

## PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2).

■ 2. Section 1.14 is amended by revising paragraph (h) to read as follows:

### § 1.14 Patent applications preserved in confidence.

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(h) *Access by a Foreign Intellectual Property Office.* (1) Access to an application-as-filed may be provided to any foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office), if the application contains written authority granting such access. Written authority provided under this paragraph (h)(1) will be treated as authorizing the Office to provide the following to all participating foreign intellectual property offices in accordance with their respective agreements with the Office:

(i) A copy of the application-as-filed and its related bibliographic data;

(ii) A copy of the application-as-filed of any application the filing date of which is claimed by the application in which written authority under this paragraph (h)(1) is filed and its related bibliographic data; and

(iii) The date of filing of the written authorization under this paragraph (h)(1).

(2) Access to the file contents of an application may be provided to a foreign intellectual property office that has imposed a requirement for information on a counterpart application filed with the foreign intellectual property office where the foreign intellectual property office is a party to a bilateral or multilateral agreement with the Office to provide the required information from the application filed with the Office and the application contains written authority granting such access. Written authority provided under this paragraph (h)(2) will be treated as authorizing the Office to provide the following to all foreign intellectual property offices in accordance with their respective agreements with the Office:

(i) Bibliographic data related to the application; and

(ii) Any content of the application file necessary to satisfy the foreign intellectual property office requirement for information imposed on the counterpart application as indicated in the respective agreement.

(3) Written authority provided under paragraphs (h)(1) and (h)(2) of this section must include the title of the invention (§ 1.72(a)), comply with the requirements of paragraph (c) of this section, and be submitted on an application data sheet (§ 1.76) or on a separate document (§ 1.4(c)). The written authority provided under these paragraphs should be submitted before filing any subsequent foreign application in which priority is claimed to the application.

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■ 3. Section 1.19 is amended by revising paragraph (b)(1)(iv) to read as follows:

### § 1.19 Document supply fees.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) If provided to a foreign intellectual property office pursuant to a bilateral or multilateral agreement (see § 1.14(h)): \$0.00.

\* \* \* \* \*

Dated: October 21, 2015.

**Michelle K. Lee,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2015-27335 Filed 10-26-15; 8:45 am]

**BILLING CODE 3510-16-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2011-0799; FRL-9936-03-Region 10]

### Air Plan Approval; OR; Portland, Medford, Salem; Clackamas, Multnomah, Washington Counties; Gasoline Dispensing Facilities

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve three state implementation plan (SIP) revisions submitted by the State of Oregon Department of Environmental Quality (Oregon or ODEQ) and a specific portion of a fourth SIP submittal identified in a supplementary letter. These SIP submittals primarily include rule amendments related to control measures for volatile organic compounds from gasoline dispensing facilities in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas, as well as all of Clackamas, Multnomah,

and Washington counties. The EPA received the SIP submittals from the ODEQ on February 5, 2009, November 1, 2010, May 25, 2011, and April 20, 2015, and the supplementary letter on September 18, 2015. The EPA is approving the SIP submittals because they are consistent with the requirements of the Clean Air Act (Act or CAA).

**DATES:** This rule is effective on December 28, 2015, without further notice, unless the EPA receives adverse comment by November 27, 2015. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2011-0799, by any of the following methods:

- **Federal eRulemaking Portal** <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- **Email:** [vaupel.claudia@epa.gov](mailto:vaupel.claudia@epa.gov).

- **Mail:** Claudia Vergnani Vaupel, EPA Region 10, Office of Air, Waste and Toxics, AWT-150, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.

- **Hand Delivery/Courier:** EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Claudia Vergnani Vaupel, Office of Air, Waste and Toxics, AWT-150. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2011-0799. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov> your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit

an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA Region 10, Office of Air, Waste, and Toxics, AWT-150, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Claudia Vergnani Vaupel at (206) 553-6121, [vaupel.claudia@epa.gov](mailto:vaupel.claudia@epa.gov), or the above EPA, Region 10 address.

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

## I. Introduction

Section 110 of the CAA requires states to develop and submit to the EPA SIPs to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA-approved SIP provisions and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to the EPA for review and approval.

## II. Background

This action primarily addresses Oregon's SIP submittals dated February 5, 2009, November 1, 2010, and May 25, 2011. These submittals include amendments to rules that control volatile organic compound (VOC) emissions from gasoline dispensing

facilities in the Air Quality Management Areas (AQMAs) of Portland-Vancouver (which includes portions of Clackamas, Multnomah, and Washington counties), Medford-Ashland, and Salem-Keizer Area Transportation Study (SKATS), as well as all of Clackamas, Multnomah, and Washington counties. The VOC rules were previously approved into the Oregon SIP to address Reasonably Available Control Technology (RACT) requirements for ozone nonattainment areas. (See for example 45 FR 42265, June 24, 1980). The VOC RACT rules support continued attainment and maintenance of the ozone NAAQS. They address emissions during the delivery of gasoline from gasoline cargo tank trucks to gasoline dispensing facility storage tanks as well as the emissions during the refueling of individual vehicles at gasoline dispensing facilities. During delivery, the emission controls generally include submerged fill pipes and stage I vapor balance systems. Stage I vapor balance systems capture vapors and return them to the gasoline cargo tank truck to keep the vapors from being emitted to the air. During the refueling of individual vehicles, special fuel dispensing nozzles at the pump (known as "stage II") capture vapors and direct them into the gasoline dispensing facility storage tanks.

In general, the February 5, 2009 submittal amended the VOC rules to consolidate them with Oregon's then newly adopted rules that implemented the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for gasoline dispensing facilities, (40 CFR part 63, subpart CCCCCC) (gasoline dispensing facility NESHAP). The effect of Oregon's rule amendments was to incorporate the substantive stage I VOC RACT rule requirements for gasoline dispensing facilities in Oregon Administrative Rules (OAR) 340 division 232 "Emission Standards for VOC Point Sources" and division 242 "Rules Applicable to the Portland Area" into division 244 "Oregon Federal Hazardous Air Pollutant Program," and to incorporate the permitting requirements for these facilities into division 216 "Air Contaminant Discharge Permits." The November 1, 2010 and May 25, 2011 submittals made additional amendments to the rules for gasoline dispensing facilities. These three submittals also include minor amendments to other rules in divisions 200 "State of Oregon Clean Air Act Implementation Plan," 209 "Public Notice Categories and Timing," and 210 "Registration in General".

The April 20, 2015 submittal consists of comprehensive revisions to the

ODEQ's air permitting and other air rules, including revisions to the rules for gasoline dispensing facilities in divisions 242 and 244. In a September 18, 2015 supplementary letter, the ODEQ requested that the EPA approve specific division 242 and 244 rules to ensure the most current version of the division 242 and 244 rules for gasoline dispensing facilities be approved into the SIP. Therefore, in this action, we are reviewing and acting only on the division 242 and 244 rule amendments in the April 20, 2015 submittal that were identified in the supplementary letter. We are not reviewing or acting on any other portion of the April 20, 2015 submittal at this time, but will address the remainder of that submittal in a future action. In addition, the ODEQ requested that the EPA approve the identified division 244 rules for gasoline dispensing facilities that replaced OAR 340-232-0070 and OAR 340-242-0520 in the February 5, 2009 submittal only to the extent they apply to sources in the Portland-Vancouver, Medford-Ashland, and SKATS AQMAs, as well as all of Clackamas, Multnomah, and Washington counties.

## III. The EPA's Evaluation

In the February 5, 2009 submittal, the ODEQ repealed the SIP-approved rule OAR 340-232-0070 that applied to gasoline dispensing facilities in the Portland-Vancouver, Medford-Ashland, and SKATS AQMAs. The ODEQ also removed references to stage I vapor balance systems from the SIP-approved rules OAR 340-242-0500 and -0520, which applied to gasoline dispensing facilities in Clackamas, Multnomah and Washington counties, but retained the stage II vapor collection system requirements in those rules. The stage I vapor balance requirements contained in OAR 340-232-0070, OAR 340-242-0500 and OAR 340-242-0520 were added to sections of new rules in division 244 (-0030, -0234, -0238, -0240, -0242, and -0244) and to amended sections of existing rules in division 216 (-0020, including tables 1 and 2, -0040, and -0060). The ODEQ made further amendments to the rules for gasoline dispensing facilities in the subsequent submittals, as explained in section II.

In addition to the VOC RACT gasoline dispensing facility rule amendments, the SIP submittals also include amendments to the following rules: OAR 340-200-0040, 340-209-0030, 340-210-0100, 340-210-0110, 340-210-0120, 340-216-0062, and 340-244-0020. A summary discussion of the rule amendments is provided below. A table that identifies which new rules address

the SIP-approved gasoline dispensing facility provisions is included in the docket for this action.

#### *A. Emission Control Requirements*

As in the SIP-approved rules, the amended rules in OAR 340 divisions 244 and 216 continue to apply to the delivery of gasoline to a gasoline dispensing facility storage tank, require submerged filling and have specific piping requirements. The amended rules exempt all gasoline storage tanks with a capacity of less than 250 gallons from the submerged fill requirements. For tanks installed on or before October 14, 1999, this is more stringent than the SIP-approved rules which exempted tanks with a capacity of 1,500 gallons or less. However, the SIP-approved rules required submerged fill for all tanks installed after October 14, 1999. Thus, for those tanks with a capacity less than 250 gallons, the amended rules are less stringent. The ODEQ provided emissions estimates for these small tanks exempt from the submerged fill requirements under the amended rules and explained that, in general, such sources use the gasoline for their own equipment (e.g., golf courses to fuel golf carts or a facility that has a gasoline powered forklift) rather than for resale, and that not many tanks are under this size threshold. The ODEQ estimates increases in VOC emissions in the AQMAs from this minor exemption to be 55 pounds, or 0.027 tons, per year.

The vapor balance system requirements in the amended rules are similar to the SIP-approved rules, including requirements that equipment be vapor tight, maintained in good working order, and properly connected. Both the amended and the SIP-approved rules exempt tanks with floating roofs from the vapor balance system requirements. Similar to the SIP-approved rule, the amended rules require that vapor balance systems meet certain specifications and demonstrate compliance. The amended rules cite more recently adopted test methods for compliance than the SIP-approved test methods. In addition, the new rules require a compliance demonstration every three years after the initial compliance demonstration for gasoline dispensing facilities with a monthly throughput of 100,000 gallons of gasoline or more. This is more stringent than the SIP-approved rule. In the Portland-Vancouver, Medford-Ashland, and SKATS AQMAs, the amended rules continue to exempt gasoline storage tanks that have a capacity of 1,500 gallons or less from the vapor balance system requirements. However, in Clackamas, Multnomah, and

Washington counties, the requirements for vapor balance systems are slightly amended. In these counties, the SIP-approved rules required a vapor balance system for all tanks if the gasoline dispensing facility had an annual throughput of 120,000 gallons of gasoline or more regardless of the storage capacity of the tank. The amended rules exempt gasoline storage tanks that have a capacity less than 250 gallons from the vapor balance system requirements. The EPA does not consider this to be a relaxation of the SIP-approved rules because gasoline dispensing facilities that have an annual throughput of 120,000 gallons of gasoline or more would be expected to have storage tanks that are larger than 250 gallons.

The amended rules do not specify that training and written instructions be provided to the operators of gasoline dispensing facilities and gasoline transport vehicles as in the SIP-approved rules. The management practices for gasoline dispensing facilities and cargo tanks included in OAR 340–244–0242 tables 2 and 3 provide a similar level of assurance, however, that equipment is operated properly. In addition, the new rules for gasoline dispensing facilities in division 244 also include other requirements that are not currently in the SIP but are based on the requirements of the gasoline dispensing facility NESHAP. These include a specific timeframe for demonstrating initial compliance with the vapor balance system, demonstrating monthly throughput, general duties to minimize emissions, notifications, recordkeeping, and reporting. These requirements are consistent with the gasoline dispensing facility NESHAP and will either reduce VOC emissions or enhance the enforceability of VOC SIP requirements for gasoline dispensing facilities. Thus, while a few aspects of the amended requirements for gasoline dispensing facilities are less stringent than in the existing SIP, given the overall strengthening of the requirements for gasoline dispensing facilities in the identified areas under the amended rules, the EPA finds that the revisions to the requirements for gasoline dispensing facilities in the Portland-Vancouver, Medford-Ashland, and SKATS AQMAs and in Clackamas, Multnomah, and Washington counties will not interfere with any applicable requirement concerning attainment or maintenance of the NAAQS or any other applicable CAA requirements. The EPA is therefore approving these requirements for the Portland-

Vancouver, Medford-Ashland, and SKATS AQMAs as well as all of Clackamas, Multnomah, and Washington counties.<sup>1</sup>

#### *B. Permitting Rules*

The General Air Contaminant Discharge Permits (ACDPs) rules in the amended OAR division 216 have replaced the vapor balance system (stage I) and stage II vapor collection permit requirements in the SIP-approved rules. The EPA has approved the submitted amendments to division 216 (*See* 76 FR 80747, December 27, 2011). Like the SIP-approved rules, the amended rules include equivalent<sup>2</sup> permitting requirements, permitting fees, and a 10 year limit on the permit. Other administrative requirements, however, such as the requirement to notify the ODEQ of a change of ownership, the date for submitting renewal applications, and the requirement to keep a copy of the permit on site at the facility, are included in the SIP-approved rule, but are not included in the ODEQ's amended permit provisions for gasoline dispensing facilities. The EPA notes that the ODEQ includes these types of provisions in its general permit for gasoline dispensing facilities. Given the administrative nature of such requirements, the EPA concludes that the revisions to the permitting requirements for gasoline dispensing facilities will not interfere with any applicable requirement concerning attainment or maintenance of the NAAQS or any other applicable CAA requirements.

#### *C. Rule Amendments that the EPA is Not Approving*

The February 5, 2009, November 1, 2010, and May 25, 2011 submittals also include amendments to other rules that

<sup>1</sup> The ODEQ has excluded from its submittal the following provisions in the emissions standards for gasoline dispensing facilities in division 244 that do not correspond to current SIP requirements for gasoline dispensing facilities or to provisions in the gasoline dispensing facility NESHAP: OAR 340–244–0238(1)(a) and (2)(c), 340–244–0240(1)(b) and (c), and 340–244–0242 (4)(c) and (d). The ODEQ has also requested that the EPA approve the definitions in OAR 340–244–0030 only to the extent needed to implement the requirements for gasoline dispensing facilities in the division 244 requirements approved into the SIP.

<sup>2</sup> In the amended rules, stage I and stage II permits are required for gasoline dispensing facilities with a monthly throughput of 10,000 gallons of gasoline or more. We consider this requirement to be essentially equivalent to the SIP-approved rule, which (a) required vapor balance systems (stage I) and permits for gasoline dispensing facilities with greater than 1,500 gallon capacity as explained in our May 10, 2000 action (65 FR 29956), and (b) required stage II systems and permits for gasoline dispensing facilities (subject to those requirements in OAR 340–242–0520) with an annual throughput exceeding 600,000 gallons.

we are not approving in this action. The division 210 "Registration in General" rules have been superseded by a more recent submittal and have been approved by the EPA (*See* 78 FR 37124, June 20, 2013). The April 20, 2015 submittal superseded OAR 340–209–0030 and OAR 340–216–0062, and we will address them in a future action. We are also not approving OAR 340–244–0020, which was included in the February 5, 2009 submittal, because this rule addresses the authority of Lane Regional Air Protection Agency (LRAPA) to implement requirements within its jurisdiction, and LRAPA does not have jurisdiction in the geographic areas covered by this SIP approval. Finally, OAR 340–200–0040 describes the State's procedures for adopting its SIP and references all of the state air regulations that have been adopted by the ODEQ for approval into the SIP (as a matter of state law), whether or not they have yet been submitted to or approved by the EPA. The EPA is not approving the revisions to this provision in these SIP submittals because the federally-approved SIP consists only of regulations and other requirements that have been submitted by the ODEQ and approved by the EPA.

#### IV. Final Action

The EPA is taking the following action on the amendments to OAR Chapter 340 that were included in the February 5, 2009, November 1, 2010, and May 25, 2011 submittals and the division 242 and 244 rules in the April 20, 2015 submittal that were identified by the ODEQ for our review in the September 18, 2015 supplementary letter. We are acting on the most recent version of the rules in the submittal identified in parentheses below. Further action on the earlier adopted versions of these rules included in the submittals is not required because they are no longer in effect and have been superseded by the most recent submittal.

We are approving the following rule amendments: OAR 340–232–0070 (repeal) (February 5, 2009 submittal); OAR 340–242–0500, –0510, –0520 (April 20, 2015 submittal as identified in the September 18, 2015 supplementary letter);<sup>3</sup> OAR 340–244–0030,<sup>4</sup> –0232, –0234, –0236, –0238

(except (1)(a) and (2)(c)),<sup>5</sup> –0239, –0240, –0242 (including tables 2 and 3), –0244 (except (1)(b) and (c)),<sup>6</sup> –0246, –0248 (except (4)(c) and (d)),<sup>7</sup> –0250 (April 20, 2015 submittal as identified in the September 18, 2015 supplementary letter); and OAR 340–244–0252 (February 5, 2009 submittal). At the ODEQ's request, the EPA is approving the identified requirements in division 244 only for sources in the Portland-Vancouver, Medford-Ashland, and SKATS AQMAs as well as all of Clackamas, Multnomah, and Washington counties. The EPA notes that, although Oregon's rules for gasoline dispensing facilities also regulate emissions of hazardous air pollutants, the EPA is approving these provisions for the purpose of regulating VOC emissions from these facilities. The EPA's authority to approve SIPs extends to provisions related to attainment and maintenance of the NAAQS and carrying out other specific requirements of section 110 of the CAA.

As discussed above, we are not approving OAR 340–200–0040 (May 25, 2011); OAR 340–209–0030, OAR 340–210–0100, –0110, –0120, and OAR 340–216–0062, –0064 (November 1, 2010 submittal); OAR 340–216–0020, –0060 (May 25, 2011); or OAR 340–244–0020 (February 5, 2009 submittal).

#### V. Incorporation by Reference

In this rule, the EPA is approving regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the Oregon regulations (OAR Chapter 340) described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standard; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

<sup>3</sup> By its terms, division 242 applies only in Clackamas, Multnomah, and Washington Counties.

<sup>4</sup> As discussed above, the ODEQ has requested that the EPA approve the definitions in OAR 340–244–0030 only to the extent needed to implement the requirements for gasoline dispensing facilities in division 244 that are approved into the SIP.

<sup>5</sup> As discussed above, the ODEQ has excluded OAR 240–244–0238(1)(a) and (2)(c) from its submittal.

<sup>6</sup> As discussed above, the ODEQ has excluded OAR 340–244–0240(1)(b) and (c) from its submittal.

<sup>7</sup> As discussed above, the ODEQ has excluded OAR 340–244–0242(4)(c) and (d) from its submittal.

Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section

of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

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

Dated: September 25, 2015.

**Michelle Pirzadeh,**

*Acting Regional Administrator, Region 10.*

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart MM—Oregon

- 2. In § 52.1970, paragraph (c), Table 2—EPA Approved Oregon Administrative Rules (OAR), is amended by:

- a. Removing the entry 232–0070;
- b. Revising entries 242–0500; 242–0510; 242–0520;
- c. Adding a header titled “Division 244—Oregon Federal Hazardous Air Pollutant Program” after the entry for “242–0790”, and adding entries 244–0030, 244–0232, 244–0234, 244–0236, 244–0238, 244–0239, 244–0240, 244–0242, 244–0244, 244–0246, 244–0248, 244–0250, and 244–0252 in numerical order and
- d. Adding footnotes 1 and 2, at the end of the table.

The revisions and additions read as follows:

#### § 52.1970 Identification of plan.

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(c) \* \* \*

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Chapter 340—Department of Environmental Quality</b>				
*	*	*	*	*
<b>Division 242—Rules Applicable to the Portland Area</b>				
*	*	*	*	*
<b>Gasoline Vapors from Gasoline Transfer and Dispensing Operations</b>				
242–0500 .....	Purpose and Applicability .....	4/16/2015	10/27/2015 [Insert <b>Federal Register</b> citation].	
242–0510 .....	Definitions .....	4/16/2015	10/27/2015 [Insert <b>Federal Register</b> citation].	
242–0520 .....	General Provisions .....	4/16/2015	10/27/2015 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Division 244—Oregon Federal Hazardous Air Pollutant Program<sup>1 2</sup></b>				
<b>General Provisions for Stationary Sources</b>				
244–0030 .....	Definitions .....	4/16/2015	10/27/2015 [Insert <b>Federal Register</b> citation].	Only to the extent needed to implement the requirements for gasoline dispensing facilities in division 244 that are approved into the SIP.
<b>Emission Standards for Gasoline Dispensing Facilities</b>				
244–0232 .....	Purpose .....	4/16/2015	10/27/2015 [Insert <b>Federal Register</b> citation].	

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR)—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
244–0234 .....	Affected Sources .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0236 .....	Affected Equipment or Processes	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0238 .....	Compliance Dates .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	Except (1)(a) and (2)(c).
<b>Emission Limitations and Management Practices</b>				
244–0239 .....	General Duties to Minimize Emissions.	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0240 .....	Work Practice and Submerged Fill Requirements.	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0242 .....	Vapor Balance Requirements .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	Including tables 2 and 3.
<b>Testing and Monitoring Requirements</b>				
244–0244 .....	Testing and Monitoring Requirements.	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	Except (1)(b) and (c).
<b>Notifications, Records, and Reports</b>				
244–0246 .....	Notifications .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0248 .....	Recordkeeping Requirements .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	Except (4)(c) and (d).
244–0250 .....	Reporting Requirements .....	4/16/2015	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
244–0252 .....	General Provision Applicability .....	12/31/2008	10/27/2015 [Insert <b>Federal Reg-ister</b> citation].	
*	*	*	*	*

<sup>1</sup> Only for the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas, as well as all of Clackamas, Multnomah, and Washington counties.

<sup>2</sup> This approval is for the purpose of regulating volatile organic compound (VOC) emissions.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2014–0256; FRL–9935–66–Region 9]

### Approval and Promulgation of Implementation Plans; Arizona; Phased Discontinuation of Stage II Vapor Recovery Program

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of adverse comments, the Environmental Protection Agency (EPA) is withdrawing the September 2, 2015 direct final rule that approves a state implementation plan (SIP) revision related to the removal of “Stage II” vapor recovery equipment at gasoline dispensing facilities in the Phoenix-Mesa area. The

EPA will address the comments in a subsequent final action based upon the proposed rulemaking action, also published on September 2, 2105. The EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 80 FR 53001 on September 2, 2015 is withdrawn, effective October 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105; (415) 947–4152; [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 2, 2015 (80 FR 53001), the EPA published a direct final rule approving a SIP revision submitted by the Arizona Department of Environmental Quality (ADEQ). The revision provides for the phased removal of Stage II vapor recovery equipment at gasoline dispensing facilities in the Phoenix-Mesa area. Specifically, the revision eliminates the requirement to install and operate such equipment at new gasoline dispensing facilities, and provides for the phased

removal of such equipment at existing gasoline dispensing facilities from October 2016 through September 2018. In the direct final rule, the EPA stated that if adverse comments were received by October 2, 2015, the EPA would publish a timely withdrawal of the direct final rule and address the comments in a subsequent final rule. The EPA received adverse comments and is therefore withdrawing the direct final rule. The EPA will address these comments in a separate final action based on the proposed action also published on September 2, 2015 (80 FR 53086). The EPA will not open a second comment period for this action.

### List of Subjects in 40 CFR Part 52

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