

(3) New houseboats that have buoyancy flotation devices enabling the houseboat to float will be limited to styrofoam-type material or commercially made flotation products such as pontoon floats. Houseboats utilizing containers made of metal (e.g., 55 gallon drums for buoyancy/flotation) will not be permitted unless the container has never been used to store any type of product inside and proof to this effect is provided.

(4) Houseboats will have a chemical or other marine-type approved holding tank or storage container. Discharge of sewage into waters within the Preserve is prohibited.

(5) All trash and other waste material accumulated on houseboats will be properly disposed of outside the Preserve boundaries. Burying or burning trash is prohibited.

(6) All weapons on houseboats will be unloaded and cased.

(7) Houseboats will be equipped with a minimum of one approved Type B-1 fire extinguisher, one Type I personal flotation device for each individual occupying the houseboat, and one Type IV buoyant cushion or ring buoy.

(8) Houseboats will have a minimum of three reflective devices located so as to be visible to other marine type traffic from sunset to sunrise.

(9) Fires on Preserve land will not be left unattended and will be completely extinguished before leaving the area of the moored houseboat.

(10) Damage to any trees or vegetation on Preserve land surrounding the moored houseboat is prohibited. This includes such actions as, but not limited to:

- (i) Mooring houseboats to trees;
- (ii) Nailing objects to trees;
- (iii) Clearing of vegetation; and
- (iv) Streambank modification.

(11) All persons registering a houseboat within the boundaries of Big Thicket National Preserve will comply with all regulations pertaining to moored houseboats.

Dated: May 9, 1996.

George T. Frampton, Jr.,  
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96-14105 Filed 6-4-96; 8:45 am]

BILLING CODE 4310-70-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OR-14-1-5535; FRL-5514-3]

### Approval and Promulgation of State Implementation Plans: Oregon

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA invites public comment on its proposed approval of a State Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM-10 SIP for the Klamath Falls, Oregon, PM-10 nonattainment area.

**DATES:** Comments must be postmarked on or before July 5, 1996.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), EPA, Docket #OR-14-1-5535, 1200 Sixth Avenue, Seattle, Washington, 98101.

Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204-1390.

#### FOR FURTHER INFORMATION CONTACT:

Rindy Ramos, EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553-6510.

#### SUPPLEMENTARY INFORMATION

##### I. Background

##### A. 1990 Amendments to the Clean Air Act

The area within the Klamath Falls, Oregon, Urban Growth Boundary (UGB), was designated nonattainment for PM-10 and classified as moderate under Sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990.<sup>1</sup> See 56 FR 56694 (November 6,

1991) and 40 CFR 81.338. The air quality planning requirements for moderate PM-10 nonattainment areas are set out in Subparts 1 and 4 of Title I of the Act.<sup>2</sup> EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this proposed approval and the supporting rationale. In this rulemaking action for the PM-10 SIP for the Klamath Falls nonattainment area, EPA's proposed action is consistent with its interpretations, discussed in the General Preamble, and takes into consideration the specific factual issues presented in the SIP. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any comments received by the date indicated above.

Those states containing initial moderate PM-10 nonattainment areas (those areas designated nonattainment under Section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that Reasonably Available Control Measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of Reasonably Available Control Technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate Reasonable Further

the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C., Sections 7401, *et seq.*

<sup>2</sup> Subpart 1 contains provisions applicable to nonattainment areas generally and Subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, Subpart 1 and Subpart 4 overlap or may conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

<sup>1</sup> The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to

Progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area. See Sections 172(c), 188, and 189 of the Act.

States with initial moderate PM-10 nonattainment areas were required to: 1) submit a permit program for the construction and operation of new and modified major stationary sources of PM-10 by June 30, 1992 (see Section 189(a)); and 2) submit contingency measures by November 15, 1993, which were to become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM-10 NAAQS by the applicable statutory deadline (see Section 172(c)(9) and 57 FR 13543-13544). Oregon has made submittals in response to both of the above described requirements. EPA intends to address that submittal containing the new source review permit program in a separate action.

#### B. Plan Development

The Klamath Falls Attainment Plan was developed by the Oregon Department of Environmental Quality (ODEQ) in consultation with officials of the City and County of Klamath Falls, the Oregon Department of Transportation, the Oregon Department of Forestry, and EPA.

The original Attainment Plan was developed under the CAA prior to the amendments of 1990 and adopted by the Oregon Environmental Quality Commission (OEQC) on January 31, 1991. To address the 1990 Clean Air Act Amendments, the Plan was initially revised and adopted by the OEQC on November 8, 1991. This version of the Plan was submitted to EPA on November 15, 1991. The Plan was revised again and adopted by the OEQC on August 18, 1995, and submitted to EPA on September 22, 1995. Therefore, the 1991 and 1995 submittals constitute the State Implementation Plan (SIP) for the Klamath Falls PM-10 nonattainment area. This action will address the 1991 and 1995 submittals.

The 1991 Plan was revised for four main reasons. The first was to update the Vehicle Miles Travelled (VMT) estimates and emission inventory. The Oregon Department of Transportation has provided ODEQ with more accurate information to determine the Plan's base year and attainment year transportation

emissions. These emissions are referred to as the area's transportation emission budget.

The second reason was to account for additional emission reductions due to the area's woodstove replacement program that were not accounted for in the 1991 Plan. The 1991 Plan estimated that 325 woodstoves would be replaced when, in reality, 743 stoves were replaced.

The third reason was to analyze what effect an increase in an allowable emission limit has had on the Plan's attainment demonstration. Since the Plan was first developed in 1991, the state has revised Oregon Administrative Rules (OAR) Chapter 340, Division 25, Sections 305, 320, and 325, resulting in an increase in the allowable emission limit for a Jeld-Wen hardboard plant located in the nonattainment area. Because attainment of the NAAQS is determined based on, among other things, allowable point source emissions, the State needed to review the Plan's attainment demonstration to show that the increase in allowable emissions would not jeopardize attainment of the NAAQS.

In fact, the 1991 Plan already accounted for the revised limit. During development of the 1991 attainment plan, ODEQ was aware that the hardboard rule emission limit would be revised in the future. In anticipation of the Division 25 revision (1995), ODEQ estimated that Jeld-Wen's allowable emissions would increase by 129 pounds per day, up to a maximum of 24 tons per year. Therefore, ODEQ allocated these extra emissions to Jeld-Wen's inventoried emissions and used these "adjusted" emissions in the Plan's 1994 attainment demonstration. When the hardboard rule was finalized (1995), the plant's emissions did not increase by the estimated 24 tons per year. Instead, the revised emission limit resulted in an allowable increase of only 13.1 tons per year—10.9 tons per year less than the amount originally allotted in the 1991 plan (24 tons per year estimated in 1991 minus 13.1 tons per year finalized in 1995).

The revision to Division 25 was adopted by the OEQC on January 20, 1995, and became state-effective February 17, 1995. It was submitted to EPA as a revision to the Oregon SIP on August 29, 1995, and will be reviewed in accordance with the CAA in a separate technical support document and rulemaking action.

The fourth main reason the 1991 Plan was revised was to use a 1995 dispersion modeling analysis to re-evaluate the effect a Weyerhaeuser Company facility has on the Plan's

attainment demonstration. The 1995 analysis indicates that the facility's impact, at the monitoring site upon which the Plan's attainment demonstration is based, is not significant. This analysis is discussed in more detail in the *Evaluation of Attainment Demonstration* section of the Technical Support Document (TSD) that corresponds with this action.

#### II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566). In this action, EPA is proposing to approve the plan revisions submitted to EPA on November 15, 1991, and September 22, 1995. EPA has determined that the submittals meet all of the applicable requirements of the Act due on November 15, 1991, with respect to moderate area PM-10 submittals. Also, as described in Part II.5 below, EPA is proposing to grant the exclusion from PM-10 control requirements applicable to major stationary sources of PM-10 precursors. In addition, as described in Part II.7 below, EPA is proposing to approve the SIP revision submitted on November 15, 1991, as meeting the requirement for contingency measures.

#### Analysis of State Submission

##### 1. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.<sup>3</sup> Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

<sup>3</sup> Also, Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

The State of Oregon held a public hearing on the 1991 Plan on October 24, 1991. This Plan was submitted to EPA for review on November 15, 1991. The Attainment Plan was subsequently revised in 1995. Public hearings for this revision were held on June 16 and 20, 1995. This 1995 revision was submitted to EPA on September 22, 1995, as a revision to the Oregon SIP.

The SIP revisions were reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. Letters dated May 7, 1992, and February 28, 1996, were forwarded to the Director of ODEQ indicating the completeness of the submittals and the next steps to be taken in the review process. In this action EPA is proposing to approve the State of Oregon's PM-10 SIP submittal for the Klamath Falls PM-10 nonattainment area and invites public comment on the action.

## 2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate, and current inventory of allowable emissions in the area. See, e.g., Section 110(a)(2)(K) of the Act. Because the submission of such inventories is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission (see 57 FR 13539).

The base year for analysis was 1986 (July 1, 1986, through June 30, 1987). This year was chosen because it represents some of the most severe air quality episodes the area has experienced. There were forty days when monitored concentrations of PM-10 were above the 24-hour standard. In addition to the base year inventory (1986), a design year inventory (1994 attainment year), and a maintenance demonstration year inventory (2004) were developed.

The 1986 inventory identified that, on a 24-hour, worst case day, the major sources of PM-10 emissions are residential wood combustion (80%),

fugitive dust (winter road sanding) (8%), industry (7%), transportation (4%), and other (1%). Annual emissions for the same timeframe are residential wood combustion (61%), fugitive dust (10%), industry (10%), solid waste disposal (which includes residential open burning, on-site incineration, and agricultural burning) (9%), transportation (8%), and other (2%).

After implementation of all control measures, ODEQ estimates that the 24-hour 1994 attainment year inventory will be as follows: industry (43%), residential woodburning (21%), transportation (18%), fugitive dust (16%), other (2%), and solid waste disposal (0%). Annual emissions for the 1994 attainment year are estimated to be: industry (30%), residential woodburning (24%), fugitive dust (20%), transportation (17%), other (6%), and solid waste disposal (3%).

The emission inventory was originally reviewed and commented on by EPA in October 1991, when this SIP revision was in draft form. The issues raised by EPA during October 1991 were resolved by ODEQ before the November 15, 1991, SIP revision was submitted.

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of Sections 172(c)(3) and 110(a)(2)(K) of the CAA.<sup>4</sup>

## 3. RACM (Including RACT)

As noted, the initial moderate PM-10 nonattainment areas were required to submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see Sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539-13545 and 13560-13561).

ODEQ performed a cost and technical analysis of the area's emission sources to evaluate available control measures needed to bring the area into attainment with the NAAQS. Results of the emission inventory and Chemical Mass Balance (CMB) analysis indicated that, overwhelmingly, emissions from residential wood combustion were the

most significant contributor to exceedances of the NAAQS on a 24-hour, worst case day basis. This analysis also indicated that industrial emissions were relatively minor (7%) when compared to residential wood combustion (80%). ODEQ's analysis further showed that attainment of the NAAQS can be demonstrated by controlling RACM sources (e.g., wood smoke, road sanding, and open burning) instead of industrial sources.

It is EPA's policy that RACM (including RACT) does not require the implementation of all available control measures where an area demonstrates timely attainment and the implementation of additional controls would not expedite attainment (see 57 FR 13540-13544). Based on the available control measures adopted (described below), the SIP demonstrates attainment of the PM-10 NAAQS by December 31, 1994. The SIP also demonstrates continued maintenance of the NAAQS between December 1994 and the year 2004. Accordingly, the attainment demonstration does not include additional industrial controls beyond those currently required by the Oregon SIP. However, ODEQ has included additional point source controls as a contingency measure should the area not attain the NAAQS by December 31, 1994, or demonstrate RFP. The Plan's attainment demonstration, contingency measures, and RFP are discussed in more detail later in this document. In conclusion, EPA proposes to approve the existing industrial controls as meeting the RACM (including RACT) requirement.

Attainment of the 24-hour standard is based on the following: (1) A mandatory woodstove curtailment program, (2) a woodstove certification program, (3) a woodstove removal program, and (4) reduction in winter road sanding emissions.

Attainment of the annual standard is based upon: (1) A mandatory woodstove curtailment program, (2) woodstove certification program, (3) a reduction in winter road sanding emissions, (4) a woodstove opacity limitation, and (5) a year-round prohibition on agricultural open burning. The following table summarizes the anticipated emission reductions and their associated reduction credits.

<sup>4</sup> The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM-10

*SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act. See Section 193 of the Act.

SUMMARY—ATTAINMENT STRATEGIES

Attainment measures—1994	Credit requested		Emission reductions	
	24-Hour	Annual	Number per hour	Tons per year
			(24-Hour)	(Annual)
Woodstove curtailment .....	86%	74%	16,625	938
Woodstove certification .....	24%	24%	582	78
Opacity restriction—20% .....	(*)	5%	.....	12
Woodstove removal .....	53%	(**)	973	.....
Winter road sanding .....	60%	60%	1,265	17
Agricultural burning .....	(***)	100%	.....	156
Total reductions .....	.....	.....	19,445	1201
Reductions needed by 12/31/94 .....	.....	.....	18,877	1035
Excess reductions .....	.....	.....	568	166

\* Not applicable on a 24-hour worst case day basis: woodstoves would not be in use due to the curtailment program.

