



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2024-0569; FRL-12446-01-R10]

Air Plan Approval; Oregon; Lane Regional Air Protection Agency, Outdoor Burning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve into the Oregon State Implementation Plan (SIP) the Lane Regional Air Protection Agency (LRAPA) revised outdoor burning rule revisions submitted by the Oregon Department of Environmental Quality (ODEQ) on July 1, 2024, in coordination with LRAPA. The revised rule, applicable in Lane County, Oregon, clarifies terminology, revises formatting, and expands the residential outdoor burning season to allow burning of woody yard trimmings on approved burn days within Lowell city limits from October 1 through June 15. ODEQ included in the submittal a technical demonstration that the requested expansion of the residential outdoor burning season will not interfere with attainment and maintenance of the NAAQS and other applicable Clean Air Act (CAA) requirements. The EPA is proposing to approve this rule because it meets the applicable requirements of the Clean Air Act.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2024-0569 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a

written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tess Bloom, EPA Region 10, 1200 6th Ave, Seattle, WA 98101, at (206) 553-6362, or bloom.tess@epa.gov.

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

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I. Background

Each State has a Clean Air Act (CAA) State Implementation Plan (SIP), containing control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) established for the criteria pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, sulfur dioxide). The SIP contains such elements as air pollution control regulations, emission inventories, attainment demonstrations, and enforcement mechanisms. The SIP is a compilation of these elements and is revised and updated by a State over time to keep address updates to Federal requirements and changing air quality issues or regulations in that State.

The Oregon Department of Environmental Quality (ODEQ) implements and enforces the Oregon SIP through rules set out in Chapter 340 of the Oregon Administrative Rules (OAR), Divisions 200 to 268. These rules apply in all areas of the State, except where the Oregon

Environmental Quality Commission (EQC) has designated Lane Regional Air Protection Agency (LRAPA) to administer rules within its area of jurisdiction.

LRAPA has been designated by the EQC to implement and enforce State rules in Lane County, and to adopt local rules that apply within Lane County. LRAPA may promulgate a local rule in lieu of a State rule provided: (1) it is as strict as the corresponding State rule; and (2) it has been submitted to and approved by the EQC. This delegation of authority to LRAPA in the Oregon SIP is consistent with CAA section 110(a)(2)(E) requirements for State and local air agencies.

On July 1, 2024, the ODEQ and LRAPA submitted revisions to the Oregon SIP as it applies in Lane County. These changes include updates to the LRAPA section 47-015(2) outdoor burning rule to expand the outdoor burning season in the city of Lowell (which is located in the Eugene-Springfield metropolitan statistical area), updates and revisions to definitions in section 47-010, and revisions to formatting throughout section 47-001, section 47-005, section 47-010, section 47-015, and section 47-020.

II. Evaluation of Revisions

Minor Administrative Revisions

LRAPA revised sections 47-001 “General Policy”, 47-005 “Exemptions from LRAPA Title 47”, 47-010 “Definitions”, and 47-020 “Letter Permits” with non-substantive formatting changes, such as correcting capitalization and using abbreviations. LRAPA also added five terms to 47-010 “Definitions” and revised one term. Finally, LRAPA updated section 47-015 “Residential Outdoor Burning Requirements” to expand the outdoor burning season within the city limits of Lowell. These substantive changes are described further in the following paragraphs of this preamble.

Definitions

LRAPA revised section 47-010 “Definitions” to include terms used within LRAPA’s existing title 47 that were not previously defined or to add non-substantive formatting changes to

current definitions. Added definitions include section 47-010(1) “Agricultural burning for disease or pest control”, section 47-010(5) “Animal disease emergency”, section 47-010(7) “Burn barrel”, section 47-010(12) “Fire hazard”, and section 47-010(15) “Hazard to public safety”. Section 47-010(17) includes revisions to clarify what material generated by land clearing is considered demolition waste. Section 47-010(20) clarifies language on incinerators that do not have emission limitations specified in title 30 by removing an unnecessary reference to another regulation that has its own applicability outside of title 47 to limit any potential confusion.

Residential Outdoor Burning Requirements

Revisions to section 47-015 include non-substantive formatting revisions. The substantive revisions to section 47-015(2) include the addition of the City of Lowell to the list of cities in section 47-015(2)(g) that may conduct certain outdoor burning during specified seasons. The current-approved SIP only permits outdoor burning of woody yard trimmings in the City of Lowell for approximately four months out of the year—from March 1 through May 31 and from October 1 through October 31. Under the revised section 47-015, outdoor burning of woody yard trimmings is allowed on approved burn days from October 1 through June 15. The net effect of this change is to allow this type of burning in Lowell on approved burn days that occur between November 1 to February 28 and June 1 to June 15.

LRAPA provided an analysis of particulate matter monitoring data to show that the revision to title 47 allowing burning in November, December, January, and February and extending the burn season from May 31 to June 15 will result in negligible increases in particulate matter and is highly unlikely to affect compliance with the PM₁₀ or PM_{2.5} NAAQS. LRAPA provided this analysis to demonstrate that the increase in outdoor burning does not interfere with the 24-hour and annual PM_{2.5} standards and the 24-hour PM₁₀ standard, the types of emissions predominately found in outdoor burning of woody yard trimmings.

First, LRAPA estimated impacts from the change to overall emissions within the area. For this analysis, LRAPA used 2020 as an emissions inventory base year, during which PM_{2.5}

emissions totaled 129,197.64 tons if wildfire impacts are included, or 13,012.90 tons if emission from wildfire smoke are excluded. Emissions from all residential outdoor burning in Lane County totaled 90.06 tons of PM_{2.5} in 2020, accounting for 0.07% of total PM_{2.5} emissions, or 0.69% of non-wildfire emissions. Given that these emissions comprise a very small fraction of total emissions in 2020, if emissions from residential outdoor burning were to double as a result of the proposed SIP revision—an assumption we view as conservative—these emissions would still comprise a small fraction of overall emissions in the area.

LRAPA also noted in its analysis that the proposed revision only applies to the City of Lowell, which has a population that comprises 0.91% of the total for Lane County. Because the revision would only actually increase the number of available burn days for a small subset of Lane County’s population, we believe the actual impacts to overall PM_{2.5} emissions would likely be significantly smaller than the quantities estimated in the preceding paragraphs.

With respect to PM₁₀, LRAPA provided an analysis of potential impacts to the NAAQS design value between October and March (when burning would coincide with wood stove use) that indicates that PM₁₀ levels over the past 10 years are consistently less than a third of the 150 µg/m³ PM₁₀ NAAQS. Based on our review of the submission, we conclude that it is highly unlikely that the expected emissions growth from expanding the residential outdoor burn season in Lowell could jeopardize compliance with the PM₁₀ NAAQS.

Similarly, the PM_{2.5} design values measured at the regulatory monitoring sites near Lowell, in Cottage Grove, Eugene, and Oakridge, all were well below the annual and daily standards with wildfire data removed.¹ To further assess PM_{2.5} levels in Lowell, LRAPA

¹ We note that the wildfire influenced data in LRAPA’s demonstration are not eligible for exclusion under the EPA’s Exceptional Events Rule because they do not meet the rule requirements for regulatory significance at this time (*See* 40 CFR 50.14(a)). However, to demonstrate the impact of expanding the outdoor burning season in Lowell on the area’s PM_{2.5} attainment status, LRAPA excluded the wildfire impacted data from the analysis. The Exceptional Events Rule is available at <https://www.epa.gov/air-quality-analysis/federal-register-notice-final-revisions-exceptional-events-rule>.

reviewed non-regulatory PM_{2.5} sensor data in the area.² LRAPA estimated the annual PM_{2.5} design value from a sensor in Lowell over the past 5 years to be a third of the current annual PM_{2.5} NAAQS of 9 µg/m³ or less and the estimated 24-hour PM_{2.5} design value to be less than a third of the daily PM_{2.5} NAAQS of 35 µg/m³ with data influenced by wildfire events removed.³ Additionally, LRAPA included an emissions estimate of the potential increase in burn days and found that a conservative doubling of emissions would increase the design value by only 1.4 percent.

Finally, we note that LRAPA sections 47-015 and 47-020 remain in the approved SIP and place further limits on outdoor burning. Specifically, residential outdoor burning is allowed only on approved burning days with the start and end times for burning set as part of the daily burning advisory issued by LRAPA. LRAPA's daily burning advisory and curtailment program⁴ restricts outdoor burning when unfavorable air quality conditions are forecast, such as high PM_{2.5} concentrations or stagnant meteorological conditions. When a curtailment is in place, all outdoor burning is prohibited, including pile burning of woody yard trimmings. In addition, residential outdoor burning is only allowed after obtaining a permit issued by LRAPA pursuant to the SIP-approved permit process (47-020). The rules require LRAPA to review permit applications to ensure all reasonable alternatives to burning have been explored and no practicable alternative method for disposal of the material exists; and to determine that the proposed burning will not cause or contribute to significant degradation of air quality.

² Air sensors are devices that measure air pollution that are lower in cost, portable and generally easier to operate than regulatory-grade monitors (for more information, see <https://www.epa.gov/air-sensor-toolbox>). Sensors are helpful to better understand air quality conditions, but there is more uncertainty associated with sensor measurements because they are not subject to the same quality standards, checks, and assurance as regulatory monitors.

³ On February 7, 2024, the EPA revised the primary PM_{2.5} annual standard by lowering the level from 12 µg/m³ to 9 µg/m³. Information regarding the annual and daily PM_{2.5} annual standard can be found at: <https://www.federalregister.gov/documents/2024/03/06/2024-02637/reconsideration-of-the-national-ambient-air-quality-standards-for-particulate-matter>.

⁴ Section 47-015(1)(c) states: “No person may cause, or allow to be initiated or maintained, any outdoor burning which is prohibited by the burning advisory issued by LRAPA.” Section 47-015(2)(a) states: “Residential outdoor burning is allowed only on approved burning days with a valid fire permit (if required by fire district). The start and end times for burning vary and are set as part of the daily burning advisory issued by LRAPA.”

Based on our independent review of LRAPA’s analysis and for the reasons discussed above, we propose to find that the revisions to 47-015 Residential Outdoor Burning Requirements will not interfere with attainment of the NAAQS or other applicable requirements of the Clean Air Act.

Rules not Appropriate for SIP Approval

Title 47 contains several provisions that are not appropriate for SIP approval, including but not limited to rules related to nuisance and fire safety. 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.

In this action, the EPA is not approving into the SIP the following provisions of title 47 because they are inappropriate for SIP approval: LRAPA sections 47-010—definition of “nuisance”, 47-015(1)(d), 47-015(1)(h), 47-020(3), 47-020(9)(i), and 47-020(10).

III. Proposed Action

We propose to approve into the Oregon SIP the submitted revisions to the LRAPA title 47 outdoor burning rule, sections 001, 005, 010 (except the definition of “nuisance”), 015 (except (1)(d) and (1)(h)), and 020 (except (3), (9)(i), and (10)). These rules are State effective May 24, 2024, and submitted to the EPA by ODEQ in coordination with LRAPA on July 1, 2024. LRAPA revised title 47 to remove the prohibition on outdoor burning from November through February and June 1 through June 15 and allow outdoor burning of woody yard trimmings in the City of Lowell from October 1 through June 15. Based on the demonstration provided by ODEQ and LRAPA, we propose to find that the revision will not interfere with attainment of the NAAQS or other applicable requirement of the Clean Air Act.

IV. Incorporation by Reference

In this document, we are proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, The EPA is proposing to incorporate by reference the provisions described in section II of this document.

The EPA has made, and will continue to make, these documents 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).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 application of those requirements would be inconsistent with the Clean Air Act.

In addition, 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).

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: May 16, 2025.

Emma Pokon,
Regional Administrator, Region 10.

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