



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0022; FRL-9987-60-Region 10]

Air Plan Approval; Oregon; Removal of Obsolete Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the removal of outdated rules in the Code of Federal Regulations (CFR) for the State of Oregon because they are duplicative or obsolete. Removal of such material from the air program subparts is designed to improve cost effectiveness and usability of the CFR. The EPA is also approving non-substantive revisions to reflect updated citations and correcting a typographical error. This final action makes no substantive changes to the Oregon State Implementation Plan and imposes no new requirements.

DATES: This action is effective on **[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-2018-0022. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure 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 at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT**

section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, EPA Region 10, at (360) 753-9081, or duboiski.christi@epa.gov.

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

I. Background

This action is being taken pursuant to Executive Order 13563 – *Improving Regulation and Regulatory Review*. It is intended to reduce the number of pages in the Code of Federal Regulations (CFR) by identifying those rules in 40 CFR part 52, subpart MM, for the State of Oregon that are duplicative or obsolete. This action removes historical information and rules that no longer have any use or legal effect because they have been superseded by subsequently approved state implementation plan (SIP) revisions or they are no longer necessary because the EPA previously promulgated administrative rule actions to replace these sections with summary tables in 40 CFR 52.1970 (78 FR 74012, December 10, 2013). On October 10, 2010, the EPA proposed to approve these changes and received no comments on our proposed rulemaking (83 FR 50867).

II. Final Action

This final action is a “housekeeping” exercise that removes duplicative or obsolete CFR provisions and corrects a non-substantive typographical error. The EPA is approving the removal of 40 CFR 52.1973, 40 CFR 52.1974 paragraphs (b) and (c), 40 CFR 52.1977, and 40 CFR 52.1982; and approving the amendment to 40 CFR 52.1974(a). The EPA is removing the duplicative or obsolete rules because they have been revised or superseded by subsequently approved SIP revisions. These actions make no substantive changes to the SIP. The changes will

be accurately reflected in 40 CFR part 52, subpart MM for the State of Oregon.

III. Statutory and Executive Order Reviews

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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 [**insert date 60 days after 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)).

List of Subjects in 40 CFR Part 52

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

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

Dated: November 19, 2018.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 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

§52.1973 [Removed and Reserved]

2. Section 52.1973 is removed and reserved.

3. Section 52.1974 is revised to read as follows:

§52.1974 Original identification of plan section.

(a) This section identified the original “State of Oregon Clean Air Act Implementation Plan” and all revisions submitted by Oregon that were federally approved prior to July 1, 2013. The information in this section is available in the 40 CFR, part 52, Volume 4 (§52.1970 to End) edition revised as of July 1, 2013.

(b)-(c) [Reserved]

§§52.1977 and 52.1982 [Removed and Reserved]

4. Sections 52.1977 and 52.1982 are removed and reserved.

5. In §52.1988, paragraph (a) is revised to read as follows:

§52.1988 Air contaminant discharge permits.

(a) Except for compliance schedules under OAR 340-200-0050, emission limitations and other provisions contained in Air Contaminant Discharge Permits issued by the State in accordance with the provisions of the Federally-approved rules for Air Contaminant Discharge Permits (OAR chapter 340, Division 216), Plant Site Emission Limit (OAR chapter 340, Division 222), Alternative Emission Controls (OAR 340-226-0400) and Public Participation (OAR chapter 340,

Division 209), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP. Plant site emission limits and alternative emission limits (bubbles) established in Federal Operating Permits issued by the State in accordance with the Federally-approved rules for Plant Site Emission Limit (OAR chapter 340, Division 222) and Alternative Emission Controls (OAR 340-226-0400), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

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