\*\* Not quantified.

\*\*\* Not applicable; this activity did not occur during exceedances of the 24-hour NAAQS.

**A. Mandatory Woodburning Curtailment Program**

On July 31, 1991, the Klamath County Board of Commissions adopted Ordinance No. 63 (codified as Chapter 406), establishing a mandatory woodburning curtailment program. The City of Klamath Falls adopted Ordinance No. 6630 on September 16, 1991, which grants Klamath County the authority to implement the Klamath County Air Quality Program (Chapter 406) within the city limits of Klamath Falls. The program became fully implemented within the nonattainment area on November 1, 1991. Prior to the mandatory program, a voluntary program had been operated by Klamath County since 1988. The following is a brief discussion of the program's key elements. For a detailed analysis and discussion, the reader is referred to the TSD that corresponds with this action.

Daily wood heating advisories are disseminated by the County via local television and radio stations. The County also maintains a burning advisory telephone system which, during the 1990/1991 woodheating season, answered 122,000 public calls. An additional 5,000 calls were handled by the Klamath County Air Quality staff. During the 1992/1993 woodheating season, there were 160,311 public calls. The increase in calls between the two seasons seems to indicate an increase in public awareness of the wood heating advisory and of the purpose of the curtailment program.

For a specified period of time, Klamath County Air Quality could grant an exemption from complying with the curtailment program during poor air quality periods provided that the solid fuel-fired heating appliance is the sole source of heat for a specific residence.

However, after December 31, 1992, it became unlawful for a solid fuel-fired heating appliance to be the sole source of heat in any nonowner (tenant-occupied) dwelling. Exemptions to this phaseout can be granted to landlords due to low income. This sole source, low income, nonowner-occupied exemption terminates December 31, 1997. All sole source, low income, nonowner-occupied dwellings must have a secondary source of heat by that time. In addition, all sole source heat households, except those that are tenant-occupied, had until December 31, 1995, to install a secondary heat source. No exemptions will be issued after this date unless the household (person) qualifies under a low income exemption.

A person who demonstrates economic need by certifying through proof that his/her income is less than 1.2 times the low income guidelines established by the United States Department of Housing and Urban Development, may be granted a low income exemption from installing a secondary form of heat to be used during yellow and red curtailment days. After December 31, 1995, no further exemptions will be granted.

Woodburning curtailment forecasts are made twice daily at 7 am and 4 pm during the woodheating season (October 1 through March 31). The curtailment calls are based on a forecast algorithm using: National Weather Service upper air and barometric pressure data; forecasts of synoptic meteorology; surface temperatures; and wind speed and direction. Nephelometer measurements of hourly light scattering and local observations of air quality conditions are also used. (Appendix 7 of

ODEQ's Attainment Plan contains a more detailed discussion).

Woodburning curtailment advisories are issued at three levels. A green advisory is issued when NAAQS exceedances are unlikely. Woodburning is unrestricted during these periods but the public is asked to follow good woodburning practices. Green advisories are issued when PM-10 concentrations are forecast to not exceed 80 µg/m<sup>3</sup> for a 24-hour average.

A yellow advisory is issued when PM-10 concentrations are forecast to exceed or are exceeding 81 µg/m<sup>3</sup> for a 24-hour average. The public is asked to curtail all unnecessary woodburning. However, permitted pellet stoves and certified stoves may be used; and dwellings granted exemptions described above may burn.

A red advisory is issued when PM-10 concentrations are forecast to exceed or are exceeding 150 µg/m<sup>3</sup> for a 24-hour average. No person can operate any solid fuel-fired heating appliance, except for a permitted pellet stove, during a red advisory, unless an exemption has been granted by the County.

In addition, during a yellow or red advisory, all open burning, including burn barrels/incineration is prohibited unless a variance has been approved by Klamath County Air Quality.

The Klamath Falls curtailment program includes a surveillance and enforcement element. A standard operating procedure and evaluation measure has been developed to be used during yellow and red advisories. During surveillance and effectiveness evaluations, infra-red detectors are used at night to detect "hot" chimneys. Visible emission readings are taken during the daytime hours.

When Klamath County Air Quality inspectors have visually observed that a person has violated the Klamath County Clean Air Ordinance, Ordinance Number 63, a Notice and Order setting forth the alleged violation is required to be issued. The Notice will require the alleged violator to take corrective action, such as to cease and desist from operating the noncomplying appliance. The violator is to notify Klamath County Air Quality that corrective action has been taken.

In cases when a person has not complied with the Notice and Order, the County is required to issue a Compliance Order and/or Summons and Complaint with the Court of competent jurisdiction for violation of the ordinance. The County may also obtain injunctive relief, abate the nuisance, or otherwise correct the violation of the ordinance through the Court.

Continued operation of a solid-fuel fired device without an exemption, or performing open burning following the declaration of a red or yellow advisory, will result in enforcement action. The penalties which may be imposed upon conviction based on Summons and Complaint for a violation of any provision of Chapter 406.100 (General Rules and Regulations) and Chapter 406.150 (Pollution Prohibitions), excluding Prohibited Materials Burning, of the ordinance are:

(1) First offense violators may receive a warning and be fined \$25.

(2) Second offense violators shall be fined \$100.

(3) Subsequent offense violators shall be fined a maximum of \$250 per occurrence.

The County has conducted several curtailment surveys since the 1989/1990 woodheating season. During this voluntary compliance period (the program was not a mandatory one until 1991), red advisory nighttime compliance rates ranged from about 37% to 50% when compared to the number of woodstoves being used during a green advisory nighttime baseline. The green advisory nighttime baseline was also established during the 1989/1990 woodheating season.

For the January 1993 and December 1993 to January 1994 periods, five red advisory day surveys were conducted in the morning hours. When compared to the 1989/1990 green advisory baseline, compliance rates for the five red advisory days were about 95%. This comparison may not be entirely applicable given the nighttime baseline and the morning compliance survey. However, it does provide some indication of overall compliance during red curtailment days.

During the 1994/1995 winter season, only two red advisory calls were made. An evening red advisory occurred on November 22, 1994, and a daytime red advisory occurred on January 17, 1995. During these two events, the County did not conduct surveys. However, both red advisories were preceded by yellow advisories; therefore, survey data collected during the yellow advisories can give an indication of compliance on red advisory nights. The data show compliance with the yellow advisories, ranging from 84% to 97%.<sup>5</sup>

Considering the above program elements, survey results, and the phasing out of the sole source and low income exemptions, EPA believes that the 86% credit requested by ODEQ on a 24-hour basis is achievable and is being achieved and, therefore, accepts the credit claimed. EPA also accepts ODEQ's annual credit of 74%. In acceptance of the credits, EPA considered the fact that the nonattainment area has not had a monitored exceedance of the 24-hour standard since January 1991, and the area has not exceeded the annual standard since 1989.

#### B. Woodstove Certification

In 1983, the Oregon Legislature directed the ODEQ to require that all new woodstoves sold in the State be certified through laboratory testing. As a result, stoves sold after July 1986 were required to emit particles at a rate at least 50% less than conventional woodstoves. After July 1988, new woodstoves were required to have a particle emission rate at least 70% less than conventional woodstoves.

The OEQC adopted on March 2, 1990, revisions to Oregon's Woodstove Certification Program, making it consistent with EPA's New Source Performance Standard (NSPS) 40 CFR Part 60, Subpart AAA. Currently, all woodstoves sold in the State of Oregon must be both ODEQ and EPA-certified. The SIP revision was approved by EPA as part of the Oregon SIP on June 9, 1992 (see 57 FR 24373).

ODEQ estimates that the woodstove certification program provides a 24% credit against baseline 1986 woodstove emissions by 1994.<sup>6</sup> Oregon has

<sup>5</sup>This discussion is based on information in a memorandum from David Collier, ODEQ, to Rindy Ramos, EPA Region 10, dated March 4, 1996.

<sup>6</sup>This estimate uses a 1986 baseline inventory and assumes or relies on: 1) a 1% annual growth in firewood consumed by woodstoves; 2) information from building permit authorities in Klamath Falls that essentially all permitted installations are certified stoves, and that about 20% of these are pellet stoves; 3) a useful stove life of 20 years; 4) the fact that typical certified woodstoves and pellet stoves respectively emit 50%

historically pursued an aggressive woodstove certification program. Oregon was the first state in the Nation to adopt, implement, and enforce a program of this type (1984). EPA promulgated the NSPS on February 26, 1988, modeled after Oregon's program.

The projected emission reductions in conjunction with a statewide ban (OAR 340-34-010) on the sale of used uncertified stoves, a ban on the installation of used uncertified stoves, and Oregon's model woodstove certification program supports EPA's acceptance of Oregon's woodstove certification credit claim.

#### C. Woodstove Removal and Home Weatherization Program

Between May 1990 and December 1993 the City and County of Klamath Falls received funds totalling approximately \$1.9 million from the State of Oregon Community Block Grant funds for a home weatherization and woodstove replacement program. Woodstoves in 743 low income, sole source homes have been replaced by natural gas (90%), oil (6%), electric (2%), certified stove (1%), and propane (1%) heating sources. These funds were administered under Klamath Falls's Particulate Urban Resources Effort (PURE) project. The average cost of converting and weatherizing each home was \$2,200.

For the 1994 attainment year, ODEQ estimates that total PM-10 emissions from low income, sole source homes have been reduced by 973 pounds per day, which equates to 67 tons per year. ODEQ therefore requests a 53% credit for this strategy (973 lbs per day 1994 controlled/1843 lbs per day 1994 uncontrolled). This 53% credit is calculated for replacing uncertified woodstoves as follows: Electric heat (100% PM-10 reduction), natural gas (99% PM-10 reduction), propane (99% PM-10 emission reduction), oil (99% PM-10 reduction), and certified woodstoves (50% PM-10 reduction). Because of the demonstrated success of the program, EPA proposes to accept the 53% credit requested by ODEQ.

#### D. Winter Road Sanding Control Program

Winter road sanding has been shown to adversely affect the PM-10 levels throughout the Western United States, including Klamath Falls, in areas that experience measurable snowfall. The silt-laden, friable sand is placed on roads by local and state highway

and 90% less PM-10 than a conventional stove. EPA believes this is an accurate portrayal of the situation in Klamath Falls.

departments to provide better traction on snow and ice. However, once the snow has melted and the roads have dried out, the remaining dry, silty road sand is easily resuspended by moving vehicular traffic.

In Klamath Falls, winter road sanding emissions peak during periods when several inches of snow cover the area. During these periods, as much as 70 cubic yards per day of aggregate are spread on roads within the UGB. Because snow covers the roadways and landscape, it is ODEQ's position that essentially all of the fugitive dust emissions (during this time period) are assumed to originate from road sanding. Chemical analysis of PM-10 samples collected on days exceeding the 24-hour NAAQS indicated that 9% of the PM-10 mass was soil dust. Road sanding emissions were therefore estimated to be of similar magnitude in the emission inventory, or approximately 1,900 pounds per day during the 27 days per year when road sanding occurs. The worst case day emission estimates provide the basis for the annual emission estimates for road sanding.

Sanding materials used in the Klamath Falls area are obtained from a gravel pit located near Merrill, Oregon, where volcanic cinders, pea gravel, silts, and clays have been deposited. Nearly all of the aggregate used within the UGB is applied by the Oregon Department of Transportation Highway Division, mostly on US 97, South Sixth Street, Alameda Bypass, and the South Side Bypass. The City, County, and State all maintain sections of Washburn Way and other streets in south suburban Klamath Falls. The City maintains streets within the Central Business District.<sup>7</sup>

Oregon requests a 60% credit for its winter road sanding control strategy. The 60% credit is based on the Highway Division's commitment to reduce winter road sanding by 60% through: (1) Replacement of aggregate with a de-icing material; (2) a reduction in the amount of aggregate applied; and (3) rapid cleanup using street washing or sweeping of road sanding materials used on major thoroughfares. During worst case winter days, ODEQ estimates that this strategy will reduce emissions by 1,265 pounds per day and, on an annual basis, it will reduce emissions by 17 tons per year. EPA proposes to accept ODEQ's projection that the road sanding measures will reduce PM-10 emissions from winter road sanding by 60%. See Appendix 4 of the SIP for additional information.

#### E. 20% Woodstove Opacity Limitation

The Klamath County woodsmoke control ordinance (No. 63) provides for a year-round 20% woodstove plume opacity limitation. Visible emissions are not to exceed 20% opacity for a period or periods aggregating more than three minutes in any one hour period. The ordinance does, however, grant an exemption during a fire's start-up period. Visible emission are exempt during a fifteen minute start-up period provided they do not exceed 40% opacity. If the opacity is greater than 40% during start-up, then the stove is in violation of the ordinance.

The 5% emission reduction credit requested by ODEQ is reasonable and is consistent with the recommendations in EPA's *Guidance Document for Residential Wood Combustion Emission Control Measures* and, therefore, EPA proposes to approve it.

