



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2019-0426, FRL-10001-56-Region 10]

#### **Air Plan Approval: Lane County, Oregon; 2019 Permitting Rule Revisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Oregon State Implementation Plan (SIP) submitted on June 13, 2019. The revisions, applicable in Lane County, Oregon, update regulations contained in the SIP to make minor syntax and renumbering changes, add a reference to the electronic public notice option, and update citations to reference materials such as the Code of Federal Regulations (CFR) and the most recent Oregon Source Sampling Manual. The EPA reviewed the submitted revisions and determined they are consistent with Clean Air Act (CAA) requirements.

**DATES:** This final rule is effective [**insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0426. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which 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 form. Publicly available docket materials are available at

<https://www.regulations.gov>, or please contact the person listed in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, EPA Region 10, 1200 Sixth Avenue – Suite 155, Seattle, WA 98101, at (206) 553-0256, or [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

## **I. Background**

On June 13, 2019, Oregon submitted revised Lane Regional Air Protection Agency (LRAPA) regulations to the EPA for approval into the Oregon SIP. On August 14, 2019, the EPA proposed to approve the submitted changes (84 FR 40349). The reasons for our proposed approval were stated in the proposed rule and will not be re-stated here. The public comment period for our proposed action ended on September 13, 2019. We received no comments.

## **II. Final Action**

The EPA is approving, and incorporating by reference, the submitted changes to the following regulations, State effective May 17, 2019:

- Title 12 General Provisions and Definitions (005, 020, 025);
- Title 31 Public Participation (0020, 0030, 0040, 0050); and
- Title 37 Air Contaminant Discharge Permits (0010, 0020, 0030, 0040, 0090, 8020).

These changes are approved only to the extent the requirements apply to 1) pollutants for which National Ambient Air Quality Standards (NAAQS) have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and 2) any additional pollutants that are required to be regulated under Part C of

Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

The EPA is also approving, but not incorporating by reference, the submitted changes to the following regulations, State effective May 17, 2019:

- Title 15 Enforcement Procedure and Civil Penalties (005, 018, 020, 025, 030, 045, 055, 060), only to the extent the rules relate to enforcement of the requirements contained in the Oregon SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

### **IV. Oregon Notice Provision**

Oregon Revised Statute 468.126 prohibits the Oregon Department of Environmental Quality from imposing a penalty for violation of an air, water or solid waste permit unless the source has been provided five days' advanced written notice of the violation and has not come into compliance or submitted a compliance schedule within that five-day period. By its terms, the

statute does not apply to Oregon's title V program or to any program if application of the notice provision would disqualify the program from Federal delegation. Oregon has previously confirmed that, because application of the notice provision would preclude EPA approval of the Oregon SIP, no advance notice is required for violation of SIP requirements.

## **V. Statutory and Executive Order Review**

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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 it does not address technical standards; 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 it 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 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 [**insert date 60 days after date of publication in the Federal Register**]. 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

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

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

Dated: October 16, 2019.

Chris Hladick,  
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:

a. Paragraph (c), Table 4, is amended by:

i. Removing undesignated center heading “Title 12 – Definitions” and adding in its place “Title 12 – General Provisions and Definitions”;

ii. Revising entries “12-005”, “12-020”, “12-025”, “31-0020”, “31-0030”, “31-0040”, “31-0050”, “37-0010”, “37-0020”, “37-0030”, “37-0040”, “37-0090”, “37-8020”;

and

iii. Revising footnote number 1; and

b. Paragraph (e), Table 3, is amended by:

i. Removing undesignated center heading “Title 15 – Enforcement Procedures and Civil Penalties” and adding in its place “Title 15 – Enforcement Procedure and Civil Penalties” and adding a reference to footnote number 1;

ii. Revising entries “15-005”, “15-018”, “15-020”, “15-025”, “15-030”, “15-045”, “15-055”, and “15-060”; and

iii. Adding footnote number 1 at the end of the table.

The revisions and additions read as follows:

**§52.1970 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**TABLE 4 – EPA APPROVED LANE REGIONAL AIR PROTECTION AGENCY (LRAPA) RULES FOR OREGON<sup>1</sup>**

<b>LRAPA citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanations</b>
*	*	*	*	*
<b>Title 12 – General Provisions and Definitions</b>				
*	*	*	*	*
12-005	Definitions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
12-020	Exceptions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
12-025	Reference Materials	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
<b>Title 31 – Public Participation</b>				
*	*	*	*	*

31-0020	Applicability	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
31-0030	Public Notice Categories and Timing	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
31-0040	Public Notice Information	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
31-0050	Public Notice Procedures	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
<b>Title 37 – Air Contaminant Discharge Permits</b>				
37-0010	Purpose	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	

37-0020	Applicability and Jurisdiction	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
37-0030	Definitions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
37-0040	Application Requirements	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
37-0090	Sources Subject to ACDPs and Fees	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	
*	*	*	*	*
37-8020	Table 2 – Air Contaminant Discharge Permit	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register</u> citation]	

				<b>citation]</b>	
*	*	*	*	*	*

<sup>1</sup> The EPA approves the requirements in Table 2 of this paragraph (c) only to the extent they apply to 1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and 2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

\* \* \* \* \*

(e) \* \* \*

**TABLE 3 – LANE REGIONAL AIR PROTECTION AGENCY REGULATIONS APPROVED BUT NOT INCORPORATED BY REFERENCE**

<b>LRAPA citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
*	*	*	*	*
<b>Title 15 – Enforcement Procedure and Civil Penalties<sup>1</sup></b>				
*	*	*	*	*
15-005	Definitions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register citation</u> ]	
*	*	*	*	*
15-018	Notice of Permit Violations (NPV) and Exceptions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ], [Insert <u>Federal Register citation</u> ]	
15-020	Enforcement Actions	05/17/2019	[Insert date of publication in the <u>Federal Register</u> ],	

			<b><u>[Insert Federal Register citation]</u></b>	
15-025	Civil Penalty Schedule Matrices	05/17/2019	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	
15-030	Civil Penalty Determination Procedure (Mitigating and Aggravating Factors)	05/17/2019	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*
15-045	Stipulated Penalties	05/17/2019	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*
15-055	Air Quality Classification of Violation	05/17/2019	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*
15-060	Selected Magnitude Categories	05/17/2019	<b><u>[Insert date of publication in the Federal Register],</u></b> <b><u>[Insert Federal Register citation]</u></b>	
*	*	*	*	*

<sup>1</sup> The EPA approves the provisions in Table 3 of this paragraph (e) only to the extent the provisions relate to enforcement of the requirements contained in the Oregon SIP.

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[FR Doc. 2019-23517 Filed: 10/30/2019 8:45 am; Publication Date: 10/31/2019]