



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2024-0572, FRL-12455-01-R10]

### Air Plan Approval; OR; Lane County Permitting Rule Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve the June 26, 2024, submitted revisions to the Oregon State Implementation Plan (SIP) applicable in Lane County, Oregon. The changes update the local stationary source permitting regulations to align with existing State regulations. The revisions eliminate generic plant site emission limits in favor of source-specific and source-category specific limits, update construction notification requirements, clarify the use of modeling and monitoring for compliance assurance, and streamline the permit application process.

**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-2024-0572, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which 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:** Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553-6357 or [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

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

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## **I. Background**

### *A. State Implementation Plan*

The Clean Air Act requires the EPA to establish national ambient air quality standards (NAAQS) for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide.<sup>1</sup> Each State has a State Implementation Plan (SIP) designed to meet the NAAQS

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<sup>1</sup> See Clean Air Act section 109.

through various air pollution regulations, control measures and strategies. A SIP contains elements such as emission limits, pollution control technology requirements, permitting programs, and enforcement mechanisms, among other elements. Each State revises its SIP over time to respond to new Federal requirements and to address changing air quality conditions.

States submit each SIP revision to the EPA for review and approval.<sup>2</sup> The EPA takes action through notice and comment rulemaking to approve and incorporate the submitted State air quality regulations by reference into the SIP, codified in the Code of Federal Regulations (CFR). As part of the SIP, State regulations are enforceable by the EPA and by citizens in Federal district court.<sup>3</sup>

### *B. State Submission*

On June 26, 2024, the Oregon Department of Environmental Quality (DEQ) and the Lane Regional Air Protection Agency (LRAPA) submitted a SIP revision to the EPA for approval into the Oregon SIP, codified at 40 CFR part 52, subpart MM. The Oregon Department of Environmental Quality (Oregon DEQ) is the permitting authority throughout the State, except where LRAPA has been authorized to permit sources located in Lane County, Oregon. The submitted changes, State effective May 25, 2024, update the stationary source permitting programs in LRAPA regulations to align with changes to State rules (89 FR 59611, July 23, 2024).

## **II. Evaluation**

The following sections of this preamble describe the submitted changes to air permitting regulations applicable in Lane County and evaluate the changes with respect to Clean Air Act requirements.<sup>4</sup> We have focused on the substantive rule revisions. We have not described all

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<sup>2</sup> See Clean Air Act section 110.

<sup>3</sup> See Clean Air Act section 304.

<sup>4</sup> We intend to address the submitted changes to title 36 of the LRAPA regulations, related to excess emissions requirements, in a separate, future action.

submitted typographical corrections, numbering updates, and minor wording changes that do not alter the meaning of the rules.

#### *A. Title 12 General Provisions and Definitions*

Title 12 of the LRAPA regulations contains generally applicable provisions and definitions used throughout the air quality rules applicable in Lane County. LRAPA updated title 12 of the local air regulations to align with corresponding State requirements in OAR chapter 340, division 200. In section 12-001, LRAPA added language outlining the authority of the local air agency to implement the State air quality rules in Lane County and implement any local rule in lieu of a State rule provided: (1) the local rule is at least as stringent as the State rule; (2) the rule is submitted to the EQC for approval; and (3) the Oregon Environmental Quality Commission (EQC) has not disapproved the rule. We propose to approve this clarification.

In section 12-005, LRAPA combined the definition of “air pollution control device” with “control device” to be consistent with the definition in Oregon’s rules, approved by the EPA in a prior action on July 23, 2024 (89 FR 59611). Also, consistent with changes the Oregon DEQ recently made, LRAPA made clear that the definition of “construction” includes the replacement of a source and that the definition of “emission limit” includes a permit condition or order. These changes are appropriate because they strengthen and clarify the SIP.

LRAPA also made updates to certain terms in section 12-005. LRAPA clarified that all fluorinated greenhouse gases, as defined in 40 CFR part 98, are included in the LRAPA definition of “greenhouse gas,” consistent with the same definition in State rules. LRAPA also clarified the definition of “major source” to ensure that all uses of the term throughout the air quality rules point to the corresponding definition based on the applicable permitting program. This update is consistent with State rule changes approved by the EPA on July 23, 2024 (89 FR 59611).

Also in section 12-005, LRAPA updated the centralized definition of “opacity” to change

the test method from EPA Method 203B to EPA Method 9.<sup>5</sup> This change was designed to align with the change LRAPA made to update the form of its general visible emission standards from an aggregate exception of three minutes in a 60-minute period to a 6-minute block average. For more details, please see our discussion in section II.D. of this preamble.

LRAPA also clarified the correct definition of “particulate matter” to be used in regulating visible emissions, consistent with prior changes made to State rules. LRAPA revised the definition of “regulated air pollutant” to make clear that hazardous air pollutants regulated under Clean Air Act section 112 and toxic air contaminants regulated under Cleaner Air Oregon are not to be included in the definition as used in certain sections of LRAPA’s air regulations. The definition of “significant emission rate” was updated to point to the EPA test method used to measure inorganic fluoride compounds and updated the definition of “VOC” to align with the Federal definition in 40 CFR 51.100(s). We propose to approve these clarifying updates.

Finally, LRAPA updated the definition of “significant impact level” in section 12-005 to remove the levels established for the coarse particulate matter (PM<sub>10</sub>) annual NAAQS. This change is consistent with the EPA’s revocation of the PM<sub>10</sub> annual NAAQS on October 17, 2006 (71 FR 61144). LRAPA also struck the definition of “generic plant site emission limit (PSEL)” because the Oregon DEQ and LRAPA have repealed the permitting regulations in which the term is used. For further discussion, please see section II.K. of this preamble. We propose to approve the changes.

In section 12-010, LRAPA numbered the abbreviations and acronyms used throughout the air quality rules to aid the reader, removed the abbreviation for Rogue Valley Council of Governments (RVCOG) because it is no longer used in the air quality rules, and added the acronym “SER” for “significant emission rate” to the list. We propose to approve these housekeeping edits.

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<sup>5</sup> Method 203B – 40 CFR part 50, appendix M; Method 9 – Visual Determination of the Opacity of Emissions from Stationary Sources described in 40 CFR part 60, appendix A-4.

Section 12-020 lists activities that are not subject to local air quality regulations.

Paragraph (2) spells out exceptions, including that local air regulations are appropriate to the extent such regulations are necessary to implement Clean Air Act requirements. LRAPA made a minor change to make clear that local air regulations are appropriate, when necessary, in the LRAPA Board's or the Oregon Environmental Quality Commission's discretion, to regulate dairy air contaminant emissions. We propose to find that section 12-020 remains comparable to OAR 340-200-0030 and Oregon Revised Statutes (ORS) 468A-020.

Section 12-025 includes materials referenced by the air quality regulations. LRAPA updated the date by which provisions of the CFR are referenced in the rules, from July 1, 2018, to July 1, 2023. We propose to approve and incorporate by reference this change and the other submitted changes to title 12.

We note that LRAPA did not submit section 12-030 related to compliance schedules for approval into the SIP. Any compliance schedule established by LRAPA under this provision must be specifically submitted to, and approved by the EPA, before it will be federally enforceable or change the requirements of the EPA-approved SIP.<sup>6</sup>

#### *B. Title 13 General Duties and Powers of Board and Director*

Title 13 of the LRAPA regulations sets out general authority to adopt, implement and enforce regulations in Lane County, including issuing permits. These general authority provisions were first approved into the Oregon SIP in 1993 (58 FR 47385, September 9, 1993). We note, that at the time of that original approval, the general authority provisions were in title 12 and were later renumbered to title 13. These provisions contain long-standing requirements for the make-up of the LRAPA Board and disclosures of potential conflicts of interest for the board members and the director, and were previously approved by the EPA as meeting Clean Air Act State board requirements under section 128.<sup>7</sup>

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<sup>6</sup> 40 CFR 51.102(a)(2) and (c) and 40 CFR 51.260.

<sup>7</sup> LRAPA section 12-025, renumbered to section 13-025; 58 FR 47385, September 9, 1993.

In the submission, LRAPA made minor editorial changes for plain language and clarified State statutory references. We find that title 13 remains consistent with Clean Air Act section 110 requirements for permit issuance, enforcement authority, State and local agencies, and State boards. We propose to approve and incorporate by reference title 13 into the Oregon SIP at 40 CFR part 52, subpart MM.

*C. Title 29 Designation of Air Quality Areas*

Title 29 details the nonattainment, maintenance and reattainment area designations in Lane County. Title 29 also includes the original Clean Air Act air quality control regions and prevention of significant deterioration areas. LRAPA made only minor, insignificant wording and numbering changes to sections 29-0010, 29-0020, 29-0030, 29-0040, 29-0050, 29-0060, 29-0070, 29-0310, and 29-0320. We propose to approve these clarifying changes.

*D. Title 31 Public Participation*

Title 31 of the LRAPA regulations governs public participation in the review of proposed permit actions. LRAPA updated title 31 to align with corresponding State requirements in OAR chapter 340, division 209. LRAPA updated the public hearing procedures in section 31-0070 to make clear that the presiding officer will present a summary of the proposed permit action and preliminary decision during the public hearing, and that LRAPA will prepare a hearing report after the public hearing. We propose to approve the clarifications.

In section 31-0080, consistent with State rule changes (89 FR 59611, July 23, 2024), LRAPA spelled out the timeline and actions required for an owner or operator to appeal a permit decision, specifically adding text stating that an issued permit is effective on the date of signature, unless the applicant requests a hearing to contest the permit within 20 days of the notification date. Also to align with State rules, LRAPA made clear that a permit denial is effective 60 days from the notification date unless the applicant requests a hearing within that timeframe. We propose to approve the changes because they make the permit appeal process transparent to applicants and the public and because the public participation rules remain

consistent with the Clean Air Act and Federal requirements for public notice of new source review actions.<sup>8</sup>

#### *E. Title 32 Emission Standards*

Title 32 of the LRAPA regulations contains emission standards and provisions of general applicability, including requirements for highest and best practicable treatment and control, operation and maintenance, typically achievable control technology, additional requirements imposed on a permit-by-permit basis, particulate emission limits for process equipment and other sources (other than fuel or refuse burning equipment or fugitive emissions), and alternative emission limits. LRAPA updated title 32 of the LRAPA regulations to align with corresponding State requirements in OAR chapter 340, divisions 208 and 226, as described in the following paragraphs.

LRAPA revised section 32-005 by clarifying that LRAPA will include appropriate conditions in permits to ensure that the highest and best practicable treatment and control of emissions is provided and that the permit conditions ensure that the degree of treatment and control provided must be such that further degradation of existing air quality is minimized to the greatest extent possible. LRAPA also streamlined language in section 32-005 to align with State rule at OAR 340-226-0100, most recently approved by the EPA on July 23, 2024 (89 FR 59611). LRAPA did the same in section 32-008, related to typically achievable control technology, to align the rule language with that in OAR 340-226-0130. These changes are appropriate and consistent with State rules.

In section 32-009, related to additional control requirements for stationary sources of air contaminants, LRAPA added language consistent with OAR 340-226-0140 spelling out that any air quality analysis must be conducted in accordance with the procedures in title 40 of the LRAPA regulations. In section 32-010, LRAPA updated the visible air contaminant limitations

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<sup>8</sup> 40 CFR 51.161 (public availability of information), 40 CFR 51.165 (permit requirements), and 40 CFR 51.166 (prevention of significant deterioration of air quality).

to make clear that the limits in section 32-010 do not apply to recovery furnaces that are subject to the separate standards for wood products industries in title 33 of the LRAPA regulations. This clarification are intended to make the rules easier to interpret.

Also in section 32-010, LRAPA revised its general visible emission standards from a form that uses an aggregate exception of three minutes in a 60-minute period to a form based on a 6-minute block average, as measured by Method 9, a continuous opacity monitoring system (COMS), or an equivalent to Method 9. This change is intended to make the LRAPA rules consistent with State rules at OAR 340-208-0110 and align the rules with the general requirements in 40 CFR 60.11 for the Federal New Source Performance Standards (NSPS).<sup>9</sup> This change is an appropriate choice.

Also in section 32-010, LRAPA removed text that historically served to phase in tighter, 20 percent opacity limits for wood-fired boilers. The limits are now widely applicable. In addition, LRAPA made visible emission standards applicable to each individual emissions unit, to preclude averaging across the source, consistent with State rules at OAR 340-208-0110. We propose to approve the submitted changes because they clarify how and where visible emission limits apply without relaxing the requirements.

LRAPA removed obsolete language from sections 32-015, 32-020, and 32-030 that historically phased in tighter grain loading standards to limit particulate matter emissions from sources other than fuel and refuse burning or solid fuel burning devices. The tighter limits, consistent with those in OAR 340-226-0210, are in effect and therefore LRAPA removed the old phase-in language. We propose to approve the changes because they are designed to improve permit program implementation and protect the NAAQS.

#### *F. Title 33 Prohibited Practices and Control of Special Classes of Industry*

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<sup>9</sup> The EPA approved OAR 340-208-0110, State effective April 16, 2015, on October 11, 2017 (82 FR 47122).

Title 33 of the LRAPA regulations establishes requirements for certain industrial sectors, including kraft pulp mills. LRAPA updated title 33 of the LRAPA regulations to align with corresponding State requirements in OAR chapter 340, division 234. LRAPA revised the emission standards for kraft pulp mills in section 33-070 to spell out that categorically insignificant activities are not classified as “other sources” for purposes of total reduced sulfur limits. LRAPA updated the form of the opacity limit to a 6-minute average and made clear that kraft mills with specific particulate emission limits are exempt from the grain loading emission limits in title 32 of the LRAPA regulations. LRAPA also added language stating that LRAPA may require relevant monitoring requirements in the facility permit when more restrictive emission limits than the NSPS are established for a source. These clarifications are designed to improve implementation and enforcement.

#### *G. Title 34 Stationary Source Notification Requirements*

Title 34 of the LRAPA regulations addresses stationary source notification requirements. LRAPA updated title 34 of the LRAPA regulations to align with corresponding State requirements in OAR chapter 340, division 210. In section 34-010, LRAPA clarified the applicability provisions to spell out that an owner or operator of a proposed new source that will emit any regulated air pollutant, and that is not otherwise required to obtain an air contaminant discharge permit under LRAPA title 37 or a title V permit under OAR chapter 340, division 218, must notify the permitting authority, consistent with LRAPA title 34. In addition, an owner or operator seeking to modify an existing source must notify the permitting authority if the modification would increase regulated air pollutant emissions, replace an emissions device, or construct, modify, or replace an air pollution control device. We note that such a source seeking to modify may or may not have an existing air contaminant discharge permit or title V permit. This update to section 34-010 made the language in section 34-034 redundant and, therefore, LRAPA repealed section 34-034.

Section 34-015 addresses requests to owners and operators for information and analysis, including an air quality analysis of the source. LRAPA clarified that it will provide the source with a written request for information and that the source must provide the information by a reasonable date. LRAPA revised this section to include that such requested analysis may include information necessary to determine whether a source's emissions may cause or contribute to a new exceedance of a NAAQS. In section 34-016, LRAPA addressed reporting due dates that may fall on a weekend or holiday, spelling out that the due date is adjusted to the next business day. These changes are intended to help the regulated community understand the rules and improve implementation.

LRAPA also updated the general registration provisions in section 34-025 to make clear to owners and operators of subject sources that appropriate record-keeping is required and that failure to pay fees may be cause to terminate registration.<sup>10</sup> We propose to approve the submitted changes because they clarify what is required to maintain source registration.

In section 34-035, LRAPA added language consistent with OAR 340-210-0225 to clarify which kinds of changes fall under each notification type prescribed in the LRAPA title 34 rules (types 1, 2, 3 and 4), in addition to the associated requirements for owners and operators under each type. Type 1 changes generally consist of construction and modification for which an owner or operator is not required to obtain an air contaminant discharge permit or permit modification under LRAPA title 37, and where the changes would not increase emissions in a significant way, would not increase emissions above an existing plant site emission limit (PSEL), and would not be used to establish a federally enforceable limit on potential to emit.<sup>11</sup> A construction or

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<sup>10</sup> Registered sources include sources such as motor vehicle surface coating operations, dry cleaners using perchloroethylene, and other types of smaller sources. Registering such sources helps the Oregon DEQ and LRAPA inventory emissions, provide technical assistance, and communicate with owners and operators.

<sup>11</sup> More specifically, the construction or modification would: have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than or equal to the de minimis levels defined in LRAPA title 12, table 1; not result in an increase of emissions from the source above any PSEL; not result in an increase of emissions from the source above the netting basis by more than or equal to the SER; not be used to establish a federally enforceable limit on the potential to emit; and not require a technically achievable control technology determination under LRAPA title 32 or a maximum achievable control technology determination under LRAPA title 44.

modification may also be a type 1 change if it is one of a list of equipment, units, or activities that are expected to result in little to no change in emissions.<sup>12</sup> Type 2 changes include construction or modification for which the owner or operator is not required to obtain an air contaminant discharge permit or permit modification under LRAPA title 37, and where the construction or modification would not cause or increase emissions above certain regulatory thresholds, such as the significant emission rate.<sup>13</sup> Type 3 changes include construction or modification where the construction or modification would cause or increase emissions above certain regulatory thresholds, such as the significant emission rate.<sup>14</sup> Finally, type 4 changes include construction or modification subject to new source review (NSR) requirements governed by LRAPA title 38. We propose to approve the changes because they are designed to ensure that construction activities receive the proper review by the permitting authority.

In section 34-036, LRAPA revised the notice to construct application requirements to be consistent with those in OAR 340-210-0230. LRAPA specified that an application must meet the requirements of the rules in effect on the date the complete application was submitted. LRAPA specified what should be in a notice to construct application and required that applicants must generally use the LRAPA-provided electronic forms. Applications must include, among other things, information on production, throughput, material usage, emissions with supporting

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<sup>12</sup> Activities that are expected to result in little or no change in emissions include, for example: vacuum pumps; hand-held sanding equipment; Lithographic printing equipment which uses laser printing; concrete application and installation; among numerous other activities. See submitted changes to section 34-035 in the submission in the docket for this action.

<sup>13</sup> Specifically, construction or modification that would have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than the significant emission rate (SER) defined in LRAPA title 12; not result in an increase of emissions from the source above any plant site emission limit (PSEL); not result in an increase of emissions from the source above the netting basis by more than or equal to the SER; not be used to establish a federally enforceable limit on the potential to emit; be used to establish a State-only enforceable limit on the potential to emit; not require a technically achievable control technology determination under LRAPA title 44 or a maximum achievable control technology determination under LRAPA title 32; and not cause or contribute to a new exceedance of the NAAQS for a new or replaced device or activity.

<sup>14</sup> Specifically, construction or modification that would result in emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of more than or equal to the SER defined in LRAPA title 12; result in an increase of emissions from the source above any PSEL before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source; be used to establish a federally enforceable limit on the potential to emit; require a TACT determination under LRAPA title 32 or a MACT determination under LRAPA title 44; or not cause or contribute to a new exceedance of a NAAQS adopted under title 50 for a new or replaced device or activity.

calculations, the anticipated date of the commencement of construction, the anticipated date of construction or modification completion, and land use compatibility statement(s) required by a local planning agency. Any person proposing a type 2 or type 3 change for a new or replaced device or activity must also submit an air quality analysis, for any pollutants that are emitted above the de minimis emission level, demonstrating that the emissions from the individual device or activity, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a NAAQS. We propose to approve these revisions as strengthening the SIP because they require an air quality analysis to demonstrate the NAAQS are protected when type 2 and type 3 construction and modification activities are planned at a source.

If LRAPA determines that additional information or corrections are needed for consideration of any type of proposed construction or modification, LRAPA will supply the applicant with a written request to provide such information by a reasonable date. In addition, if LRAPA is not able to approve the application, or if the applicant does not provide the requested information in a timely fashion, LRAPA may return the application, retain fees, and issue a proposed denial of the application. The applicant must notify LRAPA of any corrections or revisions to plans and specifications that would impact emissions. The submitted rule changes are designed to improve understanding of the rules by the regulated community and improve permit program implementation.

Consistent with OAR 340-210-0240, LRAPA included rule language in section 34-037 to clarify when and how an applicant may proceed with construction or modification. For a type 1 change, an owner or operator may proceed with construction immediately after notifying LRAPA, unless the owner or operator requests confirmation. For a type 2 change, an owner or operator may construct or modify 60 calendar days after LRAPA receives the complete notice application and fees, or on the date that LRAPA approves the application in writing, whichever is sooner, unless LRAPA determines that the activity does not qualify as a type 2 change. When

planning a type 3 or type 4 change, an owner or operator must obtain the appropriate air contaminant discharge permit prior to proceeding with construction or modification. Upon approval, an owner or operator must commence construction or modification within 18 months. Approval terminates if not commenced within 18 months, except that a source may request one 18-month extension of the deadline. Consistent with State rules, LRAPA also spelled out that any construction or modification must happen according to the plans and specifications reviewed and approved by LRAPA. We propose to approve the changes because they clarify the construction approval requirements and require owners and operators to construct according to approved plans.

LRAPA revised section 34-038 to make clear that the approval to construct does not provide approval to operate the constructed, modified, or replaced stationary source or air pollution control device unless otherwise allowed by the rule section or under an air contaminant discharge permit per LRAPA title 37 or an Oregon title V operating permit per OAR chapter 340, division 218. LRAPA also clarified which types of permits must be obtained for type 3 and 4 changes before obtaining approval to operate. We propose to approve these changes that are designed to improve understanding of the rules by the regulated community and improve implementation.

#### *H. Title 37 Air Contaminant Discharge Permits*

Title 37 of the LRAPA regulations addresses the requirements for owners and operators of subject stationary sources to obtain an air contaminant discharge permit (ACDP). LRAPA revised the ACDP requirements in title 37 of the LRAPA regulations, consistent with OAR chapter 340, division 216, to ensure proper permitting and NAAQS compliance, as described in the following paragraphs of section II.H. of this preamble.

##### 1. Applicability and Jurisdiction

First, LRAPA updated the applicability and jurisdiction provisions in section 37-0020 to make clear that the owner or operator of a source must construct and operate the permitted

facility in accordance with previously approved plans and specifications. Second, consistent with OAR 340-216-0020(4), LRAPA added clarifying language to state that an ACDP permit may not be required prior to obtaining an Oregon title V operating permit if the source may be placed onsite and operated without any other construction necessary and the source obtains an Oregon title V operating permit prior to operation. LRAPA strengthened the rule by revising section 37-0020 to require that if a source must obtain an ACDP, it may not increase emissions above the PSEL by any amount (rather than above the PSEL by more than the de minimis level) without first obtaining a modified ACDP. We find that these changes to be consistent with already-approved State regulatory changes that strengthen the SIP.

## 2. Types of Permits

LRAPA revised section 37-0025 to update details about the types of ACDP permits. A short-term activity ACDP may be issued for activities included in section 37-0054 (activities that do not require a title V permit, unexpected or emergency activities, or operation of a pilot or an exploratory unit). LRAPA removed references to generic PSELs because these generic permit limits were removed entirely from LRAPA rules in this rulemaking, following the same change in State rules. LRAPA also revised the rules to eliminate the five-year permit term for a simple and standard ACDP permit. Such permits no longer expire. These changes are consistent with Oregon rules in OAR chapter 340, division 216 and we propose to approve them as SIP strengthening.

LRAPA added clarifying language to section 37-0025 stating that, notwithstanding the other eligibility requirements already established in the regulations for the different types of ACDPs, LRAPA may change the specific permit type to be issued to a source based on the nature, extent, toxicity and impact on human health and the environment of the source's emissions, the complexity of the source and rule that apply, the complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity, the location of the source, the compliance history of the facility's corporate

officers, parent company, subsidiaries, and other related people and entities. We propose to approve these changes because they are designed to enhance oversight of stationary source construction and operation.

### 3. Definitions

In section 37-0030, LRAPA revised the definition of “moderate technical modification” to clarify that changes to permits that incorporate complex NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements constitute a moderate technical modification when determining permit fees. Similarly, LRAPA revised the definition of a “simple technical modification” to spell out that changes to a permit to incorporate simple NSPS and NESHAP requirements constitute a simple technical modification when determining permit fees. This is appropriate because the Oregon DEQ categorizes an NSPS or NESHAP as “complex” or “simple” only to determine how much to charge applicants for a permit revision, not to limit or change an NSPS or NESHAP’s applicability and/or requirements.

### 4. Application Requirements

LRAPA updated the permit application provisions in section 37-0040 to require a complete application using LRAPA’s electronic forms and to spell out and clarify certain additional application materials needed when applying for a new, renewed, or modified permit. LRAPA clarified that, depending on the permit type and whether it’s a new permit or permit modification, an application must include, among other things: (1) a plot plan showing the location and height of all emissions units, devices, and activities that emit to the atmosphere, including any air pollution control devices and the nearest residential and commercial properties; (2) the make, model, and identification name or number of each device, activity, and air pollution control device, if known; (3) the exhaust parameters of each emissions unit, device, and air pollution control device; (4) a land use compatibility statement(s) required by the local planning agency; (5) the anticipated date of the commencement of construction, anticipated date of construction completion; and (6) an air quality analysis conducted in accordance with the

procedures in LRAPA title 40 demonstrating that the emissions will not cause or contribute to a new exceedance of the NAAQS, including the short-term NAAQS promulgated by the EPA in 2010 for SO<sub>2</sub> and NO<sub>2</sub>, and adopted in title 50 of LRAPA's regulations. LRAPA also added several pieces of information to be required as part of permit renewal applications. Owners and operators must include information about the devices and activities at the source, amount and type of each air contaminant emissions, changes to the source and changes to the information provided for the last permit renewal or issuance, and air quality analysis when required by LRAPA.

For all permit applications, if additional information is needed to complete the application, LRAPA will send a written request to the applicant and require the information be submitted within 60 days. Applicants may request a good cause extension. We propose to approve the changes to the permit application procedures because they are designed to provide LRAPA with the specific information needed to issue a permit that protects ambient air quality, including the short-term NAAQS, and provides transparency to permit applicants.

#### 5. Short-Term Activity Permits

With respect to short-term activity ACDPs, LRAPA updated section 37-0054 to make clear that a short-term activity ACDP is only available for activities that either do not require a title V operating permit, that are unexpected or emergencies, or that involve a pilot plant or exploratory emissions unit. LRAPA made clear that the Oregon DEQ, and LRAPA if delegated, may request the application include an air quality impact analysis demonstrating that the source's emissions will not cause or contribute to a new exceedance of the NAAQS. Short-term activity permits automatically terminate after 60 days, but LRAPA indicated that an applicant may request one 60-day extension. If a short-term activity permit is issued to an already-permitted source, that source must include the emissions from the short-term activity when determining compliance with applicable PSELs. We propose to approve these revisions because they are

intended to prevent covered activities from causing or contributing to a new NAAQS exceedance.

## 6. Basic Permits

Basic ACDPs are permits designed for relatively small and low-emitting activities such as rock crushers that crush less than 25,000 tons per year crushed, coffee roasters roasting less than 30 green tons per year, surface coating operations that use less than 20 gallons of coating per year, among other source categories and operations. LRAPA added language to section 37-0056 to make clear that LRAPA may determine that a source is ineligible for a basic ACDP based on subsection 37-0025(7) and the considerations listed in section 37-0025(8). LRAPA also spelled out that a basic ACDP may contain any physical or operational limitation, restriction on hours of operation, and/or restrictions on throughput as permit conditions to limit short-term emissions. We propose to approve the submitted changes because they are designed to protect the NAAQS.

## 7. General Permits

As specified in title 37 of the LRAPA regulations, general ACDPs are established by the permitting authority for specific source categories when there are multiple sources with the same, or substantially similar, types of operations. The general permit provisions indicate that such a permit is appropriate when all requirements applicable to a covered operation may be included in the general permit, the emission limitations, monitoring, recordkeeping and reporting are the same for all operations covered by the general permit, and the regulated pollutants emitted are of the same type for all covered operations. Examples include rock crushers and asphalt plants. For such general permits, LRAPA added language to section 37-0060 to make clear that LRAPA may determine that a source is ineligible for a general ACDP based on subsection 37-0025(7) and the considerations in 37-025(8). LRAPA also added procedures spelling out how a person may petition to add a new category to the list of source categories covered by general permits. Finally, LRAPA updated the source category list assigning fee classes, removing source

categories that no longer existing in LRAPA's jurisdiction and adding "air curtain incinerators" as fee class one. We propose to approve the revisions as strengthening the SIP.

#### 8. Simple and Standard Permits

Simple ACDPs generally limit a source's emissions to less than the SER for each pollutant. For simple permits, LRAPA added language to section 37-0064 to make clear that LRAPA may determine that a source is ineligible for a simple ACDP based on subsection 37-0025(7) and the considerations in 37-025(8). LRAPA also updated the fee requirements for simple permits to clarify what source sectors may be eligible for a low fee and when late fees may be charged. Additionally, LRAPA removed generic PSEs from this rule section, and added that each simple permit must include conditions that ensure that emissions from the permitted source will not cause or contribute to a new exceedance of a NAAQS by including a requirement to conduct ambient monitoring or an appropriate physical or operational limit. LRAPA revised the rule to extend the simple permit term from five years to ten years, consistent with State rules at OAR 340-216-0064.

For standard permits, LRAPA revised section 37-0066 in similar ways to the simple permits rule section, except that the permit term for standard permits will generally remain at five years, except when issued to meet major new source review (NSR), in which case the permit will have no expiration date. We propose to approve these changes as consistent with the EPA's NSR regulations at 40 CFR 51.161 through 51.166. For further discussion, see section II.I. of this preamble.

#### 9. Permit Expiration, Termination, Reinstatement, Revocation and Department-Initiated Permit Modifications

LRAPA made clarifications to the rule governing permit expiration, termination, reinstatement, and revocation at section 37-0082. A source may not operate after its permit expires unless a timely and complete application for renewal or reassignment has been submitted or another type of permit has been applied for or issued, authorizing operation. A source may not

operate after its permit terminates, unless a source has been issued a renewal, been reassigned, or obtained a new permit for the same activity or operation. A source may potentially continue to operate if LRAPA determines a permit is no longer needed. A permit may be terminated if a source does not submit a timely and complete application for reassignment or renewal or if a source fails to pay appropriate fees.

LRAPA also revised section 37-0082 to include details on termination of construction approval. Specifically, construction approval terminates if construction is not commenced within 18 months after LRAPA issues such approval. However, when a construction approval permit is terminated for failure to commence or complete construction within required timeframes, a source may request an extension for good cause. LRAPA clarified that a terminated permit may be reinstated by LRAPA if the source submits a complete renewal application within 30 days of termination and pays all applicable fees, consistent with Oregon rules in division 216.

Lastly, LRAPA revised section 37-0084 to be consistent with OAR 340-216-0884, making clear that department-initiated modifications are issued consistent with procedures spelled out in LRAPA title 37. We propose to approve the changes because they are designed to improve permit implementation, ensure proper fees are collected, and ensure sources only operate under valid permits.

## 10. Tables of Activities and Sources and Permit Fees

### Table 1, Section 37-8010

Table 1 of LRAPA section 37-8010 lists the activities and sources that are subject to the ACDP program. LRAPA made some minor edits to this table to make the language consistent with the statewide lists of activities and sources in table 1 of OAR 340-216-8010. First LRAPA clarified which fuel burning equipment and surface coating operations may qualify for a basic ACDP. Second, LRAPA clarified which gasoline dispensing facilities, molded plastic container manufacturing facilities, and motor coach manufacturing facilities may qualify for a general, simple, or standard ACDP. Third, LRAPA made clear that all sources subject to RACT, BACT,

LAER, NESHAP, NSPS, or State MACT must obtain a general, simple or standard ACDP, unless otherwise specifically exempted by rule. Fourth, LRAPA added that landfills with more than 200,000 tons of waste in place and that emits more than 664 metric tons per year of methane, are required to get a standard ACDP. We propose to approve the changes because they are designed to make the LRAPA ACDP program at least as stringent as the Oregon ACDP program, ensure facilities are permitted under the appropriate permit types, and ensure proper fees are collected.

#### Table 2, Section 37-8020

In the submission, LRAPA requested to remove table 2 of LRAPA section 37-8020. This table includes the specific dollar amounts charged for various types of permit actions and is revised over time by LRAPA for inflation and needed revenue adjustments. We propose to approve LRAPA's request to remove the fee table from the SIP because the requirements for sources to pay pre-construction permit fees at section 37-0020(1) will remain in the SIP, consistent with the requirements of Clean Air Act section 110(a)(2)(L).

#### *I. Title 38 New Source Review*

Title 38 of the LRAPA regulations governs pre-construction permitting for stationary sources, also known as new source review or NSR. As discussed in section II.H. of this preamble, LRAPA revised the standard ACDP requirements to remove the expiration dates from permits issued solely to implement the NSR requirements of LRAPA title 38 for a title V source, consistent with changes made to State rules. When a source is subject to both NSR and title V and the NSR permit conditions must be incorporated into the title V operating permit, an unexpired NSR permit eliminates the need for the source to reapply for the same permit and for the permitting authority to reissue the permit. We propose to approve the removal of NSR permit expiration dates because the EPA's NSR regulations at 40 CFR 51.161 through 51.166 do not mandate NSR permits expire after a specific duration and removal of the expiration dates does not affect the stringency of the SIP.

### *J. Title 40 Air Quality Analysis Requirements*

Certain sources seeking permits in Lane County are subject to the air quality analysis requirements in title 40 of the LRAPA regulations. In the submission, LRAPA added language to the procedural requirements in section 40-0030, consistent with OAR 340-225-0030. Significant increases in total particulate matter emissions<sup>15</sup> do not require an air quality impact analysis for comparison to significant impact levels, Prevention of Significant Deterioration (PSD) increments, and NAAQS. However, if applicable, LRAPA may require an owner or operator to speciate particulate matter and conduct an air quality analysis for PM<sub>10</sub> and PM<sub>2.5</sub>. We propose to approve this clarification because it is appropriate to focus air quality analyses on PM<sub>2.5</sub> and PM<sub>10</sub> for comparison to the PM<sub>10</sub> and PM<sub>2.5</sub> NAAQS.

LRAPA also corrected the rule language in sections 40-0050 and 40-0070, addressing analyses to determine compliance with the NAAQS, PSD increments, visibility and other requirements, to consistently refer to a “proposed source or modification.” We propose to approve the changes because they correct inadvertent errors from a prior State rulemaking.

### *K. Title 41 Emission Reduction Credits*

Title 41 of the LRAPA regulations address creating and banking emission reduction credits when a person reduces emissions by implementing more stringent controls than required by a permit or rule. LRAPA updated section 41-0030 to clarify that banked emission reduction credits are protected if the banking request comes in before LRAPA submits a notice of a proposed rule or plan development action for publication in the Oregon Secretary of State’s bulletin. LRAPA revised the rule to make clear that the Board or the Oregon EQC may reduce the amount of any banked credit. Lastly, LRAPA updated the status of the Oakridge PM<sub>2.5</sub> area from nonattainment to maintenance because the area was redesignated by the EPA on August 22, 2022 (87 FR 51262). While the EPA does not use a formal “maintenance” area designation, the Oregon DEQ and LRAPA rules include a State designation of “maintenance” that applies to a

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<sup>15</sup> Significant in this context means equal to or greater than the SER.

former nonattainment area. Notably, the change in designation status does not change the minimum emission reductions required to bank credits for the Oakridge area (at least 1 ton per year).

*L. Title 42 Stationary Source Plant Site Emission Limits*

Plant site emission limits (PSELS) are included in LRAPA air contaminant discharge permits and Oregon title V operating permits as a means of regulating plantwide increases and decreases in air emissions. Historically, PSELS were established at either source-specific levels or standardized “generic” levels for each pollutant. Generic PSELS were defined in the LRAPA air regulations as annual limits set at one (1) ton less than the significant emission rate (SER) for each pollutant. In practice, a source with capacity less than the SER for a pollutant would often be assigned a generic PSEL in a permit. However, many such sources had actual emissions lower than the generic PSEL. This system was devised in 2001 as a permit streamlining practice that allowed owners or operators to increase emissions up to the generic PSEL without requiring a permit modification, if there were no physical modifications to the source. Oregon has since determined that the use of generic PSELS is no longer an appropriate permitting tool. In the submission, LRAPA followed the Oregon DEQ’s lead and eliminated generic PSELS in favor of PSELS specific to an individual source or source category. The changes are described in the following paragraphs of this preamble.

LRAPA clarified in the general requirements for establishing PSELS at section 42-0035 that such limits must include aggregate insignificant activities, if applicable, because aggregate insignificant activities must be considered when determining NSR applicability under title 38 of the LRAPA regulations. We propose to approve this clarification because it is intended to make sure that sources are appropriately brought into the NSR permitting program for review.

LRAPA repealed the generic PSEL option at 42-0040 and all references to generic PSELS. LRAPA then revised the annual PSEL provisions in 42-0041 to account for the repeal of the generic PSEL option and to further clarify how LRAPA will establish all types of annual

PSELS. Specifically, for a general ACDP, the permitting authority may establish a general PSEL for a pollutant based on the corresponding source category's maximum potential to emit that pollutant.<sup>16</sup> For each source subject to a simple ACDP, a source-specific PSEL is established for each regulated pollutant based on the facility's potential to emit. In addition, for each source subject to a standard ACDP, the permitting authority will establish a source-specific PSEL for each regulated pollutant based on the facility's potential to emit, netting basis, or a level requested by the applicant, whichever is less. This approach is designed to yield permits that more accurately reflect actual emissions and to ensure the permitting authority has the opportunity to require and review air quality modeling for compliance with the short-term NAAQS.

Finally, LRAPA clarified that an increase in the PSEL for PM<sub>10</sub> or PM<sub>2.5</sub> is subject to air quality analysis requirements but an increase in total particulate matter is not, as described in section II.I. of this preamble. In reviewing the repeal of generic PSELS and the changes to LRAPA title 42, consistent with OAR chapter 340, division 222, we propose to approve the changes described as well as other changes LRAPA made to the PSEL rules because they clarify and strengthen the SIP.

#### *M. Title 48 Rules for Fugitive Emissions*

Title 48 of the LRAPA regulations details the rules for minimizing fugitive emissions to the greatest extent practicable. LRAPA made only minor, insignificant wording and numbering

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<sup>16</sup> Revised section 42-0041(1) states "For sources subject to a General ACDP or a General Oregon Title V Operating Permit, a PSEL may be set based on the potential to emit of the largest emitting source in that source category for all sources on that permit type in the State. PSELS will be set for all regulated pollutants emitted at more than the de minimis emission level." The EPA interprets this to mean that the PSEL may be set based on the potential to emit of the largest emitting source in the source category for which the permitting authority issued the General ACDP. For example, the Oregon DEQ has issued a General ACDP for portable and stationary rock crushers, screens, and associated material handling activities (SIC 1442): Permit Number AQGP-008 (available at <https://www.oregon.gov/deq/FilterPermitsDocs/AQGP-008.pdf>). Revised LRAPA section 42-0041(1) permits the LRAPA to set the PSELS for sources eligible under this General ACDP to the potential to emit of the largest emitting portable and stationary rock crusher, screening, and material handling source that holds a current General ACDP under AQGP-008 in Oregon. The EPA further understands that a source with the potential to emit equal to or greater than the significant emission rate (SER) for a pollutant is subject to a standard ACDP and therefore any PSEL revisions for sources subject to General ACDPs will always be lower than prior Generic PSELS.

changes to sections 48-005 and 48-015. We propose to approve these clarifying changes.

#### *N. Title 50 Ambient Air Standards and PSD Increments*

Title 50 of the LRAPA regulations lists the ambient air quality standards and increments applicable in Lane County. LRAPA made only minor, insignificant wording and numbering changes to sections 50-001, 50-005, 50-025, 50-030, 50-035, 50-040, 50-045, 50-050, 50-055, and 50-065. We propose to approve these clarifying changes.

#### *O. Title 51 Air Pollution Emergencies*

Title 51 of the LRAPA regulations governs air pollution advisories, alerts, warnings, and emergencies, including pollutant levels that trigger specific public announcements and actions to be taken to abate pollution when necessary. LRAPA made only minor, insignificant wording and numbering changes to sections 51-005, 51-007, 51-010, 51-011, 51-015, 51-020, 51-025, Table I, Table II, and Table III.

### **III. Proposed Action**

The EPA is proposing to approve revisions to the Oregon SIP applicable in Lane County and submitted on June 26, 2024.<sup>17</sup> These changes are approved only to the extent the requirements 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 Clean Air Act, but only for the purposes of meeting or avoiding the requirements of part C of title I of the Clean Air Act. The following paragraphs detail our proposed incorporations by reference.

#### *A. Rule Sections Approved and Incorporated by Reference*

The EPA is proposing to approve and incorporate specific LRAPA rule sections by reference. Upon final action, the regulatory portion of the Oregon SIP, at 40 CFR 52.1970(c),

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<sup>17</sup> We intend to address the submitted changes to title 36 of the LRAPA regulations in a separate, future action.

will include the following provisions, State effective May 25, 2024:

- LRAPA section 12-001 General (establishing general provisions applicable to all LRAPA air quality regulations);
- LRAPA section 12-005 Definitions (defining terms used in the LRAPA air quality regulations);
- LRAPA section 12-010 Abbreviations and Acronyms (defining abbreviations and acronyms used in the LRAPA air quality regulations);
- LRAPA section 12-020 Exceptions (clarifying what activities are not covered by the LRAPA air quality regulations);
- LRAPA section 12-025 Reference Materials (specifying the title and version of each reference material used in the LRAPA air quality regulations);
- LRAPA section 13-005 General Duties and Powers of Board and Director (spelling out powers of the LRAPA board and LRAPA director);
- LRAPA section 13-010 Duties and Powers of the Board of Directors (listing the powers of the LRAPA board);
- LRAPA section 13-020 Duties and Function of the Director (listing the duties and functions of the LRAPA director);
- LRAPA section 13-025 Conflict of Interest (board conflict of interest requirements);
- LRAPA section 13-035 Public Records and Confidential Information (identifying public records requirements); LRAPA section 29-0010 Definitions (definitions for purposes of designation of air quality areas);
- LRAPA section 29-0020 Designation of Air Quality Control Regions (listing historic air quality control regions);
- LRAPA section 29-0030 Designation of Nonattainment Areas (identifying nonattainment areas in Lane County);
- LRAPA section 29-0040 Designation of Maintenance Areas (listing maintenance areas in

Lane County);

- LRAPA section 29-0050 Designation of Prevention of Significant Deterioration Areas (listing PSD class I areas in Oregon and requirements for reclassifying areas);
- LRAPA section 29-0060 Redesignation of Prevention of Significant Deterioration Areas (procedures for redesignating PSD areas);
- LRAPA section 29-0070 Special Control Areas (designating special controls areas);
- LRAPA section 29-0300 Designation of Sustainment areas (listing areas designated as sustainment in Lane County);
- LRAPA section 29-0310 Designation of Reattainment Areas (listing areas designated as reattainment in Lane County);
- LRAPA section 29-0320 Priority Sources (identifying residential wood devices as priority sources for offsets);
- LRAPA section 31-0020 Applicability (listing types of permit actions requiring public notice);
- LRAPA section 31-0030 Public Notice Categories and Timing (establishing categories for different levels of public participation);
- LRAPA section 31-0040 Public Notice Information (detailing the information that is required in public notices);
- LRAPA section 31-0050 Public Notice Procedures (stating how notice will be provided to the public);
- LRAPA section 31-0080 Issuance or Denial of a Permit (procedures LRAPA will follow to issue or deny permits);
- LRAPA section 32-005 Highest and Best Practical Treatment and Control Required (permit conditions to ensure high degree of pollutant removal);
- LRAPA section 32-007 Operating and Maintenance Requirements (permit conditions to include operational, maintenance and work practices);

- LRAPA section 32-008 Typically Achievable Control Technology (TACT) (control determination procedures);
- LRAPA section 32-009 Additional Control Requirements for Stationary Sources of Air Contaminants (procedures for establishing additional pollution controls);
- LRAPA section 32-010 Visible Air Contaminant Limitations (setting visible emission standards and monitoring methods);
- LRAPA section 32-015 Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions (limitations on particulate emissions and associated test methods);
- LRAPA section 32-020 Particulate Matter Weight Standards – Existing Combustion Sources (limitations on particulate emissions from existing fuel-burning equipment);
- LRAPA section 32-030 Particulate Matter Weight Standards – New (limitations on particulate emissions from new fuel-burning equipment);
- LRAPA section 32-045 Process Weight Emission Limitations and Determination of Process Weight (limitations on particulate emissions based on operation type);
- LRAPA section 32-060 Air Conveying Systems (setting particulate matter emissions from air conveying systems);
- LRAPA section 32-065 Sulfur Content of Fuels (setting limits on fuel oil sulfur content);
- LRAPA section 32-070 Sulfur Dioxide Emission Limitations (setting limits on sulfur dioxide emissions based on heat input);
- LRAPA section 32-090 Other Emissions (stating that detrimental emissions are not allowed);
- LRAPA section 32-100 Alternative Emission Controls (Bubble) (procedures for establishing alternative emission controls);
- LRAPA section 32-8010 Particulate Matter Emissions Standards for Process Equipment (process weight limits);

- LRAPA section 33-060 Board Products Industries (Hardboard, Particleboard, Plywood Veneer) (prohibited practices for board products industries);
- LRAPA section 33-065 Charcoal Producing Plants (pollution and monitoring requirements for charcoal plants);
- LRAPA section 33-070 Kraft Pulp Mills (emission limits for units at Kraft pulp mills) except, in (1) the definitions of “non-condensables”, “other sources”, and “TRS”, (3)(a), (4)(b), (5)(b), (6)(a) and (6)(b);
- LRAPA section 33-500 Particulate Matter Emissions Standards for Process Equipment (process weight limits);
- LRAPA section 34-010 Applicability and Requirements (identifying what types of sources are subject to the stationary source notification requirements);
- LRAPA section 34-015 Request for Information (requiring owners and operators to provide information and analysis as necessary to issue permits and ascertain compliance);
- LRAPA section 34-016 Records; Maintaining and Reporting (how to maintain records and report information to LRAPA);
- LRAPA section 34-020 Information Exempt from Disclosure (spelling out what is considered a trade secret or other category of information that may be exempt from disclosure);
- LRAPA section 34-025 Registration in General (stating that certain sources must register with LRAPA);
- LRAPA section 34-030 Registration Requirements and Re-Registration and Maintaining Registration (outlining the general requirements for registering sources, including the information to provide and forms to use);
- LRAPA section 34-035 Types of Construction/Modification Changes (listing the types of construction and modification changes requiring notification to LRAPA);
- LRAPA section 34-036 Notice to Construct Application (listing the information to be

provided in a notice and required forms to use);

- LRAPA section 34-037 Construction Approval (requirements and limitations of approvals to construct and orders prohibiting construction);
- LRAPA section 34-038 Approval to Operate (requirements and limitations of approvals to operate);
- LRAPA section 37-0020 Applicability and Jurisdiction (sources required to obtain an air contaminant discharge permit (ACDP));
- LRAPA section 37-0025 Types of Permits (outlining the types of ACDPs);
- LRAPA section 37-0030 Definitions (terms defined for use in the ACDP rules);
- LRAPA section 37-0040 Application Requirements (detailing how to apply for an ACDP);
- LRAPA section 37-0052 Construction ACDP (describing the requirements for construction ACDPs);
- LRAPA section 37-0054 Short Term Activity ACDPs (describing the requirements for short term activity ACDPs);
- LRAPA section 37-0056 Basic ACDPs (describing the requirements for basic ACDPs);
- LRAPA section 37-0060 General Air Contaminant Discharge Permits (describing the requirements for general ACDPs);
- LRAPA section 37-0062 General ACDP Attachments (allowing sources to be assigned to general ACDP attachments);
- LRAPA section 37-0064 Simple ACDPs (describing the requirements for simple ACDPs);
- LRAPA section 37-0066 Standard ACDPs (describing the requirements for standard ACDPs);
- LRAPA section 37-0068 Simple and Standard ACDP Attachments (allowing the addition of requirements to existing simple and standard ACDPs);

- LRAPA section 37-0070 Permitting a Source with Multiple Activities or Processes at a Single Adjacent or Contiguous Site (allowing standard ACDPs for sources with multiple activities or processes);
- LRAPA section 37-0082 Expiration, Termination, Reinstatement or Revocation of an ACDP (governing the conditions and processes for expired, terminated, reinstated, and revoked ACDPs);
- LRAPA section 37-0084 LRAPA Initiated Modification (allowing for modifications to ACDPs when appropriate);
- LRAPA section 37-0090 Sources Subject to ACDPs and Fees (requiring sources to pay appropriate fees);
- LRAPA section 37-0094 Temporary Closure (adjusting annual fees due to temporary closure);
- LRAPA section 37-8010 (listing source categories that must obtain an ACDP);
- LRAPA section 38-0010 Applicability, General Prohibitions, General Requirements, and Jurisdiction (specifying new source review applicability and general requirements);
- LRAPA section 38-0025 Major Modification (denoting what constitutes a major modification at an existing source);
- LRAPA section 38-0030 New Source Review Procedural Requirements (required information to be submitted for new source review);
- LRAPA section 38-0034 Exemptions (requirements for temporary emission sources);
- LRAPA section 38-0045 Requirements for Sources in Sustainment Areas (PSD and net air quality benefit requirements for sustainment areas);
- LRAPA section 38-0050 Requirements for Sources in Nonattainment Areas (LAER and net air quality benefit requirements for nonattainment areas);
- LRAPA section 38-0055 Requirements for Sources in Reattainment Areas (LAER, net air quality benefit and air quality analysis requirements for reattainment areas);

- LRAPA section 38-0060 Requirements for Sources in Maintenance Areas (PSD and net air quality benefit requirements for maintenance areas);
- LRAPA section 38-0070 Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas (PSD requirements including monitoring, BACT, and air quality analysis);
- LRAPA section 38-0245 Requirements for Sources in Sustainment Areas (air quality analysis, net air quality benefit and BACT requirements for sustainment areas);
- LRAPA section 38-0250 Requirements for Sources in Nonattainment Areas (State NSR requirements for nonattainment areas);
- LRAPA section 38-0255 Requirements for Sources in Reattainment Areas (State NSR requirements for reattainment areas);
- LRAPA section 38-0260 Requirements for Sources in Maintenance Areas (State NSR requirements for maintenance areas);
- LRAPA section 38-0270 Requirements for Sources in Attainment and Unclassifiable Areas (State NSR requirements for attainment and unclassifiable areas);
- LRAPA section 38-0500 Net Air Quality Benefit for Sources Located Within or Impacting Designated Areas (net air quality benefit emission offset requirements);
- LRAPA section 38-0510 Common Offset Requirements (reasonable further progress common offset requirements), except 0510(3);
- LRAPA section 38-0530 Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas (major and State NSR offset requirements for non-ozone areas);
- LRAPA section 38-0540 Sources in a Designated Area Impacting Other Designated Areas (major and State NSR offset requirements in areas impacting other designated areas);
- LRAPA section 40-0010 Purpose (identifying the purpose of air quality analysis rules);
- LRAPA section 40-0020 Definitions (listing the definitions applicable to the air quality

analysis rules);

- LRAPA section 40-0030 Procedural Requirements (air quality analysis procedures);
- LRAPA section 40-0040 Air Quality Models (requiring all modeling to be based on appendix W);
- LRAPA section 40-0045 Requirements for Analysis in Maintenance Areas (maintenance area impact analysis requirements);
- LRAPA section 40-0050 Requirements for Analysis in PSD Class II and Class III Areas (PSD impact analysis requirements);
- LRAPA section 40-0060 Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas (PSD impact analysis requirements);
- LRAPA section 40-0070 Requirements for Demonstrating Compliance with Air Quality Related Values Protection (Federal major source AQRV compliance);
- LRAPA section 41-0030 Emission Reduction Credits (how to establish emission reduction credits and bank them);
- LRAPA section 42-0020 Applicability (stationary source plant site emission limit applicability);
- LRAPA section 42-0030 Definitions (definitions that apply to plant site emission limit rules);
- LRAPA section 42-0035 General Requirements for Establishing All PSELS (PSEL requirements for sources);
- LRAPA section 42-0041 Annual PSEL (opportunity to obtain an annual PSEL when appropriate);
- LRAPA section 42-0042 Short Term PSEL (opportunity to obtain a short term PSEL when appropriate);
- LRAPA section 42-0046 Netting Basis (procedures for establishing a netting basis when appropriate);

- LRAPA section 42-0048 Baseline Period and Baseline Emission Rate (establishing baseline for criteria pollutants and greenhouse gases for purposes of permitting);
- LRAPA section 42-0051 Actual Emissions (determining actual emissions from baseline);
- LRAPA section 42-0055 Unassigned Emissions (tracking and managing the difference between netting basis and PTE);
- LRAPA section 42-0080 Plant Site Emission Limit Compliance (requiring specific monitoring and compliance methods);
- LRAPA section 42-0090 Combining and Splitting Sources and Changing Primary SIC Code (regarding the allowable ways to combine and split sources);
- LRAPA section 48-005 Definitions (definitions for purposes of the fugitive emissions rules);
- LRAPA section 48-015 General Applicability (listing examples of sources subject to the fugitive emissions rules);
- LRAPA section 50-001 Definitions (definitions for purposes of the ambient air standards and PSD increments);
- LRAPA section 50-005 Purpose and Scope of Ambient Air Standards (identifying the scope of ambient air standards);
- LRAPA section 50-015 Suspended Particulate Matter (listing the particulate matter ambient air standards);
- LRAPA section 50-025 Sulfur Dioxide (listing the sulfur dioxide ambient air standards);
- LRAPA section 50-030 Carbon Monoxide (listing the carbon monoxide ambient air standards);
- LRAPA section 50-035 Ozone (listing the ozone ambient air standards);
- LRAPA section 50-040 Nitrogen Dioxide (listing the nitrogen dioxide ambient air standards);
- LRAPA section 50-045 Lead (listing the lead ambient air standards);

- LRAPA section 50-050 General (identifying the purpose of PSD increments);
- LRAPA section 50-055 Ambient Air PSD Increments (listing the PSD increments by area class);
- LRAPA section 50-065 Ambient Air Quality Impact Levels for Maintenance areas (impact levels for carbon monoxide and particulate matter maintenance areas);
- LRAPA section 51-005 Introduction (introduction to air pollution emergency requirements);
- LRAPA section 51-007 Definitions (definitions for purposes of air pollution emergency requirements);
- LRAPA section 51-010 Episode Stage Criteria for Air Pollution Emergencies (criteria for air pollution emergency episode stages);
- LRAPA section 51-011 Special Conditions (ozone advisories and particle fallout special conditions);
- LRAPA section 51-015 Source Emission Reduction Plans (setting forth emission reduction measures to be taken during an air pollution alert, warning, or emergency);
- LRAPA section 51-020 Preplanned Abatement Strategies (establishing when source emission reduction plans are required); and
- LRAPA section 51-025, Table I, Table II, Table III (setting forth air pollution episode conditions and control actions).

*B. Rule Sections Approved but not Incorporated by Reference*

We propose to approve the following rule sections to the extent the provisions relate to the implementation of requirements in the SIP, but we note we are not incorporating these provisions by reference into 40 CFR part 52, subpart MM. These types of rules are generally not incorporated by reference into the CFR because they may conflict with the EPA's independent administrative and enforcement procedures under the Clean Air Act.

- LRAPA section 31-0070 Hearing Procedures (setting procedures for permit hearings).

### *C. Rule Sections Removed from Incorporation by Reference*

The EPA is proposing to remove from incorporation by reference the following LRAPA rule sections:

- LRAPA section 37-8020 Table 2 Air Contaminant Discharge Permit (fees for air contaminant discharge permits);
- LRAPA section 34-034 Requirements for Construction (notice of construction and approval of plans requirements); and
- LRAPA 42-0040 Generic Annual PSEL (providing for generic annual plant sit emission limits).

### **IV. Incorporation by Reference**

In this document, the EPA is 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 III. of this preamble. 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).

Also in this document, the EPA is proposing to remove in a final rule, regulatory text from incorporated by reference, as described in section III. of this preamble.

### **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 proposed rulemaking would not have tribal implications and would 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: August 22, 2025.

**Emma Pokon,**  
*Regional Administrator, Region 10.*

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