

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 81**

[Docket OR-01-005a; FRL 7018-6]

**Finding of Attainment for PM-10; Oakridge, Oregon, PM-10 Nonattainment Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Oakridge nonattainment area in Oregon has attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM-10) as of December 31, 2000.

**DATES:** This direct final rule will be effective September 24, 2001, unless EPA receives adverse comment by August 27, 2001. If adverse comments are received, EPA 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 should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ-107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8 a.m. to 4:30 p.m. at this same address).

**FOR FURTHER INFORMATION CONTACT:** Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0782.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, the words "we," "us," or "our" means the Environmental Protection Agency (EPA).

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**I. Background***A. Designation and Classification of the Oakridge PM-10 Nonattainment Area*

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA or Act) were designated

nonattainment for PM-10 by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. *See generally* 42 U.S.C. 7407(d)(4)(B). In addition, pursuant to section 107(d)(3) of the CAA, EPA is authorized to redesignate areas as nonattainment for PM-10 on the basis of air quality data, planning and control considerations, or any other air quality-related considerations that EPA deems appropriate. In 1991, EPA notified the Governor of Oregon that, because of recorded violations of the 24-hour PM-10 standard in the Oakridge area that occurred after January 1, 1989, EPA believed that the area's PM-10 designation should be revised to nonattainment. *See* 56 FR 16724 (April 22, 1991). After Oregon submitted additional information regarding the designation for the Oakridge area and after notice and an opportunity for public comment, EPA designated the Oakridge area nonattainment for PM-10 effective January 20, 1994. *See* 58 FR 67334 (December 21, 1993).

As a newly designated PM-10 nonattainment area, the Oakridge area was classified as a moderate nonattainment area by operation of law. *See* CAA section 188(a). Pursuant to section 188(c)(1) of the Act, the attainment date for the Oakridge area was to be no later than the end of the sixth calendar year after the area was designated nonattainment. Because the Oakridge area was designated nonattainment for PM-10 effective January 20, 1994, the attainment date for the Oakridge area is December 31, 2000.

*B. How Does EPA Make Attainment Determinations?*

Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM-10 nonattainment areas attained the PM-10 NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon the area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM-10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50,

appendix J, 40 CFR part 53, 40 CFR part 58, appendix A and B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration over a three-year period (for example 1998, 1999, and 2000 for areas with a December 31, 2000 attainment date) is equal to or less than 50 micrograms per cubic meter (ug/m<sup>3</sup>). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM-10 concentrations greater than 150 ug/m<sup>3</sup>. The 24-hour standard is attained when the expected number of days with levels above 150 ug/m<sup>3</sup> (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM-10. *See* 40 CFR part 50 and appendix K.

*C. What PM-10 Planning Has Occurred for the Oakridge PM-10 Nonattainment Area?*

After the Oakridge area was designated nonattainment for PM-10, the Lane Regional Air Pollution Authority (LRAPA), in cooperation with local officials, developed a control strategy that consisted of a residential wood burning combustion program. The program included public education and outreach efforts on how to burn wood with reduced emissions as well as a wood stove curtailment program designed to reduce wood burning during periods of adverse meteorology. On March 15, 1999, EPA took direct final action approving the PM-10 SIP for Oakridge. *See* 64 FR 12751.

**II. EPA's Action**

As discussed above, whether an area has attained the PM-10 NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. *See* 40 CFR part 50 and 40 CFR part 50, appendix K. For an area such as Oakridge, with a December 31, 2000 attainment date, EPA considers the data reported for calendar years 1998, 1999, and 2000.

LRAPA has established one PM-10 SLAMS monitoring site in the Oakridge PM-10 nonattainment area at 47674 School Street. LRAPA began monitoring

for PM-10 at that site in 1989. The site operated in 1989 through 2000. The monitoring site meets EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices D and E, and continues to monitor for PM-10.

There were no exceedences of the 24-hour PM-10 standard in the years 1998, 1999, and 2000. Therefore, the expected exceedence rate is 0.0, which shows attainment of the 24-hour PM-10 standard. The average of the annual PM-10 concentration averaged over the three years prior to the attainment date (1998, 1999, and 2000) is 19.4 ug/m<sup>3</sup>. This concentration is below the level of the annual standard of 50 ug/m<sup>3</sup>. Therefore, EPA finds that the Oakridge area attained the PM-10 standards by the attainment date of December 31, 2000.

This finding of attainment should not be confused, however, with a redesignation to attainment under CAA section 107(d) because Oregon has not, for the Oakridge area, submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Oakridge PM-10 nonattainment area until such time as Oregon meets the CAA requirements for redesignations to attainment.

### III. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" (66 FR 28355, May 22, 2001). Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely makes a determination based on air quality data and does not impose any requirements. This action does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it does not impose any enforceable duties.

This action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The action merely makes a determination based on air quality data and does not impose any requirements and therefore does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act.

This action also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under Executive Order 12866.

This action does not involve technical standards. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. In addition, this action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because this is not a "major" rule as defined by 5 U.S.C. 804(2), EPA will not 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 this rule in the **Federal Register**, as specified in the Congressional Review Act, 5 U.S.C. 801 *et seq.*

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 September 24, 2001. 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 CAA section 307(b)(2).

### List of Subjects in 40 CFR Part 81

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

Dated: July 16, 2001.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Docket OR-01-004a; FRL-7018-5]

### Finding of Attainment for PM-10; Lakeview, Oregon, PM-10 Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Lakeview nonattainment area in Oregon has attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM-10) as of December 31, 1999.

**DATES:** This direct final rule will be effective September 24, 2001, unless EPA receives adverse comment by August 27, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

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