full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 8, 2018, the West Virginia Department of Environmental Protection (WVDEP) submitted a formal revision to its SIP pertaining to amendments of Legislative Rule, 45CSR8—Ambient Air Quality Standards. The SIP revision consists of revising the effective date of the incorporation by reference of the NAAQS and the associated monitoring reference and equivalent methods.

I. Summary of SIP Revision

This SIP revision is required by WVDEP in order to update the State's incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods, found in 40 CFR parts 50 and 53, respectively. Currently, 45CSR8 incorporates by reference 40 CFR parts 50 and 53 as effective on June 1, 2016. Since that date, EPA retained the standard for lead and made a technical correction to the particulate standard. *See* 81 FR 71906 and 82 FR 14325, respectively. EPA also designated one new ambient air monitoring reference method for measuring concentrations of sulfur dioxide, four new ambient air monitoring equivalent methods for measuring concentrations of fine and coarse particulate matter ($PM_{2.5}$ and $PM_{10,}$ respectively), and two new equivalent methods for measuring concentrations of nitrogen dioxide (NO_2) in ambient air.

The amendments to the legislative rule include the following changes: To section 45–8–1 (General), the filing, effective, and incorporation by reference dates are changed to reflect the update of the legislative rule; to section 45–8–3 (Adoption of Standards), the effective dates for the incorporation by reference of the primary and secondary NAAQS and the ambient air monitoring reference and equivalent methods are changed. The filing and effective dates of the legislative rule were updated to March 22, 2018 and June 1, 2018 respectively. The effective date of the incorporation by reference of 40 CFR parts 50 and 53 changed from June 1, 2016 to June 1, 2017.

II. Proposed Action

EPA is proposing to approve the West Virginia SIP revision updating the date of incorporation by reference, which was submitted on June 8, 2018. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 45CSR8, as effective on June 1, 2018. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, updating the effective date of West Virginia's 45CSR8, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

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

Dated: July 23, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2018–16375 Filed 7–30–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2018–0238, FRL–9981–61—Region 10]

Air Plan Approval; Oregon: Lane County Permitting and General Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve, and incorporate by reference, specific changes to the Oregon State Implementation Plan as it applies in Lane County, Oregon. The local air

agency in Lane County, Lane Regional Air Protection Agency, has revised its rules to align with recent changes to Oregon state regulations. The revisions, submitted on August 29, 2014 and March 27, 2018, are related to the criteria pollutants for which the EPA has established national ambient air quality standards—carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The regulatory changes address federal particulate matter requirements, update the major and minor source pre-construction permitting programs, add state-level air quality designations, update public processes, and tighten emission standards for dust and smoke.

DATES: Comments must be received on or before August 30, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2018–0238, 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 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 at (206) 553–6357, or *hall.kristin@epa.gov.*

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

Table of Contents

I. Background

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

The Oregon Department of Environmental Quality (ODEQ) implements and enforces the Oregon SIP through rules set out in Chapter 340 of the Oregon Administrative Rules (OAR). Chapter 340 rules apply in all areas of the state, except where the Oregon Environmental Quality Commission (EQC) has designated a local agency as having primary jurisdiction.

Lane Regional Air Protection Agency (LRAPA) has been designated by the EQC to implement and enforce state rules in Lane County, and also to adopt local rules that apply within Lane County. LRAPA may promulgate a local rule in lieu of a state rule provided: (1) It is as strict as the corresponding state rule; and (2) it has been submitted to and not disapproved by the EQC.[1] This delegation of authority in the Oregon SIP is consistent with CAA section 110(a)(2)(E) requirements for state and local air agencies.

On August 29, 2014 and March 27, 2018, LRAPA and ODEQ submitted specific revisions to the Oregon SIP as it applies in Lane County. These changes align local rules with recently revised state rules, approved by the EPA on October 11, 2017 and incorporated by reference into the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart MM (82 FR 47122). The changes address federal particulate matter requirements, revise the major and minor source pre-construction permitting programs, add state-level air quality designations, update public processes, and tighten emission standards for dust and smoke.

We note that the March 27, 2018, revisions partially supersede the August 29, 2014, revisions. In this action, we are reviewing and taking action on the most recent version of the submitted rules applicable in Lane County, as described below. In describing our evaluation, we have focused on the substantive rule changes. We have not described typographical corrections, minor edits, and renumbering changes.

II. Evaluation of Revisions

A. Title 12: General Provisions and Definitions

Title 12 in LRAPA's rules contains generally-applicable provisions and definitions used throughout Lane County air quality rules. The submitted revisions align the definitions in Section 12–005 with the definitions in state rules, recently reviewed and approved by the EPA.[2] In this section of our evaluation, we discuss key changes to existing definitions and substantive new terms used in multiple titles. Terms used primarily in a single title are described in the discussion section for that particular title.

Key definition changes include narrowing the definition of ''adjacent'' by limiting the use of this defined term (''interdependent facilities that are nearby to each other'') to the ''major source'' and ''source'' terms in LRAPA's program for air contaminant discharge permits. Definitions of the terms ''capture efficiency,'' ''control efficiency,'' ''destruction efficiency,''

[1] *See* OAR 340–200–0010(3), state effective April 16, 2015, codified at 40 CFR 52.1970.

[2] *See* OAR 340–200–0020, state effective April 16, 2015, and approved by the EPA on October 11, 2017 (82 FR 47122).

and ''removal efficiency'' were added to differentiate amongst similar terms.

LRAPA revised the term ''categorically insignificant activities'' to narrow when emissions may be excluded from consideration—in some aspects of source permitting—as ''insignificant.'' For example, there is a cap on the aggregate emissions from fuel burning equipment that may be considered categorically insignificant, and there is also a restriction on when emergency generators may be considered categorically insignificant (limiting the exemption to no more than 3,000 horsepower, in the aggregate). We note that LRAPA adopted a *new* category of insignificant emissions, as Oregon did, namely, fuel burning equipment brought on site for six months or less for construction, maintenance, or similar purposes, provided the equipment performs the same function as the permanent equipment, and is operated within the source's existing plant site emission limit. Importantly, however, insignificant activity emissions must be included in determining whether a source is a ''federal major source'' or a ''major modification'' subject to federal major new source review (federal major NSR).[3] In addition, categorically insignificant activities must still comply with all applicable requirements.

LRAPA revised definitions to consistently use certain terms, such as ''construction,'' ''control device,'' ''federal major source,'' ''immediately,'' ''fugitive emissions,'' ''major modification,'' ''major source,'' ''PM_{10},'' ''$PM_{2.5}$,'' and ''stationary source.'' LRAPA added definitions to align with state rules, including ''continuous compliance determination method,'' ''emergency,'' ''emission limitation,'' ''excursion,'' ''greenhouse gases,'' ''Indian governing body,'' ''Indian reservation,'' ''potential to emit,'' and ''synthetic minor source.'' The term ''internal combustion engine'' was defined to clarify the universe of regulated fuel burning equipment under local rules.

In the definition of ''opacity,'' LRAPA spelled out that visual opacity determinations are to be made using EPA Method 203B. Method 203B is designed for time-exception regulations, such as those that establish a limit on the average percent opacity for a period or periods aggregating more than three minutes in any one hour. There are a small number of LRAPA visible emissions standards that are not time-exception regulations, and in those cases, LRAPA rules specify a different test method, including, for example, EPA Method 9. All specified methods are included in the March 2015 version of the Oregon Source Sampling Manual, approved by the EPA on October 11, 2017, for purposes of the limits in the Oregon SIP (82 FR 47122). Please see our discussion of opacity standards and methods for visual opacity determinations in Section H. below.

Consistent with the state definition, LRAPA defined the term ''portable'' as ''designed and capable of being carried or moved from one location to another.'' At the same time, the definition of ''stationary source'' was updated to include portable sources required to have permits under the air contaminant discharge permitting program at Title 37.

LRAPA changed the definition of ''modification'' to differentiate it from the terms ''major modification'', ''permit modification'', and ''title I modification'', and to make clear that it applies to a change in a portion of a source, as well as a source in its entirety. LRAPA also simplified the definition of ''ozone precursor'' to remove redundant language pointing to the reference method for measuring volatile organic compounds (VOCs). The term ''VOC'' was also updated to reflect changes to the federal definition of ''VOC'' at 40 CFR 51.100(s).

LRAPA formally defined ''wood fuel-fired device'', consistent with the definition in state rules. The term was added and defined as ''a device or appliance designed for wood fuel combustion, including cordwood stoves, woodstoves, and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces and boilers that burn wood fuels.'' The remainder of the new definitions established by LRAPA in Title 12 are common dictionary terms and are not discussed in this summary.

We have evaluated these Title 12 definition changes, and the changes to definitions discussed in the sections below, and we propose to find that LRAPA's defined terms are consistent with CAA requirements and the EPA's implementing regulations. We therefore propose to approve the submitted definitions into the Oregon SIP for Lane County.

Other Provisions

The revisions also include general rules in Title 12 submitted to be consistent with state rules in Division 200. LRAPA revised Section 12–001 *General* to align with OAR 340–200–0010 *Purpose and Application,* including repealing the SIP-approved version of Section 12–001(2), state effective March 8, 1994, and renumbering the section paragraphs. Section 12–001(2) stated that ''in cases of apparent conflict between rules and regulations within these titles, the most stringent regulation applies unless otherwise expressly stated,'' and is appropriately removed from the SIP.

Section 12–010 was added to spell out abbreviations and acronyms used throughout the Lane County air quality rules, consistent with OAR 340–200–0025. LRAPA also added Section 12–020 listing activities that are not subject to local air quality regulations, comparable to OAR 340–200–0030 and Oregon Revised Statutes (ORS) 468A–020. Section 12–020(2) makes clear, however, that the exceptions in subsection (1) do not apply to the extent such local air regulations are necessary to implement CAA requirements. We note that LRAPA added Section 12–025 identifying key reference materials, including the March 2015 version of the Oregon Source Sampling Manual, approved by the EPA into the Oregon SIP on October 11, 2017 (82 FR 47122). We propose to approve and incorporate by reference these changes to Title 12.

Consistent with our recent action on OAR 340–200–0050, LRAPA did not submit Section 12–030 *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.[4]

B. Title 13: General Duties and Powers of Board and Director

Title 13 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 located in Title 12, and were later renumbered to Title 13. These provisions contain long-standing requirements for make-up of the LRAPA Board and disclosures of potential conflicts of interest for board members and director, approved as meeting CAA

[3] This includes both the prevention of significant deterioration (PSD) new source review permitting program that applies in attainment and unclassifiable areas (40 CFR 51.166) and the nonattainment major source new source review permitting program that applies in nonattainment areas (40 CFR 51.165).

[4] 40 CFR 51.102(a)(2) and (c) and 260; 82 FR 47122, October 11, 2017.

state board requirements under section 128.[5]

We propose to find that the submitted updates to Title 13 remain consistent with CAA section 110 requirements for permit issuance, enforcement authority, state and local agencies, and state boards. In this action, we are proposing to approve Title 13 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 CAA.

C. Title 14: Rules of Practice and Procedures

The submissions revise Title 14 to align with Oregon's SIP-approved state rules in Division 11. LRAPA's revisions follow the Oregon Attorney General Model Rules, as do the comparable Oregon rules, and address procedures for filing and serving documents in contested cases (appeals of LRAPA and ODEQ actions). Title 14 was revised to improve the clarity and completeness of contested case appeals coming before the LRAPA Board. This title provides authority needed to implement the SIP in Lane County, and is consistent with the CAA requirements for the issuance of permits and enforcement authority. The EPA therefore proposes to approve the submitted revisions to Title 14 *Rules of Practice and Procedures,* to the extent it relates to implementation of requirements contained in the Oregon SIP. We are not incorporating these rules by reference into the CFR, however, because we rely on the EPA's independent administrative and enforcement procedures under the CAA.

D. Title 29: Designation of Air Quality Areas

This division contains rules for the designation of air quality areas in Lane County. In Section 29–0010, LRAPA culled definitions to leave only those directly related to designated areas in Lane County, including Eugene-Springfield and Oakridge. Sections 29–0020, 0050, and 0060 were added to mirror state air quality region and prevention of significant deterioration area rules in OAR 340–204–0020, 0050, and 0060, respectively. Section 29–0030 addresses the two nonattainment areas in Lane County, namely the Oakridge Urban Growth Boundary (coarse particulate matter (PM_{10})) and the Oakridge Nonattainment Area (fine particulate matter ($PM_{2.5}$)). In addition, LRAPA added Sections 29–0070 *Special Control Areas,* 29–0080 *Motor Vehicle Inspection Boundary Designations,* and 29–0090 *Oxygenated Gasoline Control Areas,* to correspond to state rule sections OAR 340–204–0070, 0080, and 0090, respectively.

A significant change in this title is the introduction of three concepts: ''sustainment areas,'' ''reattainment areas,'' and ''priority'' sources.[6] Both sustainment and reattainment areas are state-level designations designed to add to federal requirements. We note that LRAPA and Oregon have both implemented a state-level designation in the past—specifically, the maintenance area designation. Following Oregon's lead, LRAPA is now defining two added state designations intended to help areas address air quality problems by further regulating emission increases from major and minor sources.

To designate an area as sustainment or reattainment, the LRAPA rule revisions create a similar process as was used in the past to designate a maintenance area. The process includes public notice, a rule change, and approval by the LRAPA Board. Oregon and LRAPA designed the new designations and associated requirements with the stated intent to help solve air quality issues while not changing attainment planning requirements or federal requirements for major stationary sources.

The sustainment area designation is designed to apply to an area where monitored values exceed, or have the potential to exceed, ambient air quality standards, but which has not been formally designated nonattainment by the EPA.[7] To construct or modify a major or minor source in a sustainment area, the owner or operator may need to offset new emissions with reductions from other sources, including the option of targeting ''priority'' sources, in that area. Priority sources are defined as sources causing or contributing to elevated emissions levels in the area. This is determined using local airshed information, such as emissions inventories and modeling results. A new major or minor stationary source seeking to construct in a sustainment area may obtain more favorable offsets from priority sources.

The reattainment area designation is designed to apply to an area that is formally designated nonattainment by the EPA, but that has achieved three years of quality-assured/quality-controlled monitoring data showing the area is attaining the relevant standard.[8] When an area has met attainment planning requirements and has attained the standard, the CAA requires that a state submit, and the EPA approve, a maintenance plan demonstrating attainment for the next ten years. The state may then request that the EPA redesignate the area to attainment. In the interim, LRAPA may designate the area a reattainment area. The submitted rules require that all elements of the area's attainment plan continue to apply with a reattainment designation. However, minor sources will be subject to less stringent state new source review permitting requirements—unless the source has been specifically identified as a significant contributor to air quality problems in the area, or the source has control requirements that are relied on as part of the attainment plan. The federal requirements for redesignation remain in place and are unchanged.

In the submissions, LRAPA included the Oakridge area as a state-designated reattainment area with respect to $PM_{2.5}$.[9] We note that at the federal level, the EPA has approved the Oakridge $PM_{2.5}$ attainment plan, determined the Oakridge area attained the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date, and achieved clean data for the most recent three years of valid, certified monitoring data (83 FR 5537, February 8, 2017). However, the Oakridge area remains a federal nonattainment area for the 2006 24-hour $PM_{2.5}$ NAAQS until LRAPA and Oregon submit a maintenance plan to the EPA to ensure the area can continue to meet the standard for the next 10 years, and the EPA approves the maintenance plan and redesignates the Oakridge area to attainment.[10] We propose to determine that designation of the Oakridge area as a state reattainment area does not change federal requirements for the area, and that the Oakridge $PM_{2.5}$ attainment plan remains in effect.

We propose to approve these revisions to Title 29 because the submitted rules for state-level designations are consistent with CAA requirements and the EPA's implementing regulations for attainment planning and major source pre-construction permitting. The related changes to LRAPA's major and minor source permitting program—and our

[5] LRAPA Section 12–025, renumbered to Section 13–025; 58 FR 47385, September 9, 1993.

[6] *See* Sections 29–0300 through 0320 and the corresponding state provisions at OAR 340–204–0300 through 0320.

[7] As codified at 40 CFR part 81.

[8] *See* Section 29–0310.

[9] *See* Section 29–0310(2)(a).

[10] *See* 40 FR 81.338.

evaluation of those changes—are discussed in detail in Section M. below.

E. Title 30: Incinerator Regulations

The submissions made changes to LRAPA's incinerator regulations consistent with those in state rule at Division 230. Most changes were minor; however, a significant change was made to tighten limits and clarify the appropriate method of compliance for crematory incinerators. Consistent with our previous action on August 3, 2001, we propose to approve the revisions to Title 30, except as those rules relate to hazardous air pollutants and odors that are not also criteria pollutants or precursors (66 FR 40616).

F. Title 31: Public Participation

Title 31 governs public participation in the review of proposed permit actions. This title corresponds to Division 209 in state rules. LRAPA submitted this title for SIP approval, consistent with recent changes to Oregon's public participation rules. Title 31 provides four different levels of public process, depending on the type of permitting action, with Category I having the least amount of public notice and opportunities for public participation, and Category IV having the most. The majority of new source review permitting actions are subject to category III, for which LRAPA provides public notice and an opportunity for a hearing at a reasonable time and place if requested, or if LRAPA otherwise determines a public hearing is necessary. Category IV public process apply to major new source review permitting actions, and LRAPA provides an informational meeting before issuing a draft permit for public review and comment.

LRAPA has aligned the requirements for informational meetings with state rules in Division 209, to provide at least a 14-day public notice, before the scheduled informational meeting. The submitted rules also make clear that although LRAPA accepts, and will consider, comments from the public during the informational meeting, LRAPA does not maintain an official record of the informational meeting, or respond in writing to comments provided at the informational meeting. This same approach to informational meetings in state rules was approved by the EPA into the Oregon SIP on October 11, 2017 (82 FR 47122).

The submissions also addressed public participation requirements for permitting in state-designated sustainment and reattainment areas, detailed the option of email notification, and identified where public comment records are made available for review. Hearing procedures, laid out at Section 31–0070, correlate with hearing provisions at OAR 340–209–0070. We propose to approve the hearing procedures, but not incorporate them by reference, to avoid confusion or potential conflict with the EPA's independent authorities.

In sum, we have concluded that the submitted LRAPA public participation rules are consistent with the CAA and federal requirements for public notice of new source review actions in 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,* and we propose to approve them.

G. Title 32: Emission Standards

This title contains emission standards and provisions of general applicability, including requirements for highest and best practicable treatment and control, operating 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 (bubbles).

LRAPA made changes to Section 32–001 to clarify what definitions apply to this section (those in Titles 12 and 29) in addition to more specific definitions for ''distillate fuel oil'' and ''residual fuel oil.'' In Section 32–007, LRAPA clarified that pressure drop and ammonia slip are operational, maintenance, and work practice requirements that may be established in a permit condition or notice of construction approval. Section 32–008 *Typically Achievable Control Technology* was also updated by moving procedural requirements from the definitions section to this section, and revising them to account for Oregon's changes to NSR, Major NSR and Type A State NSR, discussed below in Section M.

Notably, LRAPA retained its general, SIP-approved visible emission standards in the form of an aggregate exception of three minutes in a 60-minute period. Three-minute aggregate periods are to be measured by EPA Method 203B, a continuous opacity monitoring system, or an alternative monitoring method approved by LRAPA and that has been determined by the EPA to be equivalent to Method 203B. While LRAPA's form and method for evaluating visible emissions from sources are different than those in Oregon's corresponding SIP-approved rules (OAR 340–208–0110 was recently revised to a 6-minute block average as measured by EPA Method 9), both forms and their associated test methods are equally-valid means to measure opacity and determine compliance with standards.[11]

LRAPA also made changes to phase in tighter visible emission limits granted to wood-fired boilers in operation before 1970. These sources are required to meet a 40% visible emission limit. However, starting in 2020, these sources must meet a 20% visible emissions limit, except for certain, limited situations where a boiler-specific, short-term limit may be established in a source's operating permit, if appropriate and allowed under the SIP-approved permitting program.

Notably, LRAPA revised particulate emission limits under Section 32–015 to reduce emissions from certain non-fuel-burning sources built before June 1970. The rules in this section phase in tighter standards for older sources, generally tightening grain loading standards for existing sources from 0.2 grains per dry standard cubic foot (gr/dscf) to between 0.10 and 0.15 gr/dscf, depending on whether there is existing source test data for the source, and what that data shows. Timelines to achieve these rates depend on whether sources were built before or after June 1, 1970. Existing sources that operate equipment less frequently (less than 867 hours a year) must meet less stringent standards. For new sources, LRAPA has increased the stringency of the grain loading standard by adding a significant digit, revising the standard from 0.1 gr/dscf to 0.10 gr/dscf. Compliance with the grain loading standards is determined using test methods specifically identified in the March 2015 version of the Oregon Source Testing Manual, approved on October 11, 2017 (82 FR 47122).

LRAPA also tightened grain loading standards for fuel burning equipment (Sections 32–020 and 025) in the same manner as described above. Process weight provisions in Section 32–045 were aligned with state rules, and the listing of process weight limitations was moved to Section 32–8010. Sulfur content of fuels and sulfur dioxide emission limits in Section 32–065 were also updated by removing a coal space-heating exemption that expired in 1983, and clarifying that recovery furnaces are regulated in Title 33.

We propose to approve the revisions to Title 32 because they are consistent with the CAA and strengthen the SIP.

[11] The EPA approved OAR 340–208–0110, state effective April 16, 2015 on October 11, 2017 (82 FR 47122).

We note we are taking no action on Sections 32–050, and 32–055 because they are nuisance provisions related to concealment and masking of emissions and particle fallout. We are also taking no action on the acid rain provision in Section 32–075. These types of provisions are generally not appropriate for SIP approval because they are not related to attainment and maintenance of the NAAQS under CAA section 110 and the SIP.

H. Title 33: Prohibited Practices and Control of Special Classes of Industry

Title 33 establishes controls on specific sectors, including board products facilities, charcoal plants, Kraft pulp mills, and hot mix asphalt plants. LRAPA clarified that Title 12 definitions apply to this section, except where specific definitions are established in Title 33. Throughout this title, LRAPA removed open burning provisions made obsolete now that LRAPA limits open burning through regulations established in Title 47, most recently approved by the EPA on October 23, 2015 (80 FR 64346).

In Section 33–060, LRAPA made changes to improve the enforceability of opacity limits on veneer dryers and hardboard manufacturing operations. Section 33–070 was updated to ensure local rules for Kraft pulp mills are as stringent as the state equivalent. LRAPA also revised what was formerly referred to as ''replacement or significant upgrading'' of equipment for purposes of determining whether more restrictive standards apply. Alternative temperatures for hardboard tempering ovens must be approved using the procedures in the federal NESHAP for *Plywood and Composite Wood Products,* 40 CFR part 63, subpart DDDD. LRAPA added source test methods for particulate matter and demonstrations of oxygen concentrations in recovery furnace and lime kiln gases. Under the reporting section, LRAPA removed the alternative sampling option where transmissometers are not feasible because all pulp mills in Oregon now have transmissometers. Minor changes were made under a provision in this section authorizing LRAPA to determine that upset conditions at a subject source are chronic and correctable by the installation of new or modified process or control equipment, and the establishment of a program and schedule to effectively eliminate the deficiencies causing the upset conditions. This provision is consistent with the corresponding state provision at OAR 340–234–0270.[12]

LRAPA revised Section 33–075 *Hot Mix Asphalt Plants* to specify the appropriate test method to determine compliance. In addition, LRAPA added a requirement that hot mix asphalt plants must develop a fugitive emissions control plan if requested.

Except for the requirements relating to total reduced sulfur, odor, and reduction of animal matter, we propose to approve the submitted changes to Title 33 because they strengthen the SIP and are consistent with CAA requirements. Total reduced sulfur, odor, and reduction of animal matter requirements are not appropriate for SIP approval because they are not criteria pollutants, not related to the criteria pollutants regulated under title I of the CAA, not essential for meeting and maintaining the NAAQS, nor related to the requirements for SIPs under section 110 of the CAA. We are therefore excluding from the SIP the following parts of Section 33–070: The definitions of ''Other sources'' and ''Total Reduced Sulfur (TRS)'' in paragraph (1), and paragraphs (3)(a), (4)(b), (5)(b), (6)(a), and (6)(b); and Section 33–080 *Reduction of Animal Matter.*

I. Title 34: Stationary Source Notification Requirements

Title 34 contains a registration program for sources not subject to one of LRAPA's operating permit programs, as well as some of the requirements for the construction of new and modified sources. In Section 34–010, LRAPA broadened the applicability of this title, as Oregon did in Division 210, so that it applies to ''air contaminant sources'' and to ''modifications of existing portable sources that are required to have permits under title 37'', in addition to stationary sources. Sections 34–016 and 34–017 were added for recordkeeping and reporting, and enforcement, respectively.[13] LRAPA also added a new section for general source registration requirements and detailed the information an owner or operator must submit to register and re-register. Sections 34–034, 035, and 036 were added to clarify when a *Notice of Construction* application is required, how the construction/modification is categorized for purposes of process and public review, and what to include in a notice to construct.

LRAPA added Sections 34–037 and 038 to spell out when sources may proceed with construction or modification, and that construction approval does not mean approval to operate the source, unless the source is not required to obtain an ACDP under Title 37.

We propose to approve the revisions to Title 34 because we have determined they are consistent with CAA requirements and correct or clarify existing source notification requirements to help ensure that changes to sources go through the appropriate approval process. We note that Section 34–170 through 200 are not appropriate for SIP approval because they are related to title V of the CAA, not title I and the SIP.

J. Title 35: Stationary Source Testing and Monitoring

This title contains general requirements for source testing and monitoring. Title 35 was recently established to correlate closely with state provisions in Division 212. LRAPA clarified the term ''stationary source'' to include portable sources that require permits under Title 37. This change is consistent with the term as used in other titles. LRAPA also clarified, with respect to stack height and dispersion technique requirements, the procedures referenced in 40 CFR 51.164 are the major and minor NSR review procedures used in Oregon, as applicable.

Section 35–0140 sets forth test methods, and requires that sampling, testing, or measurements performed pursuant to this title conform to the methods in Oregon's March 2015 revised versions of the *Source Sampling Manual, Volumes I and II,* and *Continuous Monitoring Manual.* The revised manuals were approved by the EPA into the Oregon SIP on October 11, 2017 (82 FR 47122). In that action we concluded that the revised manuals are consistent with the EPA's monitoring requirements for criteria pollutants and we approved them for the purpose of the limits approved into the SIP.

We note that the submitted provisions in Section 35–0200 through 0280 are related to compliance assurance monitoring, and are not appropriate for SIP approval. The specified rules apply to title V sources only and implement the requirements of 40 CFR parts 64 and 70. We are taking no action on these rules because they are not appropriate for SIP approval under section 110 of title I of the CAA.

K. Title 36: Excess Emissions

LRAPA made several revisions to the excess emissions and emergency provision requirements in Title 36 and

[12] *See* EPA proposed approval of OAR 340–234–0270, state effective April 16, 2015 (March 22, 2017, 82 FR 14654 at page 14667).

[13] *See* OAR 340–214–0114, and OAR 340–214–0120.

submitted them for approval into the SIP. We are deferring action on the Title 36 revisions. We intend to address the submitted provisions of Title 36 in a separate, future action.

L. Title 37: Air Contaminant Discharge Permits

The Air Contaminant Discharge Permit (ACDP) program is both the federally-enforceable non-title V state operating permit program, and also the administrative mechanism used to implement the notice of construction and new source review programs. There are six types of ACDPs under state and LRAPA rules: Construction, General, Short Term Activity, Basic, Simple, and Standard. The types of ACDPs have not changed, but LRAPA has made some changes and clarifications to the criteria and requirements for the various ACDPs. LRAPA also revised application requirements to set application renewal deadlines, and to clarify the required contents of applications.

The applicability rules at Section 37–0020 reference the table of applicability criteria for the types of permits in Section 37–8010 *Table 1.* The associated fees are listed at Section 37–8020 *Table 2.* These sections are consistent with OAR 340–216–8010 *Table 1* and OAR 216–8020 *Table 2,* respectively, including the type of ACDP (Basic, General, Simple, or Standard) each source category is required to obtain prior to construction and operation. Overall, the list of sources required to obtain Basic, General, Simple, or Standard ACDPs was slightly expanded, with one exception. LRAPA removed the requirement that greenhouse gas-only sources obtain a Standard ACDP, and pay the associated permitting fees, consistent with the federal court decision described below in Section M.

For Construction ACDPs at Section 37–0052, LRAPA added a qualifier to the rule that construction commence within 18 months after the permit is issued. This deadline now applies only if a source is subject to federal major NSR and certain state major NSR permitting, which we have discussed in more detail below. LRAPA also added language to the public notice requirements for a modified Construction ACDP, making clear when public notice as a Category I permit action is appropriate, as opposed to a Category II permit action under Title 31. Although the construction permit itself expires, the requirements remain in effect and must be added to the subsequent operating permit.[14]

General ACDP requirements at Section 37–0060 were updated to refer to the appropriate public notice procedures, reference the fee class for specific source categories, and confirm the procedures that will be used to rescind a source's General ACDP, if the source no longer qualifies and must obtain a Simple or Standard ACDP instead. LRAPA also changed the rule section to make clear that the agency may rescind an individual source's assignment to a General Permit. When notified, the source has 60 days to submit an application for a Simple or Standard ACDP. *General ACDP Attachments,* Section 37–0062, was updated to clarify public notice requirements and fees.

For Simple ACDPs, it is now clear that LRAPA may determine a source ineligible for a Simple ACDP with generic emission limits, and instead, require the source obtain a Standard ACDP with source-specific emission limits, as necessary. LRAPA also clarified the public notice requirements and fees for Simple ACDPs and removed redundant requirements from the section that are also in Section 37–0020.

The requirements at Section 37–0066 were updated to lay out the different application requirements for sources seeking a Standard ACDP permit when they are subject to federal major versus minor NSR. LRAPA also changed this section to allow sources with multiple activities or processes at a single site, covered by more than one General ACDP or that has multiple processes, to obtain a Standard ACDP.

For processing permits, LRAPA's provision at Section 37–0082 now expressly provide that sources with expired ACDP permits may continue operating under the expired permit if they have submitted a timely and complete renewal application. Sources may also request a contested case hearing, if LRAPA revokes a permit or denies a permit renewal. We have determined in our review that LRAPA's Title 37 provisions are consistent with the Division 216 rule sections recently approved by the EPA on October 11, 2017 (82 FR 47122). Therefore, we find Title 37 is consistent with CAA requirements and propose to approve the submitted provisions.

M. Title 38: New Source Review

Parts C and D of title I of the CAA, 42 U.S.C. 7470–7515, set forth preconstruction review and permitting program requirements that apply to new and modified major stationary sources of air pollutants, known as major new source review (major NSR). The CAA major NSR programs include a combination of air quality planning and air pollution control technology program requirements. States adopt major NSR programs as part of their SIP. Part C is the Prevention of Significant Deterioration (PSD) program, which applies in areas that meet the NAAQS (attainment areas), as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS (unclassifiable areas). Part D is the nonattainment new source review (nonattainment NSR) program, which applies in areas that are not in attainment of the NAAQS (nonattainment areas).

The EPA regulations for SIPs implementing these programs are contained in 40 CFR 51.165 and 51.166, and appendix S to part 51. Regulations addressing the EPA's minor new source review (NSR) requirements are located at 40 CFR 51.160 through 164. We note that states generally have more flexibility in designing minor NSR programs. Minor NSR programs, however, must still ensure that emissions from the construction or modification of a facility, building, structure, or installation (or any combination thereof) will not interfere with attainment and maintenance of the NAAQS, or violate an applicable portion of a control strategy approved into the SIP.

Oregon and LRAPA's major NSR program has long differed from the federal major NSR programs in several respects. The program does not subject the same sources and modifications to major NSR as would the EPA's rules. It also has had lower major source thresholds for sources in nonattainment and maintenance areas. The program requires fugitive emissions to be included in applicability determinations for all new major sources and modifications to existing major sources. However, Oregon and LRAPA also utilize a Plant Site Emission Limit, or ''PSEL,'' approach to defining ''major'' modifications, rather than the contemporaneous net emissions increase approach used in the EPA's main major NSR program (not the EPA's plant-wide applicability limit (PAL) option). The EPA has previously determined that, overall, the major NSR program in Oregon is at least as stringent as the EPA's major NSR program and meets the requirements of 40 CFR 51.165 and 51.166.[15]

Under the previous SIP-approved program, both federal major sources and large minor sources have been covered

[14] *See* Section 37–0082.

[15] *See* 76 FR 80747, 80748 (December 27, 2011) (final action); 76 FR 59090, 59094 (Sept. 23, 2011) (proposed action).

by Title 38. The submitted changes to Title 38 revise this approach and establish distinct components within Title 38, referred to as Major New Source Review (LRAPA Major NSR—Sections 38–0045 through 0070) and State New Source Review (State NSR—Sections 38–0245 through 0270) to help clarify the requirements that apply to federal major sources and large minor sources. Pre-construction review and permitting of other minor sources continue to be covered in Title 34 *Stationary Source Notification Requirements,* Title 37 *Air Contaminant Discharge Permits,* and Title 42 *Plant Site Emission Limits.*

As discussed above, Oregon and LRAPA have created two new state designations. ''Sustainment'' areas are state-designated areas that are violating or close to violating the NAAQS but which are not formally designated nonattainment by the EPA. ''Reattainment'' areas are state-designated areas that have been designated nonattainment by the EPA, but that have achieved improved air quality, and data shows the area is attaining the NAAQS. Key changes to the LRAPA Major NSR and State NSR programs are discussed below.

Section 38–0010 Applicability, General Prohibitions, General Requirements, and Jurisdiction

LRAPA has narrowed the scope of sources that are subject to LRAPA Major NSR in nonattainment and maintenance areas by increasing the thresholds, from the significant emission rate (SER) to the major source thresholds in the CAA specified for the current nonattainment areas in Lane County.[16] At the same time, LRAPA's State NSR requirements under Title 38 apply to the construction of new sources with emissions of a regulated air pollutant at or above the SER, as well as increases in emissions of a regulated pollutant from existing sources that equal or exceed the SER over the netting basis. This is consistent with Oregon's rules in Division 224.

LRAPA has divided the State NSR program into two parts: Type A, which generally applies in nonattainment, reattainment, and maintenance areas, and Type B, for attainment, unclassifiable, and sustainment areas. Sources subject to Type A State NSR remain subject to many of the same requirements that apply to such sources under the current SIP-approved program in nonattainment [17] and maintenance areas, whereas sources subject to Type B State NSR are subject to requirements equivalent to the minor NSR requirements under the PSEL rules in the current SIP.[18] Because LRAPA's changes to the definition of ''federal major source'' in nonattainment areas are consistent with the federal definition of ''major stationary source'' at 40 CFR 51.165 for the designated areas in Lane County, and because LRAPA has retained most of the characteristics of the previous Major NSR permitting program for Type A State NSR, the EPA proposes to approve these revisions.

LRAPA also made revisions here, and in several other places in its rules, to be consistent with changes to the federal PSD rules made in response to a Supreme Court decision on greenhouse gases (May 7, 2015, 80 FR 26183).[19] Specifically, LRAPA revised definitions and procedures in Titles 12, 36, 37, 38, and 42 to remove greenhouse gas-only sources from PSD applicability. Therefore, as required by the federal PSD program, a source is now subject to the LRAPA Major NSR requirements for greenhouse gases in attainment and unclassifiable areas only when the source is subject to LRAPA Major NSR requirements anyway, for one or more criteria pollutants. As specified in the federal PSD regulations, LRAPA's rules continue to require that sources of greenhouse gases subject to LRAPA Major NSR in attainment and unclassifiable areas for a criteria pollutant, are also subject to LRAPA Major NSR for greenhouse gases.

LRAPA also made clear in this section that a source is subject to Title 38 requirements for the designated area in which the source is located—for each regulated pollutant, including precursors. Finally, revisions clarify that a subject source must not begin actual construction, continue construction, or operate without complying with the requirements of Title 38 and obtaining an ACDP permit authorizing construction or operation.

Section 38–0025 Major Modification

LRAPA moved the definition of ''major modification'' from Title 12 to Title 38, to reflect that the former definition was really a procedure for determining whether a major modification has, or will occur, rather than a true definition. The revised definition and procedure are intended to better explain how emissions increases and decreases are tracked and factored into calculations for major modifications.

LRAPA also specified that emissions from categorically insignificant activities, aggregate insignificant emissions, and fugitive emissions must be included in determining whether a major modification has occurred. In addition, LRAPA clarified that major modifications for ozone precursors, or $PM_{2.5}$ precursors, also constitute major modifications for ozone and $PM_{2.5}$, respectively. Finally, language was added stating that the PSEL, netting basis, and emissions changes must be recalculated when more accurate or reliable emissions information becomes available, to determine whether a major modification has occurred.

Section 38–0030 New Source Review Procedural Requirements

LRAPA revised this section to account for differing LRAPA Major NSR and State NSR procedures. Included are: When LRAPA will determine whether an application is complete; when a final determination will be made; when construction is permitted; how to revise a permit and extend it; and when and how LRAPA will terminate an NSR permit.

With respect to the provision in the federal PSD regulations authorizing extensions to the 18-month construction time limitation in 40 CFR 52.21(r)(2) ''upon a satisfactory showing that an extension is justified,'' LRAPA revised its extension provisions to be consistent with recent EPA guidance. This guidance sets out the EPA's views on what constitutes an adequate justification for an extension of the 18-month timeframe under 40 CFR 52.21(r)(2) for commencing construction of a source that has been issued a PSD permit.[20] LRAPA also extended the time period for making a final determination on an LRAPA Major NSR or Type A State NSR permit from six months to one year, to reflect the more complex nature of such permitting actions. The one-year time-frame for permit issuance is consistent with the EPA's requirements for major NSR permitting.[21]

Section 38–0038 Fugitive and Secondary Emissions

This section was moved and amended to account for State NSR requirements.

[16] *See* Title 12.

[17] Key changes are discussed below in the discussion of State NSR.

[18] Sources in sustainment areas subject to Section 38–0245(2) are also subject to Type A NSR.

[19] *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427 (2014).

[20] Memorandum from Stephen D. Page, Director of EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region 1–10, entitled Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2), dated January 31, 2014.

[21] *See* 40 CFR 52.21(q)(2).

For sources subject to LRAPA Major NSR and Type A State NSR, fugitive emissions are included in the calculation of emission rates and subject to the same controls and analyses required for emissions from identifiable stacks or vents. Secondary emissions are not included in potential to emit calculations for LRAPA Major NSR or Type A State NSR, but once a source is subject to LRAPA Major NSR or Type A State NSR, secondary emissions must be considered in the required air quality impact analysis in Titles 38 and 40.

Sections 38–0045 Through 0070 Major NSR

LRAPA has made changes consistent with Oregon's corresponding rules and has specified LRAPA Major NSR requirements for each of the following designations: Sustainment, nonattainment, reattainment, maintenance, and attainment/unclassifiable.

Major NSR in Sustainment Areas

New sources and modifications subject to LRAPA Major NSR in sustainment areas (areas that are classified as attainment/unclassifiable by the EPA but have air quality either violating the NAAQS or just below the NAAQS) must meet PSD requirements for each sustainment pollutant, but must also satisfy additional requirements for obtaining offsets and demonstrating a net air quality benefit to address the air quality problems in the area, as discussed in more detail below. Because such areas are designated as attainment/unclassifiable by the EPA, requiring compliance with LRAPA's PSD requirements meets federal requirements. The additional requirements for obtaining offsets and demonstrating a net air quality benefit go beyond CAA requirements for attainment/classifiable areas and are thus approvable.

Major NSR in Nonattainment Areas

For new sources and modifications subject to LRAPA Major NSR in nonattainment areas, LRAPA reorganized and clarified the requirements, aligning with state rules, including that they apply for each pollutant for which the area is designated nonattainment. Lowest Achievable Emission Rate (LAER) and offsets continue to be required for such sources and modifications. In addition, LRAPA's submitted revisions tighten offsets required in nonattainment areas (except with respect to ozone). LRAPA rules now initially require 1.2:1 offsets to emissions in non-ozone areas. If offsets are obtained from priority sources, the ratio may be reduced to 1:1, equivalent to the federal requirement in 40 CFR 51.165(a)(9)(i).

The submitted changes also tighten requirements for sources seeking construction permit extensions, and limit extension requests to two 18-month periods, with certain additional review and re-evaluation steps. We note that, beyond the federal rules, the rules applicable in Lane County extend best available control technology (BACT) and offset requirements to new and modified minor sources in nonattainment areas.

Major NSR in Reattainment Areas

In reattainment areas (areas meeting the NAAQS but not yet redesignated to attainment), new sources and modifications subject to LRAPA Major NSR must continue to meet all nonattainment LRAPA Major NSR requirements for the reattainment pollutant. In addition, to ensure air quality does not again deteriorate, LRAPA requires that sources subject to LRAPA Major NSR also meet other requirements for each reattainment pollutant. Specifically, the owner or operator of the source must demonstrate the source will not cause or contribute to a new violation of the ambient air quality standard, or PSD increment, by conducting an air quality analysis as outlined in Title 40.

Major NSR in Maintenance Areas

In maintenance areas, new sources and modifications subject to LRAPA Major NSR must continue to comply with LRAPA Major NSR requirements for attainment/unclassifiable areas (*i.e.,* PSD), and also conduct a demonstration or obtain allowances to ensure a net air quality benefit in the area. Rather than setting out the specific PSD requirements in this section, however, this section simply references the PSD requirements at Section 38–0070.

Major NSR in Attainment/Unclassifiable Areas (PSD)

For the construction of new sources and modifications subject to LRAPA Major NSR in attainment or unclassifiable areas, LRAPA revised its rules to address court decisions impacting federal PSD rules. First, as discussed above, LRAPA revised definitions and procedures in Titles 12, 36, 37, 38, and 42 to remove greenhouse gas-only sources from PSD applicability. Therefore, as required under the EPA's federal PSD program, a source is now subject to the LRAPA Major NSR requirements for greenhouse gases only when the source also is subject to LRAPA PSD requirements for one or more criteria pollutants.

Second, LRAPA revised its requirements for preconstruction monitoring to address another court decision and the resulting revisions to the EPA's PSD rules. On October 20, 2010, the EPA promulgated the 2010 PSD $PM_{2.5}$ Implementation Rule, revising the federal significant monitoring concentration (SMC) and significant impact levels (SILs) for $PM_{2.5}$ (75 FR 64864). On January 22, 2013, the U.S. Court of Appeals for the District of Columbia, in *Sierra Club* v. *EPA,*[22] issued a judgment that, among other things, vacated the provisions adding the $PM_{2.5}$ SMC to the federal regulations at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c). In its decision, the court held that the EPA did not have the authority to use SMCs to exempt permit applicants from the statutory requirement in CAA section 165(e)(2) that ambient monitoring data for $PM_{2.5}$ be included in all PSD permit applications. Although the $PM_{2.5}$ SMC was not a required element, where a state program contained an SMC and applied it to allow new permits without requiring ambient $PM_{2.5}$ monitoring data, the provision would be inconsistent with the court's opinion and CAA section 165(e)(2).

At the EPA's request, the decision also vacated and remanded the portions of the 2010 PSD $PM_{2.5}$ Implementation Rule that revised 40 CFR 51.166 and 40 CFR 52.21 related to SILs for $PM_{2.5}$. The EPA requested this vacatur and remand of two of the three provisions in the EPA regulations that contain SILs for $PM_{2.5}$ because the wording of these two SIL provisions (40 CFR 51.166(k)(2) and 40 CFR 52.21(k)(2)) was inconsistent with the explanation of when and how SILs should be used by permitting authorities, that we provided in the preamble to the **Federal Register** publication when we promulgated these provisions. Specifically, the EPA erred because the language promulgated in 2010 did not provide permitting authorities the discretion to require a cumulative impact analysis notwithstanding that the source's impact is below the SIL, where there is information that shows the proposed source would lead to a violation of the NAAQS or increments. The third SIL provision (40 CFR 51.165(b)(2)) was not vacated and remains in effect. On December 9, 2013, the EPA removed the vacated $PM_{2.5}$ SILs and SMC provisions from federal PSD regulations (78 FR 73698). On April 17, 2018, the EPA issued guidance to states on

[22] 703 F.3d 458 (D.C. Cir. 2013).

recommended $PM_{2.5}$ (and ozone) SILs.[23] As stated in this guidance, the EPA intends to use information yielded from application of this guidance by permitting authorities to determine whether a future rulemaking to codify SILs is appropriate.

In response to the vacatur and remand, LRAPA submitted revisions to several titles. LRAPA revised the $PM_{2.5}$ SMC to zero, as the EPA did, to address this issue in the federal PSD regulations. LRAPA also revised the definition of ''significant impact levels'' or ''SIL'' in state rules, removed the vacated language and added text to make clear that ''no source may cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level.'' We propose to approve LRAPA's revisions as consistent with the court decision.

LRAPA also aligned local rules with state rules to remove language allowing the substitution of post-construction monitoring for preconstruction monitoring. LRAPA added an exemption from the preconstruction ambient air monitoring requirement, with LRAPA's approval, if representative or conservative background concentration data is available, and the source demonstrates that such data is adequate to determine that the source would not cause or contribute to a violation of an ambient air quality standard or any applicable PSD increment. These revisions, along with the other existing provisions regarding preconstruction monitoring in LRAPA's PSD regulations, are consistent with 40 CFR 51.166(m)(iii) and therefore we propose to approve them.

Finally, LRAPA added the requirement to demonstrate a net air quality benefit for subject sources that will have a significant impact on air quality in a designated area other than the area in which the source is located. This demonstration of net air quality benefit is beyond federal PSD requirements, and will be discussed in more detail below.

Sections 38–0245 Through 0270 State NSR

Title 38 now also specifies State NSR requirements for sustainment, nonattainment, reattainment, maintenance, and attainment/unclassifiable areas. For sources that emit between the SER and 100 tons per year in nonattainment and maintenance areas (Type A State NSR sources), LRAPA has relaxed some of the requirements, as compared to the current SIP, that historically went beyond federal requirements. In nonattainment areas, if the increase in emissions from the source is the result of a major modification,[24] BACT rather than LAER is now required. In maintenance areas, Type A State NSR sources are no longer required to conduct preconstruction monitoring to support the ambient air impact analysis for the source.

In both nonattainment and maintenance areas, LRAPA's State NSR rules allow a reduction of the offset ratio if some of the offsets come from sources that are contributing to air quality problems in the area (which historically have been woodstoves). As we found in our 2017 action on the Oregon SIP, the State NSR requirements in sustainment and reattainment areas go beyond CAA requirements for minor NSR programs by requiring a demonstration of a net air quality benefit (discussed below).[25] (October 11, 2017, 82 FR 47122).

Because BACT, LAER, pre-construction monitoring, and offsets are not required components of a State's SIP-approved minor NSR program, and because the offset requirements now provide sources with incentives to obtain offsets from sources found to be specifically contributing to air quality problems in the area, we propose to find that LRAPA's minor NSR program continues to meet CAA requirements for approval.

Sections 38–0500 Through 0540 Net Air Quality Benefit Emission Offsets

The CAA requires that, for nonattainment NSR, the proposed major source or major modifications must obtain emissions reductions of the affected nonattainment pollutant from the same source or other sources in the area to offset the proposed emissions increase.[26] Consistent with that requirement, the EPA's nonattainment NSR regulations require that major sources and major modifications in nonattainment areas obtain emissions offsets at a ratio of at least 1 to 1 (1:1) from existing sources in the area to offset emissions from the new or modified source.[27]

LRAPA revised the criteria for demonstrating a net air quality benefit, in line with Oregon's rule revisions approved by the EPA on October 11, 2017 (82 FR 47122). In addition to the incentives provided to sources subject to Type A State NSR in sustainment and reattainment areas (to obtain offsets from priority sources discussed above) LRAPA made an additional change. Rules were revised to provide incentives for major sources to use priority source offsets for LRAPA Major NSR sources in nonattainment and reattainment areas by increasing the required offset ratio for major sources to 1.2:1 from the current 1:1. If a source subject to LRAPA Major NSR obtains offsets of some emissions increases from priority sources, the ratio may be reduced to no less than 1:1, the minimum offset level under the federal nonattainment NSR program.

We note that LRAPA did not submit Section 38–0510(3) for SIP approval because the submissions do not also include a demonstration for inter-pollutant offset ratios as recommended by the EPA's inter-pollutant offset policy.[28] LRAPA also did not submit Section 38–0520 for SIP approval, in this case because the section addresses ozone nonattainment areas, of which Lane County has none. We propose to approve the revisions to LRAPA's net air quality benefit emissions rules, except Sections 38–0510(3) and 38–0520, for which LRAPA did not request approval.

Summary

We propose to approve the submitted revisions to Title 38 because we have determined that, in conjunction with other provisions including but not limited to rules in Titles 12, 31, 34, 35, 40, 42, and 50, the revisions are consistent with the requirements of the federal PSD and minor NSR permitting programs applicable statewide. We have also determined that the submitted changes are consistent with the federal requirements for nonattainment NSR for the current designated nonattainment areas in Lane County.[29]

N. Title 40: Air Quality Analysis Requirements

This title contains the air quality analysis requirements, which are

[23] Memorandum from Peter Tsirigotis, Director of EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region 1–10, entitled Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program, dated April 17, 2018.

[24] Oregon and LRAPA use the term ''major modification'' for physical and operational changes that result in significant increases to both existing major and existing minor sources.

[25] October 11, 2017, 82 FR 47122.

[26] *See* CAA section 173(c).

[27] *See* 40 CFR 51.165(a)(9)(i).

[28] Gina McCarthy, EPA Administrator. ''Revised Policy to Address Reconsideration of Inter-pollutant Trading Provisions for Fine Particles ($PM_{2.5}$),'' Memorandum to Regional Administrators, July 21, 2011.

[29] *See* 40 CFR 51.160 through 161, 51.165, and 51.166. *See* also EPA proposed approval of Oregon nonattainment NSR program (March 22, 2017, 82 FR 14654 at page 14663).

primarily used in Title 38 *New Source Review.* By its terms, this title does not apply unless a rule in another section refers to Title 40. Substantive changes include revising the definition of ''allowable emissions'' at Section 40–0020(1) to add ''40 CFR part 62'' to the list of referenced standards and clarifying the definition of ''baseline concentration year'' at Section 40–0020(2), that varies depending on the pollutant for a particular designated area. LRAPA also revised the definitions of ''competing PSD increment consuming source impacts'' and ''competing NAAQS [national ambient air quality standards] source impacts'' [30] to broaden the reference to include all of LRAPA's ambient air quality standards at Title 50 (which include the NAAQS) [31] and to specify that in calculating these concentrations, sources may factor in the distance from the new or modified source to other emission sources (range of influence or ROI), spatial distribution of existing emission sources, topography, and meteorology.

LRAPA also clarified and reorganized the defined ROI formula at Section 38–0020(10). The ROI is the distance from the new or modified source or source impact area to other emission sources that could impact that area. The ROI and source impact area are used to predict the air quality impacts of a new or modified source. LRAPA continues to limit the maximum ROI to 50 kilometers and has moved the constant values in the ROI formula from the table at the end of the division into the text of the rule.

PSD requirements were revised to align with the court decision vacating and remanding the $PM_{2.5}$ SIL. Please see Section M. above for a discussion of the court decision. This title now includes language stating that application of a SIL as a screening tool does not preclude LRAPA from requiring additional analysis to evaluate whether a proposed source or modification will cause or contribute to a violation of an air quality standard or PSD increment.

PSD requirements for demonstrating compliance with air quality related values were also updated. LRAPA made clear that, if applicable, the analysis applies to each emission unit that increases the actual emissions of a regulated pollutant above the portion of the netting basis attributable to that emission unit. In addition, the term ''air quality related values'' includes visibility, deposition, and ozone impacts. A visibility analysis for sources impacting the Columbia River Gorge National Scenic Area, is now required, where applicable, to evaluate potential impacts on that area. We propose to approve Title 40 into the LRAPA SIP as meeting CAA requirements, including the EPA's major NSR permitting regulations at 40 CFR 51.165 and 51.166, and the regional haze requirements at 40 CFR part 51, subpart P.

O. Title 41: Emission Reduction Credits

In Title 41, LRAPA submitted revisions to clarify when reductions in criteria pollutant emissions that are also hazardous air pollutant emissions are creditable. Emission reductions required to meet federal NESHAP standards in 40 CFR parts 61 or 63 are not creditable reductions for purposes of Major NSR in nonattainment or reattainment areas in Lane County. However, criteria pollutant reductions that are in excess of, or incidental to, the required hazardous air pollutant reductions can potentially earn credits—as long as all conditions are met. LRAPA also lowered the threshold for banking credits in the Oakridge area—from ten tons to one ton—to encourage trading activity. Finally, the rules were revised to specify when such credits are considered used up, and when they expire. The revisions are consistent with the CAA and the EPA's implementing regulations and we propose to approve them.

P. Title 42: Criteria for Establishing Plant Site Emission Limits

This division contains a regulatory program for managing airshed capacity through a PSEL. PSELs are used in Oregon, including Lane County, to protect ambient air quality standards, prevent significant deterioration of air quality, and to ensure protection of visibility. Establishing such a limit is a mandatory step in the Oregon and LRAPA source permitting process. A PSEL is designed to be set at the actual baseline emissions from a source plus approved emissions increases and minus required emissions reductions. This design is intended to maintain a more realistic emissions inventory. Oregon and LRAPA use a fixed baseline year of 1977 or 1978 (or a prior year if more representative of normal operation) and factor in all approved emissions increases and required emissions decreases since baseline, to set the allowable emissions in the PSEL. Increases and decreases since the baseline year do not affect the baseline, but are included in the difference between baseline and allowable emissions.

''Netting basis'' is a concept in this program that defines both the baseline emissions from which increases are measured—to determine if changes are subject to review—as well as the process for re-establishing the baseline, after changes have been through the new source review permitting process.

As noted above, the PSEL program is used, in part, to implement NSR permitting. For major NSR, if a PSEL is calculated at a level greater than an established SER over the baseline actual emission rate, an evaluation of the air quality impact and major NSR permitting are required. If not, the PSEL is set without further review (a construction permit may also be required). For minor NSR (State NSR), a similar calculation is conducted. If the difference is greater than the SER, an air quality analysis is required to evaluate whether ambient air quality standards and increments are protected. The air quality analysis results may require the source to reduce the airshed impact and/or comply with a tighter emission limit.

LRAPA submitted a number of changes to the PSEL requirements in this title, to align with similar changes to state rules. Many of the changes are organizational, centralizing requirements related to PSELs in Title 42. Other changes are more substantive. LRAPA revised the criteria for establishing PSELs at Sections 42–0035 through 0090 by consolidating requirements from other sections into these provisions, and revising them to take into account the differentiated major and State NSR requirements. LRAPA also updated the source-specific annual PSEL provision, at Section 42–0041, to account for $PM_{2.5}$ and major and State NSR requirements. We note that as previously written, the PSEL rule included provisions for PSEL increases that were not subject to New Source Review. The submissions revoke those provisions and instead make these PSEL increases subject to the State New Source Review requirements in Title 38. The comprehensive requirements for approval of such PSEL increases in sustainment, nonattainment, reattainment, maintenance, and attainment/unclassifiable areas are as stringent as the current requirements.

LRAPA updated the short-term PSEL requirements at Section 42–0042 to spell out the process a source must follow to request an increase in a short-term PSEL—and when that source must obtain offsets, or an allocation, from an available growth allowance in the area.

[30] *See* Sections 40–0020(4) and (5), respectively.

[31] Our approval of Section 38–0020(4) and (5) would not extend to those ambient standards in Title 50 that we have excluded from our approval.

At Section 42–0046, LRAPA clarified how the initial netting basis for $PM_{2.5}$ is set and how potential increases are limited. Changes were made to spell out how a source's netting basis may be reduced—when a rule, order or permit condition requires the reductions—and how unassigned emissions and emissions reduction credits are to be addressed. In addition, the submitted revisions clarify that a source may retain a netting basis if that source relocates to a different site, as opposed to an adjacent site. However, it is only allowed if LRAPA determines the different site is within or affects the same airshed, and that the time span between operation at the old site and new sites is less than six months.

At Section 42–0048, LRAPA consolidated baseline period and baseline emission rate provisions, and indicated when a baseline emission rate may be recalculated—limited to circumstances when more accurate or reliable emission factor information becomes available, or when regulatory changes require additional emissions units be addressed. Changes were also made to Section 42–0051, which addresses actual emissions, and how to appropriately calculate the mass emissions of a pollutant from an emissions source during a specified time period. LRAPA revised this provision to account for the changes in the program that differentiate major NSR from State NSR.

We note that Section 42–0055 unassigned emissions procedures were clarified. The rule section was revised to state that a source may not use emissions that are removed from the netting basis—including emission reductions required by rule, order or permit condition—for netting any future permit actions. LRAPA also updated Section 42–0090, addressing the impact on PSEL calculations and permitting requirements when sources combine, split, and change primary Standard Industrial Code. The changes make clear that sources must qualify to combine, and that it will impact the netting basis and SER, and trigger new source review and recordkeeping requirements, if applicable.

Except for Section 42–0060, we propose to approve Title 42 into the SIP because we believe the revisions to the PSEL requirements are intended to clarify and strengthen the rules. Section 42–0060 is not appropriate for SIP approval because it is applicable to sources of hazardous air pollutants addressed under CAA section 112, rather than sources of criteria pollutants addressed under CAA section 110.

Q. Title 48: Rules for Fugitive Emissions

LRAPA submitted fugitive emission requirements in Title 48 for SIP approval, consistent with Oregon's fugitive emissions rules in Division 208. This title requires sources to take reasonable precautions to prevent fugitive emissions, and may require a fugitive emissions control plan to prevent visible emissions from leaving a facility property for more than 18 seconds in a six-minute period. Compliance is based on EPA Method 22, *Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares.* We propose to approve Title 48 into the SIP because we have determined that these fugitive emissions rules are consistent with CAA requirements.

R. Title 50: Ambient Air Standards and PSD Increments

Title 50 contains ambient air quality standards and Prevention of Significant Deterioration (PSD) increments applicable in Lane County. Most notably, LRAPA updated Title 50 for all current federal national ambient air quality standards and federal reference methods.[32]

At Section 50–005(2), LRAPA added language expressly stating that no source may cause or contribute to a new violation of an ambient air quality standard or a PSD increment, even if the single source impact is less than the significant impact level. This change was made to address a court decision vacating and remanding regulatory text for the $PM_{2.5}$ significant impact level. Please see Section M for a detailed discussion of the basis for our determination that this change, along with other related changes, adequately addresses the court decision.

LRAPA updated the table of PSD increments, also known as maximum allowable increases and clarified that PSD increments are compared to aggregate increases in pollution concentrations from the new or modified source over the baseline concentration.[33] LRAPA included ambient air quality thresholds for pollutants in this title, moved from Title 38, to centralize ambient standards and thresholds. Finally, LRAPA consolidated requirements for areas subject to an approved maintenance plan, moving ambient standards and thresholds from Title 38 into Section 50–065. We propose to approve the submitted revisions to Title 50 as being consistent with CAA requirements and implementing regulations at 40 CFR parts 50 and 51.

S. Title 51: Air Pollution Emergencies

This title establishes criteria for identifying and declaring air pollution episodes at levels below the levels of significant harm. LRAPA submitted mostly minor changes to this title. However, significant changes were made to establish a significant harm level for $PM_{2.5}$, and $PM_{2.5}$ trigger levels corresponding with alert, warning, and emergency episodes. We propose to approve the submitted revisions to Title 51 because this title remains consistent with the EPA's rules at 40 CFR part 51, subpart H *Prevention of Air Pollution Emergency Episodes.*

III. Proposed Action

We propose to approve, and incorporate by reference into the SIP, specific rule revisions submitted by Oregon and LRAPA on August 29, 2014 (state effective March 31, 2014) and March 27, 2018 (state effective March 23, 2018), to apply in Lane County. We also propose to approve, but not incorporate by reference, specific provisions that provide LRAPA with authority needed for SIP approval.

As requested by LRAPA and the state, we are removing certain rules from the SIP, because they are obsolete, redundant, or replaced by equivalent or more stringent local rules. We are also deferring action on a section of rules because we intend to address them in a separate, future action.

We note that the submissions include changes to OAR 340–200–0040, a rule that describes the Oregon procedures for adopting its SIP and references all of the state air regulations that have been adopted by LRAPA and ODEQ for approval into the SIP (as a matter of state law), whether or not they have yet been submitted to or approved by the EPA. We are not approving the changes to OAR 340–200–0040 because the federally-approved SIP consists only of regulations and other requirements that have been submitted by LRAPA and ODEQ and approved by the EPA.

A. Rules Approved and Incorporated by Reference

We propose to approve into the Oregon SIP, and incorporate by reference at 40 CFR part 52, subpart MM, revisions to the following LRAPA rule sections. Each rule section listed is state effective March 23, 2018, unless marked with an asterisk, denoting it is effective March 31, 2014:

- Title 12—Definitions (001, 005, 010, 020, 025);

[32] *See* Sections 50–015 through 045.

[33] *See* Section 50–055.

• Title 29—Designation of Air Quality Areas (0010, 0020, 0030, 0040, 0050, 0060, 0070*, 0080*, 0090*, 0300, 0310, 0320);
• Title 30—Incinerator Regulations (010, 015*, 020*—except (2) and (8), 025*—except (9), 030*—except (1)(I) and (2)(E), 035*, 040*, 045*—except (3), 050*, 055*, 060*);
• Title 31—Public Participation (0010, 0020, 0030, 0040, 0050, 0060, 0070, 0080);
• Title 32—Emission Standards (001, 005, 006, 007, 008, 009, 010, 015, 020, 030, 045, 050, 060, 065, 070, 090*, 100, 8010);
• Title 33—Prohibited Practices and Control of Special Classes of Industry (005, 060, 065, 070—except, in (1), the definitions of ''non-condensables'', ''other sources'', and ''TRS'', (3)(a), (4)(b), (5)(b), (6)(a), (6)(b), 500);
• Title 34—Stationary Source Notification Requirements (005, 010, 015, 016, 017, 020, 025, 030, 034, 035, 036, 037, 038);
• Title 35—Stationary Source Testing and Monitoring (0010, 0110, 0120, 0130, 0140, 0150*);
• Title 37—Air Contaminant Discharge Permits (0010, 0020, 0025, 0030, 0040, 0052, 0054, 0056, 0060, 0062, 0064, 0066, 0068, 0070, 0082, 0084, 0090, 0094, 8010, 8020);
• Title 38—New Source Review (0010, 0020, 0025, 0030, 0034, 0038, 0040, 0045, 0050, 0055, 0060, 0070, 0245, 0250, 0255, 0260, 0270, 0500, 0510—except (3), 0530, 0540);
• Title 40—Air Quality Analysis Requirements (0010, 0020, 0030, 0040, 0045, 0050, 0060, 0070);
• Title 41—Emission Reduction Credits (0010*, 0020, 0030);
• Title 42—Stationary Source Plant Site Emission Limits (0010, 0020, 0030, 0035, 0040, 0041, 0042, 0046, 0048, 0051, 0055, 0080, 0090);
• Title 48—Rules for Fugitive Emissions (001, 005, 010, 015);
• Title 50—Ambient Air Standards and PSD Increments (001, 005, 015, 025, 030, 035, 040, 045, 050, 055, 060*, 065); and
• Title 51—Air Pollution Emergencies (005, 007, 010, 011, 015, 020, 025, Table I, Table II, Table III).

B. Rules Approved But Not Incorporated by Reference

We propose to approve, but not incorporate by reference, the following LRAPA rule sections. Each rule section is state effective March 23, 2018, unless marked with an asterisk, denoting the rule is effective March 31, 2014:
• Title 13—General Duties and Powers of Board and Director (005*, 010*, 020*, 025*, 030*, 035*); and
• Title 14—Rules of Practice and Procedures (110, 115, 120, 125, 130, 135, 140, 145, 147, 150, 155, 160, 165, 170, 175, 185, 190, 200, 205).

C. Rules Removed

We are removing the following rules from the current federally-approved Oregon SIP at 40 CFR part 52, subpart MM, because they have been repealed, replaced by rules noted in paragraph A. above, or the state has asked that they be removed:
• Title 12—Definitions (001(2)), state effective March 8, 1994;
• Title 30—Incinerator Regulations (005), state effective March 8, 1994;
• Title 33—Prohibited Practices and Control of Special Classes of Industry (030, 045), state effective November 10, 1994; and
• Title 34—Stationary Source Notification Requirements (040), state effective June 13, 2000.

We also are removing the following rules in the table entitled, ''Rules Also Approved for Lane County'', state effective April 16, 2015, because LRAPA has submitted equivalent or more stringent local rules to apply in place of those requirements:

Table 5—EPA-Approved Oregon Administrative Rules (OAR) Also Approved for Lane County

• Division 200—General Air Pollution Procedures and Definitions (0020);
• Division 202—Ambient Air Quality Standards and PSD Increments (0050);
• Division 204—Designation of Air Quality Areas (0300, 0310, 0320);
• Division 208—Visible Emissions and Nuisance Requirements (0110, 0210);
• Division 214—Stationary Source Reporting Requirements (0114)(5);
• Division 216—Air Contaminant Discharge Permits (0040, 8010);
• Division 222—Stationary Source Plant Site Emission Limits (0090);
• Division 224 –New Source Review (0030, 0530);
• Division 225—Air Quality Analysis Requirements (0010, 0020, 0030, 0040, 0045, 0050, 0060, 0070);
• Division 226—General Emissions Standards (0210); and
• Division 228—Requirements for Fuel Burning Equipment and Fuel Sulfur Content (0210).

D. Rules Deferred

We are deferring action on the following rules, state effective March 23, 2018, because we intend to address them in a separate, future action:
• Title 36—Excess Emissions (001, 005, 010, 015, 020, 025, 030).

IV. Incorporation by Reference

In this rule, 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, we are proposing to incorporate by reference the provisions described above in Section III. Proposed Action. The EPA has made, and will continue to make, these documents generally available electronically through *https://www.regulations.gov* and in hard copy at the appropriate EPA office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Oregon Notice Provision

Oregon Revised Statute 468.126 prohibits ODEQ from imposing a penalty for violation of an air, water or solid waste permit unless the source has been provided five days' advanced written notice of the violation and has not come into compliance or submitted a compliance schedule within that five-day period. By its terms, the statute does not apply to Oregon's title V program or to any program if application of the notice provision would disqualify the program from federal delegation. Oregon has previously confirmed that, because application of the notice provision would preclude EPA approval of the Oregon SIP, no advance notice is required for violation of SIP requirements.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed 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 proposed action:
• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
• is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
• does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

• does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, 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: July 23, 2018.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2018–16371 Filed 7–30–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[EPA–HQ–OEM–2015–0725; FRL–9981–66–OLEM]

RIN 2050–AG95

Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notification of data availability and extension of comment period; correction.

SUMMARY: The Environmental Protection Agency (EPA) issued a proposed rule in the **Federal Register** on May 30, 2018 to request public comment on several proposed changes to the final Risk Management Program Amendments rule (Amendments rule) issued on January 13, 2017. This document is being issued to correct technical errors in the Regulatory Impact Analysis and the Notification of Data Availability and Extension of Comment Period for the proposed rule.

DATES: Comments on the proposed rule (83 FR 24850, May 30, 2018), as extended by the Notification of Data Availability and Extension of Comment Period (83 FR 34967, July 24, 2018) must be received by August 23, 2018.

ADDRESSES: Submit comments and additional materials, identified by docket EPA–HQ–OEM–2015–0725 to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: James Belke, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8023; email address: *belke.jim@epa.gov,* or Kathy Franklin, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–7987; email address: *franklin.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION: Detailed background information describing the proposed RMP Reconsideration rulemaking may be found in a previously published document: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Proposed Rule (83 FR 24850, May 30, 2018).

I. What action is EPA taking?

EPA is correcting incorrect date references to the version of the Risk Management Plan (RMP) database used to extract accident history information for the years 2014 through 2016. EPA used this accident information to update the trend of accidents from RMP facilities discussed in the Regulatory Impact Analysis for the proposed Reconsideration rule (EPA. Regulatory Impact Analysis, Reconsideration of the 2017 Amendments to the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7), April 27, 2018). EPA also referred to the 2014–2016 accident information in the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Notification of Data Availability and Extension of Comment Period (83 FR 34967, July 24, 2018). In both documents, EPA made incorrect references to the date of the RMP database version used to extract these accident data. This document serves to correct the incorrect date references.

II. What does this correction do?

This document corrects incorrect date references to the RMP database in two locations in the regulatory record for the Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Proposed Rule (83 FR 24850, May 30, 2018). One location is on page 33 of the