#### F. Open Burning Restriction

Chapter 406 of the Klamath County Clean Air Ordinance regulates residential open burning, including burn barrels/incinerators and agricultural burning. Residential open burning, including burn barrels/incinerators, is prohibited during red and yellow advisories within Klamath County unless a variance has been approved by Klamath County. ODEQ does not request any credit for this strategy.

Agricultural open burning within the nonattainment area and within one-fourth mile of the nonattainment area boundary is prohibited throughout the year. ODEQ estimates that the elimination of agricultural burning will reduce PM-10 emissions by 156 tons on an annual basis and requests a 100% emission reduction credit for elimination of this activity. EPA believes ODEQ's claim is reasonable and, therefore, proposes to approve this control measure.

#### G. Other Sources

Where sources of PM-10 contribute insignificantly to the PM-10 problem in the area, EPA's policy is that it would be unreasonable and would not constitute RACM to require the sources to implement potentially available control measures (see 57 FR at 13540). The State does, however, have in place the following measures which will further reduce PM-10 emissions. The State does not request any emission reduction credits for the measures.

##### 1. Fugitive Dust—Paved and Unpaved Roads

ODEQ determined through their analysis of the nonattainment area, on a

24-hour, worst case day basis, that PM-10 emissions of re-entrained road dust from paved and unpaved roads are negligible due to snow cover. The application of road sanding materials is the main source of road traffic-related emissions. On an annual basis, emissions from paved and unpaved roads account for 163 tons, or approximately 8% of the 1986 annual emission inventory.

Even though reducing emissions from this source category is not needed to attain the standard, the State does regulate this category. Referencing the suggested available fugitive dust control measures listed in Appendix C1 (57 FR 18072), rules requiring measures 1, 2, 3, 4, 10, 11, and 12 are currently part of the Oregon SIP and are contained in OAR 340, Division 21. These rules are enforced under OAR 340-21-060. The rules were previously approved by EPA and are contained in the State of Oregon Air Quality Control Program; Volume 2; The Federal Clean Air Act State Implementation Plan (and other State Regulations).

##### 2. Prescribed Burning

Historically, PM-10 emissions from prescribed burning and slash burning have not significantly impacted on the nonattainment area on either a 24-hour basis (zero emissions) or on an annual basis (zero emissions); however, this activity does have the potential to significantly impact on the area.

To address this issue, a voluntary smoke management program was developed and implemented. The provisions of this program are coordinated by the Oregon Department of Forestry (ODOF) which provides daily smoke management forecasts and advisories for Klamath County. A Memorandum of Understanding (MOU) was signed in 1991 by and between the Klamath-Lake District of ODOF, Cavenham Forest Industries (Bend, Oregon), Modoc Lumber Company, Thomas Lumber Company, Weyerhaeuser Company (Klamath Falls), Whiskey Creek Timber Company, Winema National Forest, Fremont National Forest, and the Bureau of Land Management (Lakeview District). The MOU provides that the parties will abide by the elements of the smoke management plan and is based on a cooperative operations plan that was in effect January 10, 1990, between the above parties.

EPA has reviewed ODEQ's submittals and associated documentation and concluded that they adequately justify the control measures to be implemented. Because all control measures were implemented by the

<sup>7</sup> State Implementation Plan for PM-10 in Klamath Falls, October 1991, Section 12.3.2.

CAA RACM implementation date of December 10, 1993, implementation of the Klamath Falls PM-10 nonattainment plan control strategies has resulted in meeting the requirement of the Act that the attainment of the PM-10 NAAQS be achieved as expeditiously as practicable and no later than December 31, 1994.

#### 4. Demonstration

As noted, the initial moderate PM-10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see Section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (see 57 FR 13539). Alternatively, the State must show attainment by December 31, 1994, or that attainment is impracticable. The 24-hour PM-10 NAAQS is 150 micrograms/cubic meter ( $\mu\text{g}/\text{m}^3$ ), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150  $\mu\text{g}/\text{m}^3$  is equal to or less than one (see 40 CFR section 50.6). The annual PM-10 NAAQS is 50  $\mu\text{g}/\text{m}^3$ , and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50  $\mu\text{g}/\text{m}^3$  (id.).

Generally, EPA recommends that attainment be demonstrated according to the PM-10 SIP Development Guideline (June 1987), which presents three methods. Federal regulations require demonstration of attainment "by means of a proportional model or dispersion model or other procedure which is shown to be adequate and appropriate for such purposes" (40 CFR Section 51.112). The preferred method is the use of both dispersion and receptor modeling in combination. The regulation and the guideline also allows the use of dispersion modeling alone, or the use of two receptor models in combination with proportional rollback.

As indicated in the General Preamble, 57 FR at 13539, EPA has developed a supplemental attainment demonstration policy for initial PM-10 nonattainment areas such as Klamath Falls. The Preamble provides additional flexibility in meeting the PM-10 attainment demonstration requirements. An earlier April 2, 1991, memorandum titled, "PM-10 Moderate Area SIP Guidance: Final Staff Work Product," contained "Attachment 5" describing the same policy. The policy explains that in certain circumstances a modified attainment demonstration may be appropriate on a case-by-case basis. It

may be reasonable to accept a modified attainment demonstration in cases where "time constraints, inadequate resources, inadequate data bases, lack of a model for some unique situations, and other unavoidable circumstances would leave an area unable to submit an attainment demonstration" by November 15, 1991. The policy further explains that its application is reserved for those initial PM-10 nonattainment areas that have "completed the technical analysis \* \* \* and made a good-faith effort to submit a final SIP by their November 15, 1991, due date."

During development of the Klamath Falls initial moderate area PM-10 attainment plan, ODEQ did not use dispersion modeling to estimate the design values or in the attainment and maintenance demonstrations. This was due to: (1) the lack of adequate historical meteorological data, (2) the late receipt in the development process of spatially resolved emission inventory data needed for modeling, (3) the intense and extremely shallow inversions and calm winds (typical wind speeds during exceedance days are less than one meter per second) are not conducive to dispersion modeling (EPA does not have and has not developed an approved guideline model for conditions of this type), and (4) the fact that on winter days, when worst case air quality conditions occur, the airshed is heavily dominated by emissions from woodstoves, fireplaces, and road sanding.

ODEQ conducted an attainment demonstration based upon receptor modeling proportional roll-back calculations to estimate the emission reductions required in 1994 to achieve the NAAQS. Emission inventory estimates were reconciled with Chemical Mass Balance (version 7.0) receptor modeling. Results from two emission estimation methods, emission inventory and receptor modeling, were in agreement that woodsmoke and soil dust are the major sources of emissions on exceedance days. According to the emission inventory, woodsmoke equals 80% and soil dust equals 8% of total PM-10 particulate. According to the CMB analysis, woodsmoke equals 82% and soil dust equals 10.9% of particulate.

