



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2017-0051; FRL -9974-16-Region 10]

Air Plan Approval; OR, Oakridge; PM_{2.5} Moderate Plan, Finding of Attainment and Clean Data Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a finding of attainment by the attainment date and a clean data determination (CDD) for the Oakridge-Westfir (Oakridge), Oregon fine particulate matter nonattainment area (Oakridge NAA). The finding is based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing the area has monitored attainment of the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) based on 2014-2016 data available in the EPA's Air Quality System (AQS) database. This determination will not constitute a redesignation to attainment.

The EPA is also finalizing approval of the revisions to Oregon's State Implementation Plan (SIP) consisting of the updated Oakridge-Westfir PM_{2.5} Attainment Plan (Oakridge Update) submitted by the Oregon Department of Environmental Quality (ODEQ) on January 20, 2017. The purpose of the Oakridge Update, developed by Lane Regional Air Protection Agency (LRAPA) in coordination with the ODEQ, is to provide an attainment demonstration of the 2006 24-hour PM_{2.5} NAAQS and correct deficiencies in the 2012 Oakridge Attainment Plan.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2017-0051. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the Air Planning Unit, Office of Air and Waste, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski at (360) 753-9081, duboiski.christi@epa.gov or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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I. Background Information

On October 21, 2016, the Environmental Protection Agency (EPA) finalized a partial

approval and partial disapproval of the 2012 Oakridge Attainment Plan (81 FR 72714) which started a sanction clock for the imposition of offset sanctions and highway sanctions, 18 months and 24 months respectively, after the November 21, 2016 effective date, pursuant to section 179(a) of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31. In addition to sanctions, the EPA is required to promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the finding if the deficiency has not been corrected within that time period.

On January 20, 2017, Oregon Department of Environmental Quality (ODEQ) submitted the Oakridge Update to correct the deficiencies identified in the 2012 Oakridge Attainment Plan. On November 14, 2017, (82 FR 52683) the EPA proposed to approve the finding of attainment by the attainment date, the clean data determination (CDD) for the Oakridge-Westfir (Oakridge), Oregon fine particulate matter nonattainment area (Oakridge NAA), and the Oregon's State Implementation Plan (SIP) consisting of the updated Oakridge-Westfir PM_{2.5} Attainment Plan (Oakridge Update), which provided an attainment demonstration of the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). An explanation of the CAA attainment planning requirements, a detailed analysis of the submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here.

The EPA believes the Oakridge Update corrects the deficiencies identified in our October 21, 2016, partial approval and partial disapproval action. Therefore, we are taking final action to make an attainment finding and approve the Oakridge Update as discussed in our notice of proposed rulemaking, and all sanctions and sanction clocks related to the 2012 Oakridge Attainment Plan, partial approval and partial disapproval action will be permanently terminated on the effective date of this final approval. The public comment period for the proposed rule

ended on December 14, 2017. The EPA received no comments on the proposal.

Neither the finding of attainment by the attainment date nor CDD is equivalent to the redesignation of the area to attainment. This action does not constitute a redesignation to attainment under section 107(d)(3)(E) of the CAA, because the state must have an approved maintenance plan for the area as required under section 175A of the CAA, and a determination that the area has met the other requirements for redesignation in order to be redesignated to attainment. The designation status of the area will remain nonattainment for the 2006 PM_{2.5} NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment in CAA section 107(d)(3)(E).

II. Final Action

The EPA is finalizing approval of the following items:

- The determination that the Oakridge area attained the 2006 24-hour PM_{2.5} NAAQS by the December 31, 2016 attainment date as demonstrated by quality-assured and quality-controlled 2014-2016 ambient air monitoring data.
- The Oakridge NAA achieved a clean data determination (CDD) in accordance with the EPA's clean data policy.
- The Oakridge Update as meeting the requirements of section 110(k) of the CAA.

Specifically, the EPA has determined the Oakridge Update meets the substantive statutory and regulatory requirements for base year and projected emissions inventories for the nonattainment area, and an attainment demonstration with modeling analysis and imposition of RACM/RACT level emission controls, RFP plan, QMs, and contingency measures¹. The EPA is also approving a comprehensive precursor demonstration for

¹ It is important to note, the 2016 Oakridge Update includes the complete 2012 Oakridge Attainment Plan which was previously partially approved, partially disapproved (81 FR 72714). In this action, the EPA is taking no action on the following elements of 2012 Oakridge

VOCs, SO₂, NO_x, and NH₃ and the 2015 MVEB of 22.2 lb/day for direct PM_{2.5}. The EPA believes approval of these SIP elements corrects deficiencies identified in our October 21, 2016 partial approval and partial disapproval action that initiated sanctions clocks (81 FR 72714). All sanctions and sanction clocks related to the partial disapproval of the 2012 Oakridge Attainment Plan will be permanently terminated on the effective date of the final approval of this action.

- The EPA is approving, and incorporating by reference, the following sections in the City of Oakridge Ordinance 920: Section 1 Definitions; Section 2(1) Curtailment; Section 2(2) Prohibited materials; Section 3 Solid Fuel Burning Devices Upon Sale of the Property; Section 4 Solid Fuel Burning Devices Prohibited; Section 5 Solid Fuel Burning Devices Exemptions; Section 7 Contingency Measures.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final

Attainment Plan included in Appendix 3 of the 2016 Oakridge Update; the 2012 Oakridge PM_{2.5} Attainment Plan and associated appendices F1, F6 and K. These elements are considered informational elements, not essential for making decisions on the 2016 Oakridge Update. On February 24, 2016, ODEQ withdrew appendices F2 and F3 from the Oakridge PM_{2.5} Attainment Plan submittal and clarified that they were provided for informational purposes only.

rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the **Federal Register** in the next update to the SIP compilation.²

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

² 62 FR 27968 (May 22, 1997).

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The EPA will submit a report containing this action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 [**insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 25, 2018.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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:

a. In paragraph (c), “Table 3—EPA Approved City and County Ordinances” by adding an entry “City of Oakridge Ordinance No. 920” at the end of the table; and

b. In paragraph (e), table entitled, “State of Oregon Air Quality Control Program” by adding under “Section 4”, two entries “4.66” and “4.67” in numerical order.

The additions read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

TABLE 3—EPA APPROVED CITY AND COUNTY ORDINANCES

| Agency and ordinance | Title or subject | Date | EPA approval date | Explanation |
|------------------------------------|---|------------|--|---|
| * * * * * | | | | |
| City of Oakridge Ordinance No. 920 | An Ordinance Amending Section 7 of Ordinance 914 and Adopting New Standards for the Oakridge Air Pollution Control Program. | 11/10/2016 | [Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> | Oakridge PM-2.5 Attainment Plan. Only with respect to Sections 1, 2(1), 2(2), 3, 4, 5 and 7. |

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|--|--|--|-----------|--|
| | | | citation] | |
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(e) * * *

STATE OF OREGON AIR QUALITY CONTROL PROGRAM

| SIP citation | Title/subject | State effective date | EPA Approval date | Explanation |
|--------------|---------------|----------------------|--|--|
| * * * * * | | | | |
| | | 4.66, 12/06/2012 | 10/21/2016, 81 FR 72714 | 4.66 2012 Oakridge- Westfir PM2.5 Attainment Plan. |
| | | 4.67, 1/20/2017 | [Insert date of publication in the Federal Register], [Insert Federal Register citation] | 4.67 Updated Oakridge- Westfir PM2.5 Attainment Plan. |
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[FR Doc. 2018-02465 Filed: 2/7/2018 8:45 am; Publication Date: 2/8/2018]