



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0022; FRL-9985-25-Region 10]

Air Plan Approval; Oregon; Removal of Obsolete Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing removal of the outdated rules in the Code of Federal Regulations (CFR) for the State of Oregon because they are duplicative or obsolete. Removal of such material from the air program subparts is designed to improve cost effectiveness and usability of the CFR. The EPA is also proposing to make non-substantive revisions to reflect updated citations and correct a typographical error. This proposed action makes no substantive changes to the Oregon State Implementation Plan and imposes no new requirements.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2018-0022 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include

discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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

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

I. Introduction

This action is being taken pursuant to Executive Order 13563 – *Improving Regulation and Regulatory Review*. It is intended to reduce the number of pages in the Code of Federal Regulations (CFR) by identifying those rules in 40 CFR part 52, subpart MM, for the State of Oregon that are duplicative or obsolete. One aspect of the EPA’s proposed action removes historical information found in the “Approval of plans” section in 40 CFR 52.1973, “Original Identification of plan” section in 40 CFR 52.1974, “Content of approved State submitted implementation plan” section in 40 CFR 52.1977, and “Control Strategy: Ozone” section in 40 CFR 52.1982. These rules no longer have any use or legal effect because they have been superseded by subsequently approved state implementation plan (SIP) revisions or they are no longer necessary because the EPA previously promulgated administrative rule actions to replace these sections with summary tables in 40 CFR 52.1970 (78 FR 74012, December 10, 2013). These summary tables describe the regulations, source-specific actions, and non-regulatory requirements that comprise the SIP.

II. Removal of Duplicative or Obsolete Rules and Non-Substantive Changes to Certain Rules

The EPA reviewed the following regulations and found that they should be removed or revised for the reasons set forth as follows:

A. Section 52.1973 Approval of plans.

As discussed above, this section is no longer necessary because the EPA replaced the historical information contained in this section with summary tables in §52.1970 (78 FR 74012, December 10, 2013). The EPA reviewed §52.1973 to verify that all relevant historical information in this section is contained in §52.1970. The EPA is therefore proposing to remove §52.1973.

B. Section 52.1974 Original identification of plan section

Sections 52.1974(b) and (c) of this section, originally designated as 40 CFR 52.1970 (b) and (c), contain historical information about the EPA's approval actions for the Oregon SIP which occurred from January 25, 1972, until September 1, 2013. On December 10, 2013 (78 FR 74012), the EPA reorganized the Identification of plan section (§52.1970) for subpart MM by listing and summarizing Oregon's currently approved SIP requirements in §52.1970(a) through (e). EPA is proposing to remove §52.1974(b) and (c) because the EPA has determined it is no longer necessary to codify the information found in these paragraphs. Section 52.1974(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 1996 through 2013). These annual editions are available on line at the following url address:

<https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

C. Section 52.1977 Content of approved State submitted implementation plan.

As previously discussed, the EPA reorganized the Identification of Plan section (§52.1970) for subpart MM by listing and summarizing Oregon's currently approved SIP requirements in §52.1970(a) through (e) (78 FR 74012, December 10, 2013). Section 52.1977, last revised January 22, 2003 (68 FR 2904), is out of date and no longer correct. Therefore, EPA is proposing to remove this section.

D. Section 52.1982 Control Strategy: Ozone.

This section, last updated on January 22, 2003 (68 FR 2909), is out of date. Current attainment and maintenance plan status for the Salem/Portland and Medford/Ashland areas can be found in the summary tables in §52.1970. The EPA reviewed §52.1982 to verify that all relevant historical information in this section is contained in §52.1970. The outdated text of §52.1982(a) contains two clarifications regarding implementation of the attainment plans. The EPA and Oregon subsequently resolved both issues. The EPA recently approved a revised version of Oregon Administrative Rule 340-232-0160(6) (82 FR 47122, October 11, 2017), which incorporates the requirement of §52.1982(a)(i). In the same October 11, 2017 action, the EPA also approved a revised version of Oregon Administrative Rule 340-232-0060(1), which no longer contains the language, "in most cases." The EPA is therefore proposing to remove §52.1982.

E. Section 52.1988 Air contaminant discharge permits.

This paragraph contains an incorrect rule citation cross reference. The EPA is proposing to correct a typographical error and correct the two citations from OAR 340-226-0040 to the correct citation, OAR 340-226-0400.

III. Proposed Action

This proposed action is a "housekeeping" exercise that merely recommends removal of

duplicative or obsolete CFR provisions and corrects a non-substantive typographical error. This proposed action makes no substantive changes to the SIP. The EPA is proposing that the above referenced rules should be removed and the typographical error corrected, and that these changes be accurately reflected in 40 CFR part 52, subpart MM for the State of Oregon. The EPA proposes removing the duplicative or obsolete rules because they have been revised or superseded by subsequently approved SIP revisions.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this proposed action merely removes duplicative or obsolete rules and corrects non-substantive typographical errors and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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);
- 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 it does not involve technical standards; 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 proposed SIP would not be 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 proposed rule does not have tribal implications and 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 27, 2018.

Chris Hladick,

Regional Administrator,

Region 10.

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