This section consists of a policy statement concerning prior notice-and-comment for rulemaking.

The provisions of 5 U.S.C. 553 set forth notice-and-comment requirements for rulemaking and include an exemption from the notice-and-comment requirements for rulemaking concerning public property, loans, grants, benefits, or contracts. Regardless of whether the rulemaking concerns public property, loans, grants, benefits, or contracts, the provisions of 5 U.S.C. 553 also contain exemptions from the notice-and-comment requirements for interpretative rules; general statements of policy; rules of organization, procedure, or practice; and for rules published with an appropriate statement of ''good cause.'' The regulatory history of § 1.12 indicates that, despite the statutory exemption for public property, loans, grants, benefits, or contracts, VA intended to utilize the notice-and-comment provisions for rulemaking unless it were determined that it was appropriate to use an applicable exemption other than an exemption based on the mere fact that the subject matter concerned property, loans, grants, benefits, or contracts (see 37 FR 3552, Feb. 17, 1972).

Subsequent to the promulgation of § 1.12, statutory provisions were established that specifically apply the public notice-and-comment provisions of 5 U.S.C. 553 to VA rulemaking concerning loans, grants, or benefits (see 38 U.S.C. 501(d)). These statutory provisions do not impose notice-and-comment provisions for rulemaking concerning public property or contracts.

Also, subsequent to the promulgation of § 1.12, statutory provisions were established that specifically apply notice-and-comment provisions to certain rulemaking concerning contracts. In this regard, 41 U.S.C. 418b provides, with certain exceptions, that ''no procurement policy, regulation, procedure, or form (including amendments or modifications thereto) relating to the expenditure of appropriated funds that has (1) a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure or form, or (2) a significant cost or administrative impact on contractors or offerors, may take effect until 60 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register.''

It does not appear that there is a need for VA to self-impose additional notice-and-comment requirements for rulemaking beyond those imposed by statute.

A companion document reestablishing § 1.12 is published in the Rules and Regulations section of this issue of the Federal Register.

No notice of proposed rulemaking was required in connection with this rulemaking action. Accordingly, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Nevertheless, the Secretary of Veterans Affairs certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. The adoption of the proposed rule would not have a direct effect on small entities.

There is no Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Investigations, Parking, Penalties, Postal Service, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

Approved: June 21, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is proposed to be amended as set forth below:

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 1.12 [Removed]

Section 1.12 and the undesignated center heading preceding § 1.12 are removed.

[FR Doc. 96–16643 Filed 6–28–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WA 54–7127; FRL–5529–9]

Clean Air Act Reclassification; Spokane, Washington Carbon Monoxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the Spokane, Washington carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas, December 31, 1995. This proposed finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. If EPA takes final action on this proposed finding, the Spokane CO nonattainment area will be reclassified by operation of law as a serious nonattainment area. The intended effect of such a reclassification would be to allow the State additional time to submit a new State implementation plan (SIP) providing for attainment of the CO NAAQS by no later than December 31, 2000, the CAA attainment deadline for serious CO areas.

DATES: Written comments on this proposal must be received by July 31, 1996.

ADDRESSES: Written comments should be sent to: Montel Livingston, SIP Manager, Office of Air Quality, M/S OAQ–107, EPA Region 10, Docket #54–7127, 1200 Sixth Avenue, Seattle, Washington 98101. The rulemaking docket for this notice is available for public review during normal business hours at the following location: EPA, Region 10, Office of Air Quality, M/S OAQ–107, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the docket are also available at the Washington Department of Ecology, Attention Tami Dahlgren, Olympia, Washington 98504–7600, telephone (360) 407–6830; and at the Spokane County Air Pollution Control Authority, West 1101 College, Suite 403, Spokane, Washington 99201, telephone (509) 456–4727.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth of the EPA Region 10 Office of Air Quality, (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The CAA Amendments of 1990 (CAAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each carbon monoxide (CO) area designated nonattainment prior to enactment of the 1990 Amendments, such as the Spokane area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of

the CAA, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Spokane area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991). States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO national ambient air quality standard (NAAQS) as expeditiously as practicable but no later than December 31, 1995.[1]

B. Reclassification to a Serious Nonattainment Area

1. EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date whether the Spokane area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a notice in the Federal Register identifying areas which failed to attain the standard and therefore must be reclassified as serious by operation of law. EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.[2] Section 179(c)(1) of the CAA states that the attainment determination must be based upon an area's ''air quality as of the attainment date.'' Consequently, EPA will determine whether an area's air quality has met the CO NAAQS by December 31, 1995, based upon the most recent two years of air quality data entered into the Aerometric Information Retrieval System (AIRS) data base.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR part 50.8 and EPA policy.[3] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Spokane area in 1994 and 1995, this notice addresses only the air quality status of the Spokane area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average per year per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same year constitutes a violation of the CO NAAQS.