EPA guidance on CMB modeling specifies that the apportionment should account for at least 80% of the measured aerosol mass. ODEQ's analysis accounted for 96% of the mass.

ODEQ determined the 1994 24-hour, worst case day design value (without controls) to be 600  $\mu\text{g}/\text{m}^3$  based on monitored data utilizing EPA's graphical procedure, including

adjustments for emission growth. The 1994 annual design value (without controls) was determined to be 82,  $\mu\text{g}/\text{m}^3$  calculated as an arithmetic average. Monitored concentrations for the 3-year period July 1, 1986, through June 30, 1989, were used in both cases. Appendix 1 of the SIP lists the 24-hour concentrations used to determine the design values, and Appendix 2 provides detailed information on the design value calculations, including which concentrations were used when data from different methods were collected on the same day.

The Attainment Plan has been criticized for not requiring implementation of point source emission controls on a Weyerhaeuser facility located outside, but near, the nonattainment area. As discussed in the Area Designation History section of the Technical Support Document (TSD), it was ODEQ's position, during establishment of the Klamath Falls PM-10 Group I Areas of Concern, that the Weyerhaeuser facility did not significantly impact on the Peterson School ambient monitoring site during exceedance days (significant is defined as 5  $\mu\text{g}/\text{m}^3$ ). ODEQ took the same position, when by operation of law, the Klamath Falls Group I area (as defined by the UGB), was designated as a moderate nonattainment area on November 15, 1990. The classification of the Klamath Falls area as a Group I area and, its subsequent designation as a nonattainment area, was based on technical information available at that time. This information did not indicate that Weyerhaeuser significantly impacted on the Peterson School monitoring site. To support ODEQ's position, ODEQ committed to requiring Weyerhaeuser to dispersion model the plant's impact. A preliminary 1992 modeling analysis was performed and followed by a definitive 1995 modeling analysis. The model used was the EPA point source guideline model-ISCST2. [ISCST3 was not yet available when the modeling was performed.]

The 1995 analysis indicates that on exceedance days, the Weyerhaeuser facility does not have a significant impact at the Peterson School site, which is the site on which attainment with the NAAQS is determined.<sup>8</sup> The source's modeled 1995 allowable emissions are drastically lower than 1992 allowable emissions. This is due to, among other things, the facility forfeiting unassigned plant site emission limits and replacing five hog fuel-fired

<sup>8</sup> This statement is based on information in a letter from David Collier, ODEQ, to Rindy Ramos, EPA Region 10, dated February 6, 1996.

boilers with natural gas fired boilers. Furthermore, Weyerhaeuser's Air Contaminant Discharge Permit, issued on November 20, 1995, reflects an allowable pounds per hour limit of 111 (down from the previously permitted limit of 152 pounds per hour). The analysis, and subsequent permit, account for emission credits of 11.79 pounds per hour (down from the previous permitted level of 332 pounds per hour). Forfeiting of unassigned emission credits reduces allowable emissions alone by over 600 tons per year to a 1995 permitted level of 371 tons.<sup>9</sup>

Based on the previously discussed design values, ODEQ estimates that 1994 worst case day emissions must be reduced by 75.6%, which equals 18,877 pounds per day. Thus, percent reduction required =  $\frac{(1994 \text{ design value} - 24\text{-hour standard})}{(1994 \text{ design value} - \text{background})} \times 100$ ; or,  $\frac{[(60 - 1350 \mu\text{g}/\text{m}^3) / (600 - 7 \mu\text{g}/\text{m}^3)] \times 100 = 75.6\%$ . Annual emissions for the projected 1994 attainment year must be reduced by 47%, which equals 1035 tons. Percent reduction required =  $\frac{[(82 - 50 \mu\text{g}/\text{m}^3) / (82 - 15 \mu\text{g}/\text{m}^3)] \times 100 = 47\%$ .

ODEQ estimates that 1994 24-hour, worst case day emissions must be reduced by 18,877 pounds to attain the 24-hour NAAQS, and annual emissions must be reduced by 1035 tons in order to attain the annual NAAQS. The previously discussed control measures are designed to reduce projected 1994 worst case day emissions by 19,445 pounds (568 pounds beyond the level needed for attainment and annual emissions by 1,201 tons (166 tons beyond the level needed for attainment). According to the principle of proportional roll-back modeling, a reduction of 19,445 pounds from the Klamath Falls PM-10 emission sources will result in a 1994 worst case day ambient concentration of 136.5  $\mu\text{g}/\text{m}^3$ . An annual reduction of 1,201 tons will result in an annual concentration of 44.9  $\mu\text{g}/\text{m}^3$ . Both values demonstrate attainment with their respective standards.

EPA proposes to approve the attainment demonstration. It is EPA's opinion that the appropriate air quality model was used and all significant emission sources and impacts were considered. The Attainment Plan demonstrates attainment by December

<sup>9</sup> EPA is aware, however, that a recent (1995) modeling analysis that looked at impacts from the Weyerhaeuser facility in the area outside of the UGB indicates that the facility may be causing an exceedance of the 24-hour NAAQS at an unmonitored site. EPA is working with the State to resolve this distinct and separate issue.

31, 1994. EPA has also considered the fact that, based on monitored air quality for the calendar years 1992, 1993, 1994, and 1995, the area has, in fact, attained both the 24-hour and annual NAAQS. As to the adequacy of the nonattainment area boundary, the UGB was established as the nonattainment area boundary upon passage of the CAAA of 1990 and, therefore, the existing nonattainment area boundary is defined in the CAA itself.

#### 5. PM-10 Precursors

The control requirements which are applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors, unless EPA determines such sources do not contribute significantly to PM-10 levels in excess of the NAAQS in that area (see Section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement Section 189(e) (see 57 FR 13539-13542).

As previously discussed, ODEQ's technical analysis of candidate control measures indicated that emissions from industrial point sources had substantially less of an impact on the 24-hour standard than residential wood combustion (7% vs. 80%). Previous violations of the 24-hour standard occurred during periods of extensive poor ventilation (stagnation conditions) and cold temperatures. In addition, the CMB analysis indicates that secondary particulate is not a major component of the area's PM-10 emissions. This analysis identified that, on an average winter exceedance day, 3.2% of the mass (10.7  $\mu\text{g}/\text{m}^3$ ) comprises secondary particulate. On an annual basis, 1.9% of the mass (1.5  $\mu\text{g}/\text{m}^3$ ) comprises secondary particulate.

