



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0640, FRL-10007-75-Region10]

Air Plan Approval; OR; Emission Standard Definition Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Oregon State Implementation Plan (SIP) submitted on September 5, 2019. The submission revises the SIP to incorporate by reference a more recent update to the emission standards for specific industries by defining the specific Code of Federal Regulations (CFR) edition referenced throughout the revised rule. The EPA is also approving non-substantive revisions to the SIP to correct typographical errors. The EPA has determined the changes are consistent with Clean Air Act requirements.

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-2019-0640. 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., confidential business information 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 at

<https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, EPA Region 10, 1200 6th Avenue – Suite 155, Seattle, WA 98101, at (360) 753-9081, or duboiski.christi@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever “we,” “us,” or “our” is used, it means the EPA.

I. Background

On September 5, 2019, Oregon submitted a revised regulation to the EPA for approval into the Oregon SIP. On February 7, 2020, we proposed to approve the submitted changes (85 FR 7262). The reasons for our proposed approval were stated in the proposed rule and will not be re-stated here.

II. Response to Comment

The public comment period for our proposed action ended on March 9, 2020. We received one comment, submitted anonymously, which generally supported the proposed action. The commenter also expressed the opinion that environmental well-being ought to take on more significance in government policy decisions. The EPA has reviewed the comment and we consider the comment to be outside the scope of this action or a generalized critique of the EPA. We do not consider this comment to be adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of Clean Air Act (CAA) section 110. Moreover, the comment does not address a specific regulation or provision in question or recommend a different action on the SIP submission from what “we” proposed. Therefore, we are finalizing our action as proposed. The full text of the comment is in the docket for this action.

III. Final Action

The EPA is approving, and incorporating by reference into the Oregon SIP, the submitted change to OAR Chapter 340, Division 236 Emission Standards for Specific Industries, Section 0010 *Definitions*, State effective July 19, 2019. The EPA is also approving the corrected typographical errors as a “housekeeping” exercise.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of Oregon Administrative Rules as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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

¹ 62 FR 27968 (May 22, 1997).

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 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 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 7, 2020.

Christopher Hladick,
Regional Administrator,
Region 10.

For the reasons stated 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

2. In §52.1970:

a. In paragraph (c):

i. Amend table 2 by:

A. Revising the entries “236-0010” and “256-0330”; and

B. Removing the heading “Oregon Department of Forestry —Chapter 629” and adding in its place the heading “Chapter 629—Oregon Department of Forestry”, removing the heading “Department of Oregon State Police” and adding in its place the heading “Department of State Police”, and removing the heading “Office of State Fire Marshall—Chapter 837” and adding in its place the heading “Chapter 837—Office of State Fire Marshall”;

ii. Amend table 4 by revising the table heading and footnote number 1; and

b. In paragraph (e):

i. Table 2 is amended by revising the entry for “011-0010”; and

ii. Table 5 is amended by:

A. Under the heading “Attainment and Maintenance Planning—Particulate Matter (PM₁₀)”, revising the third entry for “PM₁₀ Attainment Plan” “LaGrande”; and

B. Under the heading “Section 5—Control Strategies for Attainment and Nonattainment Areas” revising the entry “Motor Vehicle Inspection and Maintenance”.

The revisions read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)¹

State citation	Title/subject	State effective date	EPA approval date	Explanations
CHAPTER 340—DEPARTMENT OF ENVIRONMENTAL QUALITY				
*	*	*	*	*
Division 236—Emission Standards for Specific Industries				
*	*	*	*	*
236-0010	Definitions	07/19/2019	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
Division 256—Motor Vehicles				
*	*	*	*	*
Emission Control System Inspection				
*	*	*	*	*
256-0330	Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program	10/14/1999	11/22/2004, 69 FR 67819	
*	*	*	*	*

¹ EPA’s approval is limited to the extent the provisions relate to section 110 of the Clean Air Act and determining compliance with and for purposes of implementation of the SIP-approved requirements.

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TABLE 4—EPA APPROVED LANE REGIONAL AIR PROTECTION AGENCY (LRAPA) RULES FOR LANE COUNTY, OREGON¹

LRAPA citation	Title/subject	State effective date	EPA approval date	Explanations
*	* *	*	*	* *

¹ The EPA approves the requirements in Table 4 of this paragraph (c) only to the extent they apply to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

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(e) * * *

TABLE 2 – OREGON ADMINISTRATIVE RULES APPROVED BUT NOT INCORPORATED BY REFERENCE

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	* *	*	*	* *
Division 11—Rules of General Applicability and Organization				
*	* *	*	*	* *
011-0010	Notice of Rulemaking	1/06/2014	10/23/2015, 80 FR 64346	
*	* *	*	*	* *

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TABLE 5 – STATE OF OREGON AIR QUALITY CONTROL PROGRAM APPROVED BUT NOT INCORPORATED BY REFERENCE

Name of SIP provision	Applicable geographic or nonattainment area	State submittal	EPA approval date	Explanations
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		date		
*	*	*	*	*
Attainment and Maintenance Planning-Particulate Matter (PM₁₀)				
*	*	*	*	*
PM ₁₀ Attainment Plan	La Grande	11/15/1991	2/15/1995, 60 FR 8563	
*	*	*	*	*
Section 5—Control Strategies for Attainment and Nonattainment Areas				
Motor Vehicle Inspection and Maintenance	Statewide	11/05/1999; 9/15/2000; 1/27/2000; 1/10/2003; and 4/22/2004	11/22/2004, 69 FR 67819	
*	*	*	*	*

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