

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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

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 May 6, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: February 21, 1997.

Jane S. Moore,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (117) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(117) On November 20, 1996, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted source-specific Reasonably Available Control Technology (RACT) determinations to EPA as SIP revisions for VOC emissions standards.

(i) Incorporation by reference.

(A) Two letters dated November 20, 1995, from Director of the Oregon Department of Environmental Quality (ODEQ) submitting SIP revisions for RACT determinations for VOC emissions for: Cascade General, Inc., a ship repair yard in Portland, Oregon, Permit No. 26-3224 (issued to the Port of Portland), dated October 4, 1995; and, White Consolidated, Inc. (doing business as Schrock Cabinet Co.), a wood cabinet manufacturing facility in Hillsboro, Oregon, Permit No. 34-2060, dated August 1, 1995.

[FR Doc. 97-5644 Filed 3-6-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[OR64-7279a, OR36-1-6298a, OR46-1-6802a; FRL-5696-8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves numerous amendments to the Oregon Department of Environmental Quality's (ODEQ's) rules for stationary sources, including new source review and prevention of significant deterioration rules, as revisions to the Oregon State Implementation Plan (SIP). These revisions were submitted by the Director of the ODEQ on May 20, 1988, January 20, 1989, September 14, 1989, October 13, 1989, November 15, 1991, August 26, 1992, November 16, 1992, May 28, 1993, November 15, 1993, December 14, 1993, November 14, 1994, June 1, 1995, September 27, 1995, October 8, 1996, and January 22, 1997, in accordance with the requirements of section 110, Part C, and Part D of the Clean Air Act (hereinafter the Act). EPA is also

removing the listings for total suspended particulates nonattainment areas in 40 CFR Part 81.

DATES: This action is effective on May 6, 1997 unless adverse or critical comments are received by April 7, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Office of Air Quality (OAQ-107), EPA, Region 10, Seattle, Washington 98101, (206) 553-4253.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987 (52 FR 24672), in conjunction with the revision to the national ambient air quality standards (NAAQS) for particulate matter (PM₁₀), EPA revised the requirements for state implementation plans. These revisions included changes to the requirements for new source review (NSR) and prevention of significant deterioration (PSD) permitting programs. In response to these new requirements, on May 20, 1988, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted amendments to Oregon's state ambient air quality standards (including its standards for particulate matter), new source review (NSR), and prevention of significant deterioration (PSD) rules.¹ Further amendments to the NSR rules applicable to specific areas which violated the new PM₁₀ standards were submitted on September 14, 1989, and October 13, 1989,² and additional

¹ Other provisions in the May 20, 1988, submittal regarding commitments for Group II PM₁₀ areas and emergency episode plans were acted on in a February 23, 1993, Federal Register (58 FR 10972).

² Additional provisions regarding the Medford-Ashland and Grants Pass PM₁₀ industrial rules

clarifying changes to the state's ambient air quality standards were submitted on November 15, 1991.³

On October 17, 1988 (53 FR 40656), EPA promulgated PSD increments for nitrogen dioxide along with appropriate revisions to the PSD regulations in 40 CFR 51.166. In response to those changes to EPA's requirements for State PSD programs, the Director of the ODEQ submitted revisions to its PSD rules on August 26, 1992.

In response to the Clean Air Act Amendments of 1990 (Pub. L. 101-509), EPA issued guidance on March 11, 1991, July 22, 1992, and September 3, 1992, regarding the necessary changes to State and local PSD and NSR permit rules to comply with the new statutory requirements. In response to this guidance, the Director of the ODEQ submitted additional amendments to the NSR and PSD rules on November 16, 1992.⁴

On September 24, 1993 (58 FR 49931), EPA designated the Lakeview area as a moderate PM₁₀ nonattainment area. As a result, Oregon was required to submit, as a SIP revision, a control strategy to bring the area into attainment with the PM₁₀ standards. The required control strategy was submitted by the Director of the ODEQ on June 1, 1995.⁵ This strategy included, among other things, amendments to the New Source Review rules that apply in nonattainment areas in order to make them apply to the Lakeview PM₁₀ Nonattainment Area.

On June 3, 1993 (58 FR 31622), EPA promulgated revisions to the PSD regulations to change the indicator for the particulate matter increments from total suspended particulates (TSP) to PM₁₀. On September 27, 1995, in response to this change in federal requirements, the Director of the ODEQ submitted amendments to Oregon's PSD rules as a revision to the Oregon SIP.⁶

Oregon also made a number of amendments to its PSD and NSR rules on its own initiative. These amendments were submitted as revisions to the Oregon SIP on January 20, 1989, May 28, 1993,⁷ November 15,

1993,⁸ December 14, 1993,⁹ November 14, 1994, October 8, 1996,¹⁰ and January 22, 1997.¹¹

II. Description of Plan Revision Submittals

On May 20, 1988, the Director of the ODEQ submitted amendments to Oregon Administrative Rules (OAR) 340-20-220 through 260 (New Source Review Rules), OAR 340-31-005 through 055 (Ambient Air Quality Standards), and OAR 340-31-100 through 130 (Prevention of Significant Deterioration Rules) as revisions to the Oregon state implementation plan (SIP). The amendments to the New Source Review Rules added new definitions of "emission limitation and emission standard," "particulate matter emissions," and "PM₁₀ emissions" to OAR 340-20-225. They also amended the existing definitions of "nonattainment area," "significant emission rate," and "significant air quality impact" in OAR 340-20-225. These new and amended definitions were to implement the revised ambient air quality standards for particulate matter. In addition, OAR 340-20-245 (Requirements for Sources in Attainment or Unclassifiable Areas (Prevention of Significant Deterioration)) was amended to implement the revised particulate matter standards and the revised EPA requirements in 40 CFR 51.165(b) and 40 CFR 51.166. Similarly, OAR 340-20-260 (Requirements for Net Air Quality Benefit) was amended to implement the revised particulate matter standards.

The amendments to Oregon's Ambient Air Quality Standards included new definitions of "ambient air monitoring site criteria," "approved method," "Code of Federal Regulations," and "parts per million;" amendments to the existing definitions of "ambient air" and "equivalent method;" and the deletion of the existing definitions of "primary air mass station," "primary ground level monitoring station," and "special station" in OAR 340-31-005. The ambient standards for suspended particulate matter (OAR 340-31-015) were amended by adding standards for PM₁₀. Finally, the ambient standards for

total suspended particulates (OAR 340-31-015), sulfur dioxide (OAR 340-31-020), carbon monoxide (OAR 340-31-025), ozone (OAR 340-31-030), nitrogen dioxide (OAR 340-31-040), and lead (OAR 340-31-055) were amended to clarify monitoring methods and averaging times. In addition, the existing ambient standard for hydrocarbons (OAR 340-31-035) was rescinded.

Finally, the Prevention of Significant Deterioration Rules were amended by clarifying that the ambient air increments for particulate matter (OAR 340-31-110) were measured in terms of total suspended particulates.

On January 20, 1989, the Director of the ODEQ submitted amendments to the Air Contaminant Discharge Permit rules to effect changes to the permit fee provisions in OAR 340-20-155, Table 1 and OAR 340-20-165. These changes updated the fee table and clarified that the application processing fee must be submitted with the application for a permit or permit renewal.

On September 14, 1989, the Director of the ODEQ submitted an amendment to the New Source Review Rules as they apply to the Klamath Falls PM₁₀ area. This amendment lowered the major source size threshold for new and modified major sources in the Klamath Falls Urban Growth Area from 15 tons of PM₁₀ per year to 5 tons of PM₁₀ per year by revising the definition of "significant emission rate" in OAR 340-20-225(22). However, the amended rules exempt sources with PM₁₀ emissions of less than 15 tons per year from the requirement to apply the lowest achievable emission rate (LAER). In addition, sources with PM₁₀ emissions between 5 and 15 tons per year may choose to apply LAER rather than to obtain emission offsets.

On October 13, 1989, the Director of the ODEQ submitted an amendment to the "Specific Air Pollution Control rules for the Medford-Ashland Air Quality Maintenance Area and Grants Pass Urban Growth Area" (OAR 340-30-005 through 111). This amendment added a new OAR 340-30-111 (Emission Offsets) which establishes an emission offset ratio for new or modified sources of 1.2 to 1 for the Medford-Ashland Air Quality Maintenance Area.