Therefore, EPA believes that sources of PM-10 precursors do not contribute significantly to PM-10 levels in excess of the NAAQS, and hereby grants the exclusion from control requirements authorized under Section 189(e) for major stationary sources of PM-10 precursors.

Note that, while EPA is making a general finding for the Klamath Falls area about precursor contribution to PM-10 NAAQS exceedances, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area.

#### 6. Quantitative Milestones and Reasonable Further Progress

The PM-10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones

which are to be achieved every three years until the area is redesignated attainment and which demonstrates RFP, as defined in Section 171(1), toward attainment by December 31, 1994 (see Section 189(c) of the CAA).

While Section 189(c) plainly provides that quantitative milestones are to be achieved until an area is redesignated attainment, it is silent in indicating the starting point for counting the first 3-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the 3-year milestone, indicating that it would begin from the due date for the applicable implementation plan revision containing the control measures for the area (i.e., November 15, 1991, for initial moderate PM-10 nonattainment areas) (see 57 FR 13539).

As to the number of milestones, EPA believes that at least two milestones must be initially addressed. Thus, the submittal to address the SIP revisions due on November 15, 1991, for the initial moderate PM-10 nonattainment areas must demonstrate that two milestones will be achieved (First milestone: November 15, 1991, through November 15, 1994; Second milestone: November 15, 1994, through November 15, 1997).

For the initial PM-10 nonattainment areas that demonstrate attainment, the emissions reduction progress made between the SIP submittal (due date of November 15, 1991) and the attainment date of December 31, 1994 (46 days beyond the November 15, 1994, milestone date) will satisfy the first quantitative milestone (see 57 FR 13539). For areas that demonstrate timely attainment of the PM-10 NAAQS, the milestones beyond the attainment achievement date should, at a minimum, provide for continued maintenance of the standards.<sup>10</sup>

This SIP demonstrates attainment of the PM-10 NAAQS by December 31, 1994, and maintenance of the NAAQS through the year 2004, satisfying five milestones. Therefore, EPA proposes to approve the submittal as meeting the

<sup>10</sup> Section 189(c) of the Act provides that quantitative milestones are to be achieved "until the area is redesignated attainment." However, this endpoint for quantitative milestones is speculative because redesignation of an area as attainment is contingent upon several factors and future events. Therefore, EPA believes it is reasonable for states to initially address at least the first two milestones. Addressing two milestones will ensure that the state continues to maintain the NAAQS beyond the attainment date for at least some period during which an area could be redesignated attainment. However, in all instances, additional milestones must be addressed if an area is not redesignated attainment.



quantitative milestone requirement currently due. Finally, once a milestone has passed, the State will have to demonstrate that the milestone was, in fact, achieved for the Klamath Falls area as provided in Section 189(c)(2) of the Act.

#### 7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by ODEQ and EPA (See Sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP were addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion, including woodstoves and other wood burning activities. The SIP provides that the control measures apply throughout the entire nonattainment area.

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. Even though the SIP does not contain additional point source controls to attain the standard, existing and federally approved point source emission limitations are relied upon to maintain and demonstrate attainment with the PM-10 NAAQS.

EPA determined that, because the five-day advance notice provision required by ORS 126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority the State must demonstrate to obtain SIP approval, as specified in Section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude federal approval of a PM-10 nonattainment area SIP revision.

EPA notified Oregon of the deficiency. To correct the problem, the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify the State's program from federal approval or delegation. ODEQ

responded to EPA's understanding of the application of 468.126(2)(e) and agreed that, if federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

In regard to a separate enforceability issue, the following is a summary of the city, county, and interagency commitments which EPA proposes to approve as part of the SIP as either a required control measure or SIP strengthening measure. The content of the two ordinances and their relationship to the SIP control strategies are discussed in more detail in the TSD.

#### City and County Ordinances

A. City of Klamath Falls—Ordinance No. 6630. The ordinance grants Klamath County the authority to implement the Klamath County Air Quality Program (Chapter 406) within the city limits of Klamath Falls (authority to regulate—control measure).

B. Klamath County Clean Air Ordinance No. 63. This ordinance adds Chapter 406 to the Klamath County Code and is entitled the "Klamath County Clean Air Ordinance." The provisions in Chapter 406 establish the mandatory air quality program, area boundaries, and enforcement controls (control measure).

C. Klamath County Air Quality Program—Resolution 89-116. This resolution recognizes the need for establishing control strategies (measures) to reduce PM-10 concentrations in Klamath County (SIP strengthening measure).

#### Interagency Commitments

A. Winter Road Sanding Program, Oregon Department of Transportation Highway Division—Memorandum of Understanding. This sets forth the Highway Department's commitment to: (1) replace cinder sanding material with a liquid de-icing agent, (2) minimize street sanding application rates consistent with traffic safety objectives, (3) rapid cleanup of sanding materials, and (4) "review construction contract Standard Specifications and Project Provisions for compatibility with local ordinances concerning trackout. Tracking mud onto a highway is a citable offense (control measure).

B. Voluntary Smoke Management Plans. EPA is proposing to approve both of the Memorandums of Understanding (MOUs) contained in Appendix 4 of the SIP as SIP strengthening measures. One MOU is between members of Klamath County's forestry community. The other

MOU is between the Klamath County Farm Bureau of Directors.

ODEQ's submittal and the TSD contain further information on enforceability requirements. In addition, the TSD contains a discussion of the personnel and funding intended to support effective implementation of the control strategy.

#### 8. Contingency Measures

As provided in Section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13543-13544. These measures must be submitted by November 15, 1993, for the initial moderate nonattainment areas.

Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM-10 NAAQS by the applicable statutory deadline. EPA guidance recommends that the emission reductions expected from implementation of the contingency measures equal twenty-five percent of the total reduction in actual emissions in the plan's control strategy (57 FR 13544). However, the CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures (see 57 FR 13511). EPA believes that, consistent with the statutory scheme, contingency measures must at a minimum provide for continued progress toward the attainment goal in the interim period after an area fails to attain and while additional measures required as a result of being reclassified to serious are being adopted (see 57 FR 13511). The Klamath Falls nonattainment area SIP contains the following contingency measures:

a. Uncertified woodstove removal: The 1991 Oregon Legislature authorized by statute the removal and destruction of uncertified woodstoves upon sale of a home within any area that fails to meet the PM-10 SIP attainment date of December 31, 1994. EPA approved these rules (OAR 340-34-200 through 215) as part of the Oregon SIP on June 9, 1992 (see 57 FR 24373).

