



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2013-0005; FRL -9947-23-Region 10]

Finding of Attainment and Approval of Attainment Plan for Klamath Falls, Oregon Fine Particulate Matter Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the finding of attainment and approving the attainment plan submitted on December 12, 2012 by the Oregon Department of Environmental Quality (ODEQ) for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) for the Klamath Falls, Oregon nonattainment area. Based upon 2012-2014 quality-assured, quality-controlled, and certified ambient air monitoring data available in the EPA's Air Quality System (AQS), the area has monitored attainment of the 2006 24-hour PM_{2.5} NAAQS. The EPA determined that the attainment plan addressed the nonattainment planning requirements of the Clean Air Act (CAA) and provided for attainment of the PM_{2.5} NAAQS. The attainment plan's strategy for controlling direct and precursor PM_{2.5} emissions relied primarily on an episodic woodstove curtailment program and a program to change-out uncertified woodstoves.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2013-0005. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g.,

Confidential Business Information (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 through <http://www.regulations.gov> or in hard copy at the Air Planning Unit, Office of Air and Waste, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information please contact Justin Spenillo at (206) 553-6125, spenillo.justin@epa.gov or by using the EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

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I. Background Information

On April 13, 2016, the EPA proposed to approve the attainment plan submitted by the ODEQ on December 12, 2012 and to make a finding of attainment for the Klamath Falls PM_{2.5} area (81 FR 21814). An explanation of the CAA attainment planning requirements, a detailed analysis of the ODEQ's attainment plan submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on May 13, 2016. The EPA received no comments

on the proposal.

II. Final Action

The EPA is finalizing the finding of attainment and approving the attainment plan submitted by the ODEQ on December 12, 2012 for the Klamath Falls PM_{2.5} area as meeting the requirements of the CAA. The finding of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of criteria including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. Additionally, the EPA is approving and incorporating by reference updated versions of supporting regulations, specifically sections of Oregon Administrative Rules, Division 240 and Division 262 that provide for the contingency measures required under the CAA. The EPA is finalizing a Clean Data Determination (CDD) that suspends the requirements for the area to submit an attainment demonstration, associated Reasonably Available Control Measures, Reasonable Further Progress, contingency measures, and any other SIP planning requirements related to the attainment of the 2006 PM_{2.5} NAAQS, so long as the area continues to meet the standard. Although a CDD suspends the requirement for submission of certain attainment planning elements, it does not relieve the EPA of its responsibility to take action on a state's SIP submission. The EPA is fully approving the Klamath Falls nonattainment plan as meeting the requirements of the CAA. The EPA is also approving Exceptional Events on September 25, 2009; August 25, 28, and 31, 2012; and July 30 and August 5, 2013 and removing them from the data set used for regulatory purposes.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference.

In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov> and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Orders Review

Under the CAA, 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 CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 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 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The EPA will submit a report containing this action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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) of the CAA).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 24, 2016.

Dennis J. McLerran,
Regional Administrator,
Region 10.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart MM – Oregon

2. Section 52.1970:

a. In paragraph (c), Table 2 – EPA Approved Oregon Administrative Rules (OAR) is amended by:

- i. Adding a undesignated heading titled “Klamath Falls Nonattainment Area Contingency Measures” after the entry for “240-0560” and adding the entries “240-0570”, “240-0580”, “240-0610”, “240-0620”, and “240-0630”; and
- ii. Adding an entry “262-1000” after the entry for “262-0900”; and

b. In paragraph (e), table titled “State of Oregon Air Quality Control Program” adding under “Section 4”, a new entry “4.62” after the entry “4.61”.

The additions read as follows:

§ 52.1970 Identification of plan.

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(c) * * *

Table 2 – EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)

State Citation	Title/ subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Klamath Falls Nonattainment Area Contingency Measures				
240-0570	Applicability	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
240-0580	Existing Industrial Sources Control Efficiency	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
240-0610	Continuous Monitoring for Industrial Sources	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
240-0620	Contingency Measures: New Industrial Sources	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
240-0630	Contingency Enhanced Curtailment of Use of Solid Fuel Burning Devices and Fireplaces	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
262-1000	Wood Burning Contingency Measures for PM _{2.5} Nonattainment Areas	12/11/2012	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	

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State of Oregon Air Quality Control Program				
SIP citation	Title/subject	State effective date	EPA Approval Date	Explanation
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		4.62, 12/12/2012	4.62, [Insert date of publication in the Federal Register [Insert Federal Register citation]	4.62 Klamath Falls PM _{2.5} Attainment Plan
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[FR Doc. 2016-13031 Filed: 6/3/2016 8:45 am; Publication Date: 6/6/2016]