On November 15, 1991, the Director of the ODEQ submitted further amendments to Oregon's Ambient Air Quality Standards (OAR 340-31-015 through 030, 040, and 055). These amendments clarified the applicability of the standards to any site in the ambient air.

On August 26, 1992, the Director of the ODEQ submitted amendments to

included in this submittal were acted on in a February 23, 1993, Federal Register (58 FR 10972).

³ Other rule amendments submitted on November 15, 1991, have been acted on in a February 23, 1993, Federal Register (58 FR 10972).

⁴ The emission statement rules included in the November 16, 1992, submittal were acted on in a March 24, 1994, Federal Register (59 FR 13886).

⁵ Other provisions of the Lakeview PM₁₀ attainment plan will be acted on in a separate Federal Register.

⁶ Revisions to Oregon's Smoke Management Plan included in the September 27, 1995, submittal will be acted on in a separate Federal Register.

⁷ Other rule amendments included in the May 28, 1993, submittal will be acted on in separate Federal Registers.

⁸ Other rule amendments included in the November 15, 1993, submittal will be acted on in a separate Federal Register.

⁹ Other rule amendments included in the December 14, 1993, submittal will be acted on in a separate Federal Register.

¹⁰ Other rule amendments included in the October 8, 1996, submittal will be acted on in a separate Federal Register.

¹¹ Other rule amendments included in the January 22, 1997, submittal will be acted on in a separate Federal Register.

Oregon's New Source Review Rules (OAR 340-20-225) and Prevention of Significant Deterioration Rules (OAR 340-31-110) to add provisions implementing the PSD increments for nitrogen dioxide. These amendments revised the definitions of "baseline concentration" (OAR 340-20-225(2)) and "baseline period" (OAR 340-20-225(3)) to accommodate the new nitrogen dioxide increments and added the nitrogen dioxide increments themselves to OAR 340-31-110 (Ambient Air Increments).

On November 16, 1992, the Director of the ODEQ submitted amendments to Oregon's New Source Review Rules (OAR 340-20-220 to 270) to implement the new requirements of the Clean Air Act Amendments of 1990 for nonattainment area (Part D) new source review programs. These amendments revised the definitions of the terms "baseline period," "nonattainment area," "significant emission rate," and "source" in OAR 340-20-225. The amendments also revised the requirements for new and modified major sources proposing to locate in nonattainment areas at OAR 340-20-240 (Requirements for Sources in Nonattainment Areas), OAR 340-20-241 (Growth Increments), OAR 340-20-255 (Baseline for Determining Credit for Offsets), OAR 340-20-260 (Requirements for Net Air Quality Benefit), and OAR 340-20-265 (Emission Reduction Credit Banking).

On May 28, 1993, the Director of the ODEQ submitted numerous amendments to Oregon's permit rules in OAR Chapter 340, Division 14, Division 20, and Division 31. These amendments are nearly all editorial in nature and include updating statutory citations, correcting cross references, and correcting typographical and grammatical errors. The only other changes are minor changes in public notice procedures for consistency with State statutes and a clarification of the requirement for certain sources to register under the State's registration program.

On November 15, 1993, the Director of the ODEQ submitted extensive amendments to the State rules which affect the permitting and regulation of stationary sources, including permits to construct, State operating permits, prevention of significant deterioration, Part D new source review, stack heights and dispersion techniques, excess emissions, and other provisions. These amendments involve the creation of a new OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures and the relocation of much of the OAR Chapter

340, Division 20 provisions to this new Division 28. Additionally, conforming amendments were made to OAR Chapter 340, Division 14, and Division 31. Specifically, OAR Chapter 340, Division 14, Procedures for Issuance, Denial, Modification, and Revocation of Permits, Section 007 (Exceptions) was amended to exempt federal operating permits issued pursuant to the new OAR Chapter 340, Division 28, from the requirements of Division 14. OAR Chapter 340, Division 20, General Air Pollution Control Regulations was amended by revising, renumbering, and relocating the following provisions of OAR Chapter 340, Division 20, to the new OAR Chapter 340, Division 28:

340-20-001 (Highest and Best Practicable Treatment and Control Required);
 340-20-005 through -015 (Registration);
 340-20-020 through -030 (Notice of Construction and Approval of Plans);
 340-20-032 (Compliance Schedules);
 340-20-035 (Sampling, Testing and Measurement of Air Contaminant Emissions);
 340-20-037 (Stack Heights and Dispersion Techniques);
 340-20-040 (Methods);
 340-20-045 (Department Testing);
 340-20-046 (Records; Maintaining and Reporting);
 340-20-140 through -185 (Air Contaminant Discharge Permits);
 340-20-220 through -276 (New Source Review);
 340-20-300 through -320 (Plant Site Emission Limits);
 340-20-350 through -380 (Excess Emissions);
 340-20-450 through -480 (Emission Statements for VOC and NO_x Sources); and
 340-20-500 through -660 (Major Source Interim Emission Fees).

The new OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures includes most of Oregon's rules of procedure that apply to stationary sources of air pollution. Specifically, Division 28 includes:

340-28-100 (Purpose, Application and Organization);
 340-28-110 (Definitions);
 340-28-200 through -400 (Rules Applicable to All Stationary Sources);
 340-28-500 through -520 (Registration);
 340-28-600 through -640 (Highest and Best Practicable Treatment and Control Required);
 340-28-700 (Compliance Schedules);
 340-28-800 through -820 (Notice of Construction and Approval of Plans);

340-28-900 (Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits or Federal Operating Permits);
 340-28-1000 through -1060 (Plant Site Emission Limits);
 340-28-1100 through -1140 (Sampling, Testing and Measurement of Air Contaminant Emissions);
 340-28-1400 through -1460 (Excess Emissions and Emergency Provision);
 340-28-1500 through -1520 (Emission Statements for VOC and NO_x Sources in Ozone Nonattainment Areas);
 340-28-1600 (Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits);
 340-28-1700 through -1770 (Air Contaminant Discharge Permits);
 340-28-1900 through -2000 (New Source Review);
 340-28-2100 through -2320 (Rules Applicable to Sources Required to Have Federal Operating Permits);
 340-28-2400 through -2550 (Major Source Interim Emission Fees); and
 340-28-2560 through -2740 (Federal Operating Permit Fees).

While the provisions relating to the Federal operating permit program are new, the remaining provisions are provisions from OAR Chapter 340, Division 20, that have been revised, renumbered, and relocated into this new Division 28. Note that the provisions relating to the Federal operating permit program (OAR 340-28-1460, 340-28-2100 through -2260, OAR 340-28-2280 through -2320, and 340-28-2560 through -2740) were granted interim approval by EPA on December 2, 1994 (59 FR 61820), and full approval on September 28, 1995 (60 FR 50106), and are not being acted on in this rulemaking which addresses only revisions to the Oregon SIP. Finally, OAR Chapter 340, Division 31 (Air Pollution Control Standards for Air Purity and Quality) was amended by renumbering and relocating the definition of "baseline concentration" from Division 20, renumbering and relocating the definitions located in OAR 340-31-105 to OAR 340-31-005, and by adding new definitions of "particulate matter," "PM₁₀," and "total suspended particulates."

On December 14, 1993, the Director of the ODEQ submitted technical corrections to OAR Chapter 340, Division 28, as submitted on November 15, 1993. These technical corrections clarified the effective dates for OAR 340-28-600 through -640 and the SIP submittal status of OAR 340-28-1520.

On November 14, 1994, the Director of the ODEQ submitted further

amendments to OAR Chapter 340, Division 28. These amendments correct and clarify the requirements for permits to construct for new and modified sources that are not new major stationary sources or major modifications to existing major stationary sources (the "minor" new source review program), specifically, OAR 340-28-110 (Definitions), OAR 340-28-1910 (Procedural Requirements), and OAR 340-28-2270 (Construction/Operation Modification). The amendments also correct an incorrect cross reference in OAR 340-28-1430 (Upsets and Breakdowns).

On June 1, 1995, the Director of the ODEQ submitted additional amendments to the New Source Review Rules as they apply to the Lakeview PM₁₀ nonattainment area. First, the amendments lowered the major source size threshold for new and modified major sources in the Lakeview PM₁₀ nonattainment area from 15 tons of PM₁₀ per year to 5 tons of PM₁₀ per year by revising the definition of "significant emission rate" in OAR 340-28-110(105). Second, the amended rules (OAR 340-28-1930(7)) exempt sources with PM₁₀ emissions of less than 15 tons per year from the requirement to apply the lowest achievable emission rate (LAER). However, sources with PM₁₀ emissions between 5 and 15 tons per year may choose to apply LAER rather than to obtain emission offsets.

