

The SIP is not approved to apply on any Indian reservation land or in any other area where 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 8, 2015.

**Heather McTeer Toney**,  
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart K—Florida

■ 2. Section 52.520(e) is amended by adding an entry for “Regional Haze Plan Amendment 3” at the end of the table to read as follows:

#### § 52.520 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

#### EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
* Regional Haze Plan Amendment 3.	* 4/30/2014	* 10/23/2015 ..... [Insert <b>Federal Register</b> citation].	* [Insert <b>Federal Register</b> citation].	* Establishes NO <sub>x</sub> BART emissions limit for Unit 1 at the Lakeland Electric—C.D. McIntosh Power Plant and includes FDEP Permit No. 1050004-034-AC.

[FR Doc. 2015-26935 Filed 10-22-15; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R10-OAR-2014-0562; FRL-9935-48-Region 10]

#### Approval and Promulgation of Implementation Plans; Oregon: Lane Regional Air Protection Agency Open Burning Rules and Oregon Department of Environmental Quality Enforcement Procedures

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving into Oregon’s State Implementation Plan (SIP) a submittal from the Oregon Department of Environmental Quality (ODEQ) dated July 7, 2014, containing revisions to the Lane Regional Air

Protection Agency’s (LRAPA) open burning rules adopted on March 14, 2008. The revised LRAPA open burning rules make clarifications and provide for additional controls of open burning activities in Lane County, would reduce particulate emissions in Lane County, and would strengthen Oregon’s SIP. The EPA is also approving a submittal from the ODEQ dated June 30, 2014, to update Oregon Administrative Rules (OAR) that relate to procedures in contested cases (appeals), enforcement procedures, and civil penalties. The EPA is approving most of the submitted provisions because the revisions clarify and strengthen the SIP and are consistent with the Clean Air Act (CAA). The EPA is not approving certain provisions of the submitted rules that do not relate to the requirements for SIPs under section 110 of the CAA. Finally, the EPA is correcting the SIP pursuant to the authority of section 110(k)(6) of the CAA to remove certain provisions previously approved by the EPA that do not relate to the

requirements for SIPs under section 110 of the CAA.

**DATES:** This rule is effective on December 22, 2015, without further notice, unless the EPA receives adverse comment by November 23, 2015. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2014-0562, by any of the following methods:

- **Federal eRulemaking Portal** <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- **Email:** [R10-Public\\_Comments@epa.gov](mailto:R10-Public_Comments@epa.gov).

- **Mail:** Mr. Keith Rose, EPA Region 10, Office of Air, Waste, and Toxics, AWT-150, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- **Hand Delivery/Courier:** EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Mr. Keith Rose, Office of Air, Waste, and Toxics, AWT-150. Such deliveries are only

accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2014-0562. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov> your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Keith A. Rose at (206) 553-1949, [rose.keith@epa.gov](mailto:rose.keith@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" are used, it is intended to refer to the EPA.

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## I. Introduction

Title I of the CAA specifies the general requirements for states to submit SIPs to attain and maintain the National Ambient Air Quality Standards (NAAQS) and the EPA's actions regarding approval of those SIPs. The EPA received a submittal from the ODEQ on July 7, 2014 requesting that the EPA approve into the Oregon SIP the revisions to the LRAPA open burning rules (title 47) adopted on March 14, 2008. In general, the revised LRAPA open burning rules make clarifications and provide for additional controls of open burning activities in Lane County. The EPA also received a submittal from the ODEQ on June 30, 2014 that updates Oregon Administrative Rules (OAR) Chapter 340, Division 11, Rules of General Applicability and Organization, relating to contested cases (appeals of ODEQ actions) and OAR Chapter 340, Division 12, Enforcement Procedures and Civil Penalties. These divisions apply across all programs implemented by the ODEQ, including the air quality regulations that the EPA has approved into the SIP.

The July 7, 2014 and June 30, 2014 SIP submittals also contain amendments to OAR 340-200-0040. This rule describes the State's procedures for adopting its SIP and references all of the state air regulations that have been adopted by the 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.

