

(3) *Limitations.* For subcutaneous ear implantation in steers and heifers only. Safety and effectiveness have not been established in veal calves. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

Dated: November 10, 2004.

**Steven D. Vaughn,**

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 04-25877 Filed 11-19-04; 8:45 am]

BILLING CODE 4160-01-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OR-04-002; FRL-7835-2]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA approves numerous revisions to the Oregon State Implementation Plan (SIP) in the State of Oregon Administrative Rules (OAR) relating to the inspection and maintenance (I/M) of motor vehicles. These revisions were submitted to EPA by the Director of the Oregon Department of Environmental Quality (ODEQ) on November 5, 1999, September 15, 2000, November 27, 2000, January 10, 2003, and April 22, 2004.

The revisions were submitted in accordance with the requirements of section 110 of the Clean Air Act (hereinafter CAA or Act).

EPA is also approving the re-numbering of the Motor Vehicle section of the Oregon Administrative Rules. Two non-SIP related rules are also removed from the SIP in this action.

**DATES:** This direct final rule will be effective on January 21, 2005, without further notice, unless EPA receives comment by December 22, 2004. If 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:** Submit your comments, identified by Docket ID No. OR-04-002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [R10aircom@epa.gov](mailto:R10aircom@epa.gov).
- Fax: (206)-553-0110.
- Mail: Office of Air, Waste, and Toxics, Environmental Protection

Agency, Mail code: OAWT-107, 1200 Sixth Ave., Seattle, Washington 98101.

• Hand Delivery: Environmental Protection Agency, Office of Air, Waste, and Toxics, OAWT-107, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. 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. OR-04-002. EPA's policy is that all comments received will be included in the public docket without change, 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 [regulations.gov](http://regulations.gov), or e-mail. The federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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. For additional instructions on submitting comments, go to A. General Information of the SUPPLEMENTARY INFORMATION section of this document.

**Docket:** Publicly available docket materials are available in hard copy at the Office of Air, Waste, and Toxics, EPA Region 10, Mail code: OAWT-107, 1200 Sixth Ave., Seattle, Washington 98101; open from 8 a.m.—4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number is (206) 553-1463.

#### FOR FURTHER INFORMATION CONTACT:

Wayne Elson, Office of Air, Waste and Toxics, EPA Region 10, Mail code: OAWT-107, 1200 Sixth Avenue, Seattle WA 98101, telephone number: (206) 553-1463, or e-mail address: [elson.wayne@epa.gov](mailto:elson.wayne@epa.gov).

#### SUPPLEMENTARY INFORMATION:

## I. General Information

The information in this section is organized as follows:

- A. What Should I Consider as I Prepare My Comments for EPA?
- B. What SIP Amendments Is EPA Approving?
- C. What Are I/M Programs?
- D. What Changes Have Been Made to Oregon's I/M Program That EPA Is Approving?
- E. What Is the Enhanced Test Waiver and Why Is It Needed?
- F. What Is a Qualified Household for the Enhanced Test Waiver?
- G. Will This Waiver Affect Air Quality?
- H. What Is On-Board Diagnostic (OBD) Testing?
- I. What Is On-Site Vehicle Testing?
- J. What Is Clean-Screen Testing?
- K. What Is the Self-Service Test?
- L. Are Clean Screen Testing and Self-Service Testing Required Tests?
- M. Why Is EPA Taking No Action on Clean Screen Testing and the Self-Service Test?
- N. How Will These Approvals Change Ongoing Air Quality Planning in Oregon?

#### A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

*B. What SIP Amendments Is EPA Approving?*

The following table outlines the submittals EPA received and is approving in this action:

Date of submittal to EPA	Items revised
11-5-1999 .....	—Renumbering of the Motor Vehicles Rule from Division 24 to Division 256 of the OAR.
9-15-2000 .....	Submitted rule changes were superceded by rule revisions in later submittals listed below.
11-27-2000 .....	—OAR 340-256-0355 Emissions Control Test Method for OBD Test Program. —OAR 340-256-0440 Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates. —OAR 340-256-0465 Test Equipment Licensing Criteria for OBD Test Program.
1-10-2003 .....	—OAR 340-256-0356 Emissions Control Test Method for On-Site Vehicle Testing for Automobile Dealerships.
4-22-2004 .....	—OAR 340-256-0010 Definitions. —OAR 340-256-0300 Scope. —SIP Volume 2, Section 5.4 Motor Vehicle Inspection and Maintenance.

The SIP revisions cover the addition of new rules and revisions to existing rules for I/M requirements in Division 256 Motor Vehicles (formerly Division 024). The submittal dated September 15, 2000 contained rules that were subsequently revised in later ODEQ submittals. Only the current version of each rule is being approved.

In addition to the rule revisions submitted by ODEQ, EPA is also approving rule renumbering of the Motor Vehicle Division 256 of the OAR. On November 5, 1999, ODEQ submitted a complete rule renumbering to EPA for approval into the SIP, with an effective date under State law of October 14, 1999. EPA approved portions of this submittal, but did not take action on Division 256 Motor Vehicles since the rules in this division had been subsequently revised by ODEQ. The rule renumbering is non-substantive.

EPA is removing the old rules (formerly Division 024) from the current SIP that are replaced and approved under the renumbering.

EPA is removing previously approved rules relating to noise emissions from the SIP in this action. These noise emissions rules were incorrectly approved into the SIP under a previous action. EPA also is removing the fee schedule for motor vehicle inspections.

Excess emissions rule revisions by the Lane Regional Air Pollution Authority (LRAPA) were submitted with the January 10, 2003 submittal. EPA is taking no action on the Excess Emissions Rules at this time.

ODEQ submitted two new rules for testing methods which include Clean Screen and Self Service testing. The rules state the possibility of implementation of this testing, but procedures and methods for implementation have not been developed and are currently not in

place. Therefore, EPA is taking no action on these rules at this time.

The most salient aspects of approved rule changes include: revised rules for testing requirements based on vehicle model year, the introduction of the OBD test for 1996 and newer vehicles in the Portland and Medford area vehicle inspection programs, providing a waiver from the enhanced vehicle inspection testing requirements for vehicles owned by qualified households in the Portland vehicle inspection area, establishing an on-site vehicle testing program for used vehicles sold by auto dealers in the Portland and Medford areas, and revised rules for qualifications for testing personnel.

*C. What Are I/M Programs?*

In local areas I/M programs are designed to reduce motor vehicle emissions by requiring that vehicles periodically pass a tailpipe emissions test or, depending on the model year, a check of the OBD system. Vehicles emissions are reduced when vehicles are repaired in order to pass these tests.

*D. What Changes Have Been Made to Oregon's I/M Program That EPA Is Approving?*

Current SIP approved rules include the basic and enhanced test requirements. This approval adds the OBD test as a requirement for certain vehicles in the Portland Vehicle Inspection (VI) Area and Medford-Ashland Air Quality Maintenance Area (AQMA). The emission control test method for the OBD test and OBD test equipment licensing criteria are also included in these rule changes.

This approval also includes a waiver from the enhanced vehicle test for qualified households in the Portland VI Area. Households eligible for the waiver would still be required to take the basic

emissions test. Qualifications for the waiver are based on household income.

EPA is also approving an on-site vehicle testing program for used vehicles sold by auto dealers in the Portland and Medford area. This is a voluntary program that allows on-site testing by ODEQ employees for manufacturer franchised auto dealers only.

This approval also includes revisions made to the criteria for qualifications for persons eligible to inspect motor vehicles to include qualifications for administering testing for new vehicle tests and test methods.

SIP Volume 2, Section 5.4 is a programmatic description of the Oregon I/M program including boundaries, performance standards, network type, tools, test frequency, quality control, waivers, and compliance, data collection, inspector training, and repair effectiveness. This description has been updated to reflect the changes to the program. EPA reviewed these changes and will approve this section.

*E. What Is the Enhanced Test Waiver and Why Is It Needed?*

This provision allows the waiver of some households from the enhanced vehicle emissions test. The waiver program is only for the Portland VI Area. The waiver would be granted based on household income. These households would still be required to take the basic emissions test. This waiver benefits households by reducing vehicle repair costs to meet emission standards. In a two-year pilot program, repair costs to meet the enhanced vehicle tests were higher than the cost of repairs to comply with the basic emissions test.

*F. What Is a Qualified Household for the Enhanced Test Waiver?*

A qualified household, under the enhanced test waiver program, has a net income of less than or equal to 1.3 times the Federal Poverty Guidelines for the year 2000. After the year 2000, the annual income requirement will be adjusted annually, using the Oregon Consumer Price Index for the Portland Metro Regional area.

*G. Will This Waiver Affect Air Quality?*

In order to amend the SIP to include this provision, the ODEQ must demonstrate that the waiver program will not result in an exceedance of air quality standards. The information collected from a two-year pilot waiver program has shown that the number of vehicles granted waivers under this program would have a negligible effect on air quality.

*H. What Is On-Board Diagnostic (OBD) Testing?*

OBD is a term describing a vehicle's on-board computer that monitors how certain vehicle components function. The OBD system alerts drivers of malfunctions in systems that affect exhaust emissions such as the oxygen sensor, exhaust gas re-circulation system, fuel system, catalytic converter, etc. The OBD system continuously monitors engine systems and detects problems early.

If a vehicle's computer system detects a malfunction, the computer stores a code that can aid in diagnosis of vehicle problems that can affect air quality. During emissions testing, a computer checks for these stored trouble codes by downloading the vehicle's computer, and the dashboard malfunction light is also checked.

*I. What Is On-Site Vehicle Testing?*

On-site testing is vehicle emissions testing that takes place at an auto dealer's location, instead of at a ODEQ vehicle testing facility. ODEQ will perform the on-site testing using a traveling van equipped with OBD testing equipment. The OBDII test will be given to 1996 and newer model year vehicles equipped with OBDII systems. If a vehicle fails the test, the vehicle must be repaired before being re-tested.

Auto dealers may elect to take vehicles to ODEQ centralized testing locations if they decide not to participate in the on-site testing.

*J. What Is Clean-Screen Testing?*

The clean screen test evaluates vehicle emissions while on the roadway to determine whether a vehicle has acceptable emissions. Clean screen

testing may be administered using several methods. One technique would optically measure emissions using ultraviolet and infrared light beams directed across lane of traffic. Another technique would intercept a broadcast electronic OBD signal from a vehicle whose owner has volunteered for the program.

The clean screening test would be administered just prior to registration expiration. Clean vehicles would be issued a certificate of compliance and would not be required to undergo the traditional vehicle inspection test at a testing facility.

The clean-screen testing rule requires ODEQ to establish specific testing processes before implementing this type of testing. This testing program is developmental and the rule requires ODEQ develop documentation that this method would provide equal or greater accuracy in identifying vehicles that would pass or fail the required emission test.

*K. What Is the Self-Service Test?*

The self-service testing would provide a testing method for the vehicle owner or owner's representative to perform the emissions test at a designated location. The test performed will be either a remote sensing optical quantification of tailpipe pollutants, a remote or computer connected OBD test, or other means as developed by ODEQ.

The self-service test rule requires ODEQ to establish specific testing processes before implementing this type of testing. This testing program is developmental and the rule requires ODEQ develop documentation that this method would provide equal or greater accuracy in identifying vehicles that would pass or fail the required emission test.

*L. Are Clean Screen Testing and Self-Service Testing Required Tests?*

No. Both testing options are voluntary, and, if implemented, would be offered as an alternative to the standard emissions testing at ODEQ testing facilities. Vehicle owners would still be able to have their vehicles tested at the ODEQ test centers.

*M. Why Is EPA Taking No Action on Clean Screen Testing and the Self-Service Test?*

EPA is taking no action on these rules at this time because procedures for these tests have not yet been developed, and the testing programs are not ready to implement on a wide scale. However, this does not prevent ODEQ from developing these testing programs and

later submitting the procedures to EPA for approval into the SIP.

*N. How Will These Approvals Change Ongoing Air Quality Planning in Oregon?*

ODEQ is proposing revisions to the Oregon SIP to maintain air quality in compliance with federal air quality standards for carbon monoxide and ozone. The I/M program is an important and integral part of the ongoing air quality control measures of the SIP. EPA approval will support and strengthen the I/M program.

These rule changes provide additional vehicle testing options that could make vehicle testing more convenient. Improvements in customer service could increase participation in the I/M program.

## **II. Summary of Action**

*A. EPA Is Approving the Following Sections Into the SIP*

Chapter 340-256 Motor Vehicles Sections -0010, -0200, -0300, -0310, -0330, -0340, -0350, -0355, -0356, -0370, -0380, -0390, -0400, -0410, -0420, -0440, -0450, -0460, -0465, and -0470 and SIP Volume 2, Section 5.4.

*B. EPA Is Removing the Following Old Sections From the Current SIP Because They Are Replaced by the Rules in Section A Above*

Chapter 340 Division 024 Sections -0100, -0300, -0301, -0305, -0306, -0308, -0309, -0312, -0318, -0320, -0325, -0330, -0332, -0335, -0340, -0355, -0357, and -0360 and SIP Volume 2, Section 5.4.

*C. EPA Is Removing the Following Rules From the Current IBR'd SIP Because They Are Not Appropriate for Inclusion in the SIP*

Chapter 340 Division 024 Sections 0314 Motorcycle Noise Emission Control Test Method, 0337 Motor Vehicle Propulsion Exhaust Noise Standards, and 0307 Motor Vehicle Inspection Program Fee Schedule.

*D. EPA Is Taking No Action at This Time on the Following Rules*

Lane Regional Air Pollution Authority Excess Emissions Rules, OAR 340-256-0357 Emissions Control Test Method for Clean Screen Testing Program, and 340-356-0358 Emissions Control Test Method for Self-Service Testing Program.

EPA is publishing this rule without prior proposal because the Agency views this as 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 January 21, 2005, without further notice unless the Agency receives adverse comments by December 22, 2004.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule in the **Federal Register** 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. The EPA will not institute a second comment period on this action. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 21, 2005, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### III. 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 responded to EPA's understanding of the application of ORS 468.126(2)(e) and 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.

### IV. 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 "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. 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).

### V. Statutory and Executive Order Reviews

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 January 21, 2005. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 26, 2004.

**Julie M. Hagensen,**

*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) (142) to read as follows:

#### § 52.1970 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(142) The Environmental Protection Agency (EPA) approves various amendments to the Oregon State Implementation Plan which are contained in four separate submittals to

EPA, dated November 5, 1999, November 27, 2000, January 10, 2003 and April 19, 2004 which include revisions to the inspection and maintenance program.

(i) Incorporation by reference.

(A) The following sections of the Oregon Administrative Rules 340: 256-0200, 256-0310, 256-0330, 256-0340, 256-0350, 256-0370, 256-0380, 256-0390, 256-0400, 256-0410, 256-0420, 256-0450, 256-0460, and 256-0470, as effective October 14, 1999; 256-0355, 256-0440, and 256-0465, as effective October 25, 2000; 256-0356, as effective October 4, 2001; and 256-0010, 256-0300, as effective October 24, 2003.

(B) Remove the following old sections of the Oregon Administrative Rules 340 from the current incorporation by reference: 024-100, 024-300, 024-301, 024-305, 024-306, 024-307, 024-308, 024-309, 024-312, 024-314, 024-318, 024-320, 024-325, 024-330, 024-332, 024-335, 024-337, 024-340, 024-355, 024-357, and 024-360.

(ii) Additional Material:

(A) Oregon SIP Volume 2, Section 5.4, as effective October 24, 2003.

[FR Doc. 04-25629 Filed 11-19-04; 8:45 am]

BILLING CODE 6560-50-U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 22, 24, 74, 78 and 90

[WT Docket No. 02-55; ET Docket No. 00-258; ET Docket No. 95-18, RM-9498; RM-10024; FCC 04-168]

### Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission amends its rules to adopt objective technical standards defining "unacceptable interference" to non-cellular licensees operating in the 800 MHz band and procedures detailing 800 MHz licensees' responsibilities and expectations regarding abatement of such interference. The Commission also adopts rules reconfiguring the 800 MHz band and designating ten megahertz of spectrum in the 1.9 GHz band available for the provision of commercial mobile radio services (CMRS). The Commission took these steps to solve the problem of increasing interference to public safety communications in the 800 MHz band. These rules are intended to abate this interference as well as making additional spectrum available for the provision of new services.

**DATES:** Effective January 21, 2005, except for §§ 22.972, 22.973, 90.674, 90.675, 90.676 and 90.677 which contain information collection requirements that have not been approved by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date for these sections.

#### FOR FURTHER INFORMATION CONTACT:

Technical information: Brian Marenco, *Brian.Marenco@FCC.gov*, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233. Legal information: Roberto Mussenden, Esq. *Roberto.Mussenden@FCC.gov*, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau (202) 418-0680, or TTY (202) 418-7233. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418-0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This document summarizes the Federal Communications Commission's Report and Order, Fifth R&O, Fourth MO&O, and Order, FCC 04-168, adopted on July 8, 2004, and released on August 6, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at <http://www.fcc.gov/wtb>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at *bmillin@fcc.gov*.

#### Summary of Report and Order

1. In the Report and Order, the Commission adopts changes to parts 2, 22 and 90 of the Commission's rules that were either proposed in or suggested in response to the Notice of Proposed Rule Making (NPRM) and subsequent Public Notices in this proceeding. The NPRM, released on March 15, 2002, 67 FR 16351-02 (April 5, 2002), sought to explore all available options and alternatives for improving the spectrum environment for public safety operations in the 800 MHz Band and to ensure that public safety agencies have access to adequate spectrum resources in the 800 MHz band to support their critical missions. On