Order 12866, entitled Regulatory Planning and Review.

B. Executive Order 13045

This final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an ''economically significant'' action under Executive Order 12866.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act 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 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) and 7410(k)(3).

C. Unfunded Mandates

Under Section 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 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.

D. Submission to Congress and the General Accounting Office

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. 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 September 22, 1998. 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).)

List of Subjects in 40 CFR Part 52

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

Dated: June 19, 1998.

A. Stanley Meiburg,

Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart S—Kentucky

2. Section 52.920, is amended by adding paragraph (c)(87) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(87) Revisions to the Kentucky State Implementation Plan submitted by the Natural Resources and Environmental Protection Cabinet on March 21, 1997. The regulation being revised is 401 KAR 51:017 Prevention of significant deterioration of air quality.

(i) Incorporation by reference. Division of Air Quality regulations 401 KAR 51:017 Prevention of significant deterioration of air quality effective March 12, 1997.

(ii) Other material. None.

[FR Doc. 98–19836 Filed 7–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR 48–1–7263a; FRL–6127–4]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves revisions to the Oregon State Implementation Plan (SIP). EPA is approving revisions to Oregon Administrative Rules (OAR) Chapter 340, Division 25 submitted to EPA on August 31, 1995, and October 8, 1996, to satisfy the requirements of section 110 of the Clean Air Act (CAA) and 40 CFR part 51.

DATES: This direct final rule is effective on September 22, 1998, without further notice, unless EPA receives relevant adverse comment by August 24, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553-6510.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 31, 1995, the Oregon Department of Environmental Quality (ODEQ) submitted to the Environmental Protection Agency (EPA), a revision to the Oregon State Implementation Plan (SIP). This submittal contained a revision to Oregon Administrative Rules (OAR), Chapter 340, Division 25. Specifically, OAR 340–25-305, OAR 340–25–320, and OAR 340–25–325 were revised. The above revision was adopted by the state on January 20, 1995, and became state effective on February 17, 1995. The intent of this revision was to revise the particulate matter allowable emission limit.

Subsequently, on October 8, 1996, another revision to OAR 340–25–320 and OAR 340–25–325 was submitted to EPA for incorporation into the state's federally approved SIP. This revision was adopted by the state on January 12, 1996, and became state effective January 29, 1996. The purpose of this revision was to resolve a conflict between the above rules and Notice of Construction rules OAR 340–28–800 to OAR 340–28–820. EPA will discuss both submittals in this document.

II. Background

OAR 340–25–325

ODEQ originally adopted, as a matter of state law, the particulate matter emission standard, OAR 340–25–325, for the hardboard industry in 1971. It became part of the federally approved SIP in 1986. The emission standard set at that time was 1.0 lb/ksf (1.0 pounds of particulate matter per 1,000 square feet of finished product). In establishing this limit, emissions from exhaust vents above the hardboard presses were assumed to be negligible and therefore were not considered in establishing the 1.0 lb/ksf emission limit. Because they were assumed to be negligible, the limit was not intended to require controls on the vents. Actual emissions from a total facility (vent and nonvent sources) were assumed to be less than 1.0 lb/ksf. However, subsequent to the state adoption of the emission standard, testing of the vents have shown that they are not negligible as originally assumed and therefore, the standard was set too low for existing plants to demonstrate compliance. To correct this matter, ODEQ has revised the rule to account for the press vents particulate matter emissions and has submitted the revised rule for inclusion in the federally approved SIP.

However, even though the actual emissions of a particular facility will not be allowed to increase, the revision will result in an increase in allowable emissions. And, because the current emission limits are part of the federally approved SIP, a demonstration that the revision will not have an adverse impact on air quality is needed.

III. Discussion

A. August 31, 1995 Submittal

1. OAR 340–25–325: The August 1995 rule revision to OAR 340–25–325 corrects the emission limit by including press vent emissions. The revision keeps the current limit as it applies to all non-vent emissions sources at a plant and limits vent emissions at each affected plant to their baseline level or a set maximum level. The revised rule does not result in an increase in actual emissions; rather it reflects a correction allowed by OAR 340–028–1020(7)(e) when errors are found or better data is available for calculating PSELs.

The revision creates a new limit calculated from baseline [1] emissions. A plant's limit would be the sum of vent emissions and the lesser of baseline non-vent emissions or 1.0 lb/ksf (the original limit). In no case could the emission rate exceed 2.0 lb/ksf. The effect would be to hold total emissions to what they would have been at baseline had the press/cooling vents emissions been taken into account, or less if baseline non-vent emissions were greater than 1.0, or if the total exceeds 2.0 lb/ksf.

2. OAR 340–25–305: The August 1995 revision to OAR 340–25-305 added the definition for ''baseline vent emission rate'', clarified the definition of EPA Method 9, and added the definition for ''press/cooling vent'' to the definitions section of Chapter 340, Division 25, Statewide Rules—Board Products Industries.

3. OAR 340–25–320: The revision to OAR 340–25–320 was housekeeping in nature and corrected a cross referencing problem with another rule. The revision required that any person who proposed to control windblown particulate emissions from truck dump storage areas other than by enclosure, had to apply to ODEQ for authorization to utilize alternative controls. The rule was revised to require the application to be submitted pursuant to OAR 340–28–800 through 820 instead of OAR 340–20–020 through 030.

B. October 8, 1996 Submittal

1. OAR 340–25–320 and 340–25–523: The October 1996 submittal was also housekeeping in nature. OAR 340–25–320(1)(c) Particleboard Manufacturing Operations—Truck Dump and Storage Areas and OAR 340–25–325(1)(c) Hardboard Manufacturing Operations—Truck Dump and Storage Areas were revised by deleting the reference to OAR 340–28–800 to 820. A conflict existed because OAR 340–28–810(2) restricted OAR 340–28–800 through 820 from applying to federal operating permit program sources. Because the state wanted all sources to be subject to OAR 340–25-320(1)(c) and OAR 340–25–325(1)(c), reference to OAR 340–28–800 to 820 was deleted.

IV. Sources Affected

A total of seven hardboard manufacturing plants are affected by the revision to OAR 340–25–325. Six plants are located in areas currently designated unclassified for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). One of these six plants, Collins Products LLC, is located directly outside the Klamath Falls PM–10 nonattainment area. The seventh plant, a Jeld Wen, Inc. facility is located inside the boundary of the Klamath Falls PM–10 nonattainment area.

A. Analysis of Revision

1. Facilities located in areas unclassified for PM–10: In accordance with Section 110(l) of the Clean Air Act (CAA), EPA Region 10 required either a demonstration or documentation that the PM–10 National Ambient Air Quality Standards (NAAQS) and visibility would be protected and documentation that the revision would not allow a violation of the Prevention of Significant Deterioration (PSD) requirement.

[1] Baseline vent emission rate is defined as a source's vent emissions rate during the baseline period (1977/1978) as defined in OAR 340–28–0110, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8 inch basis.

Bearing in mind the original intent of the rule revision, ODEQ and the region agreed upon the following methodology: (1) for those sources which had not changed their mode of operation since baseline, the region would not require a PSD analysis instead a written justification including emission calculations would be acceptable; and (2) for those sources whose method of operation had changed since the hardboard rule was promulgated and the change resulted in emission increases above the significant threshold levels, a complete PSD analysis would be required. Sources that would be subject to a PSD analysis would also have to undergo a visibility analysis.

However, a PSD increment analysis for all affected sources would not be required. Since the press vents were in operation when baseline was established (1977/1978), and the rule revision does not allow for an increase in actual emissions, a PSD increment analysis was not required. The rule, by itself, does not allow for increment consumption.

For NAAQS purposes, the assumption is made that since these sources are not located in a nonattainment area (the areas are unclassified) and emissions from the press vents have been occurring since 1977/1978, increasing the allowable limit to reflect actual emissions would not adversely affect air quality. The information before EPA does not indicate that an air quality problem currently exists.

Visibility requirements are addressed through the fact that this revision does not allow for an increase in actual emissions above those accounted for in Oregon's long term visibility strategy. Again, as discussed above, the SIP revision only establishes allowable emissions equal to or less than baseline emissions.

2. Facility located inside the Klamath Falls PM–10 nonattainment area: It is EPA position that the revision to OAR 340–025–325 is subject to Section 193 of the CAA, as amended, for a source located in one of Oregon's PM–10 nonattainment areas. And therefore, the revision must demonstrate that the increase in allowable emissions will not have an adverse impact on timely attainment of the PM–10 National Ambient Air Quality Standards (NAAQS) in those areas. Also, the demonstration must ensure that emission reductions equivalent to those required by the current SIP rule are achieved. This position is based on the fact that the rule was part of the federally approved SIP before enactment of the Clean Air Act Amendments (CAAA) of 1990. The only source located inside a PM–10 nonattainment area affected by this rule revision is the Jeld Wen, Inc. facility in Klamath Falls.

On September 22, 1995, ODEQ submitted a revision to the November 15, 1991, attainment plan for the Klamath Falls PM–10 nonattainment area. This revision addressed, among other things, the above Section 193 requirement. A review of the area's attainment demonstration indicated that the increase in allowable emissions would not adversely impact air quality. The 1991 attainment plan and 1995 revision to the plan have both been approved by EPA. See 61 FR 28531 (June 5, 1996) and 62 FR 18047 (April 14, 1997) for details. It is EPA's position that the requirements of Section 193 have been satisfied.

3. Facility located outside the Klamath Falls PM–10 nonattainment area: One of the facilities affected by this revision, Collins Products LLC, is located outside the boundary of the Klamath Falls PM–10 nonattainment area. During assessment of the source's impact on the nonattainment area, a 1995 dispersion modeling analysis indicated that a violation of the 24-hour PM–10 NAAQS existed in an unmonitored location outside the nonattainment area boundary. To address the modeled violation, and allow EPA to approve the hardboard rule as it applies to Collins Products, Collins Products agreed to the installation of additional control devices and a reduction in permitted allowable emissions. Through the installation of three baghouses and the reduction in allowable emissions, Collins Products was able to demonstrate compliance with the 24-hour PM–10 NAAQS. The requirement to install additional control devices and the reduction in permitted emission limits have been incorporated into their Air Contaminant Discharge Permit (ACDP).[2] An addendum to their ACDP was issued on June 2, 1997. Oregon's ACDP regulations are part of the federally approved SIP and their permits are federallly enforceable. (See 40 CFR 52.1988).

B. July 18, 1997 Revision to the PM–10 NAAQS

On July 18, 1997, EPA revised the PM NAAQS (see 62 FR 38651). This revision changed the form of the 24-hour PM–10 standard, retained the annual standard, and added 24-hour and annual standards for PM with an aerometric mean diameter less than 2.5 micrometers (PM–2.5). Section 50.3 of 40 CFR Part 50 was also revised to remove the requirement to correct the temperature and pressure of measured PM concentrations to standard reference conditions. The revised PM NAAQS and their associated appendices became effective on September 16, 1997. However, the PM–10 NAAQS in effect before September 16, 1997, (pre-existing standard) was not revoked upon establishing the revised PM NAAQS.[3]

Additionally, it is EPA's opinion that the submittal conforms to EPA's guidance for ''Grandfathering'.[4] EPA has developed guidance on applying previously applicable standards to pending SIP revisions where the relevant requirements have changed since the state prepared the SIP submittal. The submittal conforms to the applicable CAA requirements for the pre-existing PM–10 NAAQS.

V. Summary of Action

Section 110(l) of the CAA provides that EPA may not approve a revision to a state's SIP that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. EPA has thoroughly evaluated the above revision and is approving the revisions to OAR Chapter 340, Division 25, as submitted on August 31, 1995, and October 8, 1996.

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

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective September 22, 1998, without further notice unless the Agency receives

[2] See letter from Gregory A. Green, Administrator Air Quality Division, ODEQ to Anita Frankel, Air Director, USEPA, Region 10 dated April 8, 1997.

[3] See memorandum dated December 27, 1997, from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, to Regional Administrators entitled Guidance for Implementing the 1-Hour Ozone and Pre-existing PM10 NAAQS.

[4] See memorandum dated January 27, 1988, from Gerald A. Emison, Director, Office of Air Quality Planning and Standards, to Director, Air and Toxics Division, Region X, entitled ''Grandfathering'' of Requirements for Pending SIP Revisions.

relevant adverse comments by August 24, 1998.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 22, 1998, and no further action will be taken on the proposed rule.

VI. Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled, ''Regulatory Planning and Review'' review.

The final rule is not subject to E.O. 13045, entitled, ''Protection of Children from Environmental Health Risks and Safety Risks'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

C. Unfunded Mandates

Under Section 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 as 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.

D. 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

E. 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 September 22, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

F. Oregon's Audit Privilege Act

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.

G. Oregon's Advance Notice Prior to Penalty

In reviewing previous SIP revisions, EPA determined that because the five-day advance notice provision required by ORS 468.126(1) enacted in 1991, bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority the 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 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 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 the State's program from federal approval or delegation. ODEQ has responded to EPA's understanding of the application of 468.126(2)(e) and agrees that, if 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.

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: July 9, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

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

PART 52—[AMENDED]

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

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

Subpart MM—State of Oregon

2. Section 52.1970 is amended by adding paragraph (c) (126) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(126) On August 31, 1995, and October 8, 1996, the Director of ODEQ submitted to the Regional Administrator of EPA revisions to its Oregon SIP: the Oregon Administrative Rules (OAR) Chapter 340, Division 25, Specific Industrial Standards (OAR 340–25–305, 320 and 325).

(i) Incorporation by reference.

(A) August 31, 1995, letter from ODEQ to EPA submitting a revision to the Oregon Administrative Rules (OAR); OAR 340–25–305, State effective on February 17, 1995.

(B) October 8, 1996, letter from ODEQ to EPA submitting a revision to the Oregon Administrative Rules (OAR); OAR 340–25–320 and OAR 340–25–325, State effective on January 29, 1996.

[FR Doc. 98–19834 Filed 7–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CA–189–0078(a); FRL–6127–1]

Approval and Promulgation of State Implementation Plans and Redesignation of the South Coast Air Basin in California to Attainment for Nitrogen Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on attainment and maintenance plans and a request submitted by the California Air Resources Board (CARB) to redesignate the South Coast Air Basin (South Coast) from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO_2). Under the Clean Air Act (CAA), designations can be revised if sufficient data are available to warrant such revisions. In this action, EPA is approving the attainment and maintenance plans as revisions to the California State Implementation Plan (SIP), and EPA is also approving the State's request to redesignate the South Coast to attainment because the plans and request meet the requirements set forth in the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision and grant the redesignation request should relevant adverse comments be filed.

DATES: This rule is effective September 22, 1998 unless the Agency receives relevant adverse comments to the rulemaking by August 24, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments should be addressed to the EPA contact below. The rulemaking docket for this notice may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, CA 92123–1095

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 744–1288.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

Under section 109 of the CAA, EPA established primary and secondary NAAQS for NO_2 in 1971, and slightly revised the NAAQS in 1985.[1] The level of both the primary and secondary NAAQS is 0.053 parts per million (ppm), or 100 micrograms per cubic meter, annual arithmetic mean concentration. The standards are attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, based upon hourly data that are at least 75% complete.[2]

The Federal CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under section 107(d)(1)(C) of the amended Act, an area designated nonattainment prior to enactment of the 1990 amendments (as was the South Coast Air Basin) was designated nonattainment by operation of law.[3] Under section 191 of the Act, an NO_2 area designated nonattainment under section 107(d) was required to submit to EPA within 18 months of the

[1] See 34 FR 8186, April 30, 1971, and 50 FR 25544, June 19, 1985, codified at 40 CFR 50.11. Nitrogen dioxide is a light brown gas that can irritate the lungs and lower resistance to respiratory infections such as influenza. The principal sources of nitrogen oxides are high-temperature combustion processes, such as those occurring in motor vehicles and power plants.

[2] EPA's monitoring requirements for NO_2 are codified at 40 CFR 50, Appendix F. In determining whether an NO_2 nonattainment area has attained the NAAQS, EPA considers not only the most recent four quarters of monitored ambient air quality data available, but also the previous four quarters of monitoring data ''to assure that the current indication of attainment was not the result of a single year's data reflecting unrepresentative meteorological conditions.'' 43 FR 8962 (March 3, 1978).

[3] By the date of enactment of the 1990 amendments, the South Coast was the only remaining area in the country designated as nonattainment for NO_2. For a description of the boundaries of the South Coast Air Basin (also known as the Los Angeles-South Coast Air Basin Area), see 40 CFR 81.305. The nonattainment area includes all of Orange County and the non-desert portions of Los Angeles, San Bernardino, and Riverside Counties.