On September 27, 1995, the Director of the ODEQ submitted amendments to Oregon's Prevention of Significant Deterioration Rules (OAR 340-31-005 through -155) to change the indicator for the PSD increments for particulate matter from total suspended particulates (TSP) to PM₁₀. These amendments revised the definition of "baseline concentration" in OAR 340-31-005(4) to establish a new PM₁₀ baseline date for the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests in northeastern Oregon; changed the indicator for the particulate matter increments in OAR 340-31-110 (Ambient Air Increments) from TSP to PM₁₀; and clarified in OAR 340-31-120 (Restriction on Area Classifications) that the boundaries of Federal Class I areas conform to changes made to the boundaries of the areas after the Clean Air Act Amendments of 1977.

On October 8, 1996, the Director of the ODEQ submitted further amendments to OAR Chapter 340, Division 28. These amendments included technical clarifications and corrections to OAR 340-28-0110 (Definitions), OAR 340-28-1060 (Plant Site Emission Limits for Insignificant Activities), OAR 340-28-1410 (Planned

Startup and Shutdown), OAR 340-28-1430 (Upsets and Breakdowns), and OAR 340-28-1720 (Permit Required).

Finally, on January 22, 1996, the Director of the ODEQ submitted further amendments to OAR Chapter 340, Division 28. These amendments included technical clarifications and corrections to OAR 340-28-0110 (Definitions), OAR 340-28-0400 (Information Exempt from Disclosure), OAR 340-28-0630 (Typically Available Control Technology), OAR 340-28-1010 (Requirements for Plant Site Emission Limits), and OAR 340-28-1720 (Permit Required).

III. EPA Findings and Action

EPA has reviewed the submitted amendments to OAR Chapter 340, Divisions 14, 20, 28, 30, and 31, and finds that they comply with the Act and EPA's requirements for SIP programs that regulate stationary sources. EPA's findings on each Division are as follows:

The amendments to OAR Chapter 340, Division 14 (amendments to OAR 340-14-005, -010, -015, -020, -025, -030, -035, -040, -045, and -050, effective on March 10, 1993, and submitted on May 28, 1993, and amendments to OAR 340-14-007 effective on March 10, 1993, and September 24, 1993, and submitted on May 28, 1993, and November 15, 1993, respectively) are all administrative in nature and do not result in any substantive changes to the provisions that are in the currently approved Oregon SIP. As such, EPA is approving these amendments to Division 14, as a revision to the Oregon SIP.

The November 15, 1993, submittal of amendments to OAR Chapter 340, Division 20, was the rescission of provisions that have been amended, renumbered, and relocated to the new OAR Chapter 340, Division 28. Therefore, this submittal entirely supersedes the amendments to OAR Chapter 340, Division 20, which were submitted on May 20, 1988, January 20, 1989, September 14, 1989, August 26, 1992, November 16, 1992, and May 28, 1993. As discussed below, EPA is approving the amended and renumbered provisions now located in OAR Chapter 340, Division 28, and therefore, is approving the rescission of OAR 340-20-001, 340-20-005 through -046, 340-20-140 through -185, and 340-20-220 through -380, as effective on September 24, 1993, and submitted on November 15, 1993, as a revision to the Oregon SIP.

As discussed above, on September 24, 1993, Oregon amended and relocated many of the provisions of OAR Chapter 340, Division 20, to the new OAR

Chapter 340, Division 28. The Division 20 provisions that were relocated included all of the amended provisions that were previously submitted to EPA as revisions to the Oregon SIP on May 20, 1988, January 20, 1989, September 14, 1989, August 26, 1992, November 16, 1992, and May 28, 1993, as described above. In addition to the amended and relocated provisions from OAR Chapter 340, Division 20, new provisions to implement the requirements of Title V of the Act and 40 CFR Part 70 were adopted, and new bridging provisions were established to clarify the applicability of the provisions of this new Division 28.¹² The majority of the amendments to the relocated Division 20 provisions were administrative in nature and involved renumbering and corrections to cross-references to reflect the organization in the new Division 28. Other amendments to the relocated Division 20 provisions were changes necessary to reflect the addition of the new Title V operating permits program and to clarify the relationship between Oregon Air Contaminant Discharge Permits and the new Title V operating permits. As described above in the various submittals of amendments to Division 28, substantive changes have since been made to the provisions in OAR 340-28-110 (Definitions), OAR 340-28-600 through -680 (Highest and Best Practicable Treatment and Control Required), OAR 340-28-800 through -820 (Notice of Construction and Approval of Plans), OAR 340-28-1000 through -1060 (Plant Site Emission Limits), OAR 340-28-1100 (Sampling, Testing and Measurement of Air Contaminant Emissions), OAR 340-28-1400 through -1460 (Excess Emissions and Emergency Provision), and OAR 340-28-1700 through -1790 (Air Contaminant Discharge Permits), and a new OAR 340-28-2270 (Construction/Operation Modifications) has been added. Moreover, as discussed above, numerous technical corrections and clarifications have been made throughout the new Division 28. EPA has reviewed the provisions of the new Division 28 and the submitted amendments that have been made since its initial adoption on September 23, 1993, and finds that the rules meet the requirements of the Act and EPA's regulations for SIPs as set forth in 40 CFR Part 51. As such, EPA is approving OAR Chapter 340, Division 28 (except

¹² The provisions related to Title V have been fully approved pursuant to 40 CFR Part 70 (see 60 FR 50106, September 28, 1995), are not included in the Oregon SIP, and are not specifically addressed in this rulemaking.

for those provisions implementing Title V, specifically, OAR 340-28-1460, -2100 through -2260, and -2280 through -2740; except for OAR 340-28-1050 which was not submitted by the State) as a revision to the Oregon SIP.

The amendments to OAR Chapter 340, Division 30 submitted on October 13, 1989, involve the addition of a new section OAR 340-30-111 (Emission Offsets), effective September 26, 1989, which establishes an offset ratio of 1.2 to 1 for new or modified sources located in the Medford-Ashland Air Quality Maintenance Area. Since this offset ratio is greater than that required for the Medford-Ashland PM₁₀ nonattainment area, EPA finds the amendment to comply with the requirements of the Act and EPA regulations and is therefore approving the addition of OAR 340-30-111 as a revision to the Oregon SIP.

The amendments to OAR Chapter 340, Division 31, effective on May 19, 1988, and November 13, 1991 (submitted on May 20, 1988, and November 15, 1991, respectively), provided for the addition of PM₁₀ ambient standards and clarifying revisions to the Oregon ambient standards for total suspended particulates, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead, as well as clarifying that the PSD increments for particulate matter were measured as total suspended particulates. The amendments to OAR Chapter 340, Division 31, effective on March 30, 1992 (submitted August 26, 1992), provided for the addition of PSD increments for NO₂. The amendments to OAR Chapter 340, Division 31, effective on March 10, 1993 (submitted on May 28, 1993), were only technical corrections and clarifications to the rules. The amendments to OAR Chapter 340, Division 31, effective on November 4, 1993 (submitted on November 15, 1993), simply relocated certain definitions from OAR 340-28-110 and OAR 340-31-105 to OAR 340-31-005. The amendments to OAR Chapter 340, Division 31, effective on July 12, 1995 (submitted September 27, 1995), provided for the replacement of the PSD increments for total suspended particulates with PSD increments for PM₁₀, a revision to the PSD baseline date for an area in northeastern Oregon (the area within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests), and a clarification to the boundaries of the mandatory federal Class I areas (certain National Parks and National Wilderness Areas) in Oregon. These amendments are consistent with EPA's regulations in 40 CFR Part 50 and 40 CFR 51.166 and EPA is therefore approving the

amendments to OAR Chapter 340, Division 31, as revisions to the Oregon SIP.

IV. Summary of EPA Action

EPA today approves several amendments to the ODEQ rules as revisions to the Oregon SIP.

