Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraph 311a. This airspace action consists of a modification of an existing airway and is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9W, Airspace Designations and Reporting Points, signed August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

V–595 [Amended]

From Rogue Valley, OR, to Deschutes, OR.

Issued in Washington, DC, on April 10, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–09566 Filed 4–24–13; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2008–0903: FRL–9793–5]

Approval and Promulgation of Implementation Plans; Oregon: Open Burning and Enforcement Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Oregon on February 16, 2001, July 14, 2005, August 28, 2006, and May 20, 2008 that relate to open burning rules, enforcement procedures, civil penalties, and procedures in contested cases (appeals). These revisions were made to the Oregon Administrative Rules (OAR) Chapter 340, Division 264 (OAR 340–264), OAR 340–012, and OAR 340–011. The EPA is approving the SIP revisions because the revisions clarify and strengthen the SIP and meet the criteria of the Clean Air Act.

DATES: This final rule is effective on May 28, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2008–0903. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information may not be 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 *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Justin A. Spenillo at (206) 553–6125, *spenillo.justin@epa.gov*, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" are used, it is intended to refer to the EPA.

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I. Background
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I. Background

Title I of the Clean Air Act (CAA), as amended by Congress in 1990, specifies the general requirements for states to submit State Implementation Plans (SIPs) to attain and maintain the National Ambient Air Quality Standards (NAAQS) and the EPA's actions regarding approval of those SIPs. The EPA is approving the SIP revisions submitted by the State of Oregon on February 16, 2001, July 14, 2005, August 28, 2006, and May 20, 2008. These revisions relate to open burning rules, enforcement procedures, civil penalties, and procedures in contested cases (appeals). On January 7, 2013 (78 FR 918) the EPA published a notice of proposed rulemaking (NPR), proposing approval of the revisions. The NPR includes a detailed description and analysis of the revisions, and rationale for this final action. A brief summary is provided below.

Oregon's February 16, 2001 submittal recodifies and revises the Oregon Department of Environmental Quality's (ODEQ) open burning regulations, now codified at OAR 340–264. The EPA proposed to determine that the revisions to OAR 340–264 either clarify or do not affect the overall stringency of the ODEQ's open burning regulations, and that approval of the revisions will not interfere with attainment or maintenance of the NAAQS or other requirements of the CAA as described in the EPA's proposed rule.

Oregon's July 14, 2005, August 28, 2006, and May 20, 2008 SIP submittals relate to enforcement procedures, civil penalties, and procedures in contested cases (appeals). OAR 340–012 Enforcement Procedures and Civil Penalties contains enforcement procedures and civil penalty provisions that apply to the air quality regulations in the Oregon SIP. The revisions to OAR 340–012 clarify the differences between formal and informal enforcement processes, make adjustments to the penalty matrices, and streamline and reorganize the rules to more closely track the ODEQ's enforcement and penalty calculation process. The EPA proposed to find that these revisions continue to provide the ODEQ with adequate authority for enforcing the SIP as required by Section 110 of the CAA and 40 CFR 51.230(b). OAR 340–011 Rules of General Applicability and Organization contain procedures in contested cases (appeals of the ODEQ actions). The EPA proposed to determine that these rule revisions improve the clarity and completeness of contested case appeals coming before the Environmental Quality Commission and provide the authority needed for implementing the SIP.

EPA provided a 30-day review and comment period on the January 7, 2013 (78 FR 918) NPR. No comments were received on the NPR and the EPA is now taking final action to approve the proposed revisions.

II. Final Action

The EPA is approving and incorporating by reference the re-numbering of OAR 340–264 to replace OAR 340–23 and the revisions to Oregon's open burning rules, OAR 340–264, submitted by the ODEQ on February 16, 2001.

The EPA is approving but not incorporating by reference the enforcement provisions in OAR 340–012 submitted by the ODEQ on July 14, 2005 and August 28, 2006, subject to the qualifications and in the manner discussed below. First, where ODEQ submitted a regulation in Division 12 as part of its July 14, 2005 submittal and that regulation was subsequently revised and submitted as part of ODEQ's August 28, 2006 submittal, EPA is approving the version of the regulation submitted as part of the August 28, 2006 submittal. The docket contains a chart showing the version of the regulations in Division 12 we are approving. Second, EPA's authority to approve SIPs extends to provisions related to attainment and maintenance of the NAAQS and carrying out other specific requirements of Section 110 of the CAA. Therefore, EPA is not approving the following regulations in Division 12 that do not relate to air emissions: OAR–340–012–0055, –0060, –0065, –0066, –0067, –0068, –0071, –0072, –0074, –0079, –0081, –0083, –0097. In addition, EPA is approving the remaining sections in Chapter 340, Division 12 only to the extent they relate to enforcement of requirements contained in the Oregon SIP. Finally, although the EPA is approving the rules in Division 12 in the manner discussed above, the EPA is not incorporating these rules by reference into the Code of Federal Regulations because the EPA relies on its independent enforcement procedures and penalty provisions in bringing enforcement actions and assessing penalties under the CAA.

Finally, the EPA is approving but not incorporating by reference revisions related to procedures in contested cases (that is, appeals from the ODEQ actions) found at OAR 340–011. These revisions were submitted by the ODEQ on May 20, 2008. It is not appropriate to incorporate these rules by reference into the Code of Federal Regulations because the EPA relies on its own administrative and enforcement procedures in enforcing the CAA.

The EPA is taking no action on the revisions to OAR 340–200–0040 in each of the ODEQ's SIP submittals (February 16, 2001, July 14, 2005, August 28, 2006, and May 20, 2008) because it is unnecessary to take action on this provision addressing State SIP adoption procedures and because the Federally-approved SIP consists only of regulations and other requirements that have been submitted by the ODEQ and approved by the EPA.

Finally, the EPA is taking no action on the expedited enforcement process set forth in OAR 340–150 –0250 Expedited Enforcement Process for underground storage tanks included in the ODEQ's July 14, 2005 submittal because this section applies to underground storage tank regulations and does not relate to attainment or maintenance of the NAAQS or other requirements of section 110 of the CAA.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 the 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 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 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 June 24, 2013. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 13, 2013.

Dennis J. McLerran,

Regional Administrator. Region 10.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 by adding paragraphs (c)(116)(i)(D) and (c)(156) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(116) * * *

(i) * * *

(D) Based on a SIP revision submitted by Oregon on February 16, 2001, Oregon Administrative Rules Chapter 340, Division 23 ''Rules for Open Burning,'' as effective March 10, 1993, is removed from the SIP.

* * * * *

(156) On February 16, 2001, May 13, 2005, March 29, 2006, and March 20, 2008, the Oregon Department of Environmental Quality submitted revisions to the Oregon Administrative Rules (OAR) Chapter 340 as revisions to the Oregon State Implementation Plan (SIP). The submissions relate to Oregon's open burning rules, enforcement procedures, civil penalties, and procedures in contested cases (appeals).

(i) Incorporation by reference.

(A) The following sections of the OAR Chapter 340, Division 264, effective December 15, 2000: Division 264, Rules For Open Burning: Rule 0010 How to Use These Open Burning Rules; Rule 0020 Policy; Rule 0030 Definitions; Rule 0040 Exemptions, Statewide; Rule 0050 General Requirements Statewide; Rule 0060 General Prohibitions Statewide; Rule 0070 Open Burning Conditions; Rule 0075 Delegation of Authority; Rule 0078 Open Burning Control Areas; Rule 0080 County Listing of Specific Open Burning Rules; Rule 0100 Open Burning Requirements, Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties; Rule 0110 Open Burning Requirements, Benton, Linn, Marion, Polk, and Yamhill Counties; Rule 0120, Open Burning Requirements, Clackmas County; Rule 0130, Open Burning Requirements, Multnomah County; Rule 0140 Open Burning Requirements, Washington County; Rule 0150 Open Burning Requirements, Columbia County; Rule 0160 Open Burning Requirements, Lane County; Rule 0170 Open Burning Requirements, Coos, Douglas, Jackson and Josephine Counties; Rule 0180 Open Burning Requirements, Letter Permits, Rule 0190 Open Burning Requirements, Forced-Air Pit Incinerators.

(B) [Reserved.]

(ii) Additional Material:

(A) The following revised sections of Oregon Administrative Rules Chapter 340 effective May 13, 2005: Division 12 Enforcement Procedures and Civil Penalties: Rule 0026 Policy, Rule 0028 Scope of Applicability, Rule 0030 Definitions, Rule 0038 Warning Letters, Pre-Enforcement Notices and Notices of Permit Violation, Rule 0041 Formal Enforcement Action, Rule 0042 Determination of Base Penalty, Rule 0045 Civil Penalty Determination Procedure, Rule 0145 Determination of Aggravating or Mitigating Factors, Rule 0150 Determination of Economic Benefit, Rule 0160 Department Discretion Regarding Penalty Assessment, Rule 0162 Inability to Pay the Penalty, Rule 0165 Stipulated Penalties, Rule 0170 Compromise or Settlement of Civil Penalty by Department.

(B) The following revised sections of Oregon Administrative Rules Chapter 340 effective March 29, 2006: Division 12 Enforcement Procedures and Civil Penalties: Rule 0027 Rule Effective Date, Rule 0053 Violations that Apply to all Programs, Rule 0054 Air Quality Classification of Violations, Rule 0073 Environmental Cleanup Classification of Violation, Rule 0082 Contingency Planning Classification of Violations, Rule 0130 Determination of Violation Magnitude, Rule 0135 Selected Magnitude Categories, Rule 0140 Determination of Base Penalty, Rule 0155 Additional or Alternate Civil Penalties.

(C) The following revised sections of Oregon Administrative Rules Chapter 340 effective March 20, 2008: Division 11, Rules of General Applicability and Organization, Rule 0005 Definitions, Rule 0009 Incorporation of Attorney General's Uniform and Model Rules, Rule 0510 Agency Representation by Environmental Law Specialist, Rule 0515 Authorized Representative of Respondent other than a Natural Person in a Contested Case Hearing, Rule 0573 Proposed Orders in Contested Cases, Rule 0575 Review of Proposed Orders in Contested Cases.

[FR Doc. 2013–09695 Filed 4–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0397; FRL–9383–1]

Bacillus mycoides Isolate J; Time-Limited Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited exemption from the requirement of a tolerance for residues of *Bacillus mycoides* isolate J in or on potato, when used in accordance with the terms of the section 18 emergency exemption. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on potato. The time-limited exemption from the requirement of a tolerance expires on December 31, 2015.

DATES: This regulation is effective April 25, 2013. Objections and requests for hearings must be received on or before June 24, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0397, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Debra Rate, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 306–0309; email address: *rate.debra@epa.gov.*

SUPPLEMENTARY INFORMATION: