

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(161) is withdrawn as of September 20, 2001.

[FR Doc. 01-23491 Filed 9-19-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4123a; FRL-7059-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Two Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 9, 2001 (66 FR 41793), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 9, 2001 (66 FR 41823). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814-2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(160) is withdrawn as of September 20, 2001.

[FR Doc. 01-23490 Filed 9-19-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4122a; FRL-7059-6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision to establish reasonably available control technology (RACT) requirements for the Allegheny Ludlum Corporation's Brackenridge facility. This facility is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_x) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 9, 2001 (66 FR 41789), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 9, 2001 (66 FR 41822). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814-2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(159) is withdrawn as of September 20, 2001.

[FR Doc. 01-23489 Filed 9-19-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[OR-00-002a; FRL-7044-9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Oregon's State Implementation Plan (SIP) which were submitted on November 20, 2000. These revisions consist of the 1996 carbon monoxide (CO) periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. Oregon concurrently requested redesignation of Klamath Falls from nonattainment to attainment for CO. EPA is approving the State's request because it meets all of the Clean Air Act (ACT) requirements for redesignation.

DATES: This direct final rule will be effective on November 19, 2001 without further notice, unless EPA receives adverse comment by October 22, 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 addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's requests and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204-1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ-107), EPA, Seattle, Washington, (206) 553-1086.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we,” “us,” or “our” is used, we mean the Environmental Protection Agency (EPA). This supplementary information is organized as follows:

I. Background Information

- A. What action is EPA taking?
- B. What is a State Implementation Plan?
- C. Why was this SIP revision and redesignation request submitted?

II. Basis for EPA's Action

- A. What Criteria did EPA use to Review the Maintenance Plan and Redesignation request?
- B. How does the State Show that the Area Has Attained the CO NAAQS?
- C. Does the Area have a fully approved SIP under section 110(k) of the Act and has the area met all the relevant requirements under section 110 and part D of the Act?
- D. Are the Improvements in Air Quality Permanent and Enforceable?
- E. Has the State Submitted a Fully Approved Maintenance Plan pursuant to section 175A of the Act?
- F. Did the State provide adequate attainment year and maintenance year emissions inventories?

Table 1 1996 CO Attainment Year Actual Emissions and 2011 CO Maintenance Year Projected Emissions (Pounds CO/Winter Day)

- G. How will this action affect the oxygenated fuels program in Klamath Falls?
- H. How will the State continue to verify attainment?
- I. What contingency measures does the State provide?
- J. How will the State provide for subsequent maintenance plan revisions?
- K. How does this action affect Transportation Conformity in Klamath Falls?

Table 2 Klamath Falls Urban Growth Boundary Emissions Budget Through 2015 (Pounds CO/Winter Day)

- L. How does this action affect specific rules?

III. Final Action**IV. Administrative Requirements****I. Background Information****A. What Action Is EPA Taking?**

Today's rulemaking announces three actions being taken by EPA related to air quality in the State of Oregon. These actions are taken at the request of the Governor of Oregon in response to Act requirements and EPA regulations.

First, EPA approves the 1996 periodic CO emissions inventory for Klamath Falls. The 1996 inventory establishes a baseline of emissions that EPA considers comprehensive and accurate and provides the foundation for air quality planning in the Klamath Falls, Oregon nonattainment area.

Second, EPA approves the CO maintenance plan for the Klamath Falls nonattainment area into the Oregon SIP.

Third, EPA redesignates Klamath Falls from nonattainment to attainment for carbon monoxide. This redesignation is based on validated monitoring data and projections made in the maintenance plan's demonstration. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS) for CO for at least ten years beyond this redesignation, as required by the Act.

B. What Is a State Implementation Plan?

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS established by the EPA. These ambient standards are established under section 109 of the Act and they address six criteria pollutants: CO, nitrogen dioxide, ozone, lead, particulate matter and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP. Each State has a SIP designed to protect its air quality. These SIPs can be extensive, containing regulations, enforceable emission limits, emission inventories, monitoring networks, and modeling demonstrations.

Oregon submitted their original section 110 SIP on January 25, 1972 and it was approved by EPA soon thereafter. Other SIP revisions have been submitted over the intervening years and likewise have been approved. The Klamath Falls CO SIP revisions and redesignation request submitted on November 20, 2000, are the subject of today's action.

C. Why Was This SIP Revision and Redesignation Request Submitted?

Upon enactment of the 1990 Clean Air Act Amendments, a new classification scheme was created which established attainment dates and planning requirements according to the severity of nonattainment. The Klamath Falls nonattainment area was designated a moderate nonattainment area for CO on January 6, 1992. This designation was the result of 1988 and 1989 ambient air quality monitoring data that showed violations of the CO NAAQS. The attainment deadline became December 31, 1995, or as expeditiously as practicable.

