herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

G. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. 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 14, 1999. 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 23, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *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 *et seq.*

Subpart S—Kentucky

2. Section 52.920, is amended by adding paragraph (c)(93) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(93) Modifications to the existing basic I/M program in Jefferson County to implement a check of a vehicle's On-Board Diagnostic system, for vehicles of model 1996 and newer that are so equipped, submitted by the Commonwealth of Kentucky on August 27, 1998.

(i) Incorporation by reference. Regulation 8.02, adopted on July 15, 1998.

(ii) Other material. None.

* * * * *

[FR Doc. 99–6253 Filed 3–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–61–7276; FRL–6307–5]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves the 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 standard (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 Oakridge, Oregon, PM–10 nonattainment area. The rationale for the approval is set out both in this action and in supporting technical information which is available at the address indicated. The final action to approve this plan would have the effect of making requirements adopted by the State of Oregon, federally enforceable by EPA.

DATES: This direct final rule is effective on May 14, 1999, without further notice, unless EPA receives adverse comment by April 14, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 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 (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, Region 10 Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION:

I. Background

The area within the Oakridge, Oregon, Urban Growth Boundary (UGB) was designated nonattainment for PM–10 and classified as moderate under section 107(d)(3) of the Clean Air Act (CAA),[1] on December 21, 1993. See 57 FR 43846 (September 22, 1992), 58 FR 67334 (December 21, 1993) and 40 CFR 81.338. The Oakridge designation became effective on January 20, 1994. The air quality planning requirements for moderate PM–10 nonattainment areas[2] are set out in Subparts 1 and 4 of Title I of the Act.[3] 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 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 document and the supporting rationale. In this rulemaking action for the PM–10 SIP for the Oakridge nonattainment area, EPA's 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 as indicated above.

A State containing a moderate PM–10 nonattainment area designated after the 1990 Amendments is required to submit, among other things, the following provisions within 18 months of the effective date of the designation (i.e., these provisions were due for the Oakridge area by July 20, 1995):

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 four years after designation (i.e., January 20, 1998);

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than the end of the sixth calendar year after the effective date of designation (i.e., December 31, 2000), or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which demonstrate reasonable further progress (RFP) toward the attainment date (i.e., December 31, 2000 for Oakridge). Since the SIP for a new nonattainment area is due 18 months after the area is designated as nonattainment, the first 3-year milestone is to be achieved 4½ years after nonattainment designation (i.e., July 20, 1998 for Oakridge) and the second milestone must be achieved three years after the first milestone or 7½ years after nonattainment designation (i.e., July 20, 2001);

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; and

5. Contingency measures which 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 EPA's determination that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable deadline. See section 172(c)(9) of the Act.

II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). The State of Oregon submitted the Oakridge PM–10 SIP on December 9, 1996. The Oakridge moderate area attainment plan includes, among other things, technical analyses, control measures to satisfy the RACM requirement, and a demonstration (including air quality modeling) that attainment and maintenance of the PM–10 NAAQS will be achieved by the required dates. In this final rulemaking, EPA announces its approval of those elements of the Oakridge PM–10 SIP which were due on July 20, 1995, and submitted on December 9, 1996.

In addition, EPA has determined that major sources of precursors of PM–10 do not contribute significantly to PM–10 levels in excess of the NAAQS in Oakridge.[4]

A. 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.[5] 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.

The State of Oregon and the Lane Regional Air Pollution Authority (LRAPA) held a concurrent public hearing on the Oakridge attainment plan on July 18, 1996. As a result of the hearing, the plan was adopted by the LRAPA Board of Directors on August 13, 1996. The plan was subsequently adopted by the Oregon Environmental Quality Commission (OEQC) on October 11, 1996, and became state effective November 4, 1996.

2. Accurate Emission 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 emission

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. 101–549, 104 Stat. 2399. References herein are to 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. 7401, et seq.

[2] The requirements which are the subject of this document arise under the pre-existing PM NAAQS. EPA promulgated a new PM NAAQS on July 18, 1997, which became effective on September 16, 1997.

[3] 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 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.

[4] The consequences of this finding are to exclude these sources from the applicability of PM–10 nonattainment area control requirements. Note that EPA's 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.

