

■ 2. Section 706.2 is amended by:  
 ■ a. In Table Four, paragraph 15, adding, in alpha numerical order, by vessel number, an entry for USS THOMAS HUDNER (DDG 116); and

■ b. In Table Five, by adding, in alpha numerical order, by vessel number, an entry for USS THOMAS HUDNER (DDG 116).

The additions read as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*  
 15. \* \* \*

TABLE FOUR

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS THOMAS HUDNER .....	DDG 115 .....	1.81

\* \* \* \* \*

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. annex 1, sec. 2(f)	Forward mast-head light not in forward quarter of ship. annex 1, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward masthead light. annex 1, sec. 3(a)	Percentage horizontal separation attained
USS THOMAS HUDNER .....	DDG 116 .....	X	X	X	14.5

Approved: January 25, 2018.

**A.S. Janin,**  
 Captain, USN, JAGC, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

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

**Air Plan Approval; OR, Oakridge; PM<sub>2.5</sub> 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<sub>2.5</sub>) 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<sub>2.5</sub> 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<sub>2.5</sub> NAAQS and correct deficiencies in the 2012 Oakridge Attainment Plan. **DATES:** This final rule is effective March 12, 2018.

**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](mailto: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
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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<sub>2.5</sub> Attainment Plan (Oakridge Update), which provided an attainment demonstration of the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) 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<sub>2.5</sub> 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<sub>2.5</sub> 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 measures.<sup>1</sup> The EPA is also approving a comprehensive precursor demonstration for VOCs, SO<sub>2</sub>, NO<sub>x</sub>, and NH<sub>3</sub> and the 2015 MVEB of 22.2 lb/day for direct PM<sub>2.5</sub>. 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.

<sup>1</sup> 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 Attainment Plan included in Appendix 3 of the 2016 Oakridge Update; the 2012 Oakridge PM<sub>2.5</sub> 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<sub>2.5</sub> Attainment Plan submittal and clarified that they were provided for informational purposes only.

- The EPA is approving, and incorporating by reference, the following sections in the City of Oakridge Ordinance 920: Section 1 Definitions; Section 2(1) Curtailement; 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 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.<sup>2</sup>

## 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

<sup>2</sup> 62 FR 27968 (May 22, 1997).

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 (Pub. L. 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 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 April 9, 2018. 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	2/8/2018, [Insert <b>Federal Register</b> citation].	Oakridge PM–2.5 Attainment Plan. Only with respect to Sections 1, 2(1), 2(2), 3, 4, 5 and 7.

\* \* \* \* \* (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 PM <sub>2.5</sub> Attainment Plan.

## STATE OF OREGON AIR QUALITY CONTROL PROGRAM—Continued

SIP citation	Title/subject	State effective date	EPA approval date	Explanation
		4.67, 1/20/2017	2/8/2018, [Insert <b>Federal Register</b> citation].	4.67 Updated Oakridge-Westfir PM <sub>2.5</sub> Attainment Plan.
*	*	*	*	*

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2016-0574; FRL-9974-12-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of Clean Air Interstate Rule Trading Programs Replaced by Cross-State Air Pollution Rule Trading Programs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the State of West Virginia. These revisions pertain to two West Virginia regulations that established trading programs under the Clean Air Interstate Rule (CAIR). The EPA-administered trading programs under CAIR were discontinued on December 31, 2014 upon the implementation of the Cross-State Air Pollution Rule (CSAPR), which was promulgated by EPA to replace CAIR. CSAPR established federal trading programs for sources in multiple states, including West Virginia, that replace the CAIR state and federal trading programs. The submitted SIP revisions request removal of state regulations that implemented the CAIR annual nitrogen oxide (NO<sub>x</sub>) and annual sulfur dioxide (SO<sub>2</sub>) trading programs from the West Virginia SIP (as CSAPR has replaced CAIR). EPA is approving these SIP revisions in accordance with the requirements of the Clean Air Act (CAA). West Virginia's SIP revision submittal requesting removal of a state regulation that implemented the CAIR ozone season NO<sub>x</sub> trading program will be addressed in a separate action.

**DATES:** This final rule is effective on March 12, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID

Number EPA-R03-OAR-2016-0574. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure 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 through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers, (215) 814-2308, or by email at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 2005, EPA promulgated CAIR (70 FR 25162, May 12, 2005) to address transported emissions that significantly contributed to downwind states' nonattainment and interfered with maintenance of the 1997 ozone and fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). CAIR required 28 states, including West Virginia, to revise their SIPs to reduce emissions of NO<sub>x</sub> and SO<sub>2</sub>, precursors to the formation of ambient ozone and PM<sub>2.5</sub>. Under CAIR, EPA provided model state rules for separate cap and trade programs for annual NO<sub>x</sub>, ozone season NO<sub>x</sub>, and annual SO<sub>2</sub>. The annual NO<sub>x</sub> and annual SO<sub>2</sub> trading programs were designed to address transported PM<sub>2.5</sub> pollution, while the ozone season NO<sub>x</sub> trading program was designed to address transported ozone pollution. EPA also promulgated CAIR federal implementation plans (FIPs) with CAIR federal trading programs that would address each state's CAIR requirements in the event that a CAIR SIP for the state was not submitted or approved (71 FR 25328, April 28, 2006). Generally, both the model state rules and the federal trading program rules applied only to electric generating units (EGUs), but in the case of the model state rule and federal trading program for ozone season NO<sub>x</sub> emissions, each

state had the option to submit a CAIR SIP revision that expanded applicability to include certain non-EGUs that formerly participated in the NO<sub>x</sub> Budget Trading Program under the NO<sub>x</sub> SIP Call.<sup>1</sup> West Virginia submitted, and EPA approved, a CAIR SIP revision based on the model state rules establishing CAIR state trading programs for annual SO<sub>2</sub>, annual NO<sub>x</sub>, and ozone season NO<sub>x</sub> emissions, with certain non-EGUs included in the state's CAIR ozone season NO<sub>x</sub> trading program. See 74 FR 38536 (August 4, 2009).

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina v. EPA*, 550 F.3d 1176 (Dec. 23, 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the Court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued as planned with the NO<sub>x</sub> annual and ozone season programs beginning in 2009 and the SO<sub>2</sub> annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR in order to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 PM<sub>2.5</sub> NAAQS. CSAPR required EGUs in affected states, including West Virginia, to participate in federal trading programs to reduce annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone season NO<sub>x</sub> emissions. The rule also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. CSAPR was to become effective January 1, 2012; however, the timing of CSAPR's implementation was impacted by a number of court actions. Numerous

<sup>1</sup> In October 1998, EPA finalized the "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone"—commonly called the NO<sub>x</sub> SIP Call. See 63 FR 57356 (October 27, 1998).