abutment, overhead power cable tower, pier or tunnel ventilators south of the Troy, NY Locks. Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the waterfront facility and do not stop or loiter within the zone.

(6) *New York City Passenger Ship Terminal, Hudson River, NY.* (i) *Location.* All waters of the Hudson River bound by the following points: From the northeast corner of Pier 96 where it intersects the seawall, thence west to approximate position 40°46′23.1″ N, 073°59′59.0″ W, thence south to approximate position 40°45′55.3″ N, 074°00′20.2″ W (NAD 1983), thence east to the southeast corner of Pier 84 where it intersects the seawall, thence north along the shoreline to the point of origin.

(ii) *Enforcement period.* This zone will be enforced whenever passenger vessels are pierside at Pier 88, 90 or 92 or whenever the passenger ship terminal or the adjacent Intrepid Sea, Air and Space Museum, Manhattan is being used as an Emergency Operations Center. The activation and termination of a particular zone will be announced in accordance with 33 CFR 165.7.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) Vessels not actively engaged in legitimate transfer operations shall not stop or loiter within that part of a commercial waterfront facility safety and security zone extending into the navigable channel, described in paragraph (a)(3) of this section, without the express permission of the Coast Guard Captain of the Port or the designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 30, 2002.

N.E. Merkle,

Captain, Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 03–1285 Filed 1–21–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–01–003; FRL–7429–5]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves numerous revisions to the State of Oregon Implementation Plan submitted to EPA by the Director of the Oregon Department of Environmental Quality (ODEQ) on November 5, 1999, March 7, 2000, June 26, 2001, and November 4, 2002. The revisions were submitted in accordance with the requirements of section 110 and parts C and D of title I of the Clean Air Act (hereinafter CAA or Act).

DATES: This direct final rule will be effective March 24, 2003, unless EPA receives adverse comment by February 21, 2003. 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: Debra Suzuki, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request 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: David C. Bray, Senior Air Pollution Scientist, EPA, Office of Air Quality (OAQ–107), Seattle, Washington 98101, (206) 553–4253.

SUPPLEMENTARY INFORMATION: Please note that if EPA receives adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Information is organized as follows:

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I. Rule Recodification

A. Description of Submittal

On November 5, 1999, ODEQ submitted a complete rule renumbering to EPA for approval into the SIP. The rules are renumbered and re-labeled to more accurately describe their content, and non-applicable and duplicative rules are repealed to eliminate conflicts and purge outdated requirements. These rule changes are non-substantive. The following Divisions were submitted as part of the rule renumbering, with an effective date under State law of October 14, 1999: 200 (General Air Pollution Procedures and Definitions), 202 (Ambient Air Quality Standards and PSD Increments), 204 (Designation of Air Quality Areas), 206 (Air Pollution Emergencies), 208 (Visible Emissions and Nuisance Requirements), 210 (Stationary Source Notification Requirements), 212 (Stationary Source Testing and Monitoring), 214

(Stationary Source Reporting Requirements), 216 (Air Contaminant Discharge Permits), 218 (Oregon Title V Operating Permits), 222 (Stationary Source Plant Site Emission Limits), 224 (Major New Source Review), 225 (Air Quality Analysis Requirements), 226 (General Emission Standards), 228 (Requirements for Fuel Burning Equipment and Fuel Sulfur Content), 232 (Emission Standards for VOC Point Sources), 234 (Emission Standards for Wood Products Industries), 236 (Emission Standards for Specific Industries), 240 (Rules for Areas with Unique Air Quality Needs), 242 (Rules Applicable to the Portland Area), 250 (General Conformity), 252 (Transportation Conformity), 256 (Motor Vehicles), 258 (Motor Vehicle Fuel Specifications), 262 (Residential Woodheating), 264 (Rules for Open Burning), 266 (Field Burning Rules (Willamette Valley)), and 268 (Emission Reduction Credits). Cross-reference tables for the old and new division numbers are available in the docket for this action.

B. Summary of Action

We are approving the recodified version of Oregon's rules to replace the old divisions in the current SIP. ODEQ submitted revised versions of Divisions 200, 202, 204, 210, 212, 214, 216, 222, 224, 226, 240, and 268 on June 26, 2001. The approval of these sections is discussed in section III below. In addition, in the process of reviewing the recodification submittal against the current SIP, some past errors were discovered. We are correcting these errors in this action, and they are described below, along with the exceptions to our approval of the recodification submittal.

Division 208, Visible Emissions and Nuisance Requirements; Division 256, Motor Vehicles; and Division 264, Rules for Open Burning (New Division Numbers)

We are not acting on Division 208 (Visible Emissions and Nuisance Requirements), Division 256 (Motor Vehicles), and Division 264 (Rules for Open Burning) in this action. These divisions have been subsequently revised by ODEQ and were submitted to EPA for approval on March 13, 2001 (Division 208), September 21, 2000 (Division 256), December 1, 2000 (Division 256), and June 26, 2000 (Division 264). We will be acting on Divisions 208, 256, and 264 in a separate rulemaking.

Division 218, Oregon Title V Operating Permits

We are taking no action on Division 218, Oregon title V Operating Permits, because Federal Operating Permit (title V) programs and rules are reviewed and approved by EPA through the title V approval process, which is independent of the SIP approval process.

Division 21, General Emission Standards for Particulate Matter (Old Division Number)

On May 13, 1998 (63 FR 26460), EPA approved the removal of section 21–025, Refuse Burning Equipment Limitations, which had been repealed by ODEQ in 1996. In 1999, this section was mistakenly re-approved back into the SIP. We are removing section 21–025 from the SIP in this action. Sections 21–015, 21–050, 21–055, and 21–060, Visible Air Contaminant Limitations and Fugitive Emissions, will not be removed from the SIP. These sections were renumbered to Division 208, which, as discussed above, will be acted on in a separate rulemaking. Sections 21–200 through 21–245, Industrial Contingency Requirements for PM–10 Nonattainment Areas, will also remain in the SIP at this time. These sections were repealed by ODEQ in 1998 and ODEQ submitted a PM–10 revocation package requesting the removal of these sections from the SIP. These sections will be acted on in a separate rulemaking.

Division 22, General Gaseous Emissions (Old Division Number)

In 1997, EPA approved section 22–108, Applicability of Alternative Control Systems, into the SIP. This approval was done in error as ODEQ repealed this rule in 1983. Therefore, we are removing section 22–108 from the SIP in this action.

Division 31, Ambient Air Quality Standards (Old Division Number)

We are removing section 31–035, Hydrocarbons, from the SIP. ODEQ repealed this outdated section in 1998. In 1978, EPA revoked the hydrocarbons standard from 40 CFR 50 and changed the precursor for ozone from hydrocarbons to volatile organic compounds (VOC). Therefore, a hydrocarbons standard is no longer necessary.

Division 232, Emission Standards for VOC Point Sources

40 CFR 52.1985 describes the conditions of our past approvals of ODEQ's VOC regulations. We are removing 40 CFR 52.1985 because the version of Division 232 that we are approving in this action satisfies these conditions.

Division 234, Emission Standards for Wood Products Industries (New Division Number)

We are not acting on references to total reduced sulfur (TRS) in this division because control of TRS is not appropriate for inclusion in the SIP because it is not a criteria pollutant.

Division 236, Emission Standards for Specific Industries (New Division Number)

We are approving this division, with the exception of references to Fluorides because control of Fluorides is not appropriate for inclusion in the SIP because it is not a criteria pollutant.

Division 250, General Conformity (New Division Number)

On September 27, 1995, ODEQ submitted a complete package of General Conformity rules (Division 20) to EPA for approval into the SIP. On October 8, 1998, ODEQ submitted further revisions to their General Conformity rules. This 1998 submittal only contained the sections that were revised. The 1998 submittal was approved in a **Federal Register** document on March 22, 2000 (65 FR 15244). The sections that were not revised in 1998 (20–1500, 20–1540, 20–1550, and 20–1560), however, were never approved as part of the SIP. The entire package of General Conformity rules was submitted in the recodification package in 1999, where Division 20 was renumbered to Division 250. The previously unapproved sections comply with the Federal rules under 40 CFR part 51, subpart W, so therefore we are now approving all sections of ODEQ's General Conformity rules, under the new Division 250. However, we are taking no action on section 250–0110, Savings Provision, which describes how the Federal and State rules work together, because it is not needed in the SIP.

Division 252, Transportation Conformity (New Division Number)

On March 22, 2000 (65 FR 15244), EPA approved ODEQ's Transportation Conformity rules into the SIP. We are approving the new rule numbers for the Transportation Conformity rules with the same exceptions as the original approval in 2000. In the March 22, 2000, **Federal Register** document there was a typographical error regarding an exception in the Incorporation by Reference (IBR). The exception should refer to section 750(5)(b) rather than

750(4)(b). We are correcting this error in this action.

II. Emission Standards for VOC Point Sources—Marine Vapor Loading

A. Description of Submittal

EPA redesignated the Portland area as attainment for ozone and approved a maintenance plan for the area on May 19, 1997 (62 FR 27204). The plan relied on reductions from a cross-Cascades pipeline that would have provided a cost effective alternative to barging gasoline to fuel terminals east of the mountains. In July 1999, planning for the pipeline was halted following an explosion from a pipeline rupture in Bellingham. The maintenance plan states that if the pipeline is not constructed, ODEQ will propose alternate control measures. In fulfilment of that commitment, ODEQ submitted a revision to the SIP on March 13, 2000, which included a Marine Vapor Loading rule, OAR 340–232–0110, and changes to definitions in OAR 340–232–0030. These revisions were adopted by Oregon's Environmental Quality Commission (EQC) on February 11, 2000, and became effective as a matter of State law on June 1, 2001.

OAR 340–232–0110 requires all bulk gas terminals in the Portland ozone air quality maintenance area to use pollution control equipment when loading gasoline onto river barges. If the previous load in the barge was gasoline, then vapor control is required when loading any subsequent petroleum product. Ship-to-ship transfers, known as ''lightering,'' are now required to be conducted with vapor control if either vessel is berthed at a terminal dock. Mid-river lightering transfers do not require vapor control but are prohibited on ''Clean Air Action Days''. The ''Clean Air Action Days'' program is outlined and described within ODEQ's Air Quality Public Education and Incentive Program that was reviewed previously by EPA as part of Oregon's SIP. The revisions to OAR 340–232–0030 include adding definitions for gas freed, lightering, loading event, marine tank vessel, marine terminal, marine vessel, and vapor tight.

B. Summary of Action

ODEQ submitted information showing that the emission reductions that will be achieved by its newly adopted marine vapor loading provisions are equivalent to those that would have resulted from the cross-Cascades pipeline. Section 183(f) of the 1990 Clean Air Act Amendments authorizes States to adopt standards that regulate emissions from marine vessels. Accordingly, we are approving this submittal (OAR 340–232–0030 and OAR 340–232–0110).

III. Permitting Rules

A. Description of Submittals

On June 26, 2001, the Director of the ODEQ submitted 17 Divisions of the Oregon Administrative Rules as revisions to the Oregon SIP. The submittal includes amendments to the following Divisions, effective July 1, 2001: 12 (Enforcement Procedure and Civil Penalties), 200 (General Air Pollution Procedures and Definitions), 202 (Ambient Air Quality Standards and PSD Increments), 204 (Designation of Air Quality Areas), 210 (Stationary Source Notification Requirements), 212 (Stationary Source Testing and Monitoring), 214 (Stationary Source Reporting Requirements), 216 (Air Contaminant Discharge Permits), 222 (Stationary Source Plant Site Emission Limits), 224 (Major New Source Review), 226 (General Emission Standards), 240 (Rules for Areas with Unique Air Quality Needs), and 268 (Emission Reduction Credits); new Divisions 209 (Public Participation) and 225 (Air Quality Analysis Requirements); and the revocation of Division 14 (Procedures for Issuance, Denial, Modification, and Revocation of Permits). A comprehensive summary of the rule changes, including rule-by-rule descriptions, is included in the SIP submittal (Attachment 3.3).

On November 4, 2002, the Director of the ODEQ submitted the PM–10 maintenance plans for the Grants Pass and Klamath Falls nonattainment areas. This submittal included revisions to Divisions 204–0030 (Designation of Nonattainment Areas), 204–0040 (Designation of Maintenance Areas), 222–041 (Source Specific Annual PSEL), 224–0060 (Requirements for Sources in Maintenance Areas), 224–0070 (Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas), 225–0020 (Definitions), 225–0050 (Requirements for Analysis in PSD Class II and Class III Areas), 225–0060 (Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas), and 225–0090 (Requirements for Demonstrating a Net Air Quality Benefit) and a new section 225–0045 (Requirements for Analysis in Maintenance Areas), effective October 8, 2002. These Divisions were revised as part of the maintenance plan efforts, and sections 225–0020(10) and 225–0090 (1)(c) were further revised as part of a temporary rulemaking to change the applicability date for the new ozone precursor significant impact distance from January 1, 2003, to January 1, 2004. This temporary rulemaking is effective from October 8, 2002, through April 6, 2003. EPA will be acting on the maintenance plans and redesignation requests (including sections 204–0030 and 204–0040) in a separate rulemaking.

B. Background

The current ODEQ new source review (NSR) program and Federally-enforceable state operating permit (FESOP) program were developed in 1981 and approved by EPA on August 13, 1982 (47 FR 35191). Although there have been a number of minor revisions to Oregon's permitting rules over the years, there had been no comprehensive review or revision of the rules. Over the years, ODEQ, EPA, industry, and others identified a number of concerns with the rules that were usually addressed through ODEQ internal implementation guidance rather than through rulemaking. However in 1998, ODEQ decided to undertake a comprehensive review of its existing permitting rules.

A workgroup of representatives from ODEQ and the Lane Regional Air Pollution Authority, with input from EPA, identified permitting rule problems and recommended solutions, building on recommendations of the Oregon Industrial Source Advisory Committee in 1994–1995 and an air quality process improvement team in 1998. An extensive list of rule changes was suggested by the workgroup and then reviewed and critiqued by ODEQ permit writers, inspectors, and management to develop final recommendations.ODEQ's final recommendations were discussed in detail with industrial source and environmental representatives during a variety of workgroup and roundtable meetings. In addition, the recommendations were presented and discussed with permitted sources, source representatives, and the public at several locations in Oregon prior to publication of the proposed rules for public comment.

The rulemaking package finally adopted by ODEQ and submitted to EPA as a SIP revision includes numerous changes to several different permitting programs—minor NSR, PSD, part D (nonattainment area) NSR, visibility permitting, state operating permits, emissions trading, and other permit-related rules. The changes were intended to clarify and update Oregon's existing permitting rules and to provide additional tools to streamline the permitting and planning process, while obtaining the same air quality benefits

as the existing rules. The changes include:

(1) Simpler permitting procedures;
(2) Greater use of general permits;
(3) Less need for permit revisions;
(4) Simpler emission trading options;
(5) Improved construction approval procedures;
(6) Better targeted public involvement;
(7) Simpler fees and billing; and
(8) Clearer applications and other requirements.

EPA has reviewed the amendments to the ODEQ rules and has determined that they meet EPA's requirements under sections 110, part C and part D of title 1 of the Clean Air Act. EPA is therefore approving them as revisions to the Oregon SIP.

C. Key Changes to Oregon's SIP

The docket includes a technical support document which describes in more detail the substantive changes to the Oregon rules that have been submitted by Oregon as revisions to the SIP, EPA's evaluation of the changes, and the basis for EPA's action. A summary of the key changes to Oregon's rules and EPA's proposed action follows:

1. Division 200 General Air Pollution Procedures and Definitions

This Division contains ODEQ's general air quality definitions (section 0020), a list of abbreviations and acronyms (section 0025), general exceptions (section 0030), provisions for adopting and submitting the Oregon SIP (section 0040), provisions for compliance schedules (section 0050), and rules for conflicts of interest and makeup of boards (sections 0100 to 0120).

EPA is taking no action on section 0040 State of Oregon Clean Air Act Implementation Plan because this section describes the State's procedures for adopting its SIP and incorporates by reference all of the revisions adopted by the EQC for approval into the Oregon SIP (as a matter of state law). This is not what is actually approved by EPA as the Federally-enforceable SIP for Oregon, so we are therefore taking no action on it. Previously, section 0040 had been approved by EPA into the SIP in error, and we are correcting that error in this action. EPA is taking no action on section 0050 Compliance Schedules because any compliance schedule established by Oregon under this provision must be submitted to, and approved by, EPA before it will be Federally enforceable or change the requirements of the EPA-approved SIP (*see* 40 CFR 51.260 and 40 CFR 51.102(a)(2) and (c)). We reviewed sections 200–0100, 200–0110, and 200-0120 which cover conflicts of interest and found them to meet the requirements of section 128 of the CAA. These provisions will not be incorporated by reference, however.

A few new or revised definitions merit discussion:

Adjacent—This definition was added to clarify that facilities that are located near each other and which are interdependent will be considered to be adjacent for purposes of the definition of the term ''source.''

Federal major source—This new definition defines the size of major stationary sources (as that term is defined in the ODEQ rules) that will be subject to certain provisions of the ODEQ permit rules. The size thresholds used to define this term are the same as those in EPA's PSD rules (40 CFR 51.166(a)(1), specifically, the 100 ton per year and 250 ton per year thresholds.

Generic PSEL—This new definition establishes the annual (12-month rolling average) emission limits that will be included in general ACDP's and other permits for pollutants that are emitted in less than significant emission rates. Generic PSEL's will limit the potential to emit of any pollutant to less than the Oregon major source thresholds.

Major modification—This definition was revised to better implement the ODEQ accumulation approach to determining when a major modification will occur. It also clarifies when increases in emissions that do not result from physical or operational changes are not considered to be modifications and are regulated under the PSEL rule.

Modification—This new definition was added to define the term modification for the minor source construction permitting program. The definition is essentially the same as EPA's definition of the term ''modification'' in 40 CFR part 60 (*i.e.*, the NSPS definition).

Netting basis—This new definition was added to better implement the ODEQ definition of ''major modification.'' It defines both the baseline emissions from which increases are measured to determine if changes are subject to review, as well as the process for re-establishing the baseline after changes have been through the major source permitting process.

Significant emission rate—This definition was revised to delete the hazardous air pollutants from table 2; to clarify that for pollutants not listed in table 2, the significant emission rate is zero unless ODEQ has established a rate for that pollutant; and to revise table 3 so that the lower significant emission rates apply only to the Medford-Ashland AirQuality Maintenance Area and not to the Klamath Falls Urban Growth Area and the Lakeview PM–10 Nonattainment Area.

Unassigned emissions—This new definition defines how the quantity of unassigned emissions is to be determined for purposes of the Plant Site Emission Limit rule.

2. Division 204 Designation of Air Quality Areas

This Division identifies the carbon monoxide, particulate matter (PM–10) and ozone nonattainment areas in the State of Oregon. The Division was amended to reinstate the nonattainment designation for the Salem Nonattainment Area for Ozone as a result of the reinstatement of EPA's one-hour ozone standard.

3. Division 209 Public Participation

This is a new Division that contains all of the public participation procedures and requirements for issuing permits that used to be contained in Divisions 14, 216, 218, and 224. It establishes public participation procedures for four categories of permit actions. The permitting program rules assign permit actions to the appropriate public participation procedures established in this Division. The four categories of permit actions and associated procedures are:

Category I—changes that are not environmentally significant and do not involve choices made by ODEQ (*e.g.*, facility name change). These actions require no prior public notice, but a list of permit actions will periodically be made available for public review after the changes have been made.

Category II—changes that have the potential for low to medium environmental and public health significance (*e.g.*, renewing a simple permit). These actions will require a 30-day public notice period, but not a public hearing.

Category III—changes that have the potential for medium to high environmental and public health significance (*e.g.*, increasing the plant site emission limit). These actions will require a 35-day public notice period and a hearing if requested. A hearing can also be pre-scheduled by ODEQ.

Category IV—changes that have the potential for high environmental and public health significance (*e.g.*, siting a new major facility). These actions will require a public notice when the application is submitted and an informational meeting prior to drafting

a proposed permit. Once the proposed permit is drafted, a 40-day public notice period and a public hearing will be required.

If a permitting action is not specifically assigned to a category, then it will be processed under Category III.

EPA has reviewed these public participation procedures, and the assignment of permit actions in each of the separate permitting rules, and finds them to be consistent with the EPA requirements for public participation set forth in 40 CFR 51.161 for minor source permits to construct and nonattainment area (part D) NSR, 40 CFR 51.166(q) for PSD permits, the June 28, 1989, **Federal Register** (54 FR 27274) for Federally-enforceable State operating permits, and the December 4, 1986, Federal Register (51 FR 43814) for generic bubble rules.

4. Division 210 Stationary Source Notification Requirements

This Division contains a registration program for sources not subject to one of the Oregon operating permit programs (air contaminant discharge permit or title V operating permit programs) and also contains ODEQ's ''minor source'' preconstruction permitting program, titled ''Notice of Construction and Approval of Plans.'' The existing notice of construction and approval of plans provisions have been repealed and replaced with provisions intended to improve the effectiveness of the program. The new provisions also include the ''Notice of Approval'' provisions originally located within Oregon's title V operating permit rules.

The notice of construction requirements apply to all stationary sources and air pollution control equipment except those that are specifically exempted in the rules. These exemptions include:

(1) Equipment used in agricultural operations and the growing or harvesting of crops or the raising of fowls and animals;

(2) Agricultural land clearing operations or land grading;

(3) Residential heating for dwellings for four families or less;

(4) Other residential activities at dwellings for four families or less; and

(5) Categorically insignificant activities.

The rules require that no person can construct a new stationary source, modify an existing stationary source, or construct or modify air pollution control equipment without first notifying the ODEQ. It is important to note that the definitions of ''stationary source'' and ''modification'' that apply in this program are essentially the same as EPA's definitions of these terms in 40 CFR part 60 (New Source Performance Standards).

The rules classify construction and modification into four types—Type 1 which are changes that are truly *de minimis*; Type 2 which are changes that are more than *de minimis*, but less than significant; Type 3 which are changes that are significant, but not new major sources or major modifications; and Type 4 which are changes that are significant and may be new major sources or major modifications.

The rules require Type 1 and 2 changes to provide a notice to ODEQ before constructing or modifying a stationary source or air pollution control equipment. Type 3 or 4 changes must submit an application for either a construction ACDP, new ACDP, or modified ACDP as appropriate. It is important to note that the rules include a provision that waives the notice and application requirements for changes that are pre-approved (*i.e.*, changes that have already been approved in accordance with the provisions of this Division and/or Division 224 New Source Review) in an ACDP or title V operating permit.

Type 1 changes may begin construction or modification 10 days after the ODEQ receives the notice unless the ODEQ notifies the owner or operator that the change is not a Type 1 change. Type 2 changes may begin construction or modification 60 days after the ODEQ receives the notice or the date that ODEQ approves the change in writing, whichever is sooner. Type 3 changes must obtain either a construction ACDP or a new or modified standard ACDP before proceeding with construction or modification. Type 4 changes must obtain a new or modified standard ACDP before proceeding with construction or modification. Type 4 changes may also be subject to the major source ''New Source Review'' rules (OAR 340 Division 224).

The rules include a requirement for the owner or operator to notify ODEQ that construction or modification has been completed within 30 days and on a form furnished by ODEQ. This requirement can be changed, however, in the construction permit or approval to allow for a different time period or reporting format. ODEQ can also issue an order prohibiting the construction or modification if it finds that it is not in accordance with applicable requirements.

Finally, the rules state that the approval to construct does not provide approval to operate unless otherwise allowed by either the ACDP or title V operating permit rules. Depending upon the type of change and the permit status of the source, a new or modified ACDP or a modified title V permit may be needed before the change can be operated. Changes at title V operating permit sources are governed by Oregon's title V operating permit program rules (OAR 340–218–0190(2)).

Although this new rule is structured quite differently from Oregon's previous program, with one exception, it requires approval prior to construction or modification for the same universe of stationary sources as does the current SIP-approved program. The new rule now exempts categorically insignificant activities from the minor source construction program. Oregon's list of categorically insignificant activities was adopted initially as part of its title V operating permits program and was approved by EPA as meeting the requirements of 40 CFR part 70. Oregon's list of categorically insignificant activities is limited to activities that have only trivial emissions or activities that are not appropriate for regulating under a construction permit program (*e.g.*, accidental fires, motor vehicles). EPA has determined that the Oregon rules for ''Notice of Construction and Approval of Plans'' comply with EPA's requirements for minor new source review programs at 40 CFR 51.160 through 51.164.

5. Division 212, Stationary Source Testing and Monitoring

This Division contains ODEQ's provisions for emission testing and monitoring, including Oregon's rules for ''Compliance Assurance Monitoring.'' The division also contains ODEQ's provisions regulating the use of stack heights and dispersion techniques to comply with ambient standards. The Division was amended by relocating section 0160 Records; Maintaining and Reporting to Division 214. Numerous editorial changes and corrections to citations were made throughout. Oregon has adopted it's own rules for implementing EPA's Compliance Assurance Monitoring regulations and has submitted them for inclusion in the SIP. Because EPA's regulations are nationally applicable, both Oregon's rules (OAR 340–212–0200 through 0280) and EPA's rules (40 CFR part 64) apply to title V sources in Oregon. As such, EPA is approving the Oregon Compliance Assurance Monitoring rules as SIP strengthening provisions.

EPA is approving ODEQ's rules for emission testing. As provided in 40 CFR 51.212(c) and consistent with EPA guidance for alternative test methods for New Source Performance Standards and

National Emission Standards for Hazardous Air Pollutants, however, major changes to test methods for SIP-approved emission limits must be approved by EPA. *See also* ''How To Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants,'' February 1999.

6. Division 214, Stationary Source Reporting Requirements

This Division contains ODEQ's provisions for reporting and recordkeeping, information requests (CAA section 114 authority), credible evidence, business confidentiality, emission statements, and excess emissions. Numerous editorial changes were made throughout. The provisions for Records; Maintaining and Reporting were amended and relocated to section 0114 from Division 212.

On October 17, 2002, Oregon withdrew the provisions for excess emissions (OAR 340–214–0300 through 0360) because ODEQ was beginning the process of revising those rules. As a result, the current excess emissions provisions in OAR 340 Division 28 will remain the SIP-approved version of these provisions.

7. Division 216, Air Contaminant Discharge Permits

This Division is the ODEQ Federally-enforceable State operating permit (FESOP) program, and is also the administrative permit mechanism used to implement the notice of construction and major new source review programs. This Division has been revised to clarify the different types of ACDP's, the requirements for applying for ACDP's and the processes for issuing and modifying ACDP's. The rule has also been revised to clarify when the ODEQ or the Lane Regional Air Pollution Authority has permitting responsibility for portable sources.

The rules now establish 6 types of ACDP's:

(1) Construction ACDP, which is used for approving Type 3 changes;

(2) General ACDP, which is for categories of sources for which individual permits are unnecessary to protect the environment;

(3) Short Term Activity ACDP, which is a letter permit for unexpected or emergency activities, operations or emissions;

(4) Basic ACDP, which is a letter permit for sources and activities listed in Table 1 part A;

(5) Simple ACDP, which is a permit that contains all relevant applicable requirements, generic PSEL's, and appropriate testing, monitoring, recordkeeping, and reporting requirements.

(6) Standard ACDP, which is a permit that contains all applicable requirements, source-specific PSEL's or generic PSEL's as appropriate, and appropriate testing, monitoring, recordkeeping, and reporting requirements. Sources listed in table 1 part C must obtain a Standard ACDP.

Basic ACDP's are available only for sources whose emissions are less than *de minimis*. Sources and activities listed in table 1 part B which do not qualify for a General or Simple ACDP must obtain a Standard ACDP. Any source not required to obtain a Standard ACDP may choose to obtain a Standard ACDP. The primary difference between a Simple ACDP and a Standard ACDP is that Simple ACDP's can only include generic PSEL's (the significant emission rate less one ton per year), not source-specific PSEL's, and have a netting basis of zero (see discussion in section III.C.9 below).

The rules have been revised to clarify the general application requirements for new permits, permit renewals, and permit modifications, along with the process for determining the completeness of applications and for obtaining additional information during permit application review. The rules also include specific provisions for the application, content, and issuance of each type of ACDP, including the public comment process that will be followed for permit issuance and permit modifications. The provisions for General ACDP's include both the process for ODEQ issuance of a General ACDP as well as the procedures for sources to be assigned to the General ACDP.

The rules were also revised to clarify the requirements for permitting multiple sources at a single adjacent or contiguous site, delete obsolete provisions for sources to obtain limits on potential to emit prior to the date for initial title V permit applications, add provisions for terminating or revoking an ACDP, add provisions for ODEQ initiated permit modifications, simplify fee requirements, clarify how fees may be reduced for sources that are temporarily suspending activities, and deleting obsolete provisions regarding ACDP's issued by the Lane Regional Air Pollution Authority.

Finally, table 1, which previously contained the list of source types required to have ACDP's along with the associated fees, has been revised and restructured into two tables—table 1 which lists the source types required to have ACDP's and table 2 which establishes initial permitting application fees, annual fees, specific activity fees, and late fees. While the fee structure has been substantially revised, the ODEQ has striven to make sure the revisions are revenue neutral.

Although the Oregon ACDP program has been significantly revised to clarify applicability, establish several different types of permits, and to streamline the permitting process, it continues to comply with EPA's requirements for FESOP programs as set forth in the June 28, 1989, **Federal Register** (54 FR 27274).

8. Division 222, Stationary Source Plant Site Emission Limits

This Division contains the ODEQ program for managing airshed capacity by regulating increases and decreases in air emissions of permitted sources through a Plant Site Emission Limit (PSEL). PSEL's are used to protect ambient air quality standards, prevent significant deterioration of air quality, and to ensure protection of visibility. It is important to note that PSEL's are not plantwide applicability limits (PAL's) for purposes of major new source review (*see* discussion in section III.C.9. below).

The Division has been extensively revised to clarify that PSEL's are not required for pollutants that are emitted at less than *de minimis* levels, for Short Term Activity and Basic ACDP's, or for hazardous air pollutants, establish the concept of a generic PSEL and the criteria for establishing such, clarify the process for establishing and revising PSEL's, change the requirements for short-term PSEL's, add provisions for addressing ''unassigned'' emissions (the difference between a source's netting basis and it's current potential to emit (PTE) when the netting basis exceeds the current PTE), and add provisions for addressing how PSEL's are treated when sources combine or split.

Generic PSEL's are used for sources with a capacity less than the Significant Emission Rate (SER) unless the source has a netting basis and requests a source specific PSEL. Generic PSEL's may be used for any category of ACDP or title V permit. Generic PSEL's are set by rule at 1 ton less than the SER (except for lead, municipal waste combustor organics, and PM–10 in Medford which are set slightly below the SER). Importantly, a source with a generic PSEL for a pollutant will have a netting basis of zero and will not have any emissions that can be used for netting (*see* discussion of netting basis in section III.C.9 below). Accumulated emission increases from physical or

operational changes that exceed the SER will be subject to NSR.

Short-term PSEL's were previously required to be included in all permits for pollutants with short-term ambient air quality standards. The rules have been revised to require short-term PSEL's only for pollutants for which a short-term SER has been established (ODEQ establishes short-term SER's on an area specific basis as needed to ensure attainment and maintenance of a short-term NAAQS). The rules also have been revised to include procedures and criteria to be used when revising a short-term PSEL (previously, the rules only included criteria applicable to the annual PSEL's). Although this change will allow most ACDP's and title V operating permits to be issued in the future without including short-term PSEL's, ACDP's and title V operating permits will still need to include short-term PSEL's for areas where ODEQ has previously relied upon them to demonstrate attainment and maintenance of the NAAQS.

The general requirements for all PSEL's have been revised to clarify that annual PSEL's will be established on a rolling 12-month basis and to require sources to maintain either a Standard ACDP or a title V operating permit in order to have a netting basis (and a source-specific PSEL). It is ODEQ's intention that the PSEL function as a limit on a source's PTE.

EPA has reviewed the provisions of the PSEL rule and finds that it establishes limits on a source's PTE that are Federally enforceable and enforceable as a practical matter (with adequate requirements for monitoring, recordkeeping, and reporting in section 0080) in accordance with EPA's guidance for limiting PTE. Therefore, EPA is approving this rule such that PSEL's in ACDP's and title V operating permits that comply with the requirements of this rule will be considered to be limits on a source's PTE.

New provisions for addressing unassigned emissions have been added. The purpose of this section is to track and manage the difference between the netting basis and what a source could emit based on its current physical and operational design. This section essentially limits unassigned emissions to no more than the SER, and establishes the process for reducing unassigned emissions and the netting basis when permits are renewed, modified, or reopened. Unassigned emissions may only be used for netting purposes, and cannot be sold or banked. Emissions that are removed from the netting basis cannot be used in future netting actions. The provision for temporary PSD increment allocation has been repealed. The effect of this repeal is that all requested increases in PSEL's will be evaluated for compliance with applicable PSD increments using the same criteria.

The provisions for voluntary PSEL's for hazardous air pollutants (OAR 340–222–0060) has been revised to reflect the change to a rolling 12-month average and to accommodate generic PSEL's. Because this provision does not directly relate to the SIP, EPA is taking no action on this portion of the PSEL rule. The effect of this is that HAP PSEL's established in ACDP's will not be Federally-enforceable limits on a source's PTE. However, for purposes of the Federal hazardous air pollutant program under section 112 of the CAA and for purposes of title V of the CAA, limits on PTE need not be Federally enforceable at this time.

It is important to note that the rule explains how insignificant activities are addressed in plant-site emission limits. Categorically insignificant activities are generally not considered when establishing PSEL's and demonstrating compliance with PSEL's. However, emissions from aggregate insignificant activities are considered. Importantly, the rules state that all emissions from insignificant activities must be included when determining whether a source or modification is major for purposes of NSR or PSD. This means that a source which requests a PSEL below the major source thresholds to avoid NSR or PSD must include emissions from all insignificant activities in the PSEL.

The rule includes a new section with specific requirements for ensuring compliance with PSEL's. It requires sources to monitor emissions or other parameters on a frequency and with averaging periods sufficient to demonstrate compliance with the annual PSEL on a monthly basis and with short-term PSEL's. Sources are required to maintain adequate records and to submit annual reports as required in ACDP's or title V operating permits. Specific requirements for monitoring, recordkeeping, and reporting will be included in all permits with PSEL's.

Finally, the rule includes a new section which specifies how PSEL's and netting bases will be treated when two or more sources combine into one (*e.g.*, when one source buys a neighboring plant), or when one source splits into two or more sources (*e.g.*, when one source sells a portion of its plant to another company).

Overall, the revisions to ODEQ's rules for Plant Site Emission Limits have clarified and strengthened the rules. Although the new provisions for generic PSEL's may allow insignificant increases at some existing non-major sources, the Oregon PSEL's still establish a more rigorous mechanism for regulating non-construction emissions increases at existing sources than do most other State programs. Furthermore, the new provisions for unassigned emissions will reduce PSEL's for major sources now and into the future. EPA is therefore approving the revisions to the PSEL rules.

9. Division 224, Major New Source Review

This Division contains the ODEQ major source permit to construct programs as required by title I, parts C and D of the CAA. It requires an ACDP prior to beginning construction on a new major source or major modification. This Division applies to new major sources and major modifications and requires that no owner or operator begin actual construction without first having received an ACDP and having satisfied the requirements of this Division.

Revisions to this Division must be evaluated in the context of the currently-approved ODEQ NSR rule. ODEQ's NSR rule differs from EPA's regulations in a number of fundamental ways. EPA evaluated and initially approved the ODEQ NSR program on August 13, 1982 (47 FR 35191), as being equivalent or more stringent than EPA's regulations on a program basis. The ODEQ NSR program, which is closely linked to the ODEQ PSEL program, does not subject the same sources and modifications to major NSR as would EPA's rules. The ODEQ program has lower major source thresholds, so smaller new sources and changes to smaller existing sources are subject to review. However, the ODEQ program utilizes a plant-wide cap approach to defining major modification rather than a contemporaneous net emissions increase approach as does EPA's rules. The effect of this plant-wide cap approach is that some changes which would be subject to review under EPA's rules are not subject under ODEQ's rules. However, some changes which would not be subject to review under EPA's rules are subject under ODEQ's rules. In addition, changes which would result in increased emissions, but would not be considered modifications under EPA's rules, are reviewed for compliance with standards and increments under ODEQ's PSEL program. Overall, EPA when it initially approved Oregon's program in 1982 determined that the Oregon program would review and control emissions from new and modified sources equal to

or better than EPA's program regardless of the fact that some specific changes might not be subject to NSR in Oregon that would be under EPA's program.

EPA has evaluated the changes to the ODEQ program and determined they would improve the implementation and enforcement of the current ODEQ approach and that they would not result in any relaxation that could impair the ability of the program to protect NAAQS, PSD increments, and visibility in Class I areas. EPA is therefore approving the changes. Note that, with respect to Oregon's rules relating to new source review, EPA is taking no position on whether Oregon will need to make changes to its new source review rules to meet requirements that EPA promulgates as part of new source review reform.

a. Nonattainment Area (Part D) NSR

Under ODEQ's rules, all new major sources or major modifications in nonattainment areas must comply with the Lowest Achievable Emission Rate (LAER). Because the ODEQ definition of major modification accumulates emission increases and decreases since the baseline date or last NSR permit, emission units that were constructed or modified in the past as minor changes are subject to major NSR when the accumulated increases exceed the SER. As such, the ODEQ rule includes special provisions for applying LAER retroactively to these new or modified emission units, including the consideration of whether the retrofit controls are technically feasible. Because EPA's regulations would not require LAER to be required retroactively for minor changes that were not part of the current permitting action, the additional ODEQ criteria for applying LAER to these changes does not conflict with the CAA or EPA's requirements.

Under ODEQ's rules, all new major sources and major modifications in nonattainment areas must also provide emissions offsets and demonstrate that a net air quality benefit will be achieved. Under ODEQ's rules, however, only Federal major sources in nonattainment areas must evaluate alternative sites, sizes, production process and environmental control techniques and demonstrate that the benefits of the proposed source or modification will significantly outweigh the environmental and social costs (*see* section 173(a)(5) of the Act). Similarly, only Federal major sources must demonstrate that all major sources owned or operated with Oregon are in compliance or on a compliance schedule (*see* section 173(a)(3) of the Act). Finally, only Federal major sources must comply with the requirements for visibility protection (see 40 CFR 51.307(b)(2) and (c)).

The rule also includes a special exemption for the Salem ozone nonattainment area which exempts new major sources and major modifications from the offset requirement. The Salem ozone nonattainment area is considered to be a rural ozone nonattainment area under EPA's policy in effect in 1978 when the area was designated nonattainment.

Finally, the revisions to the definition of significant emission rate changed the size threshold for major sources in the Klamath Falls Urban Growth Area and the Lakeview PM–10 Nonattainment Area. EPA is approving these revisions because they only affect future permitting and the revised major source size thresholds are still lower than the Federal major source size thresholds.

b. Maintenance Area NSR

The ODEQ rules also include provisions for new major sources and major modifications in maintenance areas (areas that were designated nonattainment for particulate matter, carbon monoxide, or ozone, but have been redesignated to attainment). This provision essentially merges several of the concepts of PSD and nonattainment area NSR for use in maintenance areas. All new major sources and major modifications must apply the Best Available Control Technology (BACT) for the maintenance pollutant. The scheme for the application of BACT is similar to the scheme for the application of LAER in nonattainment areas with respect to retroactive application of BACT to emission units that have already been constructed or modified.

All new major sources and major modifications must either obtain emission offsets and provide for a net air quality benefit, or must obtain an allocation of the growth allowance (for carbon monoxide or ozone areas only) established in the approved maintenance plan (if one was established). However, a carbon monoxide major source which demonstrates that it would have an insignificant impact at all locations is exempt from the requirement to obtain offsets or a growth allowance allocation. Similarly, a PM–10 major source is exempt from the requirement to obtain offsets if it demonstrates that it would not cause or contribute to a cumulative air quality impact greater than certain ambient ceilings specified in the rules. Importantly, the rules require all Federal major sources to comply with the PSD requirements in addition to the maintenance area provisions.

The maintenance area provisions also include a contingency plan component. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, the requirements of the maintenance area NSR program become more stringent until a revised maintenance plan is approved by EPA. Instead of BACT, new major sources and major modifications are required to apply LAER; growth allowances may no longer be used to meet the offset requirement; and the exemption for carbon monoxide sources would no longer apply. Finally, the rule clarifies that the nonattainment area provisions continue to apply in areas with pending redesignation requests until the area is formally redesignated to attainment by EPA.

c. Attainment Area PSD/NSR

The ODEQ rules include provisions for new major sources and major modifications in attainment and unclassifiable areas. However, these provisions are applicable only to ''Federal major sources'' as that term is defined in the ODEQ rules. The definition of ''Federal major sources'' is essentially the same as the EPA definition of major stationary source in 40 CFR 51.166(a)(1) (the PSD definition) with one significant difference. Because the ODEQ rules specifically require that fugitive emissions be counted in determining major source status for all sources, the ODEQ PSD rules will potentially require more sources to be subject to PSD than required by EPA's rules.

Note that the provisions applicable to new major sources and major modifications that are not Federal major sources are found in the provisions for standard ACDP's and PSEL's. All new major stationary sources and major modifications need to obtain an ACDP and comply with the applicable requirements of those Divisions. For ODEQ major sources located in attainment or unclassifiable areas, the ACDP and PSEL rules require that the owner or operator demonstrate that the new source or modification would not cause or contribute to a violation of the ambient standards and applicable PSD increments.

New major sources and major modifications must apply BACT for each pollutant emitted in significant amounts. The scheme for the application of BACT is similar to the scheme for the application of LAER in nonattainment areas with respect to retroactive application of BACT to

emission units that have already been constructed or modified. New major sources and major modifications must also provide an analysis of air quality impacts, including ambient air quality monitoring, in accordance with the requirements of Division 225 (*see* section III.C.10 below). New major sources and major modifications that significantly impact a PM–10 maintenance area must also meet the requirements of OAR 340–224–0060(2) Air Quality Protection. Finally, the rules include provisions for temporary and portable major sources, and for temporary construction related emissions. The rules also clarify how fugitive emissions and secondary emissions are counted for applicability purposes and for inclusion in ambient impact analyses.

The current SIP-approved rules exempt new major sources and major modifications that are not Federal major sources from the requirements of BACT, pre-application and post-construction air quality monitoring, and the additional impacts analysis. This exemption was only available if the source demonstrated that it did not cause or contribute to any violation of a NAAQS or PSD increment. The current SIP-approved rules did not exempt any new major source or major modification from the Class I area provisions of the rules. The revised rules exempt new major sources and major modifications that are not Federal major sources from all of the PSD requirements, including the Class I area provisions. Furthermore, the revised rules do not include the eligibility criteria regarding violations of the NAAQS and PSD increments. Although these changes will have the effect of relaxing the ODEQ major source NSR rule, EPA believes that they are approvable. First, a State is not required to apply PSD requirements to sources which are not Federal major sources. Second, ODEQ's permit to construct program for non-Federal major sources still complies with EPA's requirements in 40 CFR 51.160 through 51.164 and ensures that new and modified major sources will not cause or contribute to violations of any NAAQS.

d. State-Federal Relationship in New Source Review

In approving the Oregon new source review rules, EPA recognizes that it has a responsibility to insure that all States properly implement their preconstruction permitting programs. EPA's approval of the Oregon new source review rules does not divest EPA of the duty to continue appropriate oversight to insure that permits issued by Oregon are consistent with the requirements of the Act, EPA regulations, and the SIP. EPA's authority to oversee permit program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not ''conform to the requirements of'' the PSD program. Similarly, section 113(a)(5) of the CAA provides for administrative orders and civil actions whenever EPA finds that a State ''is not acting in compliance with'' any requirement or prohibition of the CAA regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

Enactment of title V of the CAA and the EPA objection opportunity provided therein has added new tools for addressing deficient new source review decisions by States. Section 505(b) requires EPA to object to the issuance of a permit issued pursuant to title V whenever the Administrator finds during the applicable review period, either on her own initiative or in response to a citizen petition, that the permit is ''not in compliance with the requirements of an applicable requirement of this Act, including the requirements of an applicable implementation plan.''

Regardless of whether EPA addresses deficient permits using objection authorities or enforcement authorities or both, EPA cannot intervene unless the State decision fails to comply with applicable requirements. In determining whether a title V permit incorporating PSD or part D NSR provisions calls for EPA objection under section 505(b) or use of enforcement authorities under sections 113 and 167, EPA will consider whether the applicable substantive and procedural requirements for public review and development of supporting documentation were followed. In particular, EPA will review the process followed by the permitting authority in determining BACT or LAER, assessing air quality impacts, meeting Class I area requirements, and other PSD or Part D requirements, to ensure that the required SIP procedures (including public participation and Federal Land Manager consultation opportunities) were met. EPA will also review whether any determination by the permitting authority was made on reasonable grounds properly supported on the record, described in enforceable terms, and consistent with all applicable requirements. Finally, EPA will review whether the terms of the PSD or Part D NSR permit were properly incorporated into the title V operating permit.

10. Division 225, Air Quality Analysis Requirements

This new Division contains all of the modeling, monitoring, impact analysis, and net air quality benefit requirements that are necessary to ensure ambient air quality requirements are met in the permitting process. These requirements were previously located in Division 224. The Division also includes new provisions which specify the technical information and processes to be used in air quality impact analyses.

The Division includes sections that: (1) Specify the information required to be submitted in permit applications; (2) require compliance with EPA's Guidelines on Air Quality Models (40 CFR part 51, appendix W); (3) establish requirements for demonstrating compliance with the ambient air quality ceilings, standards and increments in maintenance areas; (4) establish the requirements for demonstrating compliance with standards and increments in Class II and Class III areas, including the requirements for pre-application and post-construction monitoring; (5) establish requirements for demonstrating compliance with standards and increments in Class I areas; (6) establish requirements for demonstration compliance with air quality related values (including visibility) protection; and (7) establish the requirements for demonstrating that offsets provide for a net air quality benefit.

The provisions for air quality impact analyses for Class I, Class II, and Class III areas comply with EPA's requirements for SIP PSD programs (40 CFR 51.166) for air quality impact analyses and with EPA's requirements for visibility protection (40 CFR 51.307). The provisions for Class I areas and the provisions for protection of air quality related values (including visibility) also conform to the Federal Land Manager recommendations in the FLAG Report. Importantly, the provisions for Class I areas include PSD Class I Significant Impact levels that are the same as those EPA has proposed for 40 CFR 51.166 and 52.21 (61 FR 38250, July 23, 1996). EPA is therefore approving these provisions, including the Class I area significant impact levels, as a revision to the Oregon permitting program.

The provisions for demonstrating net air quality benefit comply with the CAA and EPA's requirements for emission

offsets (section 173 of the Act, 40 CFR 51.165(a) and 40 CFR part 51, appendix S (Emission Offset Interpretative Ruling)). EPA is therefore approving these provisions as complying with part D of title 1 of the Act.

Note that EPA is approving both the permanent versions of sections 225–0020(10) and 225–0090(1)(c) and the temporary versions of these provisions for the time period they are in effect.

11. Division 226, General Emission Standards

This Division contains emission standards and requirements of general applicability, including requirements for highest and best practicable treatment and control (section 0100), pollution prevention (section 0110), operating and maintenance (section 0120), and typically achievable control technology (section 0130). This Division also includes authority for ODEQ to impose additional requirements on a permit-by-permit basis (section 0140) and to approve alternative emission controls (bubbles) (section 0400). Finally, this Division includes the statewide particulate emission limits for process equipment and other sources (except for fuel or refuse burning equipment).

The Division was amended by revising the provisions for alternative emission controls (bubbles) to comply with EPA's Final Emissions Trading Policy Statement for generic bubble rules (51 FR 43814, December 4, 1986). Oregon's previous rules had been approved as meeting EPA's requirements for generic bubble rules under the April 7, 1982, Emission Trading Policy Statement (47 FR 15076). In order to address the requirement for replicable procedures, the rule has been revised to exclude trades involving pollutants other than ozone precursors from the generic bubble approach. As such, bubbles involving ozone precursors (VOC and NO_X) can still be done without case-by-case SIP revisions, but bubbles for all other pollutants will need to be submitted to, and approved by, EPA before they become the applicable requirements of the Oregon SIP.

Note that EPA is approving section 0140 (authority to impose additional requirements on a permit-by-permit basis) because any requirement established under this provision would be in addition to existing requirements and could not change any existing requirement. However, ODEQ would still need to submit requirements established under this provision for inclusion in the SIP if such requirements are necessary to comply with any specific provision of the CAA or EPA regulations.

12. Division 268, Emission Reduction Credits

This Division contains ODEQ's procedures for generating, banking, and using emission reduction credits (ERC's). The Division was revised to simplify the program, make it consistent with changes to ODEQ's Plant Site Emission Limit rule (specifically the treatment of unassigned emissions), and to ensure emission reduction credits conform to the requirements of the CAA and EPA regulations. The authority to issue an ERC permit to sources which are not otherwise required to have an Air Contaminant Discharge Permit or title V operating permit was also established. Finally, the provisions for ''Baseline for Determining Credit for Offsets'' (section 0040) were repealed and replaced by provisions in section 0030.

The provisions for creating emission reduction credits are also used for establishing creditable emission reductions in netting and offset transactions. As such, these rules must conform with the requirements of the CAA and EPA regulations for part D NSR and PSD for creditable emission reductions (including 40 CFR 51.165(a)(1)(vi), 51.165(a)(3), 51.166(b)(3) of EPA's regulations and sections 173(a)(1) and 173(c) of the Act). The rules require that any emission reduction credit be created through permanent reductions in current actual emissions, be enforceable by ODEQ, and be surplus. Emission reductions necessary to comply with any applicable emission limits are not creditable. Note that the requirement for offsets to be Federally enforceable at the time of permit issuance is included in Division 225.

The rules establish the process for banking emission reduction credits and using banked emission reduction credits. The rules also establish the requirements for unused banked credits, returning them to the source as unassigned PSEL and then reducing them through the process set forth in the PSEL rules. These banking provisions comply with EPA's requirements for SIP emission reduction credit banking programs as set forth in the Final Emissions Trading Policy Statement (51 FR 43814, December 4, 1986).

IV. Letter Notice Approval—Repeal of Rule for Parking Offsets in the Portland Central Business District

Pursuant to procedures described in the January 19, 1989, **Federal Register** that describes changes being implemented in the way State implementation plans are processed at EPA, we approved a minor SIP revision submitted by ODEQ on December 15, 1998, in a letter approval dated October 21, 1999. The SIP submittal repealed provisions relating to parking offsets in the Portland Central Business District, specifically, OAR 340–020–0400, 340–020–0405, 340–020–0410, 340–020–0420, and 340–020–0430. Due to the minor nature of this revision, we concluded that conducting notice-and-comment rulemaking prior to approving this revision would have been ''unnecessary and contrary to the public interest'', and therefore, was not required by the Administrative Procedure Act, 5 U.S.C. 553(b). In accordance with EPA guidance on letter approvals, EPA is publishing notice of the letter approval in this action. A copy of the letter approval is in the docket. Approval of this SIP action became final and effective on October 21, 1999, the date of the EPA letter approval.

V. Statutory Authority

Oregon Revised Statutes (ORS) 468 and 468A provide ODEQ the basic legal authority to carry out the provisions of the State Implementation Plan. EPA has reviewed the 2001 edition of the Oregon statutes and believes the Oregon statutes continue to provide ODEQ with adequate legal authority to carry out the Oregon SIP as set forth in sections 110 and 114 of the CAA and its implementing regulations, in particular 40 CFR 51.230. EPA is not incorporating ORS 468 and 468A by reference as part of the Oregon SIP, however, to avoid potential conflict with EPA's independent authorities.

Several provisions of these Oregon statutes merit further discussion. First, during the 2001 Legislative Session, the Oregon Legislature passed House Bill 3536, which amended Oregon's Audit Privilege Act, ORS 468.963, to ensure that the Audit Privilege Law does not apply to criminal investigations or proceedings. This change resolved concerns previously identified by EPA. Second, during the 1997 Legislative Session, the Oregon Legislature enacted a ''Green Permits'' program. The program is designed to use regulatory incentives to achieve better environmental results than otherwise required by law. Although the law states that any requirement under environmental laws that is contrary to the provisions of a Green Permit shall not apply to a facility operating under a Green Permit, this provision does not apply in the case of Federal environmental requirements. EPA, ODEQ and Lane Regional Air Pollution

Authority entered into a memorandum of Agreement dated June 1, 2000, to guide the implementation of Oregon's Green Permits program. The MOA states that implementation of the MOA will be conducted in a manner consistent with ODEQ's responsibilities under its approved, authorized or delegated programs. Therefore, Green Permits cannot be used to change SIP requirements unless the change is submitted as a SIP revision.

Third, ORS 468.126, which remains unchanged since EPA last approved Oregon's SIP, prohibits ODEQ from imposing a penalty for violation of an air, water or solid waste permit unless the source has been provided five days' advanced written notice of the violation and has not come into compliance or submitted a compliance schedule within that five-day period. By its terms, the statute does not apply to Oregon's title V program or to any program if application of the notice provision would disqualify the program from Federal delegation. Oregon has previously confirmed that, because application of the notice provision would preclude EPA approval of the Oregon SIP, no advance notice is required for violation of SIP requirements.

Fourth, ORS 468A.330, which also is unchanged since EPA last approved the Oregon SIP, sets up a technical assistance program for compliance with air regulations and states that technical assistance visits cannot result in inspections or enforcement actions. EPA has previously determined that this statute did not pose a bar to approval of Oregon's air programs based on EPA's August 12, 1994, guidance document entitled ''Enforcement Response Policy for Treatment of Information Obtained Through the Clean Air Act Section 507 Small Business Assistance Program'' because Oregon operates its air technical assistance program completely separate from its air enforcement program. *See* 60 FR 50106, 50107 (September 28, 1995).

Finally, ORS 468A.075, which is also unchanged since EPA last approved Oregon's SIP, authorizes the Oregon Environmental Quality Commission to grant variances from air contamination rules and standards. Section 110(i) of the CAA specifically precludes States from changing the requirements of the SIP except through SIP revisions approved by EPA. SIP revisions will be approved by EPA only if they meet all requirements of section 110 of the CAA and the implementing regulations at 40 CFR part 51. *See* CAA section 110(l); 40 CFR 51.104. Moreover, 40 CFR 51.104(d) specifically states that in order for a variance to be considered for approval as a SIP revision, the State must submit it in accordance with the requirements of 40 CFR 51.104. Therefore, if Oregon grants a source-specific variance to a State air regulation, which regulation has been approved as part of the Oregon SIP, EPA is not precluded from enforcing the Federally-approved SIP limit against the source. The granting of a variance by Oregon to a SIP requirement does not change the Federally-enforceable SIP requirement for that source unless and until the variance has been approved by EPA as a source-specific SIP revision.

VI. Scope of EPA Approval

Oregon has not demonstrated authority to implement and enforce the Oregon Administrative Rules within ''Indian Country'' as defined in 18 U.S.C. 1151.[1] Therefore, this SIP approval does not extend to ''Indian Country'' in Oregon. *See* CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits). This is consistent with EPA's previous approval of Oregon's PSD program, in which EPA specifically disapproved the program for sources within Indian Reservations in Oregon because the State had not shown it had authority to regulate such sources. *See* 40 CFR 52.1987(c). It is also consistent with EPA's approval of Oregon's title V operating permits program. *See* 59 FR 61820, 61827 (December 2, 1994) (interim approval does not extend to Indian Country); 60 FR 50106, 50106 (September 28, 1995) (full approval does not extend to Indian Country).

VII. Summary of Action

A. EPA Is IBRing the Following New Divisions Into the SIP

200 (General Air Pollution Procedures and Definitions), except sections 0020(58), 0040, 0050, 100, 110, and 120
202 (Ambient Air Quality Standards and PSD Increments), except section 0110
204 (Designation of Air Quality Areas)
206 (Air Pollution Emergencies)
209 (Public Participation)
210 (Stationary Source Notification Requirements)
212 (Stationary Source Testing and Monitoring)
214 (Stationary Source Reporting Requirements), except sections 0300, 0310, 0320, 0330, 0340, 0350, and 0360
216 (Air Contaminant Discharge Permits)
222 (Stationary Source Plant Site Emission Limits), except section 0060
224 (Major New Source Review)
225 (Air Quality Analysis Requirements)
226 (General Emission Standards)
228 (Requirements for Fuel Burning Equipment and Fuel Sulfur Content)
232 (Emission Standards for VOC Point Sources)
234 (Emission Standards for Wood Products Industries), excluding references to TRS—subsections 0010(25), 0010(28)(a), 0010(46), 0210(1), 0240(2), 0250(1), 250(2), 260(3)(a)(A), 260(3)(b)(A), 310(1), 320(2), 340(2), 350(1), and 360(3)(a)(A).
236 (Emission Standards for Specific Industries), excluding references to Fluorides—subsections 0120(1)(a), 0120(3)(a), 0120(3)(e), 0140(1) (the words ''gaseous and particulate fluorides and''), 0140(1)(b), 0140(1)(c) (the sentence ''A schedule for measurement of fluoride levels in forage for new plants and ambient air for new and existing plants shall be submitted.''), 0140(3) (the words ''and Method 13A or 13B and Method 14 or Method 14A for fluorides or other alternative method in 40 CFR 63.849), 0150(1)(d) and 0150(1)(e).
240 (Rules for Areas with Unique Air Quality Needs)
242 (Rules Applicable to the Portland Area)
250 (General Conformity), except section 0110
252 (Transportation Conformity), except subsections 0020(3), 0050(4), 0050(5)(b), 0100(3), 0100(4), 0100(5), 0100(6), 0190(5), 0200(6)(c), 0210(1)(b), 0220(1)(a), 0220(2), and 0250(2).
258 (Motor Vehicle Fuel Specifications)
262 (Residential Woodheating), except section 0050
266 (Field Burning Rules (Willamette Valley))
268 (Emission Reduction Credits)

B: EPA Is Approving, but Not IBRing, the Following New Divisions Into the SIP

12 (Enforcement Procedure and Civil Penalties)
200–0100, 0110, and 0120 (Conflicts of Interest)
262–0050 (Residential Woodheating—Civil Penalties)

C: EPA Is Taking No Action on the Following Divisions

14 (Procedures for Issuance, Denial, Modification, and Revocation of Green Permits)
200–0020(58) (Definition of Immediately)
200–0040 (State of Oregon Clean Air Act Implementation Plan)
200–0050 (Compliance Schedules)
202–0110 (Particle Fallout)

[1] ''Indian country'' is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

208 (Visible Emissions and Nuisance Requirements)
214–0300 through 0360 (Excess Emissions and Emergency Provision)
218 (Oregon Title V Operating Permits)
222–0060 (Plant Site Emission Limits for Sources of Hazardous Air Pollutants)
234 (Emission Standards for Wood Products Industries), references to TRS—subsections 0010(25), 0010(28)(a), 0010(46), 0210(1), 0240(2), 0250(1), 250(2), 260(3)(a)(A), 260(3)(b)(A), 310(1), 320(2), 340(2), 350(1), and 360(3)(a)(A).
236 (Emission Standards for Specific Industries), references to Fluorides and Part 63—subsections 0120(1)(a), 0120(3)(a), 0120(3)(e), 0140(1) (the words ''gaseous and particulate fluorides and''), 0140(1)(b), 0140(1)(c) (the sentence ''A schedule for measurement of fluoride levels in forage for new plants and ambient air for new and existing plants shall be submitted.''), 0140(3) (the words ''and Method 13A or 13B and Method 14 or Method 14A for fluorides or other alternative method in 40 CFR 63.849), 0150(1)(d) and 0150(1)(e).
250–0110 (General Conformity Savings Provision)
252 (Transportation Conformity), subsections 0020(3), 0050(4), 0050(5)(b), 0100(3), 0100(4), 0100(5), 0100(6), 0190(5), 0200(6)(c), 0210(1)(b), 0220(1)(a), 0220(2), and 0250(2).
256 (Motor Vehicles)
264 (Rules for Open Burning)

D: EPA Is Removing the Following Old Divisions From the Current IBR'd SIP Because They Are Replaced by the Rules in Section A Above

12 14 (Procedures for Issuance, Denial, Modification, and Revocation of Permits)
20 (Air Pollution Control)
21 (General Emission Standards for Particulate Matter), except for 21–015 Visible Air Contaminant Limitations), 21–050, 21–055, and 21–060 (Fugitive Emissions), and 21–200, 21–205, 21–210, 21–215, 21–220, 21–225, 21–230, 21–235, 21–240, and 21–245 (Industrial Contingency Requirements for PM–10 Nonattainment Areas)
22 (General Gaseous Emissions)
25 (Specific Industrial Standards Construction and Operation of Wigwam Waste Burners)
26 (Rules for Open Field Burning (Willamette Valley))
27 (Air Pollution Emergencies)
28 (Stationary Source Air Pollution Control and Permitting Procedures), except for 28–1400, 28–1410, 28–1420, 28–1430, 28–1440, and 28–1450 (Excess Emissions and Emergency Provision)
30 (Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area)
31 (Ambient Air Quality Standards)
34 (Residential Wood Heating)

EPA is publishing this rule without prior proposal because the Agency believes this is a noncontroversial submittal 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 adverse comments be filed. This rule will be effective March 24, 2003, without further notice unless the Agency receives adverse comments by February 21, 2003.

If the EPA receives such comments, then EPA will publish a notice 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. There will not be a second comment period; therefore, any party interested in commenting should do so at this time. If no such comments are received, this rule will be effective on March 24, 2003, and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VIII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

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 March 24, 2003. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 17, 2002.

L. John Iani,

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—Oregon

2. Section 52.1970 is amended by adding paragraphs (c) (138) and (c)(139) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(138) On December 15, 1998, the Director of the Oregon Department of Environmental Quality submitted a SIP revision to repeal the rule for parking offsets in the Portland Central Business District, as state effective September 23, 1998.

(i) Incorporation by reference.

(A) Remove the following provisions from the current incorporation by reference: OAR 340–020–0400, 340–020–0405, 340–020–0410, 340–020–0420, and 340–020–0430. (139) On November 5, 1999, March 7, 2000, June 26, 2001, and November 4, 2002, the Oregon Department of Environmental Quality submitted numerous amendments to the Oregon Administrative Rules as revisions to the Oregon State implementation plan. The revisions included a rule recodification, a marine vapor loading rule, and permitting rules.

(i) Incorporation by reference.

(A) The following sections of Oregon Administrative Rule 340: 200–0030, 202–0200, 204–0010, 204–0020, 204–0050, 204–0060, 204–0070, 204–0080, 206-0010, 206–0020, 206–0030, 206–0040, 206–0050, 206–0060, 206–0070, 210–0010, 210–0020, 212–0010, 212–0110, 214–0100, 214–0120, 222–0030, 224–0020, 226-0200, 228–0010, 228–0020, 228–0100, 228–0110, 228–0120, 228–0130, 228–0200, 228–0210, 232–0010, 232–0020, 232–0040, 232–0050, 232–0060, 232–0070, 232-0080, 232–0085, 232–0090, 232–0100, 232–0120, 232–0130, 232–0140, 232–0150, 232–0160, 232–0170, 232–0180, 232–0190, 232–0200, 232–0210, 232–0220, 232-0230, 232–0240, 234–0010 (except paragraphs (25), (28)(a) & (46)), 234-0100, 234–0110, 234–0120, 234–0130, 234–0140, 234–0200, 234–0210 (except paragraph (1)), 234–0220, 234–0230, 234–0240 (except paragraph (2)), 234-0250 (except pargraphs (1) & (2)), 234–0260 (except paragraphs (3)(a)(A) & (3)(b)(A)), 234–0270, 234–0300, 234–0310 (except paragraph (1)), 234–0320 (except paragraph (2)), 234–0330, 234–0340 (except paragraph (2)), 234–0350 (except paragraph (1)), 234–0360 (except paragraph (3)(a)(A)), 234–0400, 234–0410, 234–0420, 234–0430, 234–0500, 234–0510, 234–0520, 234–0530, 236–0010, 236–0100, 236–0110, 236–0120 (except paragraphs (1)(a), (3)(a), & (3)(e)), 236–0130, 236–0140 (except the words ''gaseous and particulate fluorides and'' in paragraph (1), paragraph (1)(b), the sentence ''A schedule for measurement of fluoride levels in forage for new plants and ambient air for new and existing plants shall be submitted.'' in paragraph (1)(c), the words ''and Method 13A or 13B and Method 14 or Method 14A for fluorides or other alternative method in 40 CFR 63.849'' in paragraph (3)), 236–0150 (except paragraphs (1)(d) and (1)(e)), 236–0200, 236–0210, 236–0220, 236–0230, 236–0400, 236–0410, 236–0420, 236–0430, 236–0440, 240–0010, 240–0100, 240–0300, 242–0010, 242–0020, 242–0030, 242–0040, 242–0050, 242–0060, 242–0070, 242–0080, 242–0090, 242–0100, 242–0110, 242–0120, 242–0130, 242–0140, 242–0150, 242–0160, 242–0170, 242–0180, 242–0190, 242–0200, 242–0210, 242–0220, 242–0230, 242–0240, 242–0250, 242–0260, 242–0270, 242–0280, 242–0290, 242–0300, 242–0310, 242–0320, 242–0330, 242–0340, 242–0350, 242–0360, 242–0370, 242–0380, 242–0390, 242–0400, 242–0410, 242–0420, 242–0430, 242–0440, 242–0500, 242–0510, 242–0520, 242–0600, 242–0610, 242–0620, 242–0630, 242–0700, 242–0710, 242–0720, 242–0730, 242–0740, 242–0750, 242–0760, 242–0770, 242–0780, 242–0790, 250–0010, 250–0020, 250–0030, 250–0040, 250–0050, 250–0060, 250–0070, 250–0080, 250–0090, 250–0100, 252–0010, 252–0020 (except paragraph (3)), 252–0030, 252–0040, 252–0050 (except paragraphs (4) & (5)(b)), 252–0060, 252–0070, 252–0080, 252–0090, 252–0100 (except paragraphs (3) through (6)), 252–0110, 252–0120, 252–0130, 252–0140, 252-0150, 252–0160, 252–0170, 252–0180, 252–0190 (except paragraph (5)), 252-0200 (except paragraph (6)(c)), 252–0210 (except paragraph (1)(b)), 252-0220 (except paragraphs (1)(a) & (2)), 252–0230, 252–0240, 252–0250 (except paragraph (2)), 252–0260, 252–0270, 252–0280, 252–0290, 258–0010, 258–0100, 258–0110, 258–0120, 258–0130, 258–0140, 258–0150, 258–0160, 258–0170, 258–0180, 258–0190, 258–0200, 258–0210, 258–0220, 258–0230, 258–0240, 258–0250, 258–0260, 258–0270, 258–0280, 258–0290, 258–0300, 258–0310, 258–0400, 262-0010, 262–0020, 262–0030, 262–0040, 262–0100, 262–0110, 262–0120, 262–0130, 262–0200, 262–0210, 262–0220, 262–0230, 262–0240, 262–0250, 262–0300, 262–0310, 262–0320, 262–0330, 266–0010, 266–0020, 266–0030, 266–0040, 266–0050, 266–0060, 266–0070, 266–0080, 266–0090, 266–0100, 266–0110, 266–0120, 266–0130, and 268–0020, as effective October 14, 1999; 204–0040, as effective October 25, 2000; 204–0090, as effective March 27, 2001; 232–0030 and 232-0110 as effective June 1, 2001; 200–0010, 200–0020 (except paragraph(58)), 200–0025, 202–0010, 202–0050, 202–0060, 202–0070, 202–0080, 202–0090, 202–0100, 202–0130, 202–0210, 202–0220, 204–0030, 209–0010, 209–0020, 209–0030, 209–0040, 209–0050, 209–0060, 209–0070, 209–0080, 210–0100, 210–0110, 210-0120, 210–0205, 210–0215, 210–0225, 210–0230, 210–0240, 210–0250, 212–0120, 212–0130, 212–0140, 212–0150, 212–0200, 212–0210, 212–0220, 212–0230, 212-0240, 212–0250, 212–0260, 212–0270, 212–0280, 214–0010, 214–0110, 214–0114, 214–0130, 214–0200, 214–0210, 214–0220, 216–0010, 216–0020, 216–0025, 216–0030, 216–0040, 216–0052, 216–0054, 216–0056, 216–0060, 216–0064, 216–0066, 216–0070, 216–0082, 216–0084, 216–0090, 216–0094, 222–0010, 222–0020, 222–0040, 222–0042, 222–0043, 222–0045, 222–0070, 222–0080, 222–0090, 224–0010, 224–0030, 224–0040, 224–0050, 224–0080, 224–0100, 225–0010, 225–0020(10), 225–0030, 225–0040, 225–0070, 225–0090(1)(c), 226–0010, 226–0100, 226–0110, 226–0120, 226–0130, 226–0140, 226–0210, 226–0300, 226–0310, 226–0320, 226–0400, 240–0020, 240–0030, 240–0110, 240–0120,

240–0130, 240–0140, 240–0150, 240–0160, 240–0170, 240–0180, 240–0190, 240–0200, 240–0210, 240–0220, 240–0230, 240–0240, 240–0250, 240–0270, 240–0310, 240–0320, 240–0330, 240–0340, 240–0350, 240–0360, 240–0400, 240–0410, 240–0420, 240–0430, 240–0440, 268–0010, and 268–0030, as effective July 1, 2001; 222–0041, 224–0060, 224–0070, 225–0020 (except paragraph (10)), 225–0045, 225–0050, 225–0060, and 225–0090 (except paragraph (1)(c)), as effective October 8, 2002; 225–0020(10) and 225–0090(1)(c), as effective October 8, 2002, through April 6, 2003.

(B) Remove the following old divisions of Oregon Administrative Rule 340 from the current incorporation by reference: 12, 14, 20, 21 (except for sections 21–015, 21–050, 21–055, 21–060, 21–200, 21–205, 21–210, 21–215, 21–220, 21–225, 21–230, 21–235, 21–240, and 21–245), 22, 25, 26, 27, 28 (except for 28–1400, 28–1410, 28–1420, 28–1430, 28–1440, and 28–1450), 30, 31, and 34.

(ii) Additional Material:

(A) The following sections of Oregon Administrative Rule 340: Division 12, 200–0100, 200–0110, 200–0120, as effective July 1, 2001; and 262–0050, as effective October 14, 1999.

3. Section 52.1977 is amended by revising section 3.1 to read as follows:

§ 52.1977 Content of approved State submitted implementation plan.

* * * * *

3.1 Oregon Administrative Rules—Chapter 340 Incorporation by Reference (March 24, 2003)

Division 21—General Emission Standards for Particulate Matter

21–015 Visible Air Contaminant Limitations (1/29/96)

Fugitive Emissions

21–050 Definitions (1/29/96)
21–055 Applicability (3/10/93)
21–060 Requirements (3/10/93)

Industrial Contingency Requirements for PM–10 Nonattainment Areas

21–200 Purpose (5/1/95)
21–205 Relation to other Rules (3/10/93)
21–210 Applicability (3/10/93)
21–215 Definitions (3/10/93)
21–220 Compliance Schedule for Existing Sources (3/10/93)
21–225 Wood-Waste Boilers (3/10/93)
21–230 Wood Particulate Dryers at Particleboard Plants (3/10/93)
21–235 Hardboard Manufacturing Plants (1/29/96)
21–240 Air Conveying Systems (3/10/93)
21–245 Fugitive Emissions (3/10/93)

Division 23—Rules for Open Burning

23–022 How to Use these Open Burning Rules (3/10/93)
23–025 Policy (3/10/93)
23–030 Definitions (6/16/84, except for paragraph (15) is 3/10/93)
23–035 Exemptions, Statewide (3/10/93)
23–040 General Requirements Statewide (3/10/93)
23–042 General Prohibitions Statewide (3/10/93)
23–043 Open Burning Schedule (3/10/93)
23–045 County Listing of Specific Open Burning Rules (3/10/93)

Open Burning Prohibitions

23–055 Baker, Clatsop, Crook, Curry, Deshutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties (3/10/93)
23–060 Benton, Linn, Marion, Polk, and Yamhill Counties (3/10/93)
23–065 Clackamas County (3/10/93)
23–070 Multnomah County (3/10/93)
23–075 Washington County (3/10/93)
23–080 Columbia County (3/10/93)
23–085 Lane County (3/10/93)
23–090 Coos, Douglas, Jackson and Josephine Counties (3/10/93)
23–100 Letter Permits (3/10/93)
23–105 Forced Air Pit Incinerators (3/10/93)
23–110 Records and Reports (3/10/93)
23–115 Open Burning Control Areas (3/10/93)

Division 24—Motor Vehicles

Pertaining to Motor Vehicles Inspection

24–100 County Designations (11/26/96)

Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards

24–300 Scope (11/26/96)
24–301 Boundary Designations (3/10/93)
24–305 Definitions (11/26/96)
24–306 Government-Owned Vehicle, Permanent Fleet Vehicle and U.S. Government Vehicle Testing Requirements (11/26/96)
24–307 Motor Vehicle Inspection Program Fee Schedule (11/26/96)
24–308 Department of Defense Personnel Participating in the Privately Owned Vehicle Import Control Program (11/26/96)
24–309 Light Duty Motor Vehicle and Heavy Duty Gasoline Motor Vehicle Emission Control Test Method for Basic Program (11/26/96)
24–312 Light Duty Motor Vehicle Emission Control Test Method for Enhanced Program (11/26/96)
24–314 Motorcycle Noise Emission Control Test Method, except all language in (4)(a) referring to a ''sixth hill extrapolation'' (11/26/96)
24–318 Renew Registration for Light Duty Motor Vehicles and Heavy Duty Gasoline Motor Vehicles Temporarily Operating Outside of Oregon (11/26/96)
24–320 Light Duty Motor Vehicle Emission Control Test Criteria for Basic Program (11/26/96)
24–325 Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria (11/26/96)
24–330 Light Duty Motor Vehicle Emission Control Standards for Basic Program (11/26/96)
24–332 Light Duty Motor Vehicle Emission Control Standards for Enhanced Program (11/26/96)
24–335 Heavy-Duty Gasoline Motor Vehicle Emission Control Emission Standards (11/26/96)
24–337 Motor Vehicle Propulsion Noise Standards (11/26/96)
24–340 Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates (11/26/96)
24–355 Gas Analytical System Licensing Criteria for Basic Program (11/26/96)
24–357 Gas Analytical System Testing for Enhanced Program (11/26/96)
24–360 Agreement with Independent Contractor; Qualifications of Contractor; Agreement Provisions (11/26/96)

Division 28—Stationary Source Air Pollution Control and Permitting Procedures

Excess Emissions and Emergency Provision

28–1400 Purpose and Applicability (9/24/93)
28–1410 Planned Startup and Shutdown (9/24/96)
28–1420 Scheduled Maintenance (11/4/93)
28–1430 Upsets and Breakdowns (9/24/96)
28–1440 Reporting Requirements (11/4/93)
28–1450 Enforcement Action Criteria (9/24/93)

Division 200—General Air Pollution Procedures and Definitions

200–0010 Purpose and Application (7/1/01)
200–0020 General Air Quality Definitions, except (58) (7/1/01)

200–0025 Abbreviations and Acronyms (7/1/01)
200–0030 Exceptions (10/14/99)

Division 202—Ambient Air Quality Standards and PSD Increments

202–0010 Definitions (7/1/01)

Ambient Air Quality Standards

202–0050 Purpose and Scope of Ambient Air Quality Standards (7/1/01)
202–0060 Suspended Particulate Matter (7/1/01)
202–0070 Sulfur Dioxide (7/1/01)
202–0080 Carbon Monoxide (7/1/01)
202–0090 Ozone (7/1/01)
202–0100 Nitrogen Dioxide (7/1/01)
202–0130 Ambient Air Quality Standard for Lead (7/1/01)

Prevention of Significant Deterioration Increments

202–0200 General (10/14/99)
202–0210 Ambient Air Increments (7/1/01)
202–0220 Ambient Air Ceilings (7/1/01)

Division 204—Designation of Air Quality Areas

204–0010 Definitions (10/14/99)
204–0020 Designation of Air Quality Control Regions (10/14/99)
204–0030 Designation of Nonattainment Areas (7/1/01)
204–0040 Designation of Maintenance Areas (10/25/00)
204–0050 Designation of Prevention of Significant Deterioration Areas (10/14/99)
204–0060 Redesignation of Prevention of Significant Deterioration Areas (10/14/99)
204–0070 Special Control Areas (10/14/99)
204–0080 Motor Vehicle Inspection Boundary Designations (10/14/99)
204–0090 Oxygenated Gasoline Control Areas (3/27/01)

Division 206—Air Pollution Emergencies

206–0010 Introduction (10/14/99)
206–0020 Definitions (10/14/99)
206–0030 Episode Stage Criteria for Air Pollution Emergencies (10/14/99)
206–0040 Special Conditions (10/14/99)
206–0050 Source Emission Reduction Plans (10/14/99)
206–0060 Regional Air Pollution Authorities (10/14/99)
206–0070 Operations Manual (10/14/99)

Division 209—Public Participation

209–0010 Purpose (7/1/01)
209–0020 Applicability (7/1/01)
209–0030 Public Notice Categories and Timing (7/1/01)
209–0040 Public Notice Information (7/1/01)
209–0050 Public Notice Procedures (7/1/01)
209–0060 Persons Required to Be Notified (7/1/01)
209–0070 Hearing and Meeting Procedures (7/1/01)
209–0080 Issuance or Denial of a Permit (7/1/01)

Division 210—Stationary Source Notification Requirements

210–0010 Applicability (10/14/99)
210–0020 Definitions (10/14/99)

Registration

210–0100 Registration in General (7/1/01)
210–0110 Registration Requirements (7/1/01)
210–0120 Re-Registration (7/1/01)

Notice of Construction and Approval of Plans

210–0205 Applicability (7/1/01)
210–0215 Requirement (7/1/01)
210–0225 Types of Construction/Modification Changes (7/1/01)
210–0230 Notice to Construct (7/1/01)
210–0240 Construction Approval (7/1/01)
210–0250 Approval to Operate (7/1/01)

Division 212—Stationary Source Testing and Monitoring

212–0010 Definitions (10/14/99)

Sampling, Testing and Measurement

212–0110 Applicability (10/14/99)
212–0120 Program (7/1/01)
212–0130 Stack Heights and Dispersion Techniques (7/1/01)
212–0140 Methods (7/1/01)
212–0150 Department Testing (7/1/01)

Compliance Assurance Monitoring

212–0200 Purpose and Applicability (7/1/01)
212–0210 Monitoring Design Criteria (7/1/01)
212–0220 Submittal Requirements (7/1/01)
212–0230 Deadlines for Submittals (7/1/01)
212–0240 Approval of Monitoring Plans (7/1/01)
212–0250 Operation of Approved Monitoring (7/1/01)
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242–0100 Special Requirements for Employers Intending to Comply without an Approved Plan (10/14/99)
242–0110 What if the Employer Does Not Meet the Target Auto Trip Rate? (10/14/99)
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242–0290 What Kind of Records Must Be Kept and For How Long? (10/14/99)

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Industrial Emission Management Program

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Gasoline Vapors From Gasoline Transfer and Dispensing Operations

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252–0210 Consequences of Control Strategy Implementation Plan Failures, except (1)(b) (10/14/99)
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Division 258—Motor Vehicle Fuel Specifications

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Oxygenated Gasoline

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258–0110 Purpose and General Requirements (10/14/99)
258–0120 Sampling & Testing for Oxygen Content (10/14/99)
258–0130 Compliance Options (10/14/99)
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258–0180 Registration (10/14/99)
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Standard for Automotive Gasoline

258–0400 Reid Vapor Pressure for Gasoline (10/14/99)

Division 262—Residential Woodheating

262–0010 Purpose (10/14/99)
262–0020 Definitions (10/14/99)

Woodstove Sales

262–0030 Requirements for Sale of Woodstoves (10/14/99)
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Woodstove Certification Program

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262–0110 Emissions Performance Standards and Certification (10/14/99)
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Woodburning Curtailment

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262–0220 Prohibition on Woodburning During Periods of Air Stagnation (10/14/99)
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Woodstove Removal Contingency Program

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262–0310 Removal and Destruction of Uncertified Stove Upon Sale of Home (10/14/99)
262–0320 Home Seller's Responsibility to Verify Stove Destruction (10/14/99)
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Division 266—Field Burning Rules (Willamette Valley)

266–0010 Introduction (10/14/99)
266–0020 Policy (10/14/99)
266–0030 Definitions (10/14/99)
266–0040 General Requirements (10/14/99)
266–0050 Registration, Permits, Fees, Records (10/14/99)
266–0060 Acreage Limitations, Allocations (10/14/99)
266–0070 Daily Burning Authorization Criteria (10/14/99)
266–0080 Burning by Public Agencies (Training Fires) (10/14/99)
266–0090 Preparatory Burning (10/14/99)
266–0100 Experimental Burning (10/14/99)
266–0110 Emergency Burning, Cessation (10/14/99)
266–0120 Propane Flaming (10/14/99)
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Division 268—Emission Reduction Credits

268–0010 Applicability (7/1/01)
268–0020 Definitions (10/14/99)
268–0030 Emission Reduction Credits (7/1/01)

* * * * *

4. Paragraph (a)(1)(ii) of § 52.1982 is revised to read as follows:

§ 52.1982 Control Strategy: Ozone.

(a) * * * (1) * * *

(ii) The phrase ''in most cases'' in rule OAR 340–232–0060(1) applies to approximately 1,200 gasoline service stations where compliance is determined by observing whether specific emission control equipment, selected from a specific list on file at DEQ, is in place and operating properly.

§ 52.1985 [Reserved]

5. Remove and reserve § 52.1985.

6. Paragraphs (a) and (c) of § 52.1987 are revised to read as follows:

§ 52.1987 Significant deterioration of air quality.

(a) The Oregon Department of Environmental Quality rules for the prevention of significant deterioration of air quality (provisions of OAR chapter 340, Divisions 200, 202, 209, 212, 216, 222, 224, 225, and 268), as in effect on October 8, 2002, are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act, as in effect on July 1, 2002, for preventing significant deterioration of air quality.

* * * * *

(c) The requirements of title I, part C, subpart 1 of the Clean Air Act are not met for Indian country in Oregon because Oregon has not demonstrated authority to implement and enforce under the Clean Air Act Oregon State rules in Indian country. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated and made part of the applicable plan for Indian country in the State of Oregon.

7. Paragraph (a) of § 52.1988 is revised to read as follows:

§ 52.1988 Air contaminant discharge permits.

(a) Except for compliance schedules under OAR 340–200–0050, emission limitations and other provisions contained in Air Contaminant Discharge Permits issued by the State in accordance with the provisions of the Federally-approved rules for Air Contaminant Discharge Permits (OAR chapter 340, Division 216), Plant Site Emission Limit (OAR chapter 340, Division 222), Alternative Emission Controls (OAR 340–226–0040) and Public Participation (OAR chapter 340, Division 209), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP. Plant site emission limits and alternative emission limits (bubbles) established in Federal Operating Permits issued by the State in accordance with the Federally-approved rules for Plant Site Emission Limit (OAR chapter 340, Division 222) and Alternative Emission Controls (OAR 340–226–0040), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118–1a; FRL–7428–5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the remaining portions of the Ohio Environmental Protection Agency's (OEPA) SIP for Prevention of Significant Deterioration (PSD) provisions for attainment areas. EPA had previously