[5] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

inventory also should include a comprehensive, accurate, and current inventory of allowable emissions in the area. See section 110(a)(2)(K). Because the submission of such inventories is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emission inventories must be received with the submission (see 57 FR 13539).

The base year for analysis was 1991. This year was chosen because the highest observed ambient PM–10 concentration occurred in 1991. There were nine exceedances of the 24-hour NAAQS with a high of 187 µg/m3. In addition to the base year inventory (1991), an interim year inventory (1997), a design year inventory (2000 attainment year), and a maintenance demonstration year inventory (2003) was developed.

The 1991 inventory identified that, on a 24-hour, worst case day, the major sources of PM–10 emissions are residential wood combustion (76.3%), paved roads (12.6%), unpaved roads (7.6%), winter road sanding (0.9%), transportation (1.9%), industrial point source (0.6%) and other (.3%) with total PM–10 emissions equaling 983.1 pounds per day.

After implementation of all control measures, LRAPA estimates that the 24-hour 2000 attainment year inventory will be as follows: residential wood combustion (72%), paved roads-including sanding (21%), unpaved roads (3.0%), transportation (3.0%), industrial point source (.01%), and other (less than .01%) with total PM–10 emissions equaling 655.1 pounds per day.

The emission inventory was originally reviewed and commented on by EPA in 1995 while in draft form. The issues raised by EPA during that time were resolved before the December 9, 1996, submittal.

EPA is approving the emission inventory because it is 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 Act.[6]

The December 9, 1996, submittal also establishes an emission budget for the Oakridge nonattainment area, which is to be used for Federal conformity purposes. The PM–10 mobile source emission budget for 2000 is 175 pounds per day and for 2003 is 178.8 pounds per day.

3. RACM (Including RACT)

As noted, the moderate PM–10 nonattainment areas, designated after the 1990 Amendments, must submit provisions to assure that RACM (including RACT) are implemented no later than January 20, 1998 (see sections 172(c)(1) and 189(a)(1)(C)) of the Clean Air Act. 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). In broad terms, the State should identify available control measures and evaluate them for their reasonableness in light of the feasibility of the controls and the attainment needs of the area. See 57 FR 13540–13544. A State may reject an available control measure if the measure is technologically infeasible or the cost of the control is unreasonable. In addition, RACM does not require controls on emissions from sources that are insignificant (i.e., de minimis) and 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. Thus, RACT does not require additional controls for the stationary sources in the Oakridge nonattainment area because point source emissions in the area are de minimis and additional control of such sources would not expedite attainment of the PM–10 NAAQS.

Based on the control measures adopted (described below), the SIP demonstrates attainment of the PM–10 NAAQS by December 31, 2000. The SIP also demonstrates continued maintenance of the PM–10 NAAQS between December 2000 and December 2003. Accordingly, the attainment demonstration does not include additional industrial controls beyond those currently required by the Oregon SIP. The Plan's attainment demonstration, contingency measures, and RFP are discussed in more detail later in this document.

Because the area has not violated the annual standard, LRAPA did not specifically develop or implement control measures designed to reduce annual emissions. However, reductions achieved on an annual basis as a result of the control measures designed to reduce 24-hour emissions, will assist in keeping the area in attainment with the annual NAAQS.

Attainment of the 24-hour PM–10 standard is based on the following: (1) woodstove replacement program, (2) voluntary wood burning curtailment program, (3) reduction in winter road sanding, and (4) road paving.

SUMMARY—ATTAINMENT STRATEGIES

Control Measures—2000	Credit requested (percent)	Emission reductions #per day
	24-Hour	24-Hour
Woodstove Removal	12	86
Voluntary Curtailment Program	25	157
Winter Road Sanding	75	7
Unpaved Roads	75	56
Total Reductions	.....	306
Reductions Needed by 12/31/00	.....	294
Excess Reductions	.....	12

[6] 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 revised Act.

A. Woodstove Replacement Program

Oakridge's woodstove replacement program started in 1993 with funding from EPA, ODEQ, and LRAPA. The program was structured to provide up to $2,500 per low or moderate income households for installation of approved alternative heat sources, either as no interest loans or grants.

