

rate, and so on. EPA input into IPM the amount of regionwide NO<sub>x</sub> emissions that corresponded to each emission rate—which amounted to a constraint on NO<sub>x</sub> emissions—and then EPA ran IPM for each amount of the regionwide NO<sub>x</sub> emissions constraint. This determined the cost of generating electricity with the constraint of the regionwide NO<sub>x</sub> emissions level being tested. Then, EPA subtracted that cost from the cost of generating electricity in 2007 that IPM projected without any NO<sub>x</sub> emissions constraints. In this manner, EPA was able to compute a cost figure for the controls necessary to assure that regionwide, no more than the specified amount of NO<sub>x</sub> would be emitted. EPA compared the cost figures for each of the IPM runs, and selected the figure that EPA considered to be highly cost effective. This figure was the emission rate of 0.15 lbs/mmBtu. EPA assigned to each State an EGU budget based on the same methodology—the use of an 0.15 lbs/mmBtu emission rate and the EPA 2007 growth projection for heat input. Thus, EPA used the same determination of each State's 2007 heat input for the purpose of determining both costs and each State's budget.

#### E. Utilities' Multi-State Operations

EPA is aware that many utilities have operating units in several States that are linked to the same transmission grid. As a result, utilities are able to alter dispatches from one unit to another, and thereby minimize costs while maintaining the same level of electricity generation. According to the Energy Information Administration (EIA), "By the end of 2000, the number of electric holding companies will decrease to 53 and the generation capacity they own will increase to about 86 percent of the total investor owned utility capacity, primarily because of mergers and acquisitions. This statistic suggests that relatively large companies are becoming even larger." *The Changing Structure of the Electric Power Industry—2000; An Update*, EIA (October 2000). [http://www.eia.doe.gov/cneaf/electricity/chg\\_stru\\_update/update2000.pdf](http://www.eia.doe.gov/cneaf/electricity/chg_stru_update/update2000.pdf) p. 91. This statement indicates that an increasing amount of the generation capacity is owned by companies with multistate operations. EPA's preliminary review indicates that over 60 percent of the capacity in the SIP Call Region is owned by companies that operate generating units in two or more States. The American Electric Power Company, for example, owns units in numerous States, including six in the SIP Call region. The fact that many utilities operate units in different States appears to soften the adverse impact if

EPA's projected heat input for 2007 for individual States are not completely accurate.

#### IV. Comments

EPA is soliciting comments on the new data placed in the docket and set out in Table 1 above. EPA asks that commenters provide us with their comments by September 4, 2001. EPA intends to complete its response to the Court's remands by or about mid-November, 2001.

The EPA is not soliciting comment on IPM itself or on state-specific approaches for determining 2007 heat input levels. EPA understands the Court's opinion to have held as reasonable EPA's reliance on IPM as a regionally uniform methodology for determining each State's 2007 EGU Budget. In addition, EPA is reviewing the actual heat input data in Table 1 solely in the context of the growth rate issue, and EPA is not re-opening any issues related to allowances allocated under the Section 126 Rule or the amount of the 1996 baseline determined under the NO<sub>x</sub> SIP Call Rule.

Dated: July 27, 2001.

**John Seitz,**

Director, Office of Air Quality Planning and Standards.

[FR Doc. 01-19550 Filed 8-2-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OR 62-7277a, OR 71-7286a, OR 01-001a; FRL-7017-9A]

#### Approval and Promulgation of Implementation Plans: Oregon

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves parts of various revisions to the Lane Regional Air Pollution Authority (LRAPA) portion of Oregon's State Implementation Plan (SIP). LRAPA, through the Oregon Department of Environmental Quality (ODEQ), forwarded three submittals to EPA for inclusion into the Oregon SIP on December 12, 1996, August 26, 1998, and February 23, 2001.

EPA is approving revisions to LRAPA's Definitions (Title 12), Incinerator Regulations (Title 30), Emission Standards (Title 32), Prohibited Practices and Control of Special Classes (Title 33), and Stationary Source Rules and Permitting

Procedures (Title 34). These revisions were submitted in accordance with the requirements of section 110 of the Clean Air Act.

**DATES:** This direct final rule will be effective October 2, 2001, unless EPA receives adverse comment by September 4, 2001. If adverse comment is 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.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA and other information supporting this action may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204-1390, and the Lane Regional Air Pollution Authority, 1010 Main Street, Springfield, Oregon 97477.

#### FOR FURTHER INFORMATION CONTACT:

Debra Suzuki, EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0985.

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" are used we mean EPA.

#### I. Overview

The Lane Regional Air Pollution Authority (LRAPA) was created in 1968 to achieve and maintain clean air in Lane County, Oregon. Its member entities include Lane County and the cities of Eugene, Springfield, Cottage Grove, and Oakridge. LRAPA, through Oregon Department of Environmental Quality (ODEQ), forwarded three submittals to EPA for inclusion into the Oregon SIP on December 12, 1996, August 26, 1998, and February 23, 2001. For a summary of the rules EPA is approving, please see the table below. The submitted SIP revisions improve the clarity, effectiveness, and enforceability of LRAPA's rules by updating the rules, by creating consistency between LRAPA and ODEQ rules, and by making organizational and editorial changes. This **Federal Register**

action will update the SIP to better match LRAPA's current local rules.

The SIP provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards, which are set for criteria pollutants. The six criteria pollutants are: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. We will take no action to either approve or disapprove those portions of the rules relating to the control of non-criteria pollutants. EPA also will take no action on any sections that only direct the reader to another section and do not contain any rules.

#### A. Summary Table of LRAPA SIP Revisions EPA is Approving

Date of submittal to EPA	Items revised
12/12/96 .....	—Emission Standards (Title 32) —Prohibited Practices and Control of Special Classes (Title 33)
8/26/98 .....	—Definitions (Title 12) —Incinerator Regulations (Title 30) —Repeal of the old Incinerator Regulations (33-020)
2/23/01 .....	—Stationary Source Rules and Permitting Procedures (Title 34)

#### B. What Are the Significant Changes to the SIP?

##### Title 12—Definitions

The definitions used by LRAPA are consolidated under Title 12. Please see the Technical Support Document that this **Federal Register** action relies upon for a list of the definitions that are revised or added to Title 12. Title 12 contains some definitions related to New Source Review. Title 38 contains the New Source Review rules and definitions, and has also been revised and submitted to us for review (LRAPA effective date of May 11, 1993). We are not taking action on Title 38 at this time. Thus, we are approving the revisions to Title 12, with the caveat that the Title 38 definitions in the previously approved SIP (LRAPA effective date of February 13, 1990) remain the effective definitions for New Source Review.

Currently, there are two provisions identified as "Title 12" in the SIP. The first provision identified as Title 12 is the definitional section discussed above, while the second provision is "General Duties and Powers of Board and Director." We are removing Title 12, General Duties and Powers of Board and

Director, from the SIP. We reviewed the General Duties and Powers of Board and Director and found that the rule contains adequate investigative authority. However, rules describing agency investigative authority are not appropriate for inclusion in the SIP because of the potential conflict with EPA's independent authorities. We are also repealing Title 14, Definitions (LRAPA effective date of July 12, 1988), because it mistakenly was not removed from the SIP when Title 14 was recodified as Title 12 in 1990.

##### Title 15—Enforcement Procedure and Civil Penalties

Title 15 was submitted to EPA on August 26, 1998. We reviewed Title 15, and found the rule to provide adequate enforcement authority. However, rules describing agency enforcement authority are not approved into the SIP to avoid potential conflict with EPA's independent authorities. Therefore, we will not approve this version of Title 15 into the SIP, and we are removing the 1990 version currently in the SIP.

##### Title 30—Incinerator Regulations

This new title replaces LRAPA's previous SIP-approved incinerator rule (Section 33-020), which was adopted in 1973. These new rules better address modern incineration equipment and control and include emission limits and design, operation, monitoring, reporting, and testing requirements.

Title 30 applies to solid waste incinerators, crematoriums, and infectious waste incinerators, but not to municipal waste combustors. The rules affect five crematoriums and one infectious waste incinerator in the Eugene-Springfield area. Presently, there are no general refuse solid waste incinerators operating in Lane County. Previously, Section 33-020 applied to all incinerator categories, but exempting municipal waste combustors in Title 30 does not relax the requirements for any existing sources, because there are no municipal waste combustors in Lane County.

We are approving Title 30, with the exception of the provisions applying specifically to Hydrogen chloride (HCl), Dioxins and Furans, and Odors (all non-criteria pollutants).

##### Title 32—Emission Standards

Title 32, as revised by LRAPA in 1994, was submitted to EPA for approval in 1996. Title 32 consolidates all emission standards into one title to ease the implementation of the Federal operating permit program. Revisions include updating the sulfur dioxide (SO<sub>2</sub>) emission limitations, revising the

Highest and Best Practicable Treatment and Control Required section, and adding Pollution Prevention guidelines, Operating and Maintenance requirements, and Typically Achievable Control Technology (TACT) requirements.

In Section 32-010, an opacity exception for incinerators is removed and replaced by the new incinerator rule discussed above (Section 30-020(6)). In Section 32-070, the 1000 ppm SO<sub>2</sub> limit is removed and replaced by the combination of the following more restrictive rules: (a) Section 32-065, Sulfur Content of Fuels; (b) Section 32-070, Sulfur Dioxide Emission Limits; and (c) Section 33-070(3)(C), Kraft Pulp Mills. All SO<sub>2</sub> emissions from stationary sources within LRAPA's jurisdiction are from fossil fuel combustion or pulp mill operation, and therefore are regulated by at least one of the three rules.

When Title 32 was revised in 1994, LRAPA removed the Airborne Particulate Matter section (32-060), dated September 14, 1982, and replaced it with Title 48, Fugitive Emissions. LRAPA also recodified Air Conveying Systems from Section 32-800 to 32-060. Since Title 48 has not been submitted to us at this time, we are keeping the previously approved Airborne Particulate Matter Section (32-060) in the SIP. Therefore, because of the recodification, there will be two sections numbered 32-060 in the SIP, Airborne Particulate Matter (1982) and Air Conveying Systems (1994).

This action approves the revisions to Title 32, with the exception of Section 32-075 (Federal Acid Rain Regulations Adopted by Reference) and Section 32-080 (Control of Ozone-Depleting Chemicals). Acid rain regulations are already federally enforceable (40 CFR part 72) and therefore, do not need to be made so through approval into the SIP. Ozone-depleting chemicals are non-criteria pollutants and inappropriate for inclusion in the SIP.

##### Title 33—Prohibited Practices and Control of Special Classes

The revisions to Title 33 update industry standards, move veneer dryers from Section 32-010 to Section 33-060, Board Products Industry Rules, add particulate emission limitations for wood-fired veneer dryers, and adopt Hot Mix Asphalt Plant Rules. The SIP revision also removes the previously approved Section 33-025 (Wigwam Waste Burners) because there are no longer any wigwam waste burners operating within LRAPA's jurisdiction.

We are approving the revisions to Title 33, with the exception of the parts of Section 33-070 (Kraft Pulp Mills)

concerning Total Reduced Sulfur (TRS), and all of Section 33–080 (Reduction of Animal Matter) because control of TRS and of odors from the reduction of animal matter are not appropriate for inclusion in the SIP. The sub-sections of Section 33–070 concerning TRS are as follows: 1(Definitions for Non-Condensibles, Other Sources, and Total Reduced Sulfur (TRS)), 3(A), 6(B), 7(A), 7(B), 8(C)(1)(a), and 8(C)(2)(a).

#### Title 34—Stationary Source Rules and Permitting Procedures and Permit Fees

Over the past several years, we have received many versions of Title 34 that we have not acted on. In this action, we are only acting on the most recent version, which was submitted on February 23, 2001, since it supersedes the previous submissions. The name of Title 34 has been changed from “Air Contaminant Discharge Permits” (ACDPs) to “Stationary Source Rules and Permitting Procedures” to reflect the consolidation of all permitting rules, including source registration, Plant Site Emission Limits (PSELs), ACDPs, Federal Operating Permits, and Synthetic Minor Sources, into one title. The rules have been updated to identify which permitting procedures a source may be subject to, outdated mandatory registration requirements have been removed, and references have been updated. Section 34–130 adds a provision for industrial sources to continue operating under an expired permit if, due to processing delays, LRAPA fails to issue a new permit in a timely fashion.

Source categories were added to the permit fee table (Table A) to make LRAPA rules consistent with ODEQ rules. Fees were adjusted (some categories were increased, others decreased) to better represent the permit processing time for individual categories. Section 34–150(13) is added to provide for an automatic annual increase of four percent in permit fees to keep up with inflation and maintain LRAPA’s level of service in permitting. Therefore, the 2000 version of Table A that we are approving into the SIP will be the baseline from which future permit fees will be calculated.

We are approving the revisions to Title 34 into the SIP, with the exception of the rules for Federal Operating Permits (Sections 34–170 to 34–200) and Plant Site Emission Limits for Sources of Hazardous Air Pollutants (34–060(6)). Federal Operating Permit (Title V) programs and rules are enforceable by EPA through the Title V approval process (60 FR 50106, September 28, 1995), which is independent of the SIP approval

process. Rules for the control of Hazardous Air Pollutants are not appropriate for the SIP. We are also taking no action on Section 34–035, Requirements for Construction (or Non-Major Modification), at this time.

EPA is taking no action on certain provisions relating to the trading of emissions, specifically Section 34–060(8) “Alternative Emission Controls (Bubble).” These provisions, which provide LRAPA with the authority to approve certain emission trades, do not need to be included in the SIP. The LRAPA bubble rule is consistent with the general requirements of EPA’s Final Emission Policy Statement (December 1986), but does not comply with EPA’s requirements for “generic” bubble rules. As such, each bubble approved by LRAPA must be submitted to, and approved by, EPA before the applicable requirements of the SIP are changed. Because of this requirement for a case-by-case SIP revision, it is inappropriate for EPA to approve LRAPA’s rule into the SIP.

#### Title 47—Rules for Open Outdoor Burning

We are taking no action on Title 47 at this time.

### II. Summary of Action

We approve the following SIP revisions and deletions submitted by LRAPA, through ODEQ, for inclusion in the Oregon SIP. This summary also lists the revisions on which EPA is taking no action. A revised Table of Contents for the LRAPA portion of the Oregon SIP appears at the end of this action.

#### A. The Revisions EPA Is Approving Into the SIP

Title 12, Definitions, effective 3–8–94.

Title 30, Incinerator Regulations, effective 3–8–94, except for Section 30–020(2), Section 30–020(8), Section 30–025(9), Section 30–030(1)(I), Section 30–030(2)(E), and Section 30–045(3).

Title 32, Emission Standards, effective 11–10–94, except for Section 32–075, Section 32–080, Section 32–095, Section 32–100, Section 32–101, Section 32–102, Section 32–103, and Section 32–104.

Title 33, Prohibited Practices and Control of Special Classes of Industry, effective 11–10–94, except for Section 33–005, Section 33–020, Section 33–055, Section 33–070(1)(Definitions for Non-Condensibles, Other Sources, and Total Reduced Sulfur (TRS)), Section 33–070(3)(A), Section 33–070(6)(B), Section 33–070(7)(A), Section 33–070(7)(B), Section 33–070(8)(C)(1)(a), Section 33–070(8)(C)(2)(a), Section 33–080, and Section 33–085.

Title 34, Stationary Source Rules and Permitting Procedures, effective 6–13–00, except for Section 34–025, Section 34–035, Section 34–060 (6), Section 34–060 (8), Section 34–080, Section 34–160, Section 34–170, Section 34–180, Section 34–190, Section 34–200, Section 34–210, Section 34–220, and Section 34–230.

#### B. The Revisions EPA Is Taking No Action On

The following sections of Title 30, Incinerator Regulations, effective 3–8–94: Section 30–020(2), Section 30–020(8), Section 30–025(9), Section 30–030(1)(I), Section 30–030(2)(E), and Section 30–045(3).

The following sections of Title 32, Emission Standards, effective 11–10–94: Section 32–075, Section 32–080, Section 32–095, Section 32–100, Section 32–101, Section 32–102, Section 32–103, and Section 32–104.

The following sections of Title 33, Prohibited Practices and Control of Special Classes of Industry, effective 11–10–94: Section 33–005, Section 33–020, Section 33–055, Section 33–070(1)(Definitions for Non-Condensibles, Other Sources, and Total Reduced Sulfur (TRS)), Section 33–070(3)(A), Section 33–070(6)(B), Section 33–070(7)(A), Section 33–070(7)(B), Section 33–070(8)(C)(1)(a), Section 33–070(8)(C)(2)(a), Section 33–080, and Section 33–085.

The following sections of Title 34, Stationary Source Rules and Permitting Procedures, effective 6–13–00: Section 34–025, Section 34–035, Section 34–060(6), Section 34–060(8), Section 34–080, Section 34–160, Section 34–170, Section 34–180, Section 34–190, Section 34–200, Section 34–210, Section 34–220, and Section 34–230.

Title 47, Rules for Open Outdoor Burning, effective 10–17–95.

#### C. The Provisions EPA Is Removing From the SIP

The following sections of Title 12, General Duties and Powers of Board and Director, effective 11–8–83: Section 12–005, Section 12–010, Section 12–020, and Section 12–035.

The following section of Title 12, General Duties and Powers of Board and Director, effective 9–9–88: Section 12–025.

Title 12, Definitions, effective 2–13–90.

Title 14, Definitions, effective 7–12–88.

Title 15, Enforcement Procedure and Civil Penalties, effective 2–13–90.

The following sections of Title 32, Emission Standards, effective 9–14–82: Section 32–005, Section 32–010, Section

32-025, Section 32-030, Section 32-035, Section 32-040, Section 32-045, Section 32-055, Section 32-065, Section 32-100, Section 32-101, Section 32-102, and Section 32-103.

The following section of Title 32, Emission Standards, effective 1-8-85: Section 32-800.

The following sections of Title 32, Emission Standards, effective 11-8-83: Section 32-104 and Section 32-990.

The following sections of Title 33, Prohibited Practices and Control of Special Classes of Industry, effective 5-15-79: Section 33-020, Section 33-025, Section 33-030, Section 33-045, Section 33-055, Section 33-060, and Section 33-065.

The following section of Title 33, Prohibited Practices and Control of Special Classes of Industry, effective 9-14-82: Section 33-070.

The following sections of Title 34, Stationary Source Rules and Permitting Procedures, effective 1-9-90: Section 34-001, Section 34-010, Section 34-015, Section 34-020, Section 34-025, Section 34-030, Section 34-035, Section 34-040, Section 34-045, Section 34-050, and Table A.

The following section of Title 34, Stationary Source Rules and Permitting Procedures, effective 2-13-90: Section 34-005.

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 October 2, 2001 without further notice unless the Agency receives adverse comments by September 4, 2001.

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 October 2, 2001, and no further action will be taken on the proposed rule.

### III. Administrative Requirements

A. 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 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), nor will it 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), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61

FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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. section 804(2). This rule will be effective October 2, 2001, unless EPA receives adverse written comments by September 4, 2001.

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 October 2, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### B. Oregon Notice Provision

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate

enforcement authority that a state must demonstrate to obtain SIP approval, as specified in section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude federal approval of a section 110 SIP revision.

To correct the problem the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph ORS 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from federal approval or delegation. ODEQ has agreed that, because federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits. Thus the advance notice provision in the LRAPA rule, section 15-018, does not apply for SIP requirements contained in permits.

#### *C. Oregon Audit Privilege and Immunity Law*

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

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 13, 2001.

**Ronald A. Kreizenbeck,**

*Acting 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 paragraph (c) (134) to read as follows:

##### **§ 52.1970 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(134) On December 12, 1996, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted revisions to Lane Regional Air Pollution Authority (LRAPA) Title 32 and Title 33, as effective on November 20, 1994. On August 26, 1998, the Director of ODEQ submitted revisions to LRAPA Title 12, Title 30, and Title 33, as effective on March 8, 1994. On February 23, 2001, the Director of ODEQ submitted revisions to LRAPA Title 34, as effective June 13, 2000.

(i) Incorporation by reference.

(A) Title 12, as effective March 8, 1994; Title 30, as effective March 8, 1994, except for Section 30-020(2), Section 30-020(8), Section 30-025(9), Section 30-030(1)(I), Section 30-030(2)(E), and Section 30-045(3); Title 32, as effective November 10, 1994, except for Section 32-075, Section 32-080, Section 32-095, Section 32-100, Section 32-101, Section 32-102, Section 32-103, and Section 32-104; Title 33, as effective November 10, 1994, except for Section 33-005, Section 33-020, Section 33-055, Section 33-070(1)(Definitions for Non-Condensibles, Other Sources, and Total Reduced Sulfur (TRS)), Section 33-070(3)(A), Section 33-070(6)(B), Section 33-070(7)(A), Section 33-070(7)(B), Section 33-070(8)(C)(1)(a), Section 33-070(8)(C)(2)(a), Section 33-080, and Section 33-085; and Title 34, as effective June 13, 2000, except for Section 34-025, Section 34-035, Section 34-060(6), Section 34-060(8), Section 34-080, Section 34-160, Section 34-170, Section 34-180, Section 34-190,

Section 34-200, Section 34-210, Section 34-220, and Section 34-230.

(B) Remove the following provisions from the current incorporation by reference: Section 12-005, Section 12-010, Section 12-020, and Section 12-035 of Title 12, as effective November 8, 1983; Section 12-025 of Title 12, as effective September 9, 1988; Title 12, as effective February 13, 1990; Title 14, as effective July 12, 1988; Title 15, as effective February 13, 1990; Section 32-005, Section 32-010, Section 32-025, Section 32-030, Section 32-035, Section 32-040, Section 32-045, Section 32-055, Section 32-065, Section 32-100, Section 32-101, Section 32-102, and Section 32-103 of Title 32, as effective 9-14-82; Section 32-800 of Title 32, as effective 1-8-85; Section 32-104 and Section 32-990 of Title 32, as effective 11-8-83; Section 33-020, Section 33-025, Section 33-030, Section 33-045, Section 33-055, Section 33-060, and Section 33-065 of Title 33, as effective 5-15-79; Section 33-070 of Title 33, as effective 9-14-82; Section 34-001, Section 34-010, Section 34-015, Section 34-020, Section 34-025, Section 34-030, Section 34-035, Section 34-040, Section 34-045, Section 34-050, and Table A of Title 34, as effective 1-9-90; and Section 34-005 of Title 34, as effective 2-13-90.

(ii) Additional Material:

(A) Title 15, Enforcement Procedure and Civil Penalties, as effective June 13, 1995.

3. Section 52.1977 is amended by revising Section 3.2 to read as follows:

##### **§ 52.1977 Content of approved State submitted implementation plan.**

\* \* \* \* \*

#### **3.2 Lane Regional Air Pollution Authority Regulations**

(LRAPA effective date)/EPA SIP effective date

Title 11 Policy and General Provisions  
11-005 Policy (10-9-79)/11-8-93  
11-010 Construction and Validity (10-9-79)/11-8-93  
Title 12 Definitions (3-8-94)/October 2, 2001  
Title 16 Home Wood Heating Curtailment Program Enforcement  
16-001 Purpose (7-13-93)/10-24-94  
16-010 Definitions (7-13-93)/10-24-94  
16-100 Civil Penalty Schedule (7-13-93)/10-24-94  
16-110 Classification of Violations (7-13-93)/10-24-94  
16-120 Notice of Violation (7-13-93)/10-24-94  
16-130 Appeal of Civil Penalty (7-13-93)/10-24-94

- 16-140 Conducting Contested Case Evidentiary Hearings (7-13-93)/10-24-94
- 16-150 Evidentiary Rules (7-13-93)/10-24-94
- 16-160 Final Orders (7-13-93)/10-24-94
- 16-170 Default Orders (7-13-93)/10-24-94
- Title 30 Incinerator Regulations
- 30-005 Purpose and Applicability (3-8-94)/October 2, 2001
- 30-010 Definitions (3-8-94)/October 2, 2001
- 30-015 Best Available Control Technology for Solid and Infectious Waste Incinerators (3-8-94)/October 2, 2001
- 30-020 Emission Limitations for Solid and Infectious Waste Incinerators \*except for sections (2) & (8) (3-8-94)/October 2, 2001
- 30-025 Design and Operation for Solid and Infectious Waste Incinerators \*except for section (9) (3-8-94)/October 2, 2001
- 30-030 Continuous Emission Monitoring for Solid and Infectious Waste Incinerators \*except for sections (1)(I) & (2)(E) (3-8-94)/October 2, 2001
- 30-035 Reporting and Testing for Solid and Infectious Waste Incinerators (3-8-94)/October 2, 2001
- 30-040 Compliance for Solid and Infectious Waste Incinerators (3-8-94)/October 2, 2001
- 30-045 Emission Limitations of Crematory Incinerators \*except for section (3) (3-8-94)/October 2, 2001
- 30-050 Design and Operation of Crematory Incinerators (3-8-94)/October 2, 2001
- 30-055 Monitoring and Reporting for Crematory Incinerators (3-8-94)/October 2, 2001
- 30-060 Compliance of Crematory Incinerators (3-8-94)/October 2, 2001
- Title 32 Emission Standards
- 32-001 Definitions (11-10-94)/October 2, 2001
- 32-005 Highest and Best Practicable Treatment and Control Required (11-10-94)/October 2, 2001
- 32-006 Pollution Prevention (11-10-94)/October 2, 2001
- 32-007 Operating and Maintenance Requirements (11-10-94)/October 2, 2001
- 32-008 Typically Achievable Control Technology (TACT) (11-10-94)/October 2, 2001
- 32-009 Additional Control Requirements for Stationary Sources of Air Contaminants (11-10-94)/October 2, 2001
- 32-010 Visible Air Contaminant Limitations (11-10-94)/October 2, 2001
- 32-015 Particulate Matter Weight Standards (11-10-94)/October 2, 2001
- 32-020 Particulate Matter Weight Standards—Existing Combustion Sources (11-10-94)/October 2, 2001
- 32-030 Particulate Matter Weight Standards—New Combustion Sources (11-10-94)/October 2, 2001
- 32-045 Process Weight Emission Limitations (11-10-94)/October 2, 2001
- 32-055 Particulate Matter Size Standard (11-10-94)/October 2, 2001
- 32-060 Airborne Particulate Matter (9-14-82)/11-8-93
- 32-060 Air Conveying Systems (11-10-94)/October 2, 2001
- 32-065 Sulfur Content of Fuels (11-10-94)/October 2, 2001
- 32-070 Sulfur Dioxide Emission Limitations (11-10-94)/October 2, 2001
- 32-090 Other Emissions (11-10-94)/October 2, 2001
- Table 1 Table of Allowable Rate of Particulate Emissions—Based on Process Weight (11-10-94)/October 2, 2001
- Title 33 Prohibited Practices and Control of Special Classes of Industry
- 33-030 Concealment and Masking of Emissions(11-10-94)/October 2, 2001
- 33-045 Gasoline Tanks (11-10-94)/October 2, 2001
- 33-060 Board Products Industries (Hardwood, Particleboard, Plywood, Veneer) (11-10-94)/October 2, 2001
- 33-065 Charcoal Producing Plants (11-10-94)/October 2, 2001
- 33-070 Kraft Pulp Mills \*except sections (1)(Definitions of Non-Condensibles, Other Sources, and Total Reduced Sulfur (TRS)), (3)(A), (6)(B), (7)(A), (7)(B), (8)(C)(1)(a), & (8)(C)(2)(a) (11-10-94)/October 2, 2001
- 33-075 Hot Mix Asphalt Plants (11-10-94)/October 2, 2001
- Title 34 Stationary Source Rules and Permitting Procedures
- 34-001 General Policy and Rule Organization (6-13-00)/October 2, 2001
- 34-005 Definitions (6-13-00)/October 2, 2001
- Rules Applicable to All Stationary Sources*
- 34-010 Applicability (6-13-00)/October 2, 2001
- 34-015 Request for Information (6-13-00)/October 2, 2001
- 34-020 Information Exempt from Disclosure (6-13-00)/October 2, 2001
- 34-030 Source Registration (6-13-00)/October 2, 2001
- 34-040 Compliance Schedules for Existing Sources Affected by New Rules (6-13-00)/October 2, 2001
- Rules Applicable to Sources Required To Have ACDP or Title V Operating Permits*
- 34-050 Applicability (6-13-00)/October 2, 2001
- 34-060 Plant Site Emission Limit Rules (6-13-00)/October 2, 2001 \*except for sections (6) and (8)
- 34-070 Sampling, Testing and Monitoring of Air Contaminant Emissions (6-13-00)/October 2, 2001
- Rules Applicable to Sources Required To Have Air Contaminant Discharge Permits (ACDP)*
- 34-090 Purpose and Applicability (6-13-00)/October 2, 2001
- 34-100 Permit Categories (6-13-00)/October 2, 2001
- 34-110 Permit Required (6-13-00)/October 2, 2001
- 34-120 Synthetic Minor Sources (6-13-00)/October 2, 2001
- 34-130 General Procedures for Obtaining ACDP Permits (6-13-00)/October 2, 2001
- 34-140 Permit Duration (6-13-00)/October 2, 2001
- 34-150 ACDP Fees (6-13-00)/October 2, 2001
- Table A Air Contaminant Sources and Associated Fee Schedule (6-13-00)/October 2, 2001
- Title 38 New Source Review
- 38-001 General Applicability (2-13-90)/11-8-93
- 38-005 Definitions (2-13-90)/11-8-93
- 38-010 General Requirements for Major Sources and Major Modifications (2-13-90)/11-8-93
- 38-015 Additional Requirements for Major Sources or Major Modifications Located in Nonattainment Areas (2-13-90)/11-8-93
- 38-020 Additional Requirements for Major Sources or Major Modifications in Attainment or Unclassified Areas (Prevention of Significant Deterioration) (2-13-90)/11-8-93
- 38-025 Exemptions for Major Sources and Major Modifications (2-13-90)/11-8-93
- 38-030 Baseline for Determining Credits for Offsets (2-13-90)/11-8-93
- 38-035 Requirements for Net Air

- Quality Benefit for Major Sources and Major Modifications (2-13-90)/11-8-93
- 38-040 Emission Reduction Credit Banking (2-13-90)/11-8-93
- 38-045 Requirements for Non-Major Sources and Non-Major Modifications (2-13-90)/11-8-93
- 38-050 Stack Height and Dispersion Techniques (2-13-90)/11-8-93
- Title 39 Contingency for PM10 Sources in Eugene-Springfield Non-Attainment Area
- 39-001 Purpose (11-13-91)/10-24-94
- 39-005 Relation to Other Rules (11-13-91)/10-24-94
- 39-010 Applicability (11-13-91)/10-24-94
- 39-015 Definitions (11-13-91)/10-24-94
- 39-020 Compliance Schedule for Existing Sources (11-13-91)/10-24-94
- 39-025 Wood-Waste Boilers (11-13-91)/10-24-94
- 39-030 Veneer Dryers (11-13-91)/10-24-94
- 39-035 Particleboard Plants and Wood Particle Dryers (11-13-91)/10-24-94
- 39-040 Kraft Pulp Mills (11-13-91)/10-24-94
- 39-050 Air Conveying Systems (11-13-91)/10-24-94
- 39-055 Fugitive Dust (11-13-91)/10-24-94
- 39-060 Open Burning (11-13-91)/10-24-94
- Title 47 Rules for Open Outdoor Burning
- 47-001 General Policy (8-14-84)/11-8-93
- 47-005 Statutory Exemptions from These Rules (8-14-84)/11-8-93
- 47-010 Definitions (1-1-93)/3-13-95
- 47-015 Open Burning Requirements (1-1-93)/3-13-95
- 47-020 Letter Permits (1-1-93)/3-13-95
- 47-030 Summary of Seasons, Areas, and Permit Requirements for Open Outdoor Burning (1-1-93)/3-13-95
- Title 50 Ambient Air Standards
- 50-005 General (7-12-88)/11-8-93
- 50-015 Suspended Particulate Matter (7-12-88)/11-8-93
- 50-025 Sulfur Dioxide (7-12-88)/11-8-93
- 50-030 Carbon Monoxide (7-12-88)/11-8-93
- 50-035 Ozone (7-12-88)/11-8-93
- 50-040 Nitrogen Dioxide (7-12-88)/11-8-93
- 50-045 Lead (7-12-88)/11-8-93
- Title 51 Air Pollution Emergencies
- 51-005 Introduction (7-12-88)/11-8-93
- 51-010 Episode Criteria (7-12-88)/

- 11-8-93
- 51-015 Emission Reduction Plans (7-12-88)/11-8-93
- 51-020 Preplanned Abatement Strategies (7-12-88)/11-8-93
- 51-025 Implementation (7-12-88)/11-8-93
- Table I Air Pollution Episode, Alert Condition Emission Reduction Plan (7-12-88)/11-8-93
- Table II Air Pollution Episode, Warning Conditions Emission Reduction Plan (7-12-88)/11-8-93

\* \* \* \* \*

4. Section 52.1988 is amended by revising paragraph (b) to read as follows:

**§ 52.1988 Air contaminant discharge permits.**

\* \* \* \* \*

(b) Emission limitations and other provisions contained in Air Contaminant Discharge Permits and Federal Operating Permits established by the Lane Regional Air Pollution Authority pursuant to the rules applicable to sources required to have ACDP or Title V Operating Permits (Title 34, Sections 050, 060 (except for 060(6) "Plant Site Emission Limits for Sources of Hazardous Air Pollutants" and 060(8) "Alternative Emission Controls (Bubble)"), and 070) and the rules applicable to sources required to have air contaminant discharge permits (ACDP) (Title 34, Sections 090 through 150), 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.

[FR Doc. 01-19320 Filed 8-2-01; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 541**

[Docket No. NHTSA-2001-9831]

RIN 2127-A108

**Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 2002 High-Theft Vehicle Lines**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This final rule announces NHTSA's determination for model year (MY) 2002 high-theft vehicle lines that

are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft MY 2002 lines that are exempted from the parts-marking requirements because the vehicles are equipped with anti-theft devices determined to meet certain statutory criteria pursuant to the statute relating to motor vehicle theft prevention.

**EFFECTIVE DATE:** The amendment made by this final rule is effective August 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Consumer Programs Division, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** The Anti Car Theft Act of 1992, Pub. L. 102-519, amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of "passenger motor vehicle" in 49 U.S.C. 33101(10) to include a "multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of "passenger motor vehicles (other than light duty trucks) in