Oregon believes that the Klamath Falls, Oregon area is now eligible for redesignation because air quality data shows that it has not recorded a violation of the primary or secondary CO air quality standards since 1990. The maintenance plan demonstrates that Klamath Falls will be able to remain in attainment for the next 10 years.

II. Basis for EPA's Action**A. What Criteria Did EPA Use To Review the Maintenance Plan and Redesignation Request?**

Section 107(d)(3)(E) of the Act states that EPA can redesignate an area to attainment if the following conditions are met:

1. The area must attain the applicable NAAQS.

2. The area must have a fully approved SIP under 110(k) of the Act and the area must meet all the relevant requirements under section 110 and part D of the act.

3. The air quality improvement must be permanent and enforceable.

4. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

EPA has found that the Oregon redesignation request for the Klamath Falls, Oregon nonattainment area meets the above requirements. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the redesignation of Klamath Falls CO nonattainment area to attainment.

B. How Does the State Show That the Area Has Attained the CO NAAQS?

To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year for at least two consecutive years. The redesignation of Klamath Falls is based on air quality data that shows that the CO standard was not violated from 1990 through 1995, or since. These data were collected by the Oregon Department of Environmental Quality (ODEQ) in accordance with 40 CFR 50.8, following EPA guidance on quality assurance and quality control and are entered in the EPA Aerometric Information and Retrieval System, or AIRS. Since the Klamath Falls, Oregon area has ten years of complete quality-assured monitoring data showing attainment with no violations, the area has met the statutory criterion for attainment of the CO NAAQS. ODEQ has committed to continue monitoring in this area in accordance with 40 CFR part 58.

C. Does the Area Have a Fully Approved SIP Under Section 110(k) of the Act and Has the Area Met All the Relevant Requirements Under Section 110 and Part D of the Act?

Klamath Falls was classified as a nonattainment area with a design value less than 12.7 parts per million (ppm). Therefore, the 1990 requirements applicable to the Klamath Falls nonattainment area for inclusion in the

Oregon SIP include the preparation of a 1990 emission inventory with periodic updates, adoption of an oxygenated fuels program, development of contingency measures, development of conformity procedures, and the establishment of a permit program for new or modified major stationary sources.

For the purposes of evaluating the request for redesignation to attainment, EPA has previously approved all but one element of the Oregon SIP. Section 187(a) of the Act requires moderate CO areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources as described in the nonattainment area provision section 172(c)(3). Specifically, the 1990 emissions inventory was reviewed but not acted upon to allow for additional correction and revision. We later determined that a 1996 inventory that incorporated these changes would satisfy the requirement for a base year inventory and would also serve as the periodic emissions inventory submitted with the maintenance plan. Today's action approves this required element of the 110 SIP as part of the Oregon SIP concurrently with the redesignation to attainment.

D. Are the Improvements in Air Quality Permanent and Enforceable?

Yes. EPA is approving Klamath Falls' maintenance plan as meeting the requirements of the 1990 amendments. Emissions reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures are: (1) The Federal Motor Vehicle Control Program, establishing emission standards for new motor vehicles; and (2) an oxygenated fuels program. The Klamath Falls area initially attained the NAAQS in 1991 (prior to the implementation of the oxygenated fuels program in November

1992) and the plan cites monitoring data in AIRS which shows continued attainment through 2000.

ODEQ has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to a local economic downturn or unusual or extreme weather patterns. We believe the combination of certain existing EPA-approved SIP and Federal measures contributed to permanent and enforceable reductions in ambient CO levels that have allowed the area to attain the NAAQS.

E. Has the State Submitted a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?

Yes. Section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. With this action, EPA is approving the maintenance plan for the Klamath Falls area.

F. Did the State Provide Adequate Attainment Year and Maintenance Year Emissions Inventories?

Yes. ODEQ submitted comprehensive inventories of CO emissions from point, area and mobile sources using 1996 as the attainment year. This data was then used in calculations to demonstrate that

the CO standard will be maintained in future years. Since air monitoring recorded attainment levels of CO in 1996, this is an acceptable year for the attainment inventory.

Based on the CO emissions in the attainment year (1996), ODEQ calculated inventories for the required maintenance year (2011) and four years beyond (2015). Future emission estimates are based on forecast assumptions about growth of the regional economy and vehicle miles traveled.

Mobile sources are the greatest source of carbon monoxide. Although vehicle use is expected to increase in the future, more stringent Federal automobile standards and removal of older, less efficient cars over time will still result in an overall decline in CO emissions. The projections in the maintenance plan demonstrate that future emissions are not expected to exceed attainment year levels.

