

**Subpart MM—Oregon**

■ 2. In 52.1970 (c), amend Table 4—EPA Approved Lane Regional Air Protection Agency (LRAPA) Rules for Oregon by:

- A. Revising the heading for Title 29; and  
 ■ B. Revising entries 29–0010 and 29–0030.

The revisions 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 29—Designation of Air Quality Areas</b>				
29–0010 .....	Definitions .....	10/18/2012	10/21/2016, [Insert <b>Federal Register</b> citation].	Except 1–5, 7–9, and 11–15.
29–0030 .....	Designation of Nonattainment Areas.	10/18/2012	10/21/2016, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*

[FR Doc. 2016–25296 Filed 10–20–16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R08–OAR–2013–0145; FRL–9954–15–Region 8]

### Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of North Dakota on January 28, 2013 and April 22, 2014. The revisions are to Article 33–15 Air Pollution Control rules of the North Dakota Administrative Code. The revisions include amendments to update the Prevention of Significant Deterioration (PSD) rules and the definition of “volatile organic compounds”; to add particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>) methods of measurement; to modify the PM<sub>2.5</sub> state ambient air quality standard, permissible open burning rule, and permit fee processes; and, to remove permitting fees for sources that operate an air monitoring site. The revisions also make clarifying changes. This action is being taken

under section 110 of the Clean Air Act (CAA).

**DATES:** This rule is effective on November 21, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2013–0145. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jaslyn Dobrahner, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6252, [dobrahner.jaslyn@epa.gov](mailto:dobrahner.jaslyn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

In our notice of proposed rulemaking published on August 25, 2016 (81 FR 53438), EPA proposed to approve revisions to Article 33–15 Air Pollution Control rules of the North Dakota Administrative Code submitted by the State of North Dakota on January 28, 2013 and April 22, 2014. In this

rulemaking, we are taking final action on revisions submitted in the January 28, 2013 submittal to update the PSD rules; add PM<sub>2.5</sub> methods of measurement; revise permit fee processing; remove permitting fees for sources that operate an air monitoring site; and make clarifying changes. The North Dakota State Health Council adopted those amendments on August 14, 2012 (effective January 1, 2013). In addition, we are also taking final action on revisions submitted in the April 22, 2014 submittal to update the PSD rules and the definition of “volatile organic compounds”; revise the PM<sub>2.5</sub> state ambient air quality standard and permissible open burning rule; and clarify excess emissions reporting requirements. The North Dakota State Health Council adopted those amendments on February 11, 2014 (effective April 1, 2014). The reasons for our approval are provided in detail in the proposed rule.

#### II. Response to Comments

We received no comments on our proposed rule.

#### III. Final Action

For the reasons expressed in the proposed rule, EPA is approving revisions to sections of the State’s Air Pollution Control rules from the January 28, 2013 and April 22, 2014 submittals. A comprehensive summary of the revisions in North Dakota’s Air Pollution Control rules organized by the EPA’s action, reason for “no action” and submittal date are provided in Table 1 and Table 2 below.

TABLE 1—LIST OF NORTH DAKOTA REVISIONS THAT THE EPA IS APPROVING

## Revisions in January 28, 2013 and April 22, 2014 Submittals That EPA Is Approving

January 28, 2013 submittal: 33–15–01–05; 33–15–01–13.3; 33–15–03–04.5; 33–15–05–04.3; 33–15–14–02.13.c(4); 33–15–15–01.2†; 33–15–17–02.4; 33–15–17–02.6; 33–15–23–02.2.c; 33–15–23–03.1

April 22, 2014 submittal: 33–15–01–04; 33–15–02, Table 1.; 33–15–04–02.2.a; 33–15–06–05.1; 33–15–15–01.2; 33–15–23–03

† Except for the incorporation by reference date in the first paragraph and the revision associated with 40 CFR 52.21(l)(1).

TABLE 2—LIST OF NORTH DAKOTA REVISIONS THAT THE EPA IS TAKING NO ACTION ON

Revised section	Reason for “No Action”		
	Revision superseded by April 22, 2014 submittal	Revision acted on in 79 FR 63045	Revision will be acted on in a future submittal
<b>Revisions in January 28, 2013 and April 22, 2014 Submittals That EPA Is Taking No Action on</b>			
January 28, 2013 Submittal:			
33–15–01–04 .....	x		
33–15–03–04.4 .....		x	
33–15–05–01.2a(1) .....		x	
33–15–14–02.1 .....			x
33–15–14–02.5.a .....			x
33–15–15–01.2* .....	x		
33–15–15–01.2§ .....			x
April 22, 2014 Submittal:			
33–15–03–05 .....			x

\* Only the revision to the incorporation by reference date in the first paragraph.

§ Only the revision associated with 40 CFR 52.21(l)(1).

#### 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 finalizing the incorporation by reference of North Dakota Air Pollution Control rules described in the amendments set forth to 40 CFR part 52 below. Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>1</sup> The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Statutory and Executive Orders Review

Under the CAA, 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 CAA. Accordingly, this final action merely approves some state law as meeting federal requirements; this final action does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);
- 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, Aug. 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 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, Feb. 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

<sup>1</sup> 62 FR 27968 (May 22, 1997).

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 20, 2016. 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 CAA section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 29, 2016.

**Shaun L. McGrath,**  
*Regional Administrator, Region 8.*

40 CFR part 52 is amended to read 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 JJ—North Dakota

■ 2. Section 52.1820 (c) is amended as follows:

■ a. Under “33–15–01. General Provisions” by revising entries “33–15–01–04”, “33–15–01–05”, and “33–15–01–13”;

■ b. Under “33–15–02. Ambient Air Quality Standards” by revising entry “Table 1”;

■ c. Under “33–15–03. Restriction of Emission of Visible Air Contaminants” by revising entry “33–15–03–04”;

■ d. Under “33–15–04. Open Burning Restrictions” by revising entry “33–15–04–02”;

■ e. Under “33–15–05. Emissions of Particulate Matter Restricted” by revising entry “33–15–05–04”;

■ f. Under “33–15–06. Emissions of Sulfur Compounds Restricted” by revising entry “33–15–06–05”;

■ g. Under “33–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate” by revising entry “33–15–14–02”;

■ h. Under “33–15–15. Prevention of Significant Deterioration of Air Quality” by revising entry “33–15–15–01.2”;

■ i. Under “33–15–17. Restriction of Fugitive Emissions” by revising entry “33–15–17–02”; and

■ j. Under “33–15–23. Fees” by revising entries “33–15–23–02” and “33–15–23–03.”

The revisions read as follows:

#### § 52.1820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
<b>33–15–01. General Provisions</b>					
33–15–01–04 ....	Definitions .....	4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
33–15–01–05 ....	Abbreviations .....	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
33–15–01–13 ....	Shutdown and malfunction of an installation—Requirement for notification.	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
<b>33–15–02. Ambient Air Quality Standards</b>					
Table 1 .....	Ambient Air Quality Standards.	4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
<b>33–15–03. Restriction of Emission of Visible Air Contaminants</b>					
33–15–03–04 ....	Exceptions .....	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
<b>33–15–04. Open Burning Restrictions</b>					
33–15–04–02 ....	Permissible open burning.	4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
*	*	*	*	*	*
<b>33–15–05. Emissions of Particulate Matter Restricted</b>					
33–15–05–04 ....	Methods of measurement.	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
*	*	*	*	*	*
<b>33–15–06. Emissions of Sulfur Compounds Restricted</b>					
33–15–06–05 ....	Reporting and record-keeping requirements.	4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
*	*	*	*	*	*
<b>33–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate</b>					
33–15–14–02 ....	Permit to construct .....	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	Excluding subsections 1, 12, 13, 3.c., 13.b.1., 5, 13.c., 13.i(5), 13.o., and 19 (one sentence) which were subsequently revised and approved. See 57 FR 28619 (6/26/92), regarding State's commitment to meet requirements of EPA's "Guideline on Air Quality Models (revised)."
*	*	*	*	*	*
<b>33–15–15. Prevention of Significant Deterioration of Air Quality</b>					
33–15–15–01.2	Scope .....	1/1/2013 4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	Except for the revision associated with 40 CFR 52.21(l)(1).
*	*	*	*	*	*
<b>33–15–17. Restriction of Fugitive Emissions</b>					
33–15–17–02 ....	Restriction of fugitive particulate emissions.	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
*	*	*	*	*	*
<b>33–15–23. Fees</b>					
33–15–23–02 ....	Permit to construct fees	1/1/2013	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
33–15–23–03 ....	Minor source permit to operate fees.	1/1/2013 4/1/2014	11/21/16	[Insert <b>Federal Register</b> citation], 10/21/16.	
*	*	*	*	*	*

\* \* \* \* \*

**§ 52.1829 [Amended]**

■ 3. Section 52.1829 is amended by removing paragraphs (c) and (d).

[FR Doc. 2016–25302 Filed 10–20–16; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R08–OAR–2016–0016; FRL–9954–16–Region 8]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Motor Vehicle Inspection and Maintenance, Clean Screen Program and the Low Emitter Index, On-Board Diagnostics, and Associated Revisions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving three State Implementation Plan (SIP) revisions submitted by the State of Colorado. The revisions involve amendments to Colorado's Regulation Number 11 "Motor Vehicle Emissions Inspection Program." The revisions address the implementation of the Low Emitter Index (LEI) component of Regulation No. 11's Clean Screen Program, the implementation of the On-Board Diagnostics (OBD) component of Regulation No. 11, and several other associated revisions. The EPA is approving these SIP revisions in accordance with the requirements of section 110 of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 21, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2016–0016. All documents in the docket are listed on the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. EPA requests

that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6479, [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In this action, the EPA is approving SIP revisions to Colorado's Regulation No. 11 (hereafter "Reg. No. 11") contained in three submittals from Colorado. The State's submittals were dated June 11, 2008, March 15, 2013, and March 3, 2014. Much of the content of the revisions involved minor updates to several sections of Reg. No. 11 and deletion of obsolete language. Those revisions of greater significance involved: (1) Colorado's 2007 revisions to Reg. No. 11 for the implementation of the LEI portion of the Clean Screen Program contained in Reg. No. 11; (2) Colorado's 2012 revisions to Reg. No. 11 for the implementation of the OBD test requirements contained in Reg. No. 11 along with the Seven Model Year Emissions Test Exemption provisions; and (3) Colorado's 2013 revisions to Reg. No. 11, Appendix A, Incorporation by Reference of Technical Materials, the addition of new Technical Information/Requirements, and minor revisions to Appendix B.

On August 12, 2016, the EPA published a notice of proposed rulemaking (NPR) which proposed to approve the State's three Reg. No. 11 SIP revision requests and in addition, provided a thorough evaluation of the changes, additions, and deletions to Reg. No. 11 contained in each of the three SIP revision submittals. See 81 FR 53370. The details of Colorado's three SIP submittals and the rationale for the EPA's proposed action to approve the SIP revision materials are explained in the NPR and will not be restated here. The EPA notes that the NPR's public comment period closed on September 12, 2016 and we did not receive any comments.

##### II. Final Action

The EPA is taking final action to approve the following revisions to Reg. No. 11 that were discussed in our August 12, 2016 NPR (81 FR 53370) and as provided below:

a.) *The sections of Reg. No. 11 that were revised with the State's June 11, 2008 submittal:*

1.) Part A, section II: Modify definition number 15 "Clean Screened Vehicle" to reflect the addition of the LEI; modify definition number 17 "Colorado '94'" to clarify the use of the BAR 90 test analyzer systems for use after 1994; and add a new definition "Low Emitting Vehicle Index." Renumber definitions number 18 and higher.

2.) Part C, section XII: Modify section XIIA.3 regarding the requirements and procedures to clean screen an eligible vehicle and add section XIIE.4 regarding low emitting vehicles and the LEI.

3.) Part F, section VI: Renumber section VI.B as VI.C; add new section VI.B.1 which requires the development of the LEI each year; add new section VI.B.2 which establishes the 98% minimum passing criteria for the LEI; and add new section VI.B.3 which allows the Colorado Department of Public Health and Environment (CDPHE) to use a greater than 98% passing criteria if needed to equate to a second remote sensing device reading.

4.) Appendix A, Technical Specifications, Attachment 1: Sections of Attachment 1 of the Technical Specifications contain the specifications for the PDF 1000 Scanner; some sections were unreadable and a full, retyped PDF 1000 Scanner section was provided.

5.) Appendix A, Technical Specifications, Attachment 2: Sections of Attachment 2 of the Technical Specifications contain the specifications for the Thermal Transfer Printer; some sections were unreadable and a full, retyped Thermal Transfer Printer section was provided.

The EPA notes that Part F, section III.A.2 of Reg. No. 11 was also provided with the State's June 11, 2008 submittal. This section contains IM240<sup>1</sup> test light duty vehicle emissions cutpoints for 1996 and newer vehicles (all in grams per mile). The carbon monoxide (CO), hydrocarbon (HC), and nitrogen oxides (NO<sub>x</sub>) entries for calendar year 2006 are incorrect as the State had previously provided an August 8, 2006 SIP revision submittal to remove these 2006 cutpoints (i.e., HC 0.6, CO 10.0, and NO<sub>x</sub> 1.5). The EPA approved the removal of these 2006 cutpoints on December 20, 2012 (77 FR 75388).

<sup>1</sup> See 40 CFR part 51, subpart S for a complete description of EPA's IM240 test. The IM240 test is essentially an enhanced motor vehicle emissions test to measure mass tailpipe emissions while the vehicle follows a computer generated driving cycle trace for 240 seconds and while the vehicle is on a dynamometer.