</sub> NAAQS.

The contingency provisions submitted by the State have been adopted, are currently being implemented in the Sandpoint area, and contain triggers based on forecasted PM<sub>10</sub> levels for implementing specific provisions to reduce particulate matter emissions from home wood heating. Therefore, the EPA believes the contingency provisions submitted in the Sandpoint NAA LMP are adequate to meet CAA section 175A requirements.

#### *J. Has the State met conformity requirements?*

##### (1) Transportation Conformity

Under the LMP 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 LMP 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:

(a) Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113;

(b) transportation plans and projects comply with the fiscal constraint element as set forth in 40 CFR 93.108;

(c) the MPO’s interagency consultation procedures meet the applicable requirements of 40 CFR 93.105;

(d) conformity of transportation plans is determined no less frequently than every three years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;

(e) the latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

(f) 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

(g) project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

Upon approval of the Sandpoint NAA LMP, the Sandpoint area is exempt from performing a regional emissions analysis, but must meet project-level conformity analyses as well as the transportation conformity criteria mentioned above.

##### (2) General Conformity

For Federal actions required to address the specific requirements of the general conformity rule, one set of requirements applies particularly to ensuring that emissions from the action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. One way that this requirement can be met is to demonstrate that “the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the applicable SIP” (40 CFR 93.158(a)(5)(i)(A)).

The decision about whether to include specific allocations of allowable emissions increases to sources is one made by the state air quality agencies. These emissions budgets are different than those used in transportation conformity. Emissions budgets in transportation conformity are required to limit and restrain emissions. Emissions budgets in general conformity allow increases in emissions up to specified levels. The State has not chosen to include specific emissions allocations for Federal projects that would be subject to the provisions of general conformity.

## VI. Revisions to Sandpoint PM<sub>10</sub> SIP

In the Sandpoint NAA LMP submittal, the State requested that the EPA approve revisions to the Sandpoint PM<sub>10</sub> SIP. The State requested approval of revisions to the Sandpoint City Ordinance 965 which regulates residential wood burning to protect both the PM<sub>10</sub> and PM<sub>2.5</sub> NAAQS. The revision aligns the ordinance with the EPA Air Quality Index public advisory levels, establishes triggers for burn curtailment based on forecasted levels of PM<sub>10</sub> and PM<sub>2.5</sub>, adopts Federal standards of performance for new residential wood heaters, and includes a violation and penalty provision. The EPA is proposing to approve the revised Sandpoint City Ordinance 965 into the Sandpoint PM<sub>10</sub> SIP because it strengthens the SIP.

In addition, the State requested that the EPA remove three Tier II operating permits (Louisiana-Pacific Corporation—Sandpoint, Lake Pre-Mix, and Interstate Concrete and Asphalt) from the Sandpoint PM<sub>10</sub> SIP, originally approved on June 26, 2002 (67 FR 43006). The Sandpoint NAA LMP submittal asserts that the State did not submit these operating permits as part of the attainment demonstration and that the EPA, without a request from the State, approved portions of the permits into the SIP.

As a result of the State’s request, the EPA reviewed the administrative record of the Sandpoint PM<sub>10</sub> SIP approval action. The State’s Sandpoint PM<sub>10</sub> SIP submittal included an attainment demonstration that relied on industrial source emission reductions (See 67 FR 43006, June 26, 2002). As noted in the EPA’s June 26, 2002, approval, the State chose to establish the necessary PM<sub>10</sub> industrial source controls through the State’s Tier II Operating Permit Program. The administrative record for the Sandpoint PM<sub>10</sub> SIP included a letter from the Idaho DEQ to the EPA indicating which portions of the operating permits for the specific sources were appropriate to approve into the Sandpoint PM<sub>10</sub> SIP (IDEQ Letter PM<sub>10</sub> Industrial Source Controls, May 16, 2002). The EPA approved portions of the three operating permits containing the source controls into the Sandpoint PM<sub>10</sub> SIP to meet the CAA requirement that emission reductions be both permanent and Federally-enforceable (40 CFR 52.670(c)). A footnote to 40 CFR 52.670(c) explains that “EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or



maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment.” The footnote further explains that the “Idaho Department of Environmental Quality may request removal by submitting such a demonstration to EPA as a SIP revision.”

At this time, the EPA is proposing to approve the State’s request to remove the source operating permit for Louisiana-Pacific Corporation—Sandpoint because the facility has ceased operations and has been dismantled. Removing the permit for the permanently shut down facility from the SIP will not interfere with attainment or maintenance of the PM<sub>10</sub> NAAQS. The facility report from the EPA’s Enforcement and Compliance History Online Web site is provided in the docket for this action (Louisiana-Pacific Corporation—Sandpoint Facility Report). The EPA is proposing to disapprove the State’s request to remove the two operating permits for Lake Pre-Mix and Interstate Concrete and Asphalt from the Sandpoint PM<sub>10</sub> SIP because the submittal did not include a demonstration that the removal of the permits would not interfere with attainment or maintenance of the NAAQS, and because removal of the permits would disqualify the State from the LMP option and require the submittal of a full maintenance plan. As previously noted, the EPA’s partial disapproval does not prevent the State from providing the demonstration required to remove the two permits from the SIP in the future.

The EPA’s proposed partial disapproval will be simultaneously corrected because we are, in this same action, proposing to fully approve the Sandpoint NAA LMP with all control measures in place. Therefore, upon final action a fully approved LMP will be in place and no further submittal will be required from the State to address the partial disapproval.

## VII. Proposed Action

The EPA is proposing to approve in part and disapprove in part the Sandpoint NAA LMP submitted by the State and to approve the State’s request to redesignate this area to attainment for the PM<sub>10</sub> NAAQS. The State’s Sandpoint NAA LMP submittal included a request to approve revisions to the control measures included in the PM<sub>10</sub> attainment SIP for the Sandpoint NAA. The EPA is proposing to approve the revised Sandpoint City Ordinance 965 for control of residential burning because it strengthens the SIP. The EPA is also proposing to approve the State’s

request to remove the Louisiana-Pacific Corporation—Sandpoint operating permit control measure from the SIP because the facility has ceased operations and has been dismantled. However, the EPA is proposing to disapprove the State’s request to remove the operating permits for two other sources because these sources are still in operation and the State did not provide a demonstration that removal of the two permits would not interfere with attainment or maintenance of the NAAQS. In addition, the removal of controls that were relied on to demonstrate attainment would disqualify the Sandpoint NAA for LMP eligibility and require that the State submit a full maintenance plan. Because the State submitted the Sandpoint NAA LMP intending to qualify for the LMP option, and did not submit a full maintenance plan, we are proposing to disapprove the separable portion of the submittal that is not consistent with the LMP qualifying criteria. This proposed partial disapproval does not prevent the State from submitting a request for approval of a SIP revision demonstrating that the removal of the two operating permits does not interfere with attainment or maintenance of the NAAQS.

The EPA’s proposed partial disapproval would be simultaneously corrected because we are, in this same action, proposing to fully approve the Sandpoint NAA LMP with all control measures in place. Therefore, upon final action a fully approved LMP would be in place and no further submittal would be required from the State to address the partial disapproval.

## VIII. 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 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 (Pub. L. 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 application of those requirements would be inconsistent with the Clean Air Act; 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 rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects

### 40 CFR Part 52

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

### 40 CFR Part 81

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

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

Dated: January 22, 2013.

**Dennis J. McLerran,**  
Regional Administrator, Region 10.

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