

§ 259.1 [Corrected]

2b. On page 23994, in the third column in the amendment to § 259.1, remove "Copyright Royalty Tribunal" and replace it with "copyright arbitration royalty panel and/or Librarian of Congress".

§ 259.2 [Corrected]

2c. On page 23994, in the third column in the amendment to § 259.2, remove "Copyright Royalty Tribunal" and replace it with "copyright arbitration royalty panel and/or Librarian of Congress".

§ 259.3 [Corrected]

2d. On page 23994, in the third column in the amendment to § 259.3, remove "Copyright Royalty Tribunal" and replace it with "copyright arbitration royalty panel and/or Librarian of Congress".

§ 259.4 [Corrected]

2e. On page 23995, in the first column in the amendment to § 259.4, remove "Copyright Royalty Tribunal" and replace it with "copyright arbitration royalty panel and/or Librarian of Congress".

Barbara Ringer,

Acting Registrar of Copyrights.

[FR Doc. 94-15524 Filed 6-27-94; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR-38-1-6335a; FRL-4998-8]

Approval and Promulgation of State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Oregon's contingency measure plan as a revision to Oregon's State Implementation Plan (SIP) for carbon monoxide (CO). EPA's action is based upon a revision request which was submitted by the state to satisfy a requirement of the Clean Air Act Amendments (CAAA) for Grants Pass, Medford, Portland, and Klamath Falls, Oregon.

DATES: This final rule will be effective on August 29, 1994 unless adverse or critical comments are received by July 28, 1994. 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, EPA, Air & Radiation Branch (AT-082), Docket # OR-38-1-6335, 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, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204-1390.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air & Radiation Branch (AT-082), EPA, Seattle, Washington 98101, (206) 553-1814.

SUPPLEMENTARY INFORMATION:

I. Background

States containing CO nonattainment areas with design values of 12.7 ppm or less were required to submit, among other things, contingency measures to satisfy the provisions under section 172(c)(9). These provisions require contingency measures to be implemented in the event that an area fails to reach attainment by the applicable attainment date, December 31, 1995. Contingency measures were due by November 15, 1993, as set by EPA under section 172(b) of the Act.

Contingency measures must be implemented within 12 months after the finding of failure to attain the CO National Ambient Air Quality Standards (NAAQS). Once triggered they must take effect without further action by the state or EPA, therefore, all contingency measures must be adopted and enforceable prior to submittal to EPA.

The CAAA does not specify how many contingency measures are needed or the magnitude of emission reductions they must provide if an area fails to attain the CO NAAQS. EPA believes that one appropriate choice of contingency measures would be to provide for the implementation of sufficient vehicle miles traveled (VMT) reductions or emissions reductions to counteract the effect of one year's growth in VMT while the state revises its SIP to incorporate all of the new requirement of a serious CO area.

II. This Action

In this action, EPA is approving Oregon's SIP revision submitted to EPA on November 15, 1993 for Grants Pass,

Medford, Portland and Klamath Falls, Oregon because it meets the applicable requirements of the Act.

The State of Oregon held public hearings in Grants Pass, Medford, Portland and Klamath Falls on August 16, 17, and 18, 1993 respectively to entertain public comment on the CO contingency measure SIP revision. Following the public hearing, the plan was adopted by the Environmental Quality Commission on October 29, 1993, and became effective on November 4, 1993. The Oregon Department of Environmental Quality (ODEQ) submitted the plan to EPA on November 15, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated March 8, 1994 was forwarded to ODEQ's Director indicating the completeness of the submittal.

Analysis of State Submission

Oregon's CO contingency plan requires oxygenates to be supplied at maximum allowable oxygen contents (e.g. 3.5% ethanol and 2.7% methyl tertiary butyl ether (MTBE)). A specified minimum average oxygen content level of 2.9% would be required only if, in subsequent control seasons, the projected control area average oxygen content would be less than 3.1%. This projection will be based on reported oxygenate mix information submitted by the regulated community.

If any of Oregon's four CO nonattainment areas fail to meet applicable standards by the December 31, 1995 Clean Air Act (CAA) deadline, or in any subsequent year prior to redesignation to attainment, implementation of the contingency provision will be formally triggered by written notification to ODEQ from the EPA, or by written notification from ODEQ to affected fuel suppliers in order to give as much lead time as possible to implement the CO contingency plan for the 1996-97 CO season. Oxy-fuel suppliers will be provided at least eight months to implement CO contingency plans from the time notification is received from ODEQ or from EPA, whichever is sooner. ODEQ would expect to notify suppliers no later than March 1 in order to ensure that oxy-fuel is supplied for the entire winter CO season. EPA is legally required to make such notification within six months of the end of calendar year 1995. If a

standard violation occurs during 1994, the above implementation time frame could be accelerated by as much as two full years.

After the CO contingency plan is triggered and oxygenates are being supplied at maximum EPA approved levels, ODEQ will assess seasonal oxygenate mix reports to project whether an average control area oxygen content of 3.1% will be reached in subsequent control periods. If ODEQ's projection indicates that the oxygen content will be less than 3.1%, a 2.9% mandatory average oxygen content to be achieved by all Control Area Responsible Parties (CARs) and blender CARs, will be implemented for future control periods. If mandated, a 2.9% oxygen content level could be achieved by: (a) Using only ethanol as an oxygenate; or (b) through an averaging program using MTBE or other oxygenates and ethanol. An averaging program would require that at least 25% of the total volume of fuel supplied to a control area be oxygenated with ethanol to meet an oxygen content of 3.5%. The remaining 75% of total volume could be oxygenated with MTBE or other oxygenates at a 2.7% level to yield an average oxygen content over the control period of 2.9%.

EPA recently promulgated regulations for reformulated gasoline that control the oxygen content of gasoline under section 211(c)(1) of the Act in certain ozone nonattainment areas, 59 FR 7716 (February 16, 1994). Since the reformulated gasoline program would not apply to the gasoline marketed in the Oregon CO nonattainment areas at issue here, EPA does not believe that Oregon's contingency measures to impose controls on oxygen content beyond those statutorily required under section 211(m) would be preempted under section 211(c)(4) of the Act.

In addition to the CO contingency plan, the revision contains housekeeping changes to clarify and improve the organization of the oxy-fuel regulations to minimize misinterpretation. EPA approves of these changes.

III. Administrative Review

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

with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on August 29, 1994 unless adverse comments are received by July 28, 1994. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule (please see short informational notice published, simultaneously, in the proposal section of this Federal Register).

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989 the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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 August 29, 1994. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, 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: June 3, 1994.
 Chuck Clarke,
 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) (105) to read as follows:

§ 52.1970 Identification of plan.

* * * * *
 (c) * * *
 (105) On November 15, 1993, the Director of ODEQ submitted Oregon's contingency measure plan as a revision to Oregon's SIP for carbon monoxide (CO) for Grants Pass, Medford, Portland, and Klamath Falls, Oregon.

(i) Incorporation by reference. (A) November 15, 1993 letter from the Director of ODEQ to EPA Region 10 submitting amendments to the Oregon SIP.

(B) Oregon Administrative Rules, Chapter 340-22-440 through 340-22-650, Vol. 2, Sections 4.2, 4.9, 4.11, Carbon Monoxide Control Strategies, effective November 4, 1993.