LRAPA estimates that on a worse-case day basis, 86 pounds per day of PM–10 will be removed from the airshed. These reductions were calculated based on the number of woodstoves replaced, and what type of heating system replaced them. As of July 1996, a total of 130 uncertified woodstoves had been replaced resulting in an estimated 12% reduction in emissions.

Of the first 115 uncertified stoves that were replaced, 42% opted for pellet stoves, 40% opted for EPA certified stoves, 11% opted for heat pumps or electric furnaces, 3% opted for propane gas furnaces, and 3% opted for oil furnaces.

Accordingly, EPA accepts LRAPA's 12% credit on a 24-hour basis and believes the woodstove removal program meets the RACM requirement.

B. Voluntary Woodstove Curtailment Program

A voluntary wood burning advisory program has provided daily wood burning advisories during the wood burning season in Oakridge since 1989. The program is operated by LRAPA, in cooperation with the City of Oakridge and local news media and utilizes a ''red-yellow-green'' system. In 1993, the public education component of the program was enhanced in an effort to keep the program a voluntary one.

Daily wood heating advisories are disseminated by LRAPA via local television and radio stations, an advisory information telephone line, and are published each day in the regional newspaper throughout November and February each winter season. LRAPA also maintains an advisory phone line. During the 1996/1997 season, over 480 60-second spots were aired on area radio stations between December 1 and January 31. These announcements covered topics such as clean burning, using seasoned wood, and the health affects of wood smoke.

In addition, LRAPA contracted with an Oakridge resident to carry out public education strategies such as, but not limited to, (1) manning a booth at Oakridge's Health Fair, (2) conducting door-to-door visitation to homes with smokey chimneys and, (3) conducting drive-by surveys during green, yellow and red days. A ''tarp giveaway'' campaign was also implemented. In exchange for participating in a short survey, residents were given tarps to cover their wood to keep it dry.

Woodburning curtailment advisories are made daily during the woodheating season (November 1 through February 28). The advisory is based on measured air quality, expressed as the standard Air Pollution Index (API) and forecast meteorological conditions. A forecast of either ''green'', ''yellow'', or ''red'' is determined and provided to radio stations between 12:00 and 4:00 p.m. and to the city for inclusion on a cable access station by 4:00 p.m. A green advisory is issued when NAAQS exceedances are unlikely and the API is less than 63. A yellow advisory is made when the API is greater than 63 but less than 75 and the forecast is for marginal smokie dispersion conditions. Under this advisory, residents are advised to burn wood sparingly, and only if alternatives are unavailable. A red advisory is make when the API is greater than 75, and the forecast is for marginal or poor smoke dispersion conditions. Under a red advisory, residents are requested not to burn wood unless they do not have an alternative heat source.

The Oakridge curtailment program includes a surveillance and tracking element. LRAPA's contractor conducts drive-by compliance surveys on green, yellow, and red days using established survey routes. But, since the program in voluntary and not mandatory, enforcement action is not taken against residents who do not comply with the advisories. However, in-home field visits are conducted when the contractor observes activities such as dense smoke being emitted from a chimney. The purpose of these visits is to educate the home owner in the proper use of a woodstove, (e.g. using clean, dry wood etc.).

Considering the above program elements, length of time the program has been in place (since 1989 with an enhanced program enacted in 1995), LRAPA's belief that the public is ''acceptive'' of the program demonstrated by home owner's response to a tarp give-away and in-home visits, EPA believes that the 25% credit on a 24-hour basis is achievable and is being achieved. EPA, therefore, accepts the credit claimed and has determined that the voluntary curtailment program is sufficient to meet RACM.

C. Winter Road Sanding

The second largest source of PM–10 emissions in the Oakridge nonattainment area is paved road dust of which winter road sanding is a contributor. Winter road sanding emissions peak during periods when temperatures drop below freezing and U.S. Highway 58 is icy or snowy. During these periods, the Highway Division of the Oregon Department of Transportation (the Highway Department) applies grit to aid traction along the heavily traveled 1.9 miles of U.S. Highway 58 that traverses the length of the nonattainment area. LRAPA estimated that on a worst case day in the 1991 base year, PM–10 emissions from the sanding practices accounted for 8.6 pounds.

