

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 12, 2005.  
**Richard E. Greene,**  
*Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart SS—Texas**

■ 2. In § 52.2270, the table in paragraph (e) entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding one new entry to the end of the table to read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Voluntary Mobile Emission Program.	Dallas/Fort Worth, TX .....	4/25/00	8/26/05, [Insert FR page number where document begins].	

[FR Doc. 05–17030 Filed 8–25–05; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R10–OAR–2005–WA–0005; FRL–7959–6]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Wallula, WA, Area**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is taking final action to approve a PM<sub>10</sub> State Implementation Plan (SIP) maintenance plan revision for the Wallula, Washington nonattainment area and to redesignate the area from nonattainment to attainment. PM<sub>10</sub> air pollution is suspended particulate matter with a nominal diameter less than or equal to a nominal ten micrometers. We are approving the maintenance plan revision and redesignation request because the State has adequately demonstrated that the control measures being implemented in the Wallula area will result in maintenance of the PM<sub>10</sub> National Ambient Air Quality Standards and that all other requirements of the Clean Air Act for redesignation to attainment have been met.

**DATES:** Effective September 26, 2005.

**ADDRESSES:** Copies of the State’s request and other supporting information used in developing this action are available for inspection during normal business

hours at the following locations: EPA, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen, Office of Air, Waste, and Toxics (AWT–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–6706.

**SUPPLEMENTARY INFORMATION:**

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**I. What Is the Background of This Rulemaking?**

On July 1, 2005, we proposed to approve a State Implementation Plan (SIP) maintenance plan revision and redesignation request, dated March 29, 2005, from the Director of the Washington State Department of Ecology (Ecology) for the Wallula PM–10 nonattainment area. 70 FR 38073. We proposed our approval based on the State’s demonstration that the control measures being implemented in the Wallula area would result in maintenance of the PM<sub>10</sub> National Ambient Air Quality Standards and that all other Clean Air Act requirements for redesignation to attainment have been met. See the proposed action for a full description of how the maintenance

plan and redesignation request meet Clean Air Act requirements.

**II. What Comments Did We Receive on the Proposed Action?**

EPA provided a 30-day review and comment period on the proposal published in the **Federal Register** on July 1, 2005 (70 FR 38073). We received no comments on our proposed rulemaking.

**III. What Is Our Final Action?**

We are taking final action to approve the Wallula PM<sub>10</sub> maintenance plan and redesignate the Wallula nonattainment area to attainment for PM<sub>10</sub>.

**IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on 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). This action also does not have Federalism implications because it does not 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). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, 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. This 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Particulate matter,

Intergovernmental relations, Reporting and recordkeeping requirements.

*40 CFR Part 81*

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

Dated: August 12, 2005.

**Julie M. Hagensen,**

*Acting Regional Administrator, Region 10.*

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart WW—Washington**

■ 2. Section 52.2475(e)(2)(ii) is revised to read as follows:

**§ 52.2475 Approval of plans.**

(e) \* \* \*

(2) \* \* \*

(ii) EPA approves, as a revision to the Washington State Implementation Plan, the Wallula PM<sub>10</sub> maintenance plan, adopted by the Washington Department of Ecology on March 29, 2005 and submitted to EPA.

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.348, the table entitled "Washington—PM-10" is amended by revising the entry for "Walla Walla and Benton Counties, Wallula" to read as follows:

**§ 81.348 Washington.**

\* \* \* \* \*

**WASHINGTON—PM-10**

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
<b>Walla Walla and Benton Counties Wallula</b>				
The area bounded on the south by a line from UTM coordinate 5099975mN, 362500mE, west to 5099975mN, 342500mE, thence north along a line to coordinate 5118600mN, 342500mE, thence east to 5118600mN, 362500mE, thence south to the beginning coordinate 5099975mN, 362500mE.	September 26, 2005.	Attainment.		
* * *	*	*	*	*

\* \* \* \* \*

[FR Doc. 05-16929 Filed 8-25-05; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services****42 CFR Part 405**

[CMS-4064-IFC3]

RIN-0938-AM73

**Medicare Program; Changes to the Medicare Claims Appeal Procedures: Correcting Amendment to a Correcting Amendment****AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.**ACTION:** Correcting amendment.

**SUMMARY:** This correcting amendment corrects a technical error in the correcting amendment that appeared in the **Federal Register**, entitled "Medicare Program; Changes to the Medicare Claims Appeal Procedures: Correcting Amendment to an Interim Final Rule."

**DATES:** *Effective Date:* This correcting amendment is effective September 26, 2005.

**FOR FURTHER INFORMATION CONTACT:** Arrah Tabe-Bedward, (410) 786-7129.

**SUPPLEMENTARY INFORMATION:****I. Background**

We have identified a technical error that appeared in a correcting amendment entitled "Medicare Program; Changes to the Medicare Claims Appeal Procedures: Correcting Amendment to an Interim Final Rule." (70 FR 37700, June 30, 2005) In this correcting amendment, we are correcting that technical error.

**II. Correction of Error***A. Technical Correction to the Regulations Text*

In § 405.1020 of the regulation text, we incorrectly stated the section's title as "Time frames for deciding an appeal for a hearing before an ALJ." It should have read, "Time and place for a hearing before an ALJ." We correct this technical error in section B of this correcting amendment.

**III. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. However, we can waive this

procedure if we find good cause for doing so, and incorporate a statement of this finding and the reasons for it into the rule. A finding that a notice and comment period is impracticable, unnecessary, or contrary to the public interest constitutes good cause for waiving this procedure.

We believe that it is unnecessary to seek public comment on the correction of this editorial error. Further, it is in the public's interest to correct this editorial error because it makes the section more understandable to parties pursuing Medicare appeals under these procedures. Therefore, we find good cause to waive notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

*Correction of Regulation Text Error*

■ Accordingly, 42 CFR chapter IV is corrected by making the following correction to part 405:

**PART 405—[CORRECTED]**

■ 1. The authority citation for part 405 continues to read as follows:

**Authority:** Secs. 205(a), 1102, 1861, 1862(a), 1869, 1871, 1874, 1881, and 1886(k) of the Social Security Act (42 U.S.C. 405(a), 1302, 1395x, 1395y(a), 1395ff, 1395hh, 1395kk, 1395rr and 1395ww(k)) and Sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

**§ 405.1020 [Corrected]**

■ 2. Section 405.1020 is amended by revising the section title to read as follows:

**§ 405.1020 Time and place for a hearing before an ALJ.**

\* \* \* \* \*

Dated: August 16, 2005.

**Ann C. Agnew,***Executive Secretary to the Department.*

[FR Doc. 05-16711 Filed 8-25-05; 8:45 am]

BILLING CODE 4120-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services****42 CFR Part 433**

[CMS-2210-IFC]

RIN 0938-AO04

**Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2005****AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule with comment period sets forth the methodology used to compute State allotments that are available to pay Medicare Part B premiums for qualifying individuals, allows changes to the State allotments and describes the methodology used to determine the changes to each State's allotment.

**DATES:** *Effective date:* These regulations are effective August 26, 2005 for allotments for payment of Medicare Part B premiums from the allocation for fiscal year 2005.

*Comment date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on October 25, 2005.

**ADDRESSES:** In commenting, please refer to file code CMS-2210-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/regulations/ecomments>. (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2210-IFC, P.O. Box 8011, Baltimore, MD 21244-8011.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare &