

third gear if more appropriate) for manual transmissions" is added after the words "are met".

15. On page 58439, in the first column, in § 86.1439, paragraph (d)(1)(i), in line twelve, the words "(d)(1)(iii) (A) through (C)" are corrected to read "(d)(1)(i) (A) and (B)".

16. On page 58439, in the first column, in § 86.1439, paragraph (d)(1)(ii)(B), in line two, the words "the mode is terminated" are corrected to read "the test is terminated".

17. On page 58439, in the first column, in § 86.1439, paragraph (d)(2)(i), in line three, the phrase "and the gear selector is in 'park' or 'neutral'" is added after the words 'has reached zero', and in line six, the reference "(d)(2)(iii)" is corrected to read "(d)(2)(ii)".

18. On page 58439, in the third column, in § 86.1439, paragraph (f)(1)(i)(A) is corrected to read as follows:

**§ 86.1439 Certification on short test emission test procedures—EPA.**

- (f) \* \* \*  
(i) \* \* \*  
(ii) \* \* \*

(A) The vehicle passes the high-speed mode and the mode is terminated at an elapsed time of 90 seconds (mt=90) if any measured values are less than or equal to the applicable short test standards as described in § 86.1438(d).

**§ 600.502-81 (Corrected)**

19. In the Federal Register published on January 6, 1994, on page 678, in the third column, in § 600.502-81, paragraph (a)(1)(iii), in lines two and three, the reference "paragraph (b)(3) of this section" is corrected to read "\$ 600.511-80(b)(3)".

**§ 600.511-80 (Corrected)**

20. In the Federal Register published on January 6, 1994, on page 679, in the first column, in § 600.511-80, paragraph (a)(1), in line ten, the reference "\$ 600.511-80(b)(3)" is corrected to read "paragraph (b)(3) of this section".

Dated: June 24, 1994.

Carol M. Browner,  
Administrator.

[FR Doc. 94-15981 Filed 6-30-94; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 52**

**[Oregon, 15527a; FRL-4891-9]**

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is approving a revision to the state implementation plan (SIP) submitted by the State of Oregon for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM-10 SIP for the La Grande area.

**EFFECTIVE DATE:** This action will be effective on August 30, 1994, unless adverse or critical comments are received by August 1, 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, EPA, 1200 Sixth Avenue, AT-082, Seattle, WA 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460. Copies of the State's request and other information are available for inspection during normal business hours at the following locations: EPA, 1200 Sixth Avenue, Seattle, WA 98101, and the State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, OR 97204-1390.

**FOR FURTHER INFORMATION CONTACT:** Stephen Fry, Air and Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, WA 98101 (206) 553-2575.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

The Union County, La Grande, Oregon, Urban Growth Boundary (UGB), was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990<sup>1</sup> (see 56 FR 56694 (November

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

6, 1991) and 40 CFR § 81.338). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of Title I of the Act.<sup>2</sup> EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this proposal and the supporting rationale. In this rulemaking action on the State of Oregon's moderate PM-10 SIP for the La Grande nonattainment area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any timely submitted comments before taking final action on this proposal.

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

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

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

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

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

<sup>2</sup> Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or 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. 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).

Additional provisions are due at a later date. States with initial moderate PM-10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM-10 by June 30, 1992 (see section 189(a)). Such States also were required to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM-10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543-13544).

## II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566). In this action, EPA is granting approval of the plan revision submitted to EPA on November 15, 1991. EPA has determined that the submittal meets all of the applicable requirements of the Act due on November 15, 1991, with respect to moderate area PM-10 submittals. In addition, as described in Parts II.7 and II.5 below, EPA is approving the SIP revision submitted on November 15, 1991, as meeting the requirement for contingency measures for the La Grande, Oregon moderate PM-10 nonattainment area and is granting the exclusion from PM-10 control requirements authorized under section 189(e) of the Act.

### Analysis of State Submission

#### 1. Procedural Background

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

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

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 City of La Grande held public hearings on the La Grande PM-10 plan on July 17 and August 1, 1991 and adopted the plan on August 7, 1991. The State of Oregon subsequently held public hearings on the La Grande PM-10 SIP on October 1, 1991 in La Grande and Portland, Oregon, and after the plan was modified in response to public comments, the control strategy was adopted November 8, 1991. The modified plan was submitted to EPA on November 15, 1991 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. A letter dated April 27, 1992 was forwarded to the Director of the Oregon Department of Environmental Quality (ODEQ) indicating the completeness of the submittal and the next steps to be taken in the review process. In this action EPA approves the State of Oregon's PM-10 SIP submittal for the La Grande PM-10 nonattainment area and invites public comment on the action.

#### 2. Accurate Emissions Inventory

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

The base year emission inventory (1988) developed for the La Grande UGB

identified the major sources of PM-10 concentrations during 24-hour worst case winter periods as residential wood combustion (60%), fugitive dust (31%), industrial emissions (5%) and other sources, including but not limited to, transportation, and commercial space heating (4%). Annual emissions for 1988 were residential wood combustion (48%), fugitive dust (36%), industrial emissions (10%), transportation (5%) and other sources (1%).

EPA is approving the emissions inventory because it generally appears to be accurate, comprehensive and current, 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 Clean Air Act.<sup>4</sup> For further details see the Technical Support Document (TSD).

#### 3. RACM (Including RACT)

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

Attainment of the 24-hour and annual standards is based on five main control strategies designed to reduce woodsmoke, fugitive dust and industrial point source emissions. The available control measures to be implemented in the La Grande nonattainment area include the following:

##### a. Voluntary Wood Combustion Curtailment Program

The City of La Grande administers the voluntary wood combustion curtailment program. The City Planning Department makes the daily advisory calls, conducts compliance surveys, and the La Grande Air Quality Advisory Committee (LGAQAC) operates an extensive public education program in conjunction with the ODEQ.

The voluntary curtailment program for the La Grande nonattainment area includes a public education program that describes the need for the public's cooperation, the health, safety, energy, economic benefits to individuals and

<sup>4</sup> The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM-10 SIP Development Guidance. The guidance provided in this document appears to be consistent with the amended Act; therefore, EPA may continue to rely on this guidance. See section 193 of the Act.

the community, and steps individuals can take to help reduce emissions.

Key elements of the voluntary curtailment program and public information program include: home weatherization, firewood seasoning, cleaner burning practices, proper stove installation and sizing, maintenance of woodburning systems and curtailment of woodburning during poor ventilation episodes.

Woodburning advisories are made and issued daily by 10:15 a.m. from November 1 through March 1. An empirical formula (based on the previous 12-hour ODEQ nephelometer readings and the last 3 hours of meteorological conditions) is used to predict the present day's PM-10 level. The predicted PM-10 level determines the green/yellow/red advisory day status (described below). The advisory is provided daily on a telephone answering machine. The advisory is also printed in the local daily newspaper, and aired by the local radio stations and cable television channel. Also, in many cases, the advisory is made part of the weather forecast on the local news.

Woodburning curtailment advisories are issued at three levels: (1) A green advisory is made when the ambient concentration is expected to be 50  $\mu\text{g}/\text{m}^3$  or less, (2) a yellow advisory is made when the concentration is expected to be greater than 50  $\mu\text{g}/\text{m}^3$  but less than or equal to 95  $\mu\text{g}/\text{m}^3$ , (3) a red advisory is made when the ambient concentration is expected to be greater than 95  $\mu\text{g}/\text{m}^3$ .

A green advisory allows for wood burning in stoves and fireplaces, but these fires should be fueled with dry, well-seasoned wood. It is also requested that citizens build small, hot fires and do not damper down their stoves during a green advisory. During a yellow advisory all residents, except those persons using wood as a sole source of heat, wood pellet stoves and ODEQ or EPA certified woodstoves, are asked to curtail wood burning for the next 24 hours and outdoor burning is banned. During a red advisory all residents, except those using wood as a sole source of heat or those using pellet stoves, are asked to curtail wood burning for the next 24 hours and outdoor burning is banned.

Compliance with the advisories is determined through day and nighttime surveys of woodburning activity during green, yellow and red curtailment periods. Green days are surveyed to determine a base from which to judge compliance with a curtailment call. Data from the surveys are used to direct the public education program, evaluate progress toward achieving program

goals and evaluate trends in PM-10 concentrations.

ODEQ requests a 30 percent emission reduction credit for its voluntary curtailment program in the La Grande UGB during 24-hour worst case periods. The 30 percent credit is greater than the 10 percent generally suggested by EPA. The recommended 10 percent credit is viewed by EPA as a "starting point in assessing the effectiveness of residential wood combustion control programs". However, final judgment of the amount of credit to be granted is determined by EPA's regional offices based on the program features outlined in EPA's *Guidance Document for Residential Wood Combustion Emission Control Measures*. When data are available, credit higher than 10 percent may be granted based on the program's effectiveness.

During the 1992/1993 wood heating season, La Grande conducted compliance surveys in the voluntary curtailment area during green, yellow and red advisories. The results of these surveys indicate that 7 percent and 54 percent of the woodburners comply on yellow and red advisory days, respectively. The observed 54 percent compliance rate on red advisory days easily exceeds the 30 percent compliance rate that the ODEQ is claiming for La Grande. Based on these results and EPA's review of the remaining curtailment program elements, also considering public education and La Grande's and ODEQ's experience in managing curtailment programs, EPA accepts the 30 percent credit claimed for this control measure. Further description of this program and justification for this action is set out in the TSD.

#### b. Woodstove Certification

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

The Oregon Environmental Quality Commission adopted on March 2, 1990, and submitted to EPA on March 15, 1990, revisions to Oregon's Woodstove Certification Program making it consistent with EPA's New Source Performance Standards (NSPS) for Residential Wood Heaters, in 40 CFR part 60, subpart AAA. Currently, all woodstoves sold in the State of Oregon must be both ODEQ and EPA certified. This SIP revision was approved by EPA

as part of the Oregon SIP on June 8, 1992 (57 FR 24373).

ODEQ estimates that the woodstove certification program will provide a 24 percent credit against baseline 1988 woodstove emissions by 1994.<sup>5</sup> Oregon has historically pursued an aggressive woodstove certification program. Oregon was the first state in the nation to adopt, implement and enforce a program of this type (1984). EPA promulgated the NSPS on February 26, 1988, modeled, in significant part, after Oregon's program.

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

#### c. Woodstove Replacement and Weatherization Programs

ODEQ requests a 2 percent credit on a 24-hour basis for the \$325,000 woodstove replacement and weatherization program. This State of Oregon Community Block Grant was available to low and moderate income residents.

As of September 1993, 53 uncertified woodstoves have been removed from residential dwellings due to the program. These uncertified woodstoves were replaced with 37 natural gas furnaces, 12 phase II certified woodstoves and 4 pellet stoves. According to EPA calculations, the elimination of these 53 uncertified woodstoves equals a 2 percent credit (when compared against the 2,270 homes utilizing uncertified woodstoves in base year 1986; and using 99 percent, 90 percent and 70 percent emission reduction credits for replacing uncertified woodstoves with natural gas furnaces, pellet stoves and phase II certified woodstoves, respectively). Therefore, even without the home weatherization that also was done, the 2 percent credit achieved equals the 2 percent credit claimed by ODEQ for the program. Because of the demonstrated success of this program, EPA accepts the 2 percent credit requested by the ODEQ. Further description of the program and justification for EPA's action is set out in the TSD.

<sup>5</sup> This estimate uses a 1988 baseline inventory and assumes or relies on: (1) a 1% annual growth in firewood consumed by woodstoves, (2) a 2% annual decline in firewood consumed by fireplaces, (3) a useful stove life of 20 years, and (4) the fact that the typical certified woodstove and pelletstove emits 50% and 90% less, respectively, than a conventional stove. EPA believes this is an accurate portrayal of the situation in La Grande.

#### d. Industrial Controls

On November 8, 1991, the Oregon Environmental Quality Commission adopted changes to its Industrial Rules (OAR 340-30-200 to 230) for La Grande. EPA published a Final Rulemaking on February 23, 1993 (58 FR 10972) with an April 26, 1993 effective date, which detailed its approval of these regulations. These industrial rules impose new emission limits for existing wood-waste boilers (heating-input capacity of greater than 35 million BTU/hr), wood particle dryers at particleboard plants, air conveying systems and fugitive emissions (for any large sawmill, plywood mill, veneer manufacturing plant, particleboard plant, hardboard plant or charcoal manufacturing plant that is located in the La Grande Urban Growth Area). Because the current PM-10 source mix in the area, only the wood-waste boiler and fugitive control plan requirements are presently being implemented in the La Grande PM-10 nonattainment area.

The overall reduction in area-wide industrial PM-10 emissions, due to the implementation of the new industrial rules and replacement of 11 wood-waste boilers with three significantly cleaner natural gas-fired boilers, between 1986 and 1994 is conservatively projected to be 30 percent.

Based on EPA's interpretation of the RACT requirement, as set out in the General Preamble and the April 2, 1991, memorandum entitled "PM-10 Moderate Area SIP Guidance: Final Staff Work Product," EPA has determined that the industrial source control measures satisfy the RACT requirement for stationary sources in the La Grande moderate PM-10 nonattainment area.

EPA believes that the emission limits imposed on the board products industries, supported by their enforceability, will achieve the estimated industrial source emission reductions of 30 percent. Therefore, EPA accepts the 30 percent credit requested by ODEQ. For further details the reader is referred to the Technical Support Document (TSD) corresponding with this action, which is available at the address indicated above.

#### e. Winter Road Sanding Control Program

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

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

The La Grande emission inventory identifies road sanding dust as a 14 percent contributor to worst case day PM-10 levels in both base year 1986 and attainment year 1994, without control strategies. To address the winter road sanding problem the City of La Grande obtained a written commitment, in a letter dated October 28, 1991, from the Oregon Department of Transportation (ODOT) to reduce sanding application rates and to cleanup sanding materials from roadways as soon as practically possible.

ODOT and ODEQ project a 30 percent (436 lbs/day) reduction in PM-10 will be accomplished on worst case days in 1994, due to the winter road sanding control program. This emission reduction value was determined from ODOT's projection that the new application rates and cleanup policies alone will reduce the amount of fugitive dust from sanding by 36 percent. ODEQ then determined that 84 percent of the PM-10 produced as the result of road sanding was created on ODOT roads. Therefore, 84 percent of 36 percent is the 30 percent emission reduction value credited to the winter road sanding program.

In addition to the aforementioned commitments, the ODOT began utilizing road sand with a lower silt content in November 1991; thus, this road material is less likely to become airborne as PM-10. However, the ODEQ did not take emission reduction credit for this measure. Therefore, EPA approves the utilization of this cleaner sanding material as a SIP strengthening measure.

There are a number of fugitive dust control measures that the City of La Grande and State of Oregon require in the La Grande PM-10 nonattainment area. The measures include: paving/stabilizing access streets to industrial or commercial sites; cleaning and securing construction vehicle loads to prevent trackout; requiring haul trucks to be covered; utilization of dust suppressants to control PM-10 emissions from haul roads greater than 50 feet in length; paving or chemically stabilizing unpaved roads; paving all off-street parking areas, including driveways and truck loading areas; stabilizing material storage piles through use of dust palliatives, water, compacting or other methods; and prohibiting the disturbance or removal of soil cover from any area larger than 5,000 sq. ft. (unless a dust control plan has been

approved by the City). Nonetheless ODEQ declined to take credit for these fugitive dust control measures because the emissions were difficult to inventory and these reductions were also unnecessary to demonstrate attainment of the PM-10 standard. Instead these measures strengthen the SIP and help further assure that these fugitive dust sources will not contribute to a future exceedance of the PM-10 NAAQS.

EPA has determined that the existing ordinances, programs, and regulations either submitted with the La Grande PM-10 SIP submission or else currently contained in the federally approved Oregon SIP meet the RACM requirement. EPA also accepts ODEQ's projection that the road sanding measures will reduce PM-10 emissions from winter road sanding by 30 percent. The lower silt content sand, in conjunction with the other fugitive dust control measures, will also help ensure that sanding and other fugitive dust sources will be adequately controlled. While the SIP is not relying on these strategies to attain the PM-10 standard, EPA is approving these measures as strengthening the SIP.

#### f. Other Sources

Where sources of PM-10 contribute insignificantly to the PM-10 problem in the area, EPA's policy is that RACM does not require the implementation of potentially available control measures (57 FR 13540).

ODEQ has determined through its analysis of the nonattainment area emissions data that prescribed burning, open burning and transportation were not significant sources of PM-10 emissions (less than 4 percent on a worst case days). Nevertheless, control measures addressing sources of prescribed and open burning are currently required by ODEQ, Union County, and the City of La Grande. While the implementation of all available prescribed and open burning measures would not significantly expedite attainment in the area, these measures as currently required should help to ensure on-going maintenance of the PM-10 NAAQS in the area and EPA is therefore approving them as strengthening the SIP. The following is a list of adopted control measures regulating open burning and prescribed burning contained in the plan:

(1) A mandatory field burning smoke management program was adopted on June 5, 1991, by Union County (Ordinance 1991-6) in response to the Class I area visibility protection provisions of the Clean Air Act (Section 169A), and was implemented during the summer of 1991. The ordinance requires

that agricultural burning be prohibited when smoke can impact either the Eagle Cap Wilderness or the La Grande PM-10 nonattainment area. The ordinance is enforced by Union County.

(2) The city of La Grande's Air Quality Program (Resolution 4122, Series 1991) includes a prohibition on open burning and the use of burn barrels on "Yellow" or "Red" woodburning curtailment days. Open burning is prohibited at all times other than during the months of April, May, October and November under Section 8 of the City's Uniform Fire Code.

EPA has reviewed ODEQ's submittals and associated documentation and has concluded that they adequately justify the control measures to be implemented. EPA believes that implementation of the La Grande PM-10 nonattainment plan control strategy will result in the attainment of the PM-10 NAAQS as expeditiously as practicable and no later than December 31, 1994. By this notice, EPA is approving ODEQ's control strategy as satisfying the RACM (including RACT) requirement.

#### 4. Demonstration

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

As indicated in the General Preamble, 57 FR at 13539, EPA has developed a supplemental attainment demonstration policy for initial PM-10 nonattainment areas. This supplemental policy provides additional flexibility in meeting the PM-10 attainment demonstration requirements. An earlier April 2, 1991, memorandum titled, "PM-10 Moderate Area SIP Guidance: Final Staff Work Product" contained "Attachment 5" which described the same policy.

ODEQ conducted an attainment demonstration based upon receptor modeling (Chemical Mass Balance (CMB) version 7.0) and proportional emission inventory roll-back analysis in the La Grande nonattainment area. Both approaches were in close agreement in identifying the major sources of PM-10 on exceedance days (local woodsmoke = 61 percent and 60 percent and soil dust = 38 percent and 32 percent for CMB and roll-back methods, respectively).

This demonstration indicates that La Grande will attain both the 24-hour and annual PM-10 NAAQS, with the maximum 24-hour concentration predicted to be 148  $\mu\text{g}/\text{m}^3$  and an annual arithmetic average concentration projected to be 47  $\mu\text{g}/\text{m}^3$  in 1994. The demonstration also showed that the PM-10 NAAQS will be maintained in future years by predicting a 24-hour worst day design concentration of 139  $\mu\text{g}/\text{m}^3$  for the year 2000, and projecting an annual average for the year 2000 of 48  $\mu\text{g}/\text{m}^3$ . The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)." A more detailed description of the attainment demonstration is contained in the TSD accompanying this notice.

#### 5. PM-10 Precursors

The control requirements which are applicable to major stationary sources of PM-10, also apply to major stationary sources of PM-10 precursors unless EPA determines such sources do not contribute significantly to PM-10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539-13540 and 13541-13542).

The filter analyses (chemical mass balance) indicated that on average, only 1 percent and 4 percent of the PM-10 mass was comprised of secondary particulate on high concentration days and annually, respectively. EPA believes that this is an insignificant portion and, therefore, is granting the exclusion from control requirements authorized under section 189(e) for major stationary sources of PM-10 precursors.

Note that while EPA has made a general finding for this area, 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. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

#### 6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by ODEQ and EPA (See sections 172(c)(5), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et. al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, existing large, wood-fired boilers with a heat input capacity greater than 35 million BTU/hr, and woodstoves and other wood burning activities. The SIP provides that the control measures for the affected activities apply throughout the entire nonattainment area.

During its review, EPA determined that the Oregon Revised Statute Chapter 468, as amended in 1991, failed to provide sufficient authority to ensure that the industrial source control measures contained in the La Grande PM-10 SIP could be adequately enforced. Specifically, ORS 468.126(1) provided that penalties could not be assessed against a source for permit violations unless the state first provided notice of the violation to the source, and further, if within five days, the source came into compliance or provided an adequate schedule to come into compliance in the future, no penalties could be assessed. EPA informed the Oregon Department of Environmental Quality that this provision was unacceptable to the extent it applied to permit limits which were relied on to attain, maintain or demonstrate attainment with a NAAQS.

On September 3, 1993, the Governor of Oregon signed into law new legislation correcting this deficiency. The new law provides that the five-day advance notice provision required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from federal approval or delegation (see Oregon Senate Bill 86, 1993 Session, § 3 (1993) to be codified at ORS 468.126(2)(e)). Because the notice provision bars civil penalties from being imposed for certain permit violations, application of 468.126(1) fails to provide the adequate

enforcement authority that a state must demonstrate to obtain SIP approval (see, e.g., sections 110 and 172(c) of the Clean Air Act and 40 CFR 51.230).

Accordingly, the notice requirement would disqualify this PM-10 program from federal approval. Thus, the state has acknowledged, by a letter dated November 5, 1993, that, pursuant to ORS 468.126(2)(e), the notice provision in ORS 468.126(1) will not apply to violations of SIP requirements contained in permits, including permits containing industrial source control requirements, relied upon to attain, maintain or demonstrate attainment with a NAAQS.

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

a. City of La Grande Air Quality Improvement Resolution 4122, Series 1991, August 7, 1991. This ordinance delineates the City of La Grande's control of smoke and fugitive dust (control measure).

b. Union County Ordinance No. 1991- This ordinance controls and manages wild burning in Union County, Oregon and creates a Union County smoke management program (SIP strengthening measure).

The SIP requires that all affected activities must be in full compliance with the applicable SIP provisions by December 10, 1993. In addition to the applicable control measures, this includes the applicable recordkeeping requirements which are addressed in the supporting technical information.

ODEQ's submittals and the TSD contain further information on enforceable requirements including enforceable emission limitations; a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; averaging times for compliance test methods; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

ODEQ also has a program that will ensure that the control measures contained in the La Grande PM-10 SIP are adequately enforced. The TSD contains a discussion of the personnel and funding intended to support effective implementation of the control measures.

### 7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate PM-10 nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543-13544). These measures must have been submitted by November 15, 1993 for the initial moderate nonattainment areas.

Contingency measures should consist of other available measures that are not part of the area's attainment control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make reasonable further progress (RFP) or attain the PM-10 NAAQS by the applicable statutory deadline. The La Grande nonattainment area SIP contains the following contingency measures:

a. A mandatory woodsmoke curtailment program that is to take effect if the EPA determines that the area fails to attain the NAAQS by December 31, 1994. ODEQ has the authority to implement and enforce a mandatory curtailment program, upon notification by EPA that the area has failed to attain the NAAQS, should the City of La Grande or the County of Union fail to implement one. EPA approved these rules (OAR 340-34-150 through 175) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

b. Removal of uncertified woodstoves upon home sale for any area that fails to meet the PM-10 SIP attainment date of December 31, 1994. These stoves would have to be removed and destroyed prior to sale of the home. EPA approved these rules (OAR 340-34-200 through 215) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

c. The continuation of the woodstove certification program (after December 31, 1994) will provide a net reduction in residential wood burning emissions between the years 1994 and 2000, and on into the future.

d. The application of BACT emission controls to industrial sources in La Grande will result in further reductions of PM-10 emissions. Oregon state regulations (OAR 340-21-200 through 245) also contain additional industrial contingency measures that would apply in Oregon's PM-10 nonattainment areas should an area not attain the standard by the applicable CAA deadline. These rules were approved by EPA as part of the Oregon SIP on August 19, 1992 (57 FR 37468). The rules became effective on October 19, 1992.

The expected emission reductions to be achieved by implementation of the contingency measures after the December 31, 1994 attainment date, is

estimated to be at least 90 tons per year. This represents at least a 58 percent reduction when compared with the 156 tons per year emission reduction in the attainment plan, which is greater than the 25 percent reduction value suggested in the General Preamble (57 FR 13543-13544).

The SIP provides that the mandatory woodsmoke curtailment program, removal of uncertified woodstoves and application of BACT emission controls to industrial sources in La Grande can take effect without further action by the state or EPA, should EPA determine that the La Grande nonattainment area has failed to achieve RFP or attain the PM-10 standard by the statutory attainment date of December 31, 1994. The net reduction in woodstove emissions due to the continuation of the woodstove certification program will occur regardless of whether or not the PM-10 standard is attained by December 31, 1994.

EPA is approving the La Grande nonattainment area contingency measures.

### III. Implications of This Action

EPA is approving this plan revision submitted to EPA for the La Grande nonattainment area. Among other things, ODEQ has demonstrated that the La Grande moderate PM-10 nonattainment area will attain the PM-10 NAAQS by December 31, 1994. Note that this action includes approval of the contingency measures for the La Grande nonattainment area.

### IV. Administrative Review

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 notice 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 submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continued in effect under Executive Order 12866 which revoked Executive Order 12291 on September 30, 1993.

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.

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 economic 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 30, 1994 unless adverse comments are received by August 1, 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 document published, simultaneously, in the proposal section of this Federal Register).

Under section 307(h)(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 30, 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. section 7607(b)(2).

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact or entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### List of Subjects in 40 CFR Part 52

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

Dated: May 25, 1994.

Chuck Clarke,

Regional Administrator.

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.

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

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

Authority: 42 U.S.C. 7401-7407q.

#### Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(107) to read as follows:

##### § 52.1970 Identification of plan.

\* \* \*

(c) \* \* \*  
(107) On November 15, 1991, the ODEQ submitted a PM-10 nonattainment area SIP for La Grande, Oregon.

- (i) Incorporation by reference.

(A) November 15, 1991 letter from ODEQ to EPA Region 10 submitting the PM-10 nonattainment area SIP for La Grande, Oregon.

(B) PM-10 Control Strategy for Particulate Matter, October 1991, La Grande, Oregon Nonattainment Area, as adopted by the Environmental Quality Commission on November 8, 1991.

[FR Doc. 94-16000 Filed 6-30-94; 8:45 am]  
BILLING CODE 6660-60-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 675

[Docket No. 93-100-4043; L.D. 062494B]

#### Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Revision of a closure.

SUMMARY: NMFS is rescinding the closure to directed fishing for Pacific ocean perch in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific ocean perch in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.L.T.), July 4, 1994, until 12 midnight, A.L.T., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Pacific ocean perch TAC for the AI was established by the final 1994 initial specifications of groundfish (59 FR 7656, February 16, 1994) and later augmented from the reserve (59 FR 21673, April 26, 1994) to a total of 10,900 metric tons (mt). The directed fishery for Pacific ocean perch was closed on April 4, 1994 (59 FR 16570, April 7, 1994). NMFS has determined that as of June 11, 1994 2,150 mt remain unharvested.