The strategy developed to reduce road sanding emissions is for the Highway Department to use a chemical de-icing compound, calcium magnesium acetate (CMA) on Highway 58 instead of grit. The material is to be applied either in pellet form or dissolved in water. It effectively inhibits ice formation down to temperatures normally encountered in Oakridge and eventually is washed off the roadway without residual particulate. The use of CMA has been specified for use in Oakridge since 1995. The Highway Department is committed to using the anti-icing chemicals within the City of Oakridge into the future.

EPA accepts the above strategy as being RACM and grants the 75% emission reduction credit.

D. Road Paving

Prior to the 1991 base year, there were approximately 2.4 miles of unpaved roads within the nonattainment area. LRAPA estimated that emissions from unpaved roads accounted for 10.6 tons per year (74 pounds per day). Due to an ongoing paving program, between 1991 and 1995, virtually all of Oakridge's unpaved roads and numerous unpaved commercial driveways and parking lots have been paved.

LRAPA requests an estimated 75% net emission reduction credit from this strategy. Converting an unpaved road to a paved road will not reduce emission on a roadway 100%. This is because in time, materials from other activities such as track out, will become deposited on the recently paved surfaces resulting in an increase in paved road emissions. However, any resulting emissions are insignificant compared to the reduction in unpaved road emissions.

EPA accepts LRAPA's 75% net reduction credit as being conservative and approves this measure as being RACM.

RACM does not require additional controls on other area sources since the plan demonstrates attainment of the NAAQS and implementation of

additional controls would not further expedite attainment. However, the State of Oregon through their smoke management plan, has established a special protection zone (SPZ) around the nonattainment area. Prescribed burning in the SPZ is allowed only when the smoke management meteorologist believes there will be no measurable smoke impacts within the PM–10 nonattainment area. The SPZ encompasses the area within a twenty mile radius of the nonattainment area. Other burning restrictions apply on ''red'' advisory days. See Appendix VII of the Oakridge attainment plan for further details. LRAPA does not request credit for this measure but a revision to Oregon's Smoke Management Plan establishing the SPZ around Oakridge, is pending before EPA.

EPA has reviewed LRAPA's submittal and associated documentation and concluded that they adequately justify the control measures to be implemented. Implementation of the Oakridge PM–10 attainment plan control strategy will result in the attainment of the PM–10 NAAQS as expeditiously as practicable and no later than December 31, 2000. In addition, EPA believes it is reasonable and adequate to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. By this document, EPA is approving LRAPA's control strategy as satisfying the RACM (including RACT) requirement.

4. Demonstration

As noted, moderate PM–10 nonattainment areas designated subsequent to enactment of the 1990 Amendments must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable, but no later than the end of the sixth calendar year after an area's designation to attainment (see section 188(c)(1) of the Act). In the case of Oakridge, this attainment deadline is December 31, 2000, or the State must show that attainment by December 31, 2000, is impracticable.

The attainment demonstration presented in the December 9, 1996, submittal indicates that the PM–10 NAAQS will be attained by 2000 in the Oakridge area. The 24-hour PM–10 NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$ (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 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.

In addition, EPA has developed a supplemental attainment demonstration policy for airsheds where receptor modeling, coupled with proportional (rollback) modeling, is adequate to identify source contributions and demonstrate attainment.[7] The policy states that:

> It is appropriate in certain situations to rely on a receptor mode (RM) demonstration (i.e., use of receptor modeling, emission inventories, design value obtained by air quality monitoring, and proportional modeling) as the basis for a control strategy demonstration.

It is EPA's Regional Offices' responsibility to decide whether or not that a receptor modeling demonstration is adequate to demonstrate attainment. In making its' decision, EPA must consider the following: (1) the spatial representativeness of the monitoring network and the spacial uniformity of emissions, (2) the temporal representativeness of the monitoring network, and (3) the impact of only a few, relatively well characterized source categories.

During development of the Oakridge moderate area PM–10 attainment plan, LRAPA did not use dispersion modeling to estimate the design values or in the attainment and maintenance demonstrations. Instead, LRAPA conducted an attainment demonstration based upon receptor modeling-proportional roll-back calculations to estimate the emission reductions required in 2000 to achieve the NAAQS. EPA reviewed LRAPA's demonstration in accordance with the above criteria and has determined the demonstration approach to be acceptable. See the technical support document for this action for more details.

LRAPA conducted PM–10 saturation studies in 1991 and 1994 to evaluate the location of the monitoring site near the Willamette Activities Center (WAC). These studies, in general, showed that although the WAC site was located near the area of highest concentrations, three other areas measured higher concentrations during the saturation studies. The site which measured the highest values is referred to as the Cline Street site. It was located in a neighborhood area west and a little south of the WAC site. Concentrations measured at the Cline Street site were about 20% higher than those measured at the WAC site. Even though the relationship between the WAC and Cline Street values is not linear, the 20% relationship does occur at the higher concentrations of interest. To account for this difference, the attainment year design value was adjusted upward.

LRAPA utilized EPA's ''table look-up'' method to estimate the 1991 baseline design concentration. This method allows the use of the fourth highest actual base year measured value to be used. The fourth highest measured concentration at the WAC site for the calendar years 1991, 1992, and 1993 was 178 $\mu g/m^3$. To account for the difference between the WAC site and the levels measured during the saturation studies at the Cline Street site, the table look-up value was increased by 20%. This resulted in an adjusted base year design value of 214 $\mu g/m^3$. (178 x 1.2 = 213.6).

Based on the above design values, LRAPA estimates that year 2000 worst case day emissions must be reduced by 30.6%, which equals 294.1 pounds per day. The previously discussed control measures are designed to reduce projected 2000 worst case day emissions by 306 pounds per day (11.9 pounds per day beyond the amount needed for attainment). According to the principle of proportional roll-back modeling, a reduction of 294.1 pounds from Oakridge's PM–10 emission sources will result in a year 2000 worst case day ambient concentration of 119.7 $\mu g/m^3$ at the WAC site, and 147.3 $\mu g/m^3$ at the Cline Street site. See the technical support document for this action for more details.

EPA is approving 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 that the area will attain the 24-hour PM–10

[7] July 5, 1990, memorandum entitled *PM–10 SIP Demonstrations for Small Isolated Areas With Spatially Uniform Emissions*, from Robert D Bauman, Chief, SO2/Particulate Matter Programs Branch (MD–14) and Joseph A. Tikvart, Chief, Source Receptor Analysis Branch (MD–14) to Chief, Air Branch, Regions I–X.

NAAQS by December 31, 2000. And, the annual standard which has never been exceeded, will continue to be maintained. EPA has also considered the fact that the area has not experienced an exceedance of the 24-hour NAAQS in the last five years (1993 through 1998).

5. PM–10 Precursors

The control requirements that 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 which exceed 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) (57 FR 13539–13542).

LRAPA's technical analysis of potential candidate control measures indicated that emissions from industrial point sources were insignificant—approximately 5.5 pounds per day equaling 0.6% contribution on a 24-hour worst case day basis. Also, historical violations of the 24-hour standard have occurred during periods of extensive poor ventilation (stagnation conditions) and cold temperatures.

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 Oakridge 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 plans demonstrating attainment must contain quantitative emission reduction milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress (RFP), as defined in section 171(1) of the Act, toward timely attainment. 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 three-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed this statutory gap indicating that the starting point 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) and that at least two milestones must be initially addressed. See 57 FR 13539.

States containing moderate nonattainment areas designated subsequent to enactment of the 1990 Amendments are expected to initially submit two milestones. States are required to submit SIP's for these areas 18 months after their redesignation as nonattainment. The attainment date for new PM–10 nonattainment areas is ''as expeditiously as practicable'' but no later than the end of the sixth calendar year after the effective date of an area's designation as nonattainment. Oakridge was designated as nonattainment effective on January 24, 1994, therefore the attainment date for Oakridge is December 31, 2000.

Because the SIP revision, including the quantitative milestones element, for a new nonattainment area is due 18 months after the area is designated as nonattainment, the first 3-year milestone is to be achieved 4 ½ years after the nonattainment redesignation. Since Oakridge's redesignation became effective on January 20, 1994, the first 3-year milestone must be achieved by July 20, 1998 (i.e., 1½ years prior to the attainment deadline). The second quantitative milestone must be achieved three years after the first milestone or 7½ years after the nonattainment designation. For Oakridge, the second quantitative milestone must be achieved by July 20, 2001. The second quantitative milestone should provide for continued emission reduction progress toward attainment and should provide for continued maintenance of the NAAQS after the attainment date for the area.[8]

This SIP demonstrates attainment of the PM–10 NAAQS by December 31, 2000, and maintenance of the NAAQS through the year 2003, satisfying two milestones. In addition, all controls measures were implemented by August 1996. Therefore, EPA is approving the submittal as meeting the quantitative milestone requirement currently due. Finally, once a milestone date has passed, the State will have to demonstrate that the milestone was, in fact, achieved for the Oakridge 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 the LRAPA, ODEQ and EPA (see sections 172(c)(6), 110(a)(2)(A) of the Act and 57 FR 13556). The 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 also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The particular control measures contained in the SIP were addressed above under the section headed ''RACM (including RACT)''. These control measures apply to each of the identified major sources of PM–10 emissions in the Oakridge area, including woodstoves and road dust. The SIP provides that the control measures apply throughout the entire nonattainment area. EPA has carefully reviewed the control measures for each of the major PM–10 sources and determined that the proposed SIP as a whole, provides for adequate control of these sources.

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 this SIP revision 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 in the Oakridge area.

EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority that a 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.

[8] 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.

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 a state 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.

Another enforcement issue is Oregon's audit privilege and immunity law. Nothing in this action should be construed as making any determination or expressing any position regarding Oregon's Audit Privilege Act, ORS 468.963 enacted in 1993, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act Program resulting from the effect of Oregon's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

In regard to a separate enforceability issue, the following is a summary of the state, city, and interagency commitments which EPA is approving as part of the SIP.

A. Voluntary Woodstove Curtailment Program. This program was adopted by LRAPA on July 18, 1996, and the State of Oregon on October 11, 1996. Details of the program are discussed in the TSD to this action and the SIP revision.

B. Winter Road Sanding Program, Oregon Department of Transportation Highway Division Commitment. Sanding and maintenance of U.S. Highway 58 through Oakridge is the responsibility of the Oregon Department of Transportation, Highway Division, Region 3. Since 1995, a chemical de-icing compound has been specified for use in Oakridge. The Highway Department is committed to and intends on using anti-icing chemicals within the City of Oakridge into the future.

The Governor of Oregon designated the Lane Regional Air Pollution Authority as lead organization for implementing, maintaining, and enforcing PM–10 control strategies in Lane County. The TSD contains a discussion of the personnel and funding intended to support effective implementation of the control strategy. Thus, EPA has determined that the control measures contained in the SIP revision for Oakridge are sufficient and the LRAPA has adequate enforcement capabilities to ensure compliance with those control measures.

8. Contingency Measures

The Clean Air Act requires each state containing PM–10 nonattainment areas to adopt contingency measures for such areas that will take effect without further action by the state or EPA's Administrator upon a determination by EPA that an area has failed to make reasonable further progress (RFP) or to attain the standards, as described in Section 172(c)(9) of the CAA. Pursuant to Section 172(b), the Administrator has determined that Oakridge shall include contingency measures with their Attainment Plan no later than July 20, 1995 (see 57 FR 13510–13512, 13543–13544, and 58 FR 67344–67341). 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 (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 (57 FR 13511).

On August 15, 1996, the Oakridge City Council passed Ordinance No. 815. This ordinance granted the city the authority to implement a mandatory woodstove curtailment program. A mandatory program would be implemented if the city's voluntary program did achieve the necessary emission reductions needed to satisfy the attainment plan's first milestone, or if the area did not attain the 24-hour PM–10 NAAQS by the December 31, 2000 attainment.

EPA is approving the contingency measure for the Oakridge nonattainment area. The authority to implement the above measures will go into effect upon a determination by EPA that the area has failed to attain, or prior to the attainment date, if milestones for the area are not being met.

III. Implications of This Action

EPA is approving the December 9, 1996, PM–10 attainment plan for the Oakridge nonattainment area. Among other things, LRAPA has demonstrated that the Oakridge moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 2000. Note that EPA's action includes approval of the contingency measure for the Oakridge nonattainment area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 14, 1999, without further notice unless the Agency receives adverse comments by April 14, 1999.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 14, 1999, and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If

EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. 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 14, 1999. 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

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 20, 1999.

Chuck Findley,

Acting Regional Administrator, Region 10.

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 *et seq.*

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(127) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(127) December 9, 1996, letter from the Director, Oregon Department of Environmental Quality, to the Region 10 Regional Administrator, EPA, submitting the Attainment Plan for the Oakridge, Oregon PM–10 nonattainment area as a revision to its SIP.

(i) Incorporation by reference.

(A) State Implementation Plan for PM–10 in Oakridge, dated August 1996, and Appendices XII, XIII and XIV.

(ii) Additional Material: Appendix I through VI and VIII through XI of the State Implementation Plan for PM–10 in Oakridge dated August 1996.

[FR Doc. 99–6259 Filed 3–12–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX99–1–7389a; FRL–6239–5]

Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for Emissions of Volatile Organic Compounds (VOCs) From Wood Furniture Coating Operations and Ship Building and Repair Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We, the EPA, are taking direct final action to include rules in the Texas State Implementation Plan (SIP). These rules control emissions of VOCs from Wood Furniture Coating Operations and Ship Building and Repair Operations. Texas submitted these rules in a letter dated April 13, 1998, to meet the Federal Clean Air Act's (the Act) requirements for Reasonably Available Control Technology (RACT).

DATES: This direct final rule is effective on May 14, 1999 unless we receive adverse comments by April 14, 1999. If we receive such comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Dallas, 1445 Ross Avenue, Texas 75202–2733, telephone: (214) 665–7214.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

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, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7242.

SUPPLEMENTARY INFORMATION:

What Action Is EPA Taking?

We are approving revisions to Texas rules for the control of VOC emissions from Wood Furniture Coating Operations and from Ship Building and Repair Operations. These facilities emit VOCs, primarily during painting and solvent clean up operations. Texas based these rules on the EPA Control Technique Guidelines (CTGs) for these source categories. The approval of these rules means that we agree Texas is implementing RACT on these source categories as required by section 182(b)(2)(A) and (C), and section 183 of the Act. Texas also is requiring that coating of offshore oil and gas platforms coated at shipbuilding/ship repair facilities meet the limits in the CTG. This approval will incorporate these rules into the Texas SIP. The authority for our approval of these rules is found in section 110, Part D and section 301 of the Act.

What Are the Clean Air Act's RACT Requirements?

Section 172 of the Act contains general requirements for States to implement RACT in areas that do not meet the National Ambient Air Quality Standard (NAAQS). Section 182(b)(2) of the Act contains more specific requirements for moderate and above ozone nonattainment areas. In particular, 182(b)(2)(A) requires States to implement RACT on each category of VOC source covered by a CTG issued after enactment of the 1990 Clean Air Act Amendments.

On April 27, 1996, we issued a CTG for ship building and repair operations. On May 20, 1996, we issued a CTG for Wood furniture manufacturing operations. The State of Texas was then required to implement RACT requirements in its moderate and above ozone nonattainment areas based on the information in these CTGs.

A related requirement of the Act in 182(b)(2)(C) calls for States to implement RACT on major sources of VOCs in ozone nonattainment area. The Act defines a major source as a facility that emits more than 100 tons/year in a marginal or moderate ozone nonattainment area, 50 tons/year in a serious ozone nonattainment area or 25 tons/year in a severe ozone nonattainment area. Texas submitted and we approved (61 FR 5589) declarations that, outside of the Houston ozone nonattainment area, there are no major shipbuilding and repair sources in ozone nonattainment areas. In the same **Federal Register**, we approved a declaration that, outside of the Dallas/Fort Worth nonattainment area, there were no major wood furniture manufacturing operations in ozone nonattainment areas in Texas.

A CTG, however, can call for control of sources that emit less than a major source level of emissions if control of smaller sources is technically and economically feasible. The wood furniture CTG indicates that sources emitting as little as 25 tons/year can be controlled at reasonable cost even in serious or moderate ozone nonattainment area. Thus, the Texas rule calls for the control of wood furniture manufacturing operations that emit more than 25 tons/year in all of the ozone nonattainment areas in Texas.

Texas has chosen to implement the shipbuilding and repair CTG in the