Total CO emissions were projected from the 1996 attainment year out to 2015. These projected inventories were prepared according to EPA guidance. Because compliance with the 8-hour CO standard is linked to average daily emissions, emission estimates reflecting a typical winter season day (pounds of CO per day) were used for the maintenance demonstration. Oregon calculated these emissions without the implementation of the oxygenated fuels program. Oregon is requesting that the SIP requirement for an oxygenated fuels program be discontinued upon EPA's approval of the maintenance plan and redesignation. The projections show that CO emissions calculated without the implementation of the oxygenated fuels program are not expected to exceed 1996 attainment year levels. The following table summarizes the attainment year and maintenance year emissions.

TABLE 1.—1996 CO ATTAINMENT YEAR ACTUAL EMISSIONS AND 2011 CO MAINTENANCE YEAR PROJECTED EMISSIONS [Pounds CO/Winter Day]

Year	Mobile	Area	Non-road	Point	Total
1996 Attainment Year Actuals	26,734	11,586	4,074	3,923	46,316
2011 Maintenance Year Projected	24,102	12,409	4,861	3,671	45,044

Detailed inventory data for this action is contained in the docket maintained by EPA.

G. How Will This Action Affect the Oxygenated Fuels Program in Klamath Falls?

ODEQ's maintenance demonstration shows that the Klamath Falls Urban

Growth Boundary (UGB) is expected to continue to meet the CO NAAQS through 2015 without the oxygenated fuels program, while maintaining a safety margin. Therefore, EPA approves the State's request to discontinue the oxygenated fuels program. The oxygenated fuels program will not need to be implemented following

redesignation unless a future violation of the standard triggers its use as a contingency measure in accordance with the approved maintenance plan.

H. How Will the State Continue To Verify Attainment?

In accordance with 40 CFR part 50 and EPA's Redesignation Guidance,

ODEQ has committed to analyze air quality data on an annual basis to verify continued attainment of the CO NAAQS. ODEQ will also conduct a comprehensive review of plan implementation and air quality status eight years after redesignation. The State will then submit a SIP revision that includes a full emissions inventory update and provides for the continued maintenance of the standard ten years beyond the initial ten-year period.

I. What Contingency Measures Does the State Provide?

Section 175A(d) of the Act requires retention of all control measures contained in the SIP prior to redesignation as contingency measures in the CO maintenance plan.

Since the oxygenated fuels program was a control measure contained in the SIP prior to redesignation, the SIP retains oxygenated fuels as the primary contingency measure in the maintenance plan.

This contingency measure will be triggered in the event of a quality-assured violation of the NAAQS for CO at any permanent monitoring site in the nonattainment area. A violation will occur when any monitoring site records two eight-hour average CO concentrations that equal or exceed 9.5

ppm in a single calendar year. This contingency measure will require all gasoline blended for sale in Klamath Falls to meet requirements identical to those of the current oxygenated gasoline program.

The oxygenated fuels program will be fully implemented no later than the next full winter season following the date when the contingency measure was activated. Implementation will continue throughout the balance of the CO maintenance period, or until such time as a reassessment of the ambient CO monitoring data establishes that the contingency measure is no longer needed.

EPA is approving the conversion of the oxygenated fuels program from a control measure to a contingency measure for the Klamath Falls area.

J. How Will the State Provide for Subsequent Maintenance Plan Revisions?

In accordance with section 175A(b) of the Act, the state has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. That revised SIP must provide for maintenance of the standard for an additional ten years.

The plan states that ODEQ will likely conduct its first revision of the plan in

2009. It will include a full emissions inventory update and projected emissions demonstrating continued attainment for ten additional years.

K. How Does This Action Affect Transportation Conformity in Klamath Falls?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C. or the Federal Transit Act, must conform to the applicable SIPs. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. For transportation conformity and regional emissions analysis purposes, an emissions budget has been established for on-road motor vehicle emissions in the Klamath Falls UGB. The transportation emissions budget numbers for the plan are shown in Table 2.

TABLE 2.—KLAMATH FALLS UGB TRANSPORTATION EMISSIONS BUDGET THROUGH 2015
[Pounds CO/Winter Day]

Year	1996	2000	2005	2010	2015
Budget	26,734	26,362	26,116	25,498	24,880

L. How Does This Action Affect Specific Rules?

Upon the effective date of this action, Klamath Falls will no longer be a nonattainment area, and will become a maintenance area. Therefore, OAR 340-204-0030, Designation of Nonattainment Areas, and OAR 340-204-0040, Maintenance Areas, have been revised to reflect this change. Additionally, OAR 340-204-0090, Oxygenated Gasoline Control Areas, has been revised to discontinue the program in Klamath Falls upon the effective date of this action. EPA is approving these rules as revisions to the SIP and replacing the rules dated 10-22-99.

Below is a list of the specific rule revisions affected by this action which EPA is incorporating by reference into the SIP, with the state effective date in parentheses.

OAR 340-204-0030, Designation of Nonattainment Areas (10-25-00)

OAR 340-204-0040, Maintenance Areas (10-25-00)
OAR 340-204-0090, Oxygenated Gasoline Control Areas (10-25-00)

III. Final Action

EPA is approving the following revisions to the Oregon SIP: the 1996 CO periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. EPA is also redesignating Klamath Falls, Oregon from nonattainment to attainment for CO. EPA is approving the Klamath Falls CO maintenance plan and Oregon's request for redesignation to attainment because Oregon has demonstrated compliance with the requirements of section 107(d)(3)(E). The Agency believes that the redesignation requirements are effectively satisfied based on information provided by ODEQ and requirements contained in the Oregon SIP and maintenance plan.

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 any SIP will be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule 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, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

E. Executive Order 13211

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Additionally, redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must

prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. Submission to Congress and the Comptroller General

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. EPA will 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 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). This rule will be effective November 19, 2001, unless EPA receives adverse written comments by October 22, 2001.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so

would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Petitions for Judicial Review

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 November 19, 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 section 307(b)(2).)

K. Oregon Notice Provision

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval, as specified in section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude Federal approval of a section 110 SIP revision.

To correct the problem the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph ORS 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state

program from Federal approval or delegation. ODEQ responded to EPA's understanding of the application of ORS 468.126(2)(e) and agreed that, because Federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

L. Oregon Audit Privilege

Another enforcement issue concerns Oregon's audit privilege and immunity law. Nothing in this action should be construed as making any determination or expressing any position regarding Oregon's Audit Privilege Act, ORS 468.963 enacted in 1993, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act Program resulting from the effect of Oregon's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 21, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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 by adding paragraph (c)(136) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(136) On November 20, 2000, the Oregon Department of Environmental Quality requested the redesignation of Klamath Falls to attainment for carbon monoxide. The State's maintenance plan and base year emissions inventory are complete and the redesignation satisfies all the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Oregon Administrative Rule (OAR) 340-204-0030, OAR 340-204-0040, and OAR 340-204-0090, as effective October 25, 2000.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.338, the table entitled "Oregon—Carbon Monoxide" is amended by revising the entry for "Klamath Falls Area" to read as follows:

§ 81.38 Oregon.

* * * * *

OREGON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Klamath Falls Area, Klamath County (part) Urban Growth Boundary.	November 19, 2001	Attainment		

¹ This date is November 15, 1990, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA-035-MSWa; FRL-7058-5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste landfills. The Plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of section 111(d) of the Clean Air Act.

DATES: This direct final rule is effective on November 19, 2001 without further notice, unless EPA receives relevant adverse comments by October 22, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted revision and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901
 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814

FOR FURTHER INFORMATION CONTACT: Mae Wang, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1200.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (CAA or the Act), EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not "criteria pollutants" (*i.e.*, pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (*i.e.*, the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On March 12, 1996, EPA promulgated NSPS for new municipal solid waste (MSW) landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (see 61 FR 9905). The pollutants regulated by the NSPS and

EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOC), other organic compounds, methane, and HAPs.

VOC emissions contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOC) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

On September 26, 1997, the California Air Resources Board (CARB) submitted to EPA the California State Plan for implementing 40 CFR part 60, subpart Cc. CARB submitted amendments to the California State Plan on June 26, 1998; November 9, 1998; and July 14, 1999. The submitted Plan controls existing MSW landfills in sixteen (16) air districts. EPA approved the California State Plan on September 23, 1999 (see 64 FR 51447).

II. Revision to the California State Plan

On December 20, 2000, CARB submitted a revision to the approved California State Plan. The revision adds landfill regulations for Mojave Desert Air Quality Management District (MDAQMD) and Bay Area Air Quality Management District (BAAQMD), and amends landfill regulations for South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD). The submitted revision to the EPA-approved State Plan contains the following landfill regulations:

District	Rule Number and Name	Adoption date
BAAQMD	8-34 Solid Waste Disposal Sites	10/6/99
MDAQMD	1126 Municipal Solid Waste Landfills	8/28/00
SCAQMD	1150.1 Control of Gaseous Emissions from Municipal Solid Waste Landfills	3/17/00
VCAPCD	74.17.1 Municipal Solid Waste Landfills	2/9/99

EPA has evaluated each of these regulations and has determined that they meet the federal guidelines for controlling existing MSW landfills, as

set forth in 40 CFR part 60, subpart Cc. The submitted revision to the California 111(d) Plan for controlling MSW landfill

gas emissions meets all applicable requirements for approval.