## II. EPA Evaluation of the Submittals

### A. LRAPA Title 47, Open Burning (July 7, 2014 Submittal)

LRAPA made numerous revisions throughout title 47, Open Burning. The key substantive changes are discussed below. A more detailed evaluation of the revisions to LRAPA's open burning rules is in the docket for this action. As discussed below, the EPA proposes to find that, overall, the revised rules will provide for additional controls for open burning activities in Lane County,

reduce particulate emissions in Lane County, and strengthen Oregon's SIP.

### 1. Exemptions

LRAPA made several revisions to the types of open burning exempt from regulation and added one new exemption category. Although residential barbequing remains exempt, LRAPA has clarified that certain prohibited materials, such as garbage or plastic, may not be burned as fuel. The exemption for residential fires for recreational purposes has been narrowed by prohibiting the use of yard waste as fuel and prohibiting such fires altogether on yellow and red home wood heating advisory days called by LRAPA in the winter months within the Eugene/Springfield Urban Growth Boundary (ESUGB) and within the city limits of Oakridge. Religious ceremonial fires have been added as a new category of fires exempt from title 47. See LRAPA 47-005-2.C and 47-010 (definition of "religious ceremonial fires"). LRAPA expects religious ceremonial fires to occur infrequently and the definition requires that such fires be controlled, be "integral to a religious ceremony or ritual," and that prohibited materials not be burned. Given the narrow scope of this exemption, that the exemptions from title 47 have otherwise been narrowed, and that the other revisions to title 47 generally strengthen the prohibitions on open burning, the EPA finds that the new exemption for religious ceremonial fires will not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the CAA. The EPA therefore approves the revisions to LRAPA 47-005, Exemptions from these Rules.

### 2. Definitions

The following definitions in LRAPA 47-010 have been revised: Agricultural open burning, commercial wastes, construction wastes, construction open burning, demolition wastes, demolition open burning, Eugene-Springfield Urban Growth Boundary, industrial open burning, and industrial waste. In general, the revisions to these definitions clarify the types of burn and waste categories. For example, through revisions to the definitions of construction waste, demolition waste, and commercial waste, it is now clear that wastes transported offsite are considered commercial waste even if the waste might otherwise meet the definition of construction or demolition waste. Because requirements for the open burning of commercial waste are generally more restrictive, these clarifications make the rules more

stringent. These changes to definitions also make clear that materials included in the list of prohibited materials in LRAPA 47–015–1.E cannot be burned even if the material otherwise meets the specified definition. Again, these revisions make the rules more stringent.

Definitions have been added to LRAPA 47–010 for agricultural operation, agricultural waste, bonfire, forest slash open burning, nuisance, recreational fire, religious ceremonial fire, and salvage. The new definition of “religious ceremonial fire” is discussed above in Section II.A.1 and the new definition of “forest slash opening burning” is discussed in Section II.A.3 below. In general, the other new definitions clarify the meaning of terms previously used in the rules and thus enhance the enforceability of the rules.

Because the revised and new definitions in LRAPA 47–010 either increase the stringency of the rules or provide clarification to enhance enforceability, the EPA approves revisions to LRAPA 47–010 except for the definition of “nuisance,” which is discussed in more detail in Section II.A.5 below.

Note that the introductory language in LRAPA 47–010 references title 12 of the LRAPA regulations for additional definitions. Proposed revisions to title 12 were included in a SIP submission that the EPA received on August 28, 2014. The present action does not address those revisions. The EPA will be acting on that submission in a future action.

### 3. Open Burning Requirements

LRAPA 47–015 contains most of the requirements for open burning, with general requirements to be met for all open burning and specific requirements for residential open burning, construction and demolition open burning, commercial open burning, industrial open burning, and a new category, forest slash open burning.

Requirements for residential open burning have been made more stringent in a number of respects. The ending times for open burns are now set by a LRAPA burning advisory, rather than automatically extending until sunset. All open burning remains prohibited within the city of Eugene, and the prohibition on open burning within the city of Springfield has been expanded so that the burning of woody yard trimmings on lots of a half acre or more is now only allowed between March 1 through June 15 and October 1 through October 31, rather than from October 1 to June 15. The period of allowed residential open burning outside of the Eugene and Springfield city limits but

within the ESUGB has similarly been narrowed. The Hazeldell and Siuslaw fire districts have been added to the list of fire districts that must comply with the open burning requirements for fire districts, which include the prohibition on burning construction/demolition debris unless authorized by a letter permit. Therefore, the conditions for open burning in the two newly added fire districts are now more stringent. Finally, a new section restricts residential open burning of woody yard trimmings, leaves and grass in Lane County outside of the affected areas identified in LRAPA 47–015–2.B–F to approved burn days from October 1 through June 15, instead of year around. There have been no substantive changes to the requirements for construction and demolition open burning, commercial open burning, or industrial open burning.

A new section has been added to specifically address forest slash open burning. LRAPA 47–015–6.A confirms that forest slash open burning in areas covered by the Oregon Smoke Management Plan is regulated by the Oregon Department of Forestry under ORS 477.515 and not under LRAPA title 47. Such burning is already specifically exempt from LRAPA title 47 under the current SIP. See LRAPA 47–005–1.D.

LRAPA 47–015–6.B addresses forest slash open burning in Lane County outside of areas covered by the Oregon Smoke Management Plan. Forest slash open burning in such areas is now expressly prohibited within the ESUGB. Forest slash open burning is also prohibited unless authorized by a letter permit under LRAPA 47–020, in the fire districts identified in LRAPA 47–015–2.F and other properties not covered by the Oregon Smoke Management Plan. Maps provided by LRAPA show that there is very limited forest land in Lane County that is not covered by the Smoke Management Plan, and would therefore be covered by the LRAPA forest slash open burning rules.

Any slash burning in Lane County must now be coordinated with the South Cascade and Western Lane districts, and be consistent with slash burning advisories issued by Oregon Department of Forestry. In addition, under LRAPA 47–020–1, letter permits for such forest slash open burning can only be issued on a singly occurring or infrequent basis. According to LRAPA, forest slash open burning was not previously expressly regulated under title 47 prior to 1995. Seen in that light, the regulation of forest slash open burning on land not covered by the Oregon Smoke Management Plan would be an increase in the stringency of the

Oregon SIP. The EPA considers the language in LRAPA 47–001 (“all open burning is prohibited in Lane County except as expressly allowed by these rules or if exempted from these rules by Oregon Statute”), which is currently approved in the SIP, however, as potentially prohibiting forest open slash burning on land that is not covered by the Oregon Smoke Management Plan. In that respect, authorizing forest slash open burning through a letter permit under certain conditions could be considered less stringent than the current SIP. In any event, given the many other provisions of this SIP revision that make the SIP more stringent, that only one instance of such open slash burning has been issued a letter permit by LRAPA since 1995, the factors considered by LRAPA and findings LRAPA must make in issuing a letter permit for forest slash open burning in LRAPA 47–020–5 and –6, the EPA concludes that allowing this narrow category of open burning will not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the CAA. Accordingly, with the exception of LRAPA 47–015–6(B)(5), discussed in Section II.A.5 below, the EPA approves the revisions to LRAPA 47–015, Open Burning Requirements, because the revisions increase the overall stringency of the restrictions on open burning.

### 4. Letter Permits

LRAPA 47–020 authorizes certain types of open burning under letter permits issued by LRAPA. As discussed in Section II.A.3 above, this section has been amended to add forest slash burning for a single occurrence or on an infrequent basis to the list of the categories of open burning that may be allowed by a letter permit issued by LRAPA. It has also been amended to authorize issuance of letter permits for a bonfire held for a single event. The EPA finds that the potential increase in emissions that would result from these infrequent activities would be de minimis in light of the other restrictions on open burning imposed by the other revisions to title 47 in this SIP submittal.

LRAPA 47–020–5 contains a list of factors to be considered by LRAPA in determining whether to issue a letter permit. This provision has been amended to allow LRAPA to consider as an alternative disposal method whether waste materials can be salvaged.

Because the availability of alternative disposal options mitigates against authorizing open burning under LRAPA’s rules, see LRAPA 47–001, expanding the list of what can be

considered as an alternative disposal method makes the rules more stringent.

With the exception of certain provisions discussed below in Section II.A.5 that do not relate to the requirements of section 110 of the CAA, the EPA approves the revisions to LRAPA 47-020 because the revisions do not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the CAA.

#### 5. Summary Table

LRAPA has removed the table in section 47-030, Summary of Seasons, Areas, and Permit Requirements for Open Burning. This table was a summary of the text explaining what type of burning was allowed in each area of Lane County. Removing this table has no impact on the stringency of the rule.

#### 6. Rules Not Approved or Being Removed From the SIP

Title 47 contains several provisions, both previously approved by the EPA into the Oregon SIP, and newly enacted or revised provisions, that relate to nuisance, fire safety, or environmental issues that do not relate to air quality. The EPA's authority to approve SIPs extends to provisions related to attainment and maintenance of the NAAQS and carrying out other specific requirements of section 110 of the CAA. Section 110(k)(6) of the CAA authorizes the EPA, upon a determination that the EPA's action approving, disapproving or promulgating any SIP or plan revision (or any part thereof) was in error, to revise such action as appropriate.

In this action, the EPA is not approving into the SIP and is removing from the SIP the following provisions of title 47 that do not relate to attainment and maintenance of the NAAQS or the other requirements of section 110 of the CAA: The definition of "nuisance" in LRAPA 47-010; LRAPA 47-015-1.D (currently in the SIP); LRAPA 47-015-1.H; LRAPA 47-015-6.B(5); LRAPA 47-020-3 (currently in the SIP); LRAPA 47-020-9.I; LRAPA 47-020-10 (first sentence currently in the SIP).

#### *B. ODEQ Chapter 340, Divisions 11 and 12 (June 30, 2014 Submittal)*

##### 1. Division 11, Rules of General Applicability and Organization

Oregon's June 30, 2014 submittal revises OAR Chapter 340, Division 11, to align with the Oregon Attorney General Model Rules, which address procedures for filing and serving documents in contested cases (appeals of ODEQ actions). These rule revisions were adopted by Oregon on December

11, 2013 and became effective on January 6, 2014. The rules were revised to improve the clarity and completeness of contested case appeals coming before the Environmental Quality Commission.

Division 11 provides authority needed for implementing the SIP and is consistent with the CAA requirements for the issuance of permits and enforcement authority. The EPA is therefore approving the revisions to Division 11 submitted by the ODEQ, subject to the qualifications discussed below in Section III.

##### 2. Division 12, Enforcement Procedures and Civil Penalties

Division 12 contains enforcement procedures and civil penalty provisions that apply across all programs implemented by the ODEQ, including the air quality regulations that the EPA has approved into the SIP. Division 12 provides the authority and procedures under which the ODEQ notifies regulated entities of violations, determines the appropriate penalties for violations, and assesses penalties for such violations. The revisions to Division 12 made by the ODEQ implement legislative increases in statutory maximum penalties, align violation classifications and magnitudes with ODEQ program priorities, provide greater mitigating credit for correcting violations, and make minor housekeeping changes.

The EPA has reviewed the revisions to OAR Chapter 340, Division 12 and finds that these rules continue to provide the ODEQ with adequate authority for enforcing the SIP as required by section 110 of the Clean Air Act and 40 CFR 50.230(b). Importantly, OAR 340-012-0160(1) gives the ODEQ the discretion to increase a base penalty to that derived using the next highest penalty matrix value and OAR 340-012-0160(4) gives the ODEQ the discretion to deviate from the penalty matrices and assess penalties of \$25,000 per day, per violation based on the facts and circumstances of the individual case. The EPA therefore approves into the SIP the revisions to Division 12 submitted by the ODEQ, subject to the qualifications discussed below in Section III.

### III. Final Action

The EPA is taking the following action on the revisions to LRAPA title 47, Open Burning, adopted on May 14, 2008, and submitted to the EPA by the ODEQ on July 7, 2014. We approve the revisions to the following sections except as identified below: 47-001, General Policy; 47-005, Exemptions from These Rules; 47-010, Definitions;

47-015, Open Burning Requirements; and 47-020, Letter Permits. As discussed in Section II.A.5 above, because the EPA's authority to approve SIPs extends to provisions related to attainment and maintenance of the NAAQS and carrying out other specific requirements of section 110 of the CAA, we are not approving into the SIP and are removing from the SIP under the authority of CAA section 110(k)(6) the following provisions: The definition of "nuisance" in LRAPA 47-010; LRAPA 47-015-1.D (currently in the SIP); LRAPA 47-015-1.H; LRAPA 47-015-6.B(5); LRAPA 47-020-3 (currently in the SIP); LRAPA 47-020-9.I; LRAPA 47-020-10 (first sentence currently in the SIP).

The EPA also approves revisions to OAR Chapter 340, Division 11, adopted on December 11, 2013 and submitted by the ODEQ on June 30, 2014. The EPA is approving this division, however, only to the extent it relates to implementation of requirements contained in the Oregon SIP. The EPA is not incorporating these rules by reference into the Code of Federal Regulations, however, because the EPA relies on its independent administrative and enforcement procedures under the CAA.

The EPA also approves revisions to OAR Chapter 340, Division 12, adopted on December 11, 2013 and submitted by the ODEQ on June 30, 2014, except for the following provisions that do not relate to air emissions and were not submitted by the ODEQ for approval: OAR 340-012-0027,<sup>1</sup> -0055, -0060, -0065, -0066, -0067, -0068, -0071, -0072, -0073, -0074, -0079, -0081, -0082, -0083, -0097. In addition, the EPA is approving the remaining sections in Chapter 340, Division 12, only to the extent they relate to enforcement of requirements contained in the Oregon SIP. Again, the EPA is not incorporating these rules by reference into the Code of Federal Regulations, however, because the EPA relies on its independent enforcement procedures and penalty provisions in bringing enforcement actions and assessing penalties under the CAA.

The EPA is not approving the revisions to OAR 340-200-0040 in these SIP submittals because these provisions address state SIP adoption procedures and because the Federally-approved SIP consists only of regulations and other requirements that have been submitted by the ODEQ and approved by the EPA.

<sup>1</sup> No such citation appears in Division 12, but these provisions have not been submitted by the ODEQ in any event.

#### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the ODEQ regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

#### V. Statutory and Executive Orders Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 Clean Air Act; and

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

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Particulate matter, Reporting, and recordkeeping requirements.

Dated: September 25, 2015.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart MM—Oregon

- 2. Section 52.1970 is amended:
  - a. In paragraph (c) Table 4—EPA Approved Lane Regional Air Protection Agency (LRAPA) Rules for Oregon by:
    - i. Revising entries 47-001, 47-005, 47-010, 47-015, and 47-020.
    - ii. Removing the entry 47-030.
  - b. In paragraph (e) table titled "Oregon Administrative Rules Approved, But Not Incorporated By Reference" by:
    - i. Revising entry 011-0005.
    - ii. Adding entries 011-0010, 011-0024, 011-0029, 011-0046, 011-0053, 011-0061, 011-0310, 011-0330, 011-0340, 011-0360, 011-0370, 011-0380, 011-0390, and 011-0500 in numerical order.
    - iii. Revising entries 011-0510 and 011-0515.
    - iv. Adding entries 011-0520, 011-0525, 011-0530, 011-0535, 011-0540, 011-0545, 011-0550, 011-0555, 011-0565, and 011-0570 in numerical order.
    - v. Revising entries 011-0573 and 011-0575.
    - vi. Adding entries 011-0580 and 011-0585 in numerical order.
    - vii. Revising entries 012-0026, 012-0028, 012-0030, 012-0038, 012-0041, 012-0045, 012-0053, 012-0054, 012-0130, 012-0135, 012-0140, 012-0145, 012-0150, 012-0155, 012-0160, 012-0162, 012-0165, and 012-0170.

The revisions and additions read as follows:

#### § 52.1970 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

TABLE 4—EPA APPROVED LANE REGIONAL AIR PROTECTION AGENCY (LRAPA) RULES FOR OREGON

LRAPA citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
<b>Title 47—Rules for Open Outdoor Burning</b>				
47–001 .....	General Policy .....	3/14/2008	10/23/2015, [Insert <b>Federal Register</b> citation].	
47–005 .....	Exemptions from these Rules .....	3/14/2008	10/23/2015, [Insert <b>Federal Register</b> citation].	
47–010 .....	Definitions .....	3/14/2008	10/23/2015, [Insert <b>Federal Register</b> citation].	Except the definition of “nuisance”.
47–015 .....	Open Burning Requirements .....	3/14/2008	10/23/2015, [Insert <b>Federal Register</b> citation].	Except 1.D, 1.H, and 6.B(5).
47–020 .....	Letter Permits .....	3/14/2008	10/23/2015, [Insert <b>Federal Register</b> citation].	Except 3, 9.I, and 10.
*	*	*	*	*

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(e) EPA Approved Nonregulatory provisions and Quasi-Regulatory Measures.

## OREGON ADMINISTRATIVE RULES, APPROVED BUT NOT INCORPORATED BY REFERENCE

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Division 11—Rules of General Applicability and Organization</b>				
011–0005 .....	Definitions .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0010 .....	Notice of Rulemaking .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0024 .....	Rulemaking Process .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0029 .....	Policy on Disclosure of the Relationship Between Proposed Rules and Federal Requirements.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0046 .....	Petition to Promulgate, Amend, or Repeal Rule: Content of Petition, Filing or Petition.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0053 .....	Periodic Rule Review .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0061 .....	Declaratory Ruling: Institution of Proceedings, Consideration of Petition and Disposition of Petition.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0310 .....	Purpose .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0330 .....	Requests for Review or to Obtain Copies of Public Records.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0340 .....	Costs for Record Review and Copying.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0360 .....	Collecting Fees .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0370 .....	Certification of Copies of Records	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0380 .....	Fee Waivers and Reductions .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0390 .....	Exempt Records .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0500 .....	Contested Case Proceedings Generally.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0510 .....	Agency Representation by Environmental Law Specialist.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	

## OREGON ADMINISTRATIVE RULES, APPROVED BUT NOT INCORPORATED BY REFERENCE—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
011–0515 .....	Authorized Representative of a Participant other than a Natural Person in a Contested Case Hearing.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0520 .....	Liability for the Acts of a Person's Employees.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0525 .....	Service and Filing of Documents ..	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0530 .....	Requests for Hearing .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0535 .....	Final Orders by Default .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0540 .....	Consolidation or Bifurcation of Contested Case Hearings.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0545 .....	Burden and Standard of Proof in Contested Case Hearings; DEQ Interpretation of Rules and Statutory Terms.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0550 .....	Discovery .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0555 .....	Subpoenas .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0565 .....	Immediate Review .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0570 .....	Permissible Scope of Hearing .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0573 .....	Proposed Orders in Contested Cases.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0575 .....	Review of Proposed Orders in Contested Cases.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0580 .....	Petitions for Reconsideration or Rehearing.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
011–0585 .....	Petitions for a Stay of the Effect of a Final Order.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	

## Division 12—Enforcement Procedure and Civil Penalties

012–0026 .....	Policy .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0028 .....	Scope of Applicability .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0030 .....	Definitions .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0038 .....	Warning Letters, Pre-Enforcement Notices and Notices of Permit Violation.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0041 .....	Formal Enforcement Actions .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0045 .....	Civil Penalty Determination Procedure.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0053 .....	Classification of Violations that Apply to all Programs.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0054 .....	Air Quality Classification of Violations.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0130 .....	Determination of Violation Magnitude.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0135 .....	Selected Magnitude Categories ....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0140 .....	Determination of Base Penalty .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0145 .....	Determination of Aggravating or Mitigating Factors.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0150 .....	Determination of Economic Benefit	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0155 .....	Additional or Alternate Civil Penalties.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0160 .....	DEQ Discretion Regarding Penalty Assessment.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0162 .....	Inability to Pay the Penalty .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	

## OREGON ADMINISTRATIVE RULES, APPROVED BUT NOT INCORPORATED BY REFERENCE—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
012–0165 .....	Stipulated Penalties .....	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	
012–0170 .....	Compromise or Settlement of Civil Penalty by DEQ.	1/6/2014	10/23/2015, [Insert <b>Federal Register</b> citation].	