Specifically, EPA approves:

(1) OAR 340-14-005, -010, -015, -020, -025, -030, -035, -040, -045, and -050, as amended, effective March 10, 1993, and OAR 340-14-007, as amended, effective September 24, 1993;

(2) the rescission of OAR 340-20-001, 340-20-005 through -046, 340-20-140 through -185, and 340-20-220 through -380 as effective on September 24, 1993;

(3) OAR 340-28-500, -510, -520, -810, -1030, -1040, -1120, -1130, -1400, -1450, -1520, -1600, -1700, -1710, and -1920, as amended, effective September 24, 1993; OAR 340-28-100, -200, -300, -700, -800, -820, -900, -1000, -1020, -1100, -1110, -1140, -1420, -1440, -1500, -1510, -1730, -1740, -1750, -1760, -1770, -1900, -1940, -1950, -1960, -1970, -1980, -1990, and -2000, as amended, effective November 4, 1993; OAR 340-28-600, -610, -620, and -640, as amended, effective January 1, 1994; OAR 340-28-1910 and -2270, as amended, effective October 28, 1994; OAR 340-28-1930, as amended, effective May 1, 1995; OAR 340-28-1060, as amended, effective January 29, 1996; OAR 340-28-1410 and -1430, as amended, effective September 24, 1996; OAR 340-28-110, -400, -630, -1010 and -1720, as amended, effective October 22, 1996; the rescission of OAR 340-28-1790 as effective September 24, 1993; and the rescission of OAR 340-28-1780 as effective November 4, 1993;

(4) OAR 340-30-111 as effective September 26, 1989; and

(5) OAR 340-31-010, 340-31-015, 340-31-020, 340-31-025, 340-31-030, 340-31-040, 340-31-055, 340-31-100, 340-31-115, and 340-31-130, as amended, effective March 10, 1993, the rescission of OAR 340-31-105 as effective on November 4, 1993, and OAR 340-31-005, OAR 340-31-110, and 340-31-120, as amended, effective July 12, 1995.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 6, 1997 unless, by April 7, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 6, 1997.

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

V. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the 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.

B. Regulatory Flexibility Act

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. sections 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 Act 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 Act, preparation of a regulatory flexibility

analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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 by the rule.

EPA has determined that the approval 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the 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 from date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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), 42 U.S.C. 7607(b)(2)).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of the Federal Register on July 1, 1982.

Dated: February 19, 1997.

Jane S. Moore,

Acting Regional Administrator.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(118) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *
(118) On October 13, 1989, the Director of the Oregon Department of Environmental Quality submitted an amendment to OAR Chapter 340, Division 30. On May 28, 1993, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 14, and Division 31. On November 15, 1993, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 14, Division 20, and Division 31, and a new Division 28. On November 14, 1994, June 1, 1995, October 8, 1996, and January 22, 1997, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 28. On September 27, 1995, the

Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 31.

(i) Incorporation by reference.

(A) OAR 340-14-005, -010, -015, -020, -025, -030, -035, -040, -045, and -050, effective March 10, 1993; and OAR 340-14-007, effective September 24, 1993.

(B) OAR 340-28-500, -510, -520, -810, -1030, -1040, -1120, -1130, -1400, -1450, -1520, -1600, -1700, -1710, and -1920, effective September 24, 1993; OAR 340-28-100, -200, -300, -700, -800, -820, -900, -1000, -1020, -1100, -1110, -1140, -1420, -1440, -1500, -1510, -1730, -1740, -1750, -1760, -1770, -1900, -1940, -1950, -1960, -1970, -1980, -1990, and -2000, effective November 4, 1993; OAR 340-28-600, -610, -620, and -640, effective January 1, 1994; OAR 340-28-1910 and -2270, effective October 29, 1994; OAR 340-28-1930, effective May 1, 1995; OAR 340-28-1060, effective January 29, 1996; OAR 340-28-1410 and -1430, effective September 24, 1996; and OAR 340-28-110, -400, -630, -1010 and -1720, effective October 22, 1996.

(C) OAR 340-30-111, effective September 26, 1989.

(D) OAR 340-31-010, 340-31-015, 340-31-020, 340-31-025, 340-31-030, 340-31-040, 340-31-055, 340-31-100, 340-31-115, and 340-31-130, effective March 10, 1993; and OAR 340-31-005, OAR 340-31-110, and 340-31-120, effective July 12, 1995.

