§ 63.5350 How do I distinguish between the water-resistant/specialty and nonwater-resistant leather product process operations?

* * * * *

(b) * * *

(3) For each leather product with a unique finish application, you must maintain records to support how the leather product was categorized to a product process operations type. You must repeat the leather product categorization to a product process operation type no less frequently than once every 5 years if the applied finish chemical characteristics of the leather product have not changed, or when the applied finish chemical characteristics of the leather product do change, whichever is sooner.

(c) To determine whether your product process operation produces specialty leather, you must meet the criteria in paragraphs (c)(1) and (2), or (c)(3) of this section:

* * * * *

(2) The leather must be retanned through the application of grease, waxes, and oil in quantities greater than 12 percent of the dry leather weight. Specialty leather is also finished with higher solvent-based finishes that provide rich color, luster, or an oily/tacky feel. Specialty leather products may include, but are not limited to, specialty shoe leather and top grade football leathers.

(3) The leather must be a high-quality dress or performance shoe leather that can withstand one of the visual tests in paragraph (c)(3)(i) or (ii) of this section:

(i) Moisture injection into the leather using vacuum mulling without signs of blistering.

(ii) Prolonged ironing at 200° F for smoothing out surface roughness without finish lift off.

(4) For each leather product with a unique finish application, you must maintain records to support how the leather product was categorized to a product process operations type. You must repeat the leather product categorization to a product process operation type no less frequently than once every 5 years if the applied finish chemical characteristics of the leather product have not changed, or when the applied finish chemical characteristics of the leather product do change, whichever is sooner.

■ 5. Section 63.5460 is amended by revising the definition for the term ''Specialty leather'', and adding, in alphabetical order, a definition for the term ''Vacuum mulling'' to read as follows:

§ 63.5460 What definitions apply to this subpart?

* * * * *

Specialty leather means a select grade of chrome tanned, bark retanned, or fat liquored leather that is retanned through the application of grease, waxes, and oil in quantities greater than 12 percent of the dry leather weight or high-quality dress or performance shoe leather that can withstand one or more of the following visual tests: moisture injection into the leather using vacuum mulling without signs of blistering, or prolonged ironing at 200° F for smoothing out surface roughness without finish lift off. Specialty leather is also finished with higher solvent-based finishes that provide rich color, luster, or an oily/tacky feel. Specialty leather products are generally low volume, high-quality leather, such as specialty shoe leather and top grade football leathers.

* * * * *

Vacuum mulling means the injection of water into the leather substrate using a vacuum process to increase the moisture content of the leather.

* * * * *

[FR Doc. 05–2303 Filed 2–4–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WA–04–005; FRL–7866–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington; Yakima County Nonattainment Area Boundary Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is taking final action to correct an error in the initial delineation of the boundary of the Yakima County nonattainment area (Yakima NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). This correction revises the boundary of the Yakima NAA to exclude a small portion that lies within the exterior boundary of the Yakama Indian Reservation. The excluded area will revert to an unclassifiable designation, consistent with the original and current designation of the Yakama Indian Reservation.

EFFECTIVE DATE: This rule is effective on March 9, 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. WA–04–005. Publicly available docket materials are available in hard copy at EPA Region 10, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101. This Docket facility is open from 8:30–4, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino, Office of Air, Waste and Toxics (OAWT–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–2970, or e-mail address: bonifacino.gina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us'' or ''our'' is used, we mean EPA. Information is organized as follows:

Table of Contents

I. Background

On November 29, 2004, EPA solicited public comment on a proposal to correct the boundary of the Yakima County nonattainment area (Yakima NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by excluding approximately six square miles of Yakama Indian Reservation land. Section 107(d)(4)(B) of the Clean Air Act (CAA or the Act) sets out the general process by which areas were to be designated nonattainment for the national ambient air quality standards (NAAQS) for PM–10 upon enactment of the 1990 Clean Air Act amendments. The Act states that each area that had been identified by EPA as a PM–10 Group I area [1] prior to the 1990 CAA Amendments is designated nonattainment for PM–10 by operation of the law upon enactment of the 1990 CAA Amendments. Prior to enactment of the 1990 CAA amendments, EPA published technical corrections clarifying the boundaries of concern for some of the areas previously identified as Groups I and II areas. See 55 FR 45799. October 31, 1990. With this action, the Yakima County Group I area was revised to correspond to a rectangular study area that encompassed

[1] Group I areas were areas that, at the time the particulate matter indicator was changed from total suspended particulate (TSP) to PM–10, were estimated to have a high probability of exceeding the PM–10 NAAQS.

the cities of Yakima, Selah, and Union Gap and surrounding areas. The revised Yakima County Group I area included approximately six square miles of fee land within the exterior boundaries of the Yakama Indian Reservation.

EPA now believes that it mistakenly construed then-existing air quality data and, as a consequence, incorrectly included this small portion of the Yakama Indian Reservation within the Yakima County Group I area that would later become the Yakima NAA. When EPA delineated the boundary of the Yakima County Group I area in 1990, EPA policy called for drawing the boundary based on political boundaries unless there was technical information identifying particular sources contributing to violations of the NAAQS that warranted a different approach. In other words, EPA policy called for not including land within the exterior boundaries of the Yakama Indian Reservation as part of the Yakima Group I area unless there was information showing that sources within the Yakama Indian Reservation contributed to the PM–10 violations recorded on state lands. At the time of the determination of the boundaries of the Yakima Group I area, which by operation of the law became the Yakima NAA, there was no technical information provided by Washington indicating that sources on the Yakama Indian Reservation contributed to the violations of the PM–10 NAAQS that had been recorded on monitors in the city of Yakima. EPA policy therefore called for using political boundaries to delineate the nonattainment area. As such, EPA erred in including a portion of the Yakama Indian Reservation in the Yakima NAA.

Accordingly, under the authority of section 110 (k) (6) of the CAA, EPA is revising the boundary of the Yakima NAA to exclude the portion within the exterior boundary of the Yakama Indian Reservation. A detailed description of our action was published in the **Federal Register** on November 29, 2004. See 69 FR 69338.

II. What Comments Did EPA Receive on the Proposed Action?

EPA received the following comments from one commenter on December 28, 2004.

Comment:

Although the PM–10 emissions originating within the portion of the Yakima PM–10 NAA south of Ahtanum Creek and within the exterior boundary of the Yakima Indian Reservation are minimal and did not contribute to the original classification of the NAA as a Group 1 area in 1987, we believe that other large rural and agricultural areas south and west of the City of Yakima that remain in the nonattainment area and that had similar land uses, population densities and commercial uses in 1987 also made a minimal contribution to the PM–10 emissions for the NAA. Air dispersion modeling documented in the 1989 and 1992 supplements indicates that the predicted highest values will generally occur in the City of Yakima. We believe the air dispersion modeling is an accurate presentation of the PM–10 distribution across the NAA, and request the proposed boundary revision to remove the area south of Ahtanum Creek of the NAA include all of the rural and agricultural lands in the NAA with similar land uses, population densities, commercial uses and transportation patterns to those of the tribal portion of the NAA.

Response:

As discussed in the proposal, EPA is basing its decision to revise the boundary of the Yakima NAA on its policy for determining the boundaries of PM–10 nonattainment areas, as well as air quality considerations. See 69 FR 69340. November 29, 2004. When EPA delineated the boundary of the Yakima County Group 1 area through technical corrections in 1990, EPA's policy called for using political boundaries associated with the area where the monitored violations occurred and in which it is reasonably expected that sources contributing to the violations are located. See 57 FR 43846, 43848 (September 22, 1992). The Yakima NAA includes the City of Yakima, as well as the cities of Selah and Union Gap and surrounding areas with sources contributing to the violations.[2] Together, the Cities of Selah, Union Gap and surrounding areas comprise a portion of Yakima County and therefore are within a single political boundary.

In contrast, the area south of Ahtanum Creek that is the subject of this action is within the boundary of the Yakama Indian Reservation, which is a different political jurisdiction than Yakima County. At the time of determination of the boundaries of the Yakima Group I area, there was no technical information provided by Washington indicating that sources on the Yakama Indian Reservation contributed to the violations of the PM–10 NAAQS that had been recorded on monitors in the city of Yakima. Because this area is a different political jurisdiction and did not contribute to the violations, EPA is correcting its error in including a portion of the Yakama Indian Reservation in the Yakima NAA. In contrast, the other rural and agricultural areas within Yakima County that the commenter seeks to remove from the NAA are subject to the same political jurisdiction as the area where the violations occurred.

Comment:

As an alternative to removing these state rural and agricultural lands from the NAA, the commenter requests that EPA determine that the area south of Ahtanum Creek be redesignated to attainment.

Response:

Section 107 (d) (3) (E) of the Clean Air Act, and the General Preamble to Title 1 (57 FR 13498) provide the criteria for designation. 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, Procedures for Processing Requests to Redesignate Areas to attainment. The criterion that the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act is among the criteria for redesignation outlined in this memo.

In a concurrent action published today, EPA is redesignating the Yakima NAA (with the boundary revised to exclude lands within the Yakama Indian Reservation) to attainment for PM–10. EPA refers the reader to a November 29, 2004 action proposing to approve the Limited Maintenance Plan entitled Yakima PM 10 Limited Maintenance Plan and Redesignation Request, Yakima County and the redesignation request for the Yakima NAA. *See* 69 FR 69342. Section 2.12 of the Limited Maintenance Plan, submitted by the State of Washington and approved by EPA in a concurrent action published today, states that the plan does not include the portion of the NAA within the exterior boundary of the Yakama Indian Reservation. In a concurrent action published today, EPA is clarifying that the SIP it is approving does not extend to lands which are within the boundaries of the Yakama Indian Reservation.

Therefore, the area within the Yakama Indian Reservation does not meet the criteria for redesignation to attainment. As discussed in the proposal, this area will revert to an unclassifiable designation.

III. Final Action

The Environmental Protection Agency is revising the boundary of the Yakima NAA to exclude the portion of the Yakima NAA that is within the exterior

[2] See the Technical Support Document for a discussion of these sources.

boundary of the Yakama Indian Reservation. This correction changes the boundary of the Yakima NAA to read as follows:

The area bounded on the south by a line from UTM coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN, excluding the area within the exterior boundary of the Yakama Indian Reservation.

The excluded area will revert to an unclassifiable designation consistent with the original and current designation of the Yakama Indian Reservation.

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 corrects the description of a nonattainment area to exclude land that did not contribute to the nonattainment problem and was under a different regulatory jurisdiction and does not impose any additional requirements on state, local or tribal governments or the private sector. 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 (Public Law 104–4).

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the regulation. EPA has concluded that this rule may have tribal implications. EPA's action will remove a portion of the Yakama Indian Reservation from the Yakima NAA. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, EPA nonetheless consulted with representatives of tribal governments early in the process of developing this rule to permit them to have meaningful and timely input into its development. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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 corrects the description of a nonattainment area to exclude land that did not contribute to the nonattainment problem and was under a different regulatory jurisdiction and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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.*).

List of Subjects in 40 CFR Part 81

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

Dated: January 21, 2005.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

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

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 ''Yakima County'' table to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Yakima County ..... The area bounded on the south by a line from UTM coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN, excluding the area within the exterior boundary of the Yakama Indian Reservation	11/15/90	Nonattainment	11/15/90	Moderate.
* * *	*	*	*	*

* * * * *

[FR Doc. 05–1994 Filed 2–4–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7865]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification letter addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National