



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2026-3763; FRL-13378-01-R10]

Air Plan Approval; OR; Lane County Title 36 Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve into the Oregon State Implementation Plan revisions to the rules applicable in Lane County Oregon. The revisions establish procedures related to excess emissions, clarify terminology and enforceability, and update Local regulations to more closely align with State rules. The EPA is proposing to approve these revisions as meeting the 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-2026-3763 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>.

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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

State Implementation Plan

The Clean Air Act (CAA) requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide.¹ Each State has a State Implementation Plan (SIP) designed to meet the NAAQS through various air pollution regulations, control measures and strategies. A SIP contains elements such as emission limitations, 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 SIP revisions to the EPA for review and approval.² The EPA takes action on SIP revisions through notice and comment rulemaking to approve or disapprove, as appropriate, and incorporates approved 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.³

¹ See Clean Air Act section 109, 42 U.S.C. 7409.

² See Clean Air Act section 110, 42 U.S.C. 7410.

³ See Clean Air Act section 304, 42 U.S.C. 7604.

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.⁴

State Submissions

On March 27, 2018,⁵ and June 26, 2024, Oregon submitted revisions to the Oregon SIP, including revisions to LRAPA's rules and regulations. The EPA approved most of the March 27, 2018, and June 26, 2024, submissions in 2018 and 2026, respectively, but deferred action on LRAPA's title 36 rules.⁶ We will focus on those LRAPA title 36 rules in this action.

Title 36 contains generally applicable provisions and definitions related to emissions of air contaminants in excess ("excess emissions") of applicable standards or permit conditions in Lane County. LRAPA updated title 36 to align with corresponding State requirements. The updated version of title 36 that was submitted June 26, 2024, State effective May 25, 2024, entirely supersedes the version of Title 36 submitted on March 27, 2018. On April 29, 2026, LRAPA submitted a letter to the EPA withdrawing the last sentence of title 36-001 and the entirety of -001(2)(d) to further align their rules with recent changes to corresponding state rules.⁷ Therefore, we are not proposing action on the withdrawn portions. The current Oregon SIP does not include LRAPA's title 36 rules. Thus, EPA evaluated whether addition of title 36 into the Oregon SIP is consistent with CAA section 110. For the reasons discussed in section II of this document, EPA is proposing to approve the addition of title 36 as submitted on June 26, 2024, into the Oregon SIP.

⁴ Oregon Revised Statute 468A.135; LRAPA Rules & Regulations section 12-001(5).

⁵ The 2018 submission is available under Docket ID No. EPA-R10-OAR-2018-0238 at <https://www.regulations.gov>.

⁶ The 2018 and 2024 SIP submissions also included provisions applicable in ODEQ's jurisdiction. See 83 FR 50274, October 05, 2018, and 91 FR 3821, January 29, 2026, respectively. We deferred action on some of the ODEQ provisions and plan to address those in a separate action.

⁷ LRAPA's letter indicates they are conducting rulemaking to remove the withdrawn language from their rules. The letter may be found in the docket for this action.

II. Evaluation of Title 36

Excess Emissions

Title 36 establishes procedures related to excess emissions, including recordkeeping and reporting obligations applicable to owners and operators of certain sources. Collectively, the requirements of title 36 aid LRAPA's ability to limit excess emissions and make informed enforcement decisions.

The following sections of this document summarize substantive requirements of LRAPA's title 36 provisions we are proposing to approve into the Oregon SIP and evaluate those changes with respect to Clean Air Act requirements for SIP provisions.

Undesignated Introduction to Title 36

Title 36 starts with an undesignated introductory sentence stating: "Following the reporting and recordkeeping prescribed herein or [receiving] approval of procedures for startup, shutdown or maintenance will not absolve sources from enforcement action for conditions resulting in excess emissions." We are proposing to approve this sentence because it makes clear that title 36 does not foreclose enforcement action for excess emissions.

Section 36-001 General Policy and Discussion

Section 36-001 includes a general policy statement establishing the purposes of title 36. The first part of section 36-001 echoes the undesignated introductory sentence to title 36, stating the excess emissions of applicable standards are unauthorized and subject to enforcement action. In addition, according to section 36-001, the purposes of title 36 are to: 1) require any source which emits air contaminants in excess (excess emissions) of any applicable air quality rule or permit condition to report the event; 2) require the source to submit information regarding conditions leading to excess emissions; and 3) identify criteria LRAPA will consider when determining whether to take enforcement action for the excess emissions. Section 36-001 does not impose nor relax any emissions limits. Section 36-001 also makes clear that sources not

emitting excess emissions are not subject to the recordkeeping and reporting requirements in title 36.⁸

We are proposing to approve the addition of section 36-001 because it serves to clarify the purpose of the broader section for ease of compliance and understanding and is consistent with CAA section 110 requirements.

Section 36-005 Definitions

LRAPA's section 36-005 defines "Large Source" and "Small Source" for the purposes of title 36 and references title 12 for additional definitions. We last approved title 12 definitions into the Oregon SIP on January 29, 2026 (91 FR 3821).

We are proposing to approve the addition of section 36-005 because it serves to bring this portion of LRAPA's rules up to date, is consistent with definitions already approved into the Oregon SIP, and is consistent CAA section 110 requirements.

Section 36-010 Planned Startup and Shutdown

LRAPA's section 36-010 requires that certain sources must obtain prior LRAPA authorization of startup and shutdown procedures. Section 36-010 applies to sources where startup and shutdown of a production process or system may result in excess emissions and the source is (1) a major source, (2) is located in a non-attainment or maintenance area for the regulated pollutant in LRAPA's jurisdiction, or (3) LRAPA otherwise requires the source to apply for approval of startup and shutdown procedures. Section 36-010 establishes a process for LRAPA to determine if planned startup and shutdown procedures are consistent with good pollution control practices, minimize emissions during such periods to the extent practicable, and that no adverse health impact on the public will occur. Notably, subsection 36-010(3) clarifies that, even if LRAPA grants approval of planned startup or shutdown procedures, sources are still subject to enforcement action for excess emissions that may occur.

⁸ Section 36-001(2)(d) states an additional purpose related to title V sources, but LRAPA is not requesting approval of this provision into Oregon's SIP. See April 29, 2026, Letter from LRAPA included in the Docket.

Section 36-010 also prohibits planned startups or shutdowns that may result in excess emissions during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove advisory period within areas designated by LRAPA as PM_{2.5} or PM₁₀ nonattainment areas. Alerts, Warnings, Emergencies, and woodstove advisories are regulated by LRAPA under title 51 and title 16, respectively.⁹ Limiting emissions during such periods decreases the risk of violating the NAAQS.

We are proposing to approve the addition of section 36-010 because it is consistent with CAA section 110. Section 36-010 does not relax any applicable emission limit in Oregon's SIP. Rather, section 36-010 enables LRAPA to minimize excess emissions from startup and shutdown through approval of source-specific procedures.

Section 36-015 Scheduled Maintenance

LRAPA's section 36-015 establishes essentially the same process, purpose, and limitations for scheduled maintenance as section 36-010 does for planned startup and shutdown events. We are proposing to approve the addition of section 36-010 because it serves to bring this portion of LRAPA's rules up to date and is consistent with CAA section 110 requirements. As with section 36-010, section 36-015 enables LRAPA to minimize excess emissions from scheduled maintenance through approval of a source-specific maintenance plan.

Section 36-020 All Other Excess Emissions

LRAPA's section 36-020 establishes procedures and requirements associated with excess emissions that are not addressed in sections 36-010 or 36-015. The procedures are similar to those found in sections 36-010 or 36-015, such as requiring sources to reduce emissions to the greatest extent practicable or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. In addition, it requires a source to cease operations within eight hours of the beginning of excess emissions

⁹ We last approved title 51 on January 29, 2026 (91 FR 3821), and title 16 on August 24, 1994 (59 FR 43483).

event unless doing so would cause damage to equipment, injury to employees or result in greater emissions than continuing to operate. It also establishes a process for sources to request LRAPA approval to continue operating. Sources that request to continue operations must submit a plan and timeline for returning to compliance with the applicable emission limitations.

If LRAPA disapproves a request to continue operations, the source must cease operations within one hour of receiving the disapproval. If approved, LRAPA still retains authority to require the cessation of operations.

We are proposing to approve the addition of section 36-020 because it is consistent with CAA section 110 requirements. LRAPA's implementation of section 36-020 will help minimize excess emissions to the greatest extent possible without risking equipment damage or harm to onsite staff. Again, we reiterate that title 36 stipulates that following the requirements therein, receiving approval from LRAPA of procedures for startup, shutdown or maintenance, or receiving approval from LRAPA to continue operations does not absolve sources from enforcement action for excess emissions.¹⁰

Section 36-025 Reporting and Recordkeeping Requirements

LRAPA's section 36-025 establishes requirements to submit excess emissions reports to LRAPA for each calendar day of the excess emissions event. Such reports are to be submitted within 15 days of the event or sooner if specified by LRAPA. The reports are to include details regarding date, time, equipment involved, activity associated with the event, mitigating or corrective actions taken, the magnitude of the excess emissions, and final resolution of the cause of the excess emissions. All owners or operators subject to section 36-025 are also required to keep an excess emissions log including all pertinent information and be kept for at least five calendar years. Log entries for the reporting period must also be included in annual reporting required by permit or sooner if LRAPA requires. Sources must also include procedures to

¹⁰ Excess emissions are violations in general and specifically defined as such in LRAPA regulations under section 12-005(75) which we approved into the Oregon SIP on January 29, 2026 (91 FR 3821).

minimize emissions as required and specify in writing if the procedures are new, modified, or already approved by LRAPA.

We are proposing to approve the addition of section 36-025 because it aids in practical enforceability of applicable emissions limits and is consistent with CAA section 110 requirements.

Section 36-030 Enforcement Action Criteria

LRAPA's section 36-030 specifies certain criteria LRAPA will take into account when exercising its enforcement discretion regarding excess emissions. The list of criteria includes remedial action taken by the source; compliance with requirements in title 36; whether the event violated Federal New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants; and if the event was due to negligent operation, intentional, or the result of an emergency.

We are proposing to approve the addition of section 36-025 because it is consistent with CAA section 110 requirements. The section does not relax any applicable emission limits. The section merely clarifies the criteria LRAPA uses to determine when an enforcement action by LRAPA is appropriate.

LRAPA's title 36 provisions operate to provide a process that governs only the source, LRAPA personnel, and the exercise of LRAPA's enforcement discretion. Title 36 does not affect whether the excess emissions constitute violations nor preclude enforcement by LRAPA, the EPA, or others for violations.¹¹ Nothing in title 36 precludes LRAPA from taking an enforcement action or considering additional factors not listed in section 36-030. As EPA stated in declining to issue a SIP call to Oregon for nearly identical language in its SIP, "There is no language in title 36 suggesting that [LRAPA's] determination to forgo enforcement against a source would in any way preclude the EPA or the public from demonstrating that violations

¹¹ Excess emissions are violations in general and specifically defined as such in LRAPA regulations under section 12-005(75) which we approved into the Oregon SIP on January 29, 2026 (91 FR 3821).

occurred and taking enforcement action.”¹² The inclusion of the criteria in section 36-030 in the SIP has no effect on EPA or citizen enforcement and the criteria are irrelevant to any decision by the Agency to pursue an enforcement action. Furthermore, as stated previously, title 36 stipulates that following the requirements therein, including receiving approval from LRAPA of procedures for startup, shutdown or maintenance, or receiving approval from LRAPA to continue operations does not absolve sources from enforcement action for excess emissions. Therefore, it does not inappropriately preclude the EPA or citizen enforcement authority afforded under CAA sections 113 and 304.

III. Proposed Action

The EPA proposes to find that the LRAPA title 36 rules are consistent with CAA section 110.

We propose to approve revisions to the Oregon SIP applicable in LRAPA’s jurisdiction submitted on June 26, 2024, as described in section II. of this document. Specifically, we are revising the Oregon SIP at 40 CFR 52.1970(c), table 4 by adding the following entries, State effective May 25, 2024:

- LRAPA Title 36 Excess Emissions, undesignated introductory sentence (clarifies enforceability);
- LRAPA section 36-001 General Policy and Discussion (establishes purpose and applicability);
- LRAPA section 36-005 Definitions (defines large and small sources for purposes of title 36);
- LRAPA section 36-010 Planned Startup and Shutdown (establishes certain procedures during planned startups and shutdowns);

¹² State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 78 FR 12,460, 12537 (February 22, 2013).

- LRAPA section 36-015 Scheduled Maintenance (establishes certain procedures during scheduled maintenance);
- LRAPA section 36-020 All Other Excess Emissions (establishes certain procedures for excess emissions not covered under sections 36-010 or 36-015);
- LRAPA section 36-025 Reporting and Recordkeeping Requirements (establishes certain excess emissions reporting requirements); and
- LRAPA section 36-030 Enforcement Action Criteria (establishes certain criteria for LRAPA enforcement actions).

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 III. 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 an Executive Order 14192 regulatory action because this action is not significant 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: September 18, 2026.

Emma Pokon,
Regional Administrator, Region 10.

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