3. Section 52.1987 is amended by revising paragraph (a) to read as follows:

§ 52.1987 Significant deterioration of air quality.

(a) The Oregon Department of Environmental Quality rules for prevention of significant deterioration of air quality in OAR Chapter 340, Division 28, as effective on October 22, 1996, and OAR Chapter 340, Division 31, as effective on July 12, 1995, are approved as meeting the requirements of Part C.

* * * * *

4. Section 52.1988 is revised to read as follows:

§ 52.1988 Air Contaminant discharge permits.

(a) Emission limitations and other provisions contained in Air Contaminant Discharge Permits and Federal Operating Permits issued by the State in accordance with the provisions of the OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures incorporated by reference in § 52.1970, except for compliance schedules under OAR 340-

28-700 and alternative emission limits (bubbles) under OAR 340-28-1030 for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year, shall be the applicable requirements of the federally-approved Oregon SIP (in lieu of 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.

(b) Emission limitations and other provisions contained in Air Contaminant Discharge Permits and Federal Operating Permits issued by the Lane Regional Air Pollution Authority in accordance with the provisions of the federally-approved Air Contaminant

Discharge Permits rules (Title 34) and Plant Site Emission Limit rules (Title 32, Section 32-100 through -104) and in conjunction with provisions of the OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures incorporated by reference in Section 52.1970, except for compliance schedules under Title 15, Section 020, or Title 34, Section 050, and alternative emission limits (bubbles) under Title 32, Section 32-103, for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year, shall be the applicable requirements of the federally-approved Oregon SIP (in lieu of 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.

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

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

2. Section 81.338 is amended by removing the table titled Oregon—TSP in its entirety.

3. Section 81.338 is amended by revising the table titled Oregon PM-10 to read as follows:

§ 81.338 Oregon.

* * * * *

OREGON—PM-10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Central Oregon Intrastate AQCR 190:				
Lakeview (the Urban Growth Boundary area)	10/25/93	Nonattainment	10/25/93	Moderate.
Klamath Falls (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 190	11/15/90	Unclassifiable		
Eastern Oregon Intrastate AQCR 191:				
LaGrande (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 191	11/15/90	Unclassifiable		
Northwest Oregon Intrastate AQCR 192	11/15/90	Unclassifiable		
Portland Interstate AQCR 193 (Oregon Portion):				
Portland-Vancouver (portion of the Air Quality Maintenance Area)	11/15/90	Unclassifiable		
Eugene/Springfield (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Oakridge (the Urban Growth Boundary area)	1/20/94	Nonattainment	1/20/94	Moderate.
Remainder of AQCR 193 (Oregon Portion)	11/15/90	Unclassifiable		
Southwest Oregon Intrastate AQCR 194:				
Medford-Ashland Air Quality Maintenance Area (including White City)	11/15/90	Nonattainment	11/15/90	Moderate.
Grants Pass (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 194	11/15/90	Unclassifiable		

* * * * *
 [FR Doc. 97-5645 Filed 3-6-97; 8:45 am]
 BILLING CODE 6560-50-P

40 CFR Part 81

[OH54-2; FRL-5698-4]

Designation of Areas for Air Quality Planning Purposes: Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is correcting the ozone designation for Montgomery County, Ohio to attainment. The designation status was not correctly printed in 40 CFR 81.336. EPA published a final rule designating Montgomery, Greene, Miami and Clark Counties, Ohio nonattainment for ozone, see 43 FR 8962 (March 3, 1978), 43 FR 45993

(October 5, 1978), and the Code of Federal Regulations, 40 CFR part 81. On November 6, 1991 (56 FR 56694), codified at 40 CFR 81.336, the above areas were classified as moderate nonattainment for ozone. More recently, on May 5, 1995 (60 FR 22289) EPA redesignated the above areas to attainment for ozone due to ambient air monitoring data showing no violations of the ozone National Ambient Air Quality Standards during the period from 1990 through 1992. The designation became effective on July 5, 1995. Inadvertently, however, the revised Montgomery County, Ohio ozone designation status was not correctly printed in 40 CFR 81.336, as intended by the May 5, 1995, Federal Register action. It is being corrected in this rule.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Air Programs Branch,

Regulation Development Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604. (312)886-6069.

SUPPLEMENTARY INFORMATION: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 112875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).