\* \* \* \* \*

[FR Doc. 2015–26159 Filed 10–22–15; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Indian Health Service****42 CFR Part 137****Change of Address for the Interior Board of Indian Appeals****AGENCY:** Indian Health Service, Health and Human Services.**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (HHS or the Department) is revising its regulations governing administrative appeals to reflect a change of address for the Interior Board of Indian Appeals (IBIA). The IBIA moved to a new address at 801 North Quincy St., Suite 300, Arlington, VA 22203 effective February 11, 2002.

**DATES:** This rule is effective October 23, 2015.

**FOR FURTHER INFORMATION CONTACT:** Carl Mitchell, Acting Director, Division of Regulatory Affairs, Indian Health Service, 801 Thompson Avenue, Rockville, Maryland 20852, Telephone: (301) 443–1116.

**SUPPLEMENTARY INFORMATION:****I. Background**

Through a two-person panel of administrative judges, the Interior Board of Indian Appeals (IBIA) has the authority to consider appeals from decisions of agency officials and administrative law judges in cases under the Indian Self-Determination and Education Assistance Act (ISDEAA). Located within the Department of Interior's Office of Hearings and Appeals (OHA), IBIA is separate and independent from the Bureau of Indian Affairs (BIA) and the Assistant Secretary—Indian Affairs.

Effective February 11, 2002, the IBIA was relocated to 801 North Quincy Street, Arlington, Virginia. To avoid confusion with appeals, HHS is updating its administrative appeals

regulations to reflect the IBIA's new street address.

**II. Procedural Requirements***A. Determination To Issue Final Rule Effective in Less Than 30 Days*

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. It, therefore, satisfies the exemption from notice and comment rulemaking in 5 U.S.C. 553(b)(A).

Moreover, the Department has determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d). The error in the IBIA's location could cause misdirection of appeals. Thus, if the changes in this rule were to become effective 30 days after publication, it could cause further delays in processing appeals. Because an earlier effective date benefits the public, there is good cause for making this rule effective in less than 30 days, as permitted by 5 U.S.C. 553(d)(3).

*B. Review Under Procedural Statutes and Executive Orders*

The Department has reviewed this rule under the following statutes and executive orders governing rulemaking procedures: The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). The Department has determined that this rule does not trigger any of the procedural requirements of those

statutes and executive orders, since this rule merely changes the street address for the IBIA.

Dated: August 17, 2015.

**Robert G. McSwain,***Deputy Director, Indian Health Service.*

Approved: October 9, 2015.

**Sylvia M. Burwell,***Secretary, Health and Human Services.*

For the reasons set forth in the preamble, the Department, through the Indian Health Service amends subpart P of title 42 of the Code of Federal Regulations part 137 to read as follows:

**PART 137 [AMENDED]**

■ 1. The authority citation for part 137 continues to read as follows:

**Authority:** 25 U.S.C. 458 *et seq.*

**§ 137.418 [Amended]**

■ 2. In § 137.418, revise “4015 Wilson Boulevard, Arlington, VA 22203” to read “801 North Quincy St., Suite 300, Arlington, VA 22203”.

**§ 137.423 [Amended]**

■ 3. In § 137.423, revise “4015 Wilson Boulevard, Arlington, VA 22203” to read “801 North Quincy St., Suite 300, Arlington, VA 22203”.

**§ 137.425 [Amended]**

■ 4. In § 137.425, in paragraph (b), revise “4015 Wilson Boulevard, Arlington, VA 22203” to read “801 North Quincy St., Suite 300, Arlington, VA 22203”.

**§ 137.440 [Amended]**

■ 5. In § 137.440, in paragraph (b), revise “4015 Wilson Boulevard, Arlington, VA 22203” to read “801 North Quincy St., Suite 300, Arlington, VA 22203”.

[FR Doc. 2015–27025 Filed 10–22–15; 8:45 am]

BILLING CODE 4165–16–P