b. Industrial Emissions: ODEQ developed an industrial contingency plan designed to reduce industrial emissions should an area fail to attain by the CAA attainment date. The regulations requiring emission reductions, with specific source emission limits, are contained in OAR 340-21-200 through 245. EPA approved

these rules as part of the SIP on August 19, 1992 (see 57 FR 37468). The rules apply to existing sources in all of Oregon's PM-10 nonattainment areas. The sources regulated include wood waste boilers, wood particle dryers at particleboard plants, hardboard manufacturing plants, and air conveying systems. The rules also require fugitive emission control plans for large sawmills, plywood mills or veneer manufacturing plants, hardboard plants, and charcoal manufacturing plants. In addition, OAR 340-21-200 through 340-21-245 applies to a major source located outside of a PM-10 nonattainment area which has a significant impact upon a nonattainment area. According to OAR 340-21-210(2)(b), upon request by ODEQ, the owner or operator of any source with the potential to have a significant impact on a PM-10 nonattainment area shall conduct, prior to the attainment date required in the Clean Air Act and in accordance with a study protocol approved by ODEQ, a receptor and dispersion modeling study of the impact of emissions from the source on the PM-10 nonattainment area. As previously stated, significant impact is defined as  $5\mu\text{g}/\text{m}^3$ .

c. The continuation of the woodstove certification program after December 31, 1994, will provide a net reduction in residential wood burning emissions between the years 1994 and 2004, and on into the future.

d. Chapter 406.650(1) through Chapter 406.650(9) of the Klamath County Clean Air Ordinance delineates the contingency measures adopted by Klamath County. They include, among other things, measures to further reduce woodsmoke and fugitive dust.

As stated above, the industrial contingency rules apply to existing sources in all of Oregon's PM-10 nonattainment areas. In actuality, because of the PM-10 source mix in the area, the measures applicable to the Klamath Falls PM-10 nonattainment area include wood waste boilers, wood particle dryers at particleboard plants, hardboard manufacturing plants, air conveying systems, fugitive emission control plans, and the analysis of the impact of emissions from a source outside the area which has the potential to have a significant impact on the nonattainment area (such as the Weyerhaeuser facility).

Also, as previously discussed, in 1995 ODEQ determined through a dispersion modeling study that Weyerhaeuser does not have a significant impact at the monitoring site of reference (Peterson School) during NAAQS exceedance days, and therefore is not subject to the

PM-10 industrial contingency measures.

ODEQ estimates that PM-10 emissions would be reduced an additional 108 tons per year by the year 2000 through implementation of the woodstove contingency measures. Industrial emissions would be reduced an additional 132 tons per year through installation of point source controls to meet the industrial contingency measure requirement. Additional reductions which cannot be quantified by the emission inventory would be achieved through the fugitive dust control contingency measures. Total reductions are estimated at a minimum of 240 tons per year (nonattainment area industries only), which is 23% of the total annual emission reduction needed for attainment.

The SIP provides that each of the above contingency measures would have taken effect without further action by the State or EPA had EPA determined that the Klamath Falls nonattainment area has failed to achieve RFP or to attain the PM-10 standard by the statutory attainment date of December 31, 1994.

EPA is proposing to approve the Klamath Falls nonattainment area contingency measures.

### III. Implications of This Action

EPA is proposing to approve the 1991 Attainment Plan and the 1995 revision to the Plan as submitted to EPA for the Klamath Falls nonattainment area on November 15, 1991, and September 22, 1995, respectively. Among other things, ODEQ has demonstrated that the Klamath Falls moderate PM-10 nonattainment area will attain the PM-10 NAAQS by December 31, 1994. In fact, the area has not experienced an exceedance of the NAAQS since 1991. Note that EPA's action includes approval of the contingency measures for the Klamath Falls nonattainment area.

### IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and Subchapter I, Part D, of the CAA do not create any new requirements, but

simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that the proposed action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the EPA Region 10 Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management

and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, and Particulate matter.

Authority: 42 U.S.C. 7401-7671q.

Dated: May 24, 1996.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 96-14120 Filed 6-4-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52 and 81

[WI70-1-7296; FRL-5510-6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Wisconsin Department of Natural Resources (WDNR) request to redesignate Walworth County to attainment for ozone. In addition, EPA is proposing to approve the associated maintenance plan as a revision to the Wisconsin State Implementation Plan (SIP).

DATES: Comments on this proposed action must be received by July 5, 1996.

ADDRESSES: Written comments should be addressed to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and EPA's analysis (Technical Support Document) are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Randy Robinson at (312) 353-6713 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randy Robinson at (312) 353-6713.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with requirements of the Clean Air Act Amendments of 1990 (ACT), Walworth County was designated as a marginal ozone nonattainment area on November 6, 1991, (56 FR 56850). The nonattainment designation was based on air quality monitored violations of the ozone National Ambient Air Quality Standards (NAAQS).

Recent air quality data shows that Walworth County is not in violation of the ozone NAAQS. Therefore, the area is eligible for redesignation to attainment based on a minimum of 3 years of "clean" air quality data, as required in the Act. On December 15, 1995, the WDNR submitted a request for redesignation to attainment and a maintenance plan for ozone for Walworth County. The remainder of this notice will discuss the regulatory requirements for redesignation to attainment, the details of the Wisconsin submittal, and EPA's rulemaking action.

II. Redesignation Review Criteria

The Act provide the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the NAAQS; (ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175(A); and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (General Preamble), 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992). Three key memoranda

provide further guidance with respect to Section 107(d)(3)(E) of the Act. The first, dated September 4, 1992, was issued by John Calcagni, Director, Air Quality Management Division, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment (Calcagni Memorandum). The second, dated September 17, 1993, was issued by Michael Shapiro, Acting Assistant Administrator for Air and Radiation, Subject: State Implementation Plan (SIP) Requirements for Area Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) NAAQS on or after November 15, 1992, (Shapiro Memorandum). The third, dated October 14, 1994, was issued by Mary Nichols, Assistant Administrator for Air and Radiation, Subject: Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment (Nichols Memorandum).

Analysis of State Submittal

A. The Area must have attained the Ozone National Ambient Air Quality Standard

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with 40 CFR § 50.9, based on 3 complete, consecutive calendar years of quality assured monitoring data. The data that are used should be the product of ambient monitoring that is representative of the area believed to have the highest concentration. A violation of the NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1 at any site under consideration. A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR Part 58, and recorded in the Aerometric Information Retrieval System (AIRS).

Walworth County contains one ozone monitor, located in Lake Geneva, Wisconsin. To demonstrate monitored attainment with the standard, the WDNR submitted ozone monitoring data for the April 15 through October 15 ozone season for 1992, 1993, and 1994.

MONITORED OZONE CONCENTRATIONS  
[Parts per billion]

County	Year	1st High	2nd High	3rd High	4th High
Walworth .....	1992	120	101	97	96
	1993	107	93	91	89