2. SIP Requirements for Serious CO Areas: CO nonattainment areas reclassified as serious under section 186(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. The serious CO area planning requirements are set forth in section 187(b) of the CAA. EPA has issued two general guidance documents related to the planning requirements for CO SIPs. The first is the ''General Preamble for the Implementation of Title I of the CAAA of 1990'' that sets forth EPA's preliminary views on how the Agency intends to act on SIPs submitted under Title I of the CAA. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The second general guidance document for CO SIPs issued by EPA is the ''Technical Support Document to Aid the States with the Development of Carbon Monoxide State Implementation Plans,'' July 1992. If the Spokane area is reclassified to serious, the State would have to submit a SIP revision to EPA that, in addition to the attainment demonstration, includes: (1) A forecast of vehicle miles travelled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Upon reclassification, contingency measures in the moderate area plan for the Spokane area must be implemented.

C. Attainment Date Extensions

If a state does not have the two consecutive years of clean data necessary to show attainment of the NAAQS, it may apply, under section 186(a)(4) of the CAA, for a one year attainment date extension. EPA may, in its discretion, grant such an extension if the state has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. Under section 186(a)(4), EPA may grant up to two such extensions if these conditions have been met. Because the Spokane nonattainment area had four exceedances in 1995, the area does not qualify for an extension.

II. This Action

By today's action, EPA is proposing to find that the Spokane CO nonattainment area has failed to demonstrate attainment of the CO NAAQS by December 31, 1995. This proposed finding is based upon air quality data showing violations of the CO NAAQS during 1995.

Ambient Air Monitoring Data: The following table lists the monitoring site in the Spokane CO nonattainment area where the 8-hour CO NAAQS has been exceeded during 1995, based on data validated by the Washington Department of Ecology and entered into the AIRS data base.

EXCEEDANCES OF 8-HOUR CO NAAQS FOR SPOKANE NONATTAINMENT AREA

Monitoring site	1995	
	Concentration	Date of exceedance
3rd and Washington.	10.4 ppm	Jan. 9, 1995.
3rd and Washington.	13.1 ppm	Dec. 11, 1995.
3rd and Washington.	11.2 ppm	Dec. 12, 1995.
3rd and Washington.	9.6 ppm ...	Dec. 15, 1995.

In letters to EPA of February 20, 1996, and March 19, 1996, the City of Spokane raised questions whether the monitoring data from the CO monitor located at 3rd Avenue and Washington Street is representative of the ambient air. In a letter to the City of Spokane dated April

[1] The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Spokane area has a design value above 12.7 ppm. 40 CFR part 81.348.

[2] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled ''Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas,'' October 23, 1995 (Shaver memorandum).

[3] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations'', June 18, 1990. See also Shaver memorandum.

9, 1996, EPA Region 10 advised that any analysis of whether the monitor was properly sited would need to be conducted in the context of 40 CFR part 58, Appendix E, which provides specific criteria for the placement of CO monitors, including consideration of the placement of such monitors vis-a-vis street canyons and traffic corridors. In addition, the State of Washington Department of Ecology provided EPA with copies of four audit reports from 1995 which indicate that that CO monitor met the Part 58 siting criteria and that the monitor was reporting accurately with the acceptance criteria. This information was provided to the City of Spokane in a letter dated May 28, 1996.

EPA believes that the 1995 exceedances are valid for use in determining the attainment status of the Spokane area. EPA is therefore proposing to find, based on the 1995 CO violations discussed above, that the area did not attain the CO NAAQS by December 31, 1995.

III. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.'' The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. As discussed in section III of this notice, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in and of themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

V. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate. EPA believes, as discussed above, that the proposed finding of failure to attain and reclassification of the Spokane nonattainment area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Carbon monoxide.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 17, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96–16670 Filed 6–28–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 260, 261, 262, 264, 268, 269 and 271

[FRL–5528–9]

Requirements for Management of Hazardous Contaminated Media (HWIR-media); Proposed Rule—Notice of Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: notice of extension of comment period.

SUMMARY: Since publication of the proposed rule for Requirements for Management of Hazardous Contaminated Media (HWIR-media) (61 FR 18780 (April 29, 1996)), EPA has received several requests to extend the comment period. Today, the Agency is extending the comment period 30 days to August 28, 1996.

DATES: The comment period on the proposed rule for Requirements for Management of Hazardous Contaminated Media (61 FR 18780) is extended from July 29, 1996 to August 28, 1996.

ADDRESSES: Commenters on the HWIR-media proposal must send an original and two copies of their comments referencing Docket Number F–96–MHWP–FFFFF to: (1) If using regular US Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW., Washington, DC 20460, or (2) if using special delivery, such as overnight express service : RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. For other information regarding submitting comments electronically or viewing the comments received and supporting information, please refer to the proposed rule (61 FR 17870 (April 29, 1996)). The RCRA Information Center is located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington Virginia and is open for public inspection and copying of supporting information for RCRA rules from 9 am to 4 pm Monday through Friday, except for Federal holidays. The public must make an appointment to view docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired).