

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

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

#### 11. Division 226, General Emission Standards

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

The Division was amended by revising the provisions for alternative emission controls (bubbles) to comply with EPA's Final Emissions Trading Policy Statement for generic bubble rules (51 FR 43814, December 4, 1986). Oregon's previous rules had been approved as meeting EPA's requirements for generic bubble rules under the April 7, 1982, Emission Trading Policy Statement (47 FR 15076). In order to address the requirement for replicable procedures, the rule has been revised to exclude trades involving pollutants other than ozone precursors from the generic bubble approach. As such, bubbles involving ozone precursors (VOC and NO<sub>x</sub>) can still be done without case-by-case SIP revisions, but bubbles for all other pollutants will need to be submitted to, and approved by, EPA before they become the applicable requirements of the Oregon SIP.

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

with any specific provision of the CAA or EPA regulations.

#### 12. Division 268, Emission Reduction Credits

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

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

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

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

Pursuant to procedures described in the January 19, 1989, **Federal Register** that describes changes being

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

#